

Chapter 610

(Senate Bill 564)

AN ACT concerning

Income Tax Credit – Security Clearance Costs – Procedure to Claim Credit

FOR the purpose of altering the method by which an individual or a corporation may claim a credit against the State income tax for certain costs incurred to obtain federal security clearances, to rent certain spaces, and to construct or renovate certain sensitive compartmented information facilities in the State; and generally relating to a credit against the State income tax for costs related to federal security clearances.

BY repealing and reenacting, without amendments,
 Article – Tax – General
 Section 10–204(a) and (j) and 10–305(a) and (d)(5)
 Annotated Code of Maryland
 (2016 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,
 Article – Tax – General
 Section 10–732
 Annotated Code of Maryland
 (2016 Replacement Volume and 2017 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 That the Laws of Maryland read as follows:

Article – Tax – General

10–204.

(a) To the extent excluded from federal adjusted gross income, the amounts under this section are added to the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(j) The addition under subsection (a) of this section includes any amount deducted for costs, as defined under § 10–732 of this title, for security clearance administrative expenses and construction and equipment costs incurred to construct or renovate a sensitive compartmented information facility if an amount is included in the application for a credit under § 10–732 of this title.

10–305.

(a) To the extent excluded from federal taxable income, the amounts under this section are added to the federal taxable income of a corporation to determine Maryland

modified income.

(d) The addition under subsection (a) of this section includes the additions required for an individual under:

(5) § 10–204(j) of this title (Deduction for costs for security clearance administrative expenses and construction and equipment costs incurred to construct or renovate a sensitive compartmented information facility); and

10–732.

(a) (1) In this section the following words have the meanings indicated.

(2) “Costs” means the costs to an individual or corporation for:

(i) security clearance administrative expenses incurred with regard to an employee in the State including, but not limited to:

1. processing application requests for clearances for employees in the State;

2. maintaining, upgrading, or installing computer systems in the State required to obtain federal security clearances; and

3. training employees in the State to administer the application process; and

(ii) construction and equipment costs incurred to construct or renovate a sensitive compartmented information facility (“SCIF”) located in the State as required by the federal government.

(3) “Department” means the Department of Commerce.

(4) “Secretary” means the Secretary of Commerce.

(5) “Small business” has the meaning stated in § 7–218 of this article.

(b) (1) Subject to the limitations of this section, for a taxable year beginning after December 31, 2012, but before January 1, 2022, an individual or a corporation may claim credits against the State income tax for:

(i) security clearance administrative expenses, not to exceed \$200,000;

(ii) expenses incurred for rental payments owed during the first year of a rental agreement for spaces leased in the State if the individual or corporation is a

small business that performs security-based contracting, not to exceed \$200,000; and

(iii) subject to paragraph (2) of this subsection, construction and equipment costs incurred to construct or renovate a single SCIF in an amount equal to the lesser of 50% of the costs or \$200,000.

(2) The total amount of construction and equipment costs incurred to construct or renovate multiple SCIFs for which an individual or a corporation is eligible to claim as a credit against the State income tax is \$500,000.

(c) (1) By September 15 of the calendar year following the end of the taxable year in which the costs were incurred, an individual or a corporation shall submit an application to the Department for the credits allowed under subsection (b) of this section.

(2) (i) The total amount of credits approved by the Department under subsection (b) of this section may not exceed \$2,000,000 for any calendar year.

(ii) If the total amount of credits applied for by all individuals and corporations under subsection (b) of this section exceeds the maximum specified under subparagraph (i) of this paragraph, the Department shall approve a credit under subsection (b) of this section for each applicant in an amount equal to the product of multiplying the credit applied for by the applicant times a fraction:

1. the numerator of which is the maximum specified under subparagraph (i) of this paragraph; and

2. the denominator of which is the total of all credits applied for by all applicants under subsection (b) of this section in the calendar year.

(3) By December 15 of the calendar year following the end of the taxable year in which the costs were incurred, the Department shall certify to the individual or corporation the amount of tax credits approved by the Department for the individual or corporation under this section.

(4) To claim the approved credits allowed under this section, an individual or a corporation shall:

(i) **1.** file an amended income tax return for the taxable year in which the costs were incurred; and

[(ii)] 2. attach a copy of the Department's certification of the approved credit amount to the amended income tax return; **OR**

(II) SUBJECT TO SUBSECTION (D) OF THIS SECTION, ATTACH A COPY OF THE DEPARTMENT'S CERTIFICATION OF THE APPROVED CREDIT AMOUNT TO AN INCOME TAX RETURN FILED FOR ANY TAXABLE YEAR AFTER THE TAXABLE

YEAR IN WHICH THE COSTS WERE INCURRED.

(d) If the credit allowed for any taxable year under this section exceeds the total tax otherwise due, an individual or corporation may apply the excess as a credit against the State income tax for succeeding taxable years until the full amount of the excess is used.

(e) The Department, in consultation with the Comptroller, shall adopt regulations to carry out the provisions of this section.

(f) In accordance with § 2.5–109 of the Economic Development Article, the Department shall submit a report on the number of credits certified in the previous calendar year.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2018.

Approved by the Governor, May 15, 2018.