

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1210
Ways and Means

(Delegate Rose, *et al.*)

Income Tax - Credit for Cybersecurity Measures Undertaken by Small
Businesses

This bill creates a refundable credit against the State income tax for costs incurred by small businesses (defined as specified businesses that employ no more than 50 employees) for cybersecurity measures. A small business taxpayer may be eligible to claim a credit of up to \$1,000 for costs incurred to conduct or implement the recommendations of an initial cybersecurity assessment and up to \$500 for costs incurred for recurring cybersecurity measures, including subsequent risk assessments, antivirus software, multifactor authentication, and data encryption. To claim the credit, a small business must include specified documentation of eligible costs incurred during the tax year. **The bill takes effect July 1, 2024, and applies to tax year 2024 and beyond.**

Fiscal Summary

State Effect: General fund revenues decrease by an indeterminate but potentially significant amount beginning in FY 2025, as discussed below. To the extent credits are claimed against the corporate income tax, Higher Education Investment Fund (HEIF) revenues and Transportation Trust Fund (TTF) revenues and expenditures also decrease.

Local Effect: Local highway user revenues decrease by an indeterminate amount beginning in FY 2025 to the extent credits are claimed against the corporate income tax. Local expenditures are not affected.

Small Business Effect: Potential meaningful for a small business that receives a tax credit as a result of the bill.

Analysis

Current Law: Chapter 578 of 2018 established a credit against the State income tax for costs incurred by qualified buyers (defined as any entity that has fewer than 50 employees in the State and is required to file a Maryland income tax return) to purchase cybersecurity technology or services from a qualified seller (Purchase Cybersecurity Tax Credit Program). The value of the credit is equal to 50% of the eligible costs incurred, not to exceed \$50,000 per qualified buyer.

For purposes of the credit, “qualified seller” is defined as a cybersecurity business that (1) has its headquarters and base of operations in the State; (2) has less than \$5.0 million in annual revenue, is a minority-owned, woman-owned, veteran-owned, or service-disabled veteran-owned business, or is located in a historically underutilized business zone designated by the U.S. Small Business Administration; and (3) owns or has properly licensed any proprietary cybersecurity technology or provides a cybersecurity service (among other specified requirements).

The Secretary of Commerce may approve up to \$4.0 million in tax credit certificates annually and must award 25% of the amount of authorized tax credits to qualified buyers that purchase cybersecurity services.

In accordance with the Tax Expenditure Evaluation Act, the Department of Legislative Services (DLS) evaluated the Purchase Cybersecurity Tax Credit Program during the 2023 interim and made several findings and recommendations as outlined in its December 2023 [report](#). Among other things, DLS found that the tax credit program is underutilized and recommended that the General Assembly consider terminating the program and explore alternative options, such as grants, to improve cybersecurity in the State for small businesses.

State Revenues: General fund revenues decrease by an indeterminate amount beginning in fiscal 2025 due to credits claimed against the State income tax. To the extent credits are claimed against the corporate income tax, HEIF and TTF revenues also decrease. The bill’s precise impact on State revenues cannot be reliably estimated at this time, as there is considerable uncertainty regarding the number of taxpayers who will ultimately claim the credit and their average creditable costs. DLS notes that the tax credit program contemplated under the bill is similar to the Purchase Cybersecurity Tax Credit Program which, as discussed above, has been underutilized; on average, Commerce has awarded a little over \$400,000 in credit certificates annually under the Purchase Cybersecurity Tax Credit Program. To the extent that the tax credit authorized under the bill generates greater demand among potentially eligible small business taxpayers – due to, for example, the refundability of the credit and simpler requirements – the bill’s impact on State revenues may be significant.

State Expenditures: TTF expenditures for local highway user revenue grants decrease beginning in fiscal 2025 to the extent credits are claimed against the corporate income tax. However, the precise impact cannot be reliably estimated, as discussed above.

Local Revenues: Local highway user revenues decrease beginning in fiscal 2025 to the extent credits are claimed against the corporate income tax. However, the precise impact cannot be reliably estimated.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 936 of 2023 and HB 1284 of 2022.

Designated Cross File: None.

Information Source(s): Comptroller's Office; Department of Legislative Services

Fiscal Note History: First Reader - February 27, 2024
rh/jrb

Analysis by: Elizabeth J. Allison

Direct Inquiries to:
(410) 946-5510
(301) 970-5510