

BY: Budget and Taxation Committee

AMENDMENTS TO HOUSE BILL NO. 14

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 4, after "corporation;" insert "allowing a credit against the State income tax based on certain increases in expenses paid or incurred for certain research and development conducted in the State; providing for calculation of the credit based on the amount by which certain research and development expenses for a taxable year exceed a certain base amount;"; in line 11, after "years;" insert "requiring a certain addition modification if a certain credit is claimed; requiring the Comptroller to adopt certain regulations;"; in line 12, after "Development" insert "and the Comptroller jointly"; in line 13, after "terms;" insert "requiring the submission of a certain report by a certain date;"; in line 14, strike "a credit" and substitute "certain credits"; in line 15, after "tax" insert "based on certain expenses paid or incurred"; in the same line, strike "or" and substitute "and"; and strike beginning with "expenses" in line 15 down through "corporation" in line 16 and substitute "conducted in the State".

On page 2, in line 1, after "Section" insert "10-205(i) and".

AMENDMENT NO. 2

On page 2, after line 6, insert:

"10-205.

(I) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE AMOUNT OF A CREDIT CLAIMED UNDER § 10-718 OF THIS TITLE FOR MARYLAND QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES."

AMENDMENT NO. 3

On page 2, strike in their entirety lines 12 through 27, inclusive, and substitute:

(Over)

“(3) “MARYLAND BASE AMOUNT” MEANS THE BASE AMOUNT AS DEFINED IN § 41(C) OF THE INTERNAL REVENUE CODE THAT IS ATTRIBUTABLE TO MARYLAND, DETERMINED BY:

(I) SUBSTITUTING “MARYLAND QUALIFIED RESEARCH AND DEVELOPMENT EXPENSE” FOR “QUALIFIED RESEARCH EXPENSE”;

(II) SUBSTITUTING “MARYLAND QUALIFIED RESEARCH AND DEVELOPMENT” FOR “QUALIFIED RESEARCH”; AND

(III) USING, INSTEAD OF THE “FIXED BASE PERCENTAGE”:

1. THE PERCENTAGE THAT THE MARYLAND QUALIFIED RESEARCH AND DEVELOPMENT EXPENSE FOR THE 4 TAXABLE YEARS IMMEDIATELY PRECEDING THE TAXABLE YEAR IN WHICH THE EXPENSE IS INCURRED IS OF THE GROSS RECEIPTS FOR THOSE YEARS; OR

2. FOR A TAXPAYER WHO HAS FEWER THAN 4 BUT AT LEAST 1 PRIOR TAXABLE YEAR, THE PERCENTAGE AS DETERMINED UNDER ITEM 1 OF THIS ITEM, DETERMINED USING THE NUMBER OF IMMEDIATELY PRECEDING TAXABLE YEARS THAT THE TAXPAYER HAS.

(4) “MARYLAND GROSS RECEIPTS” MEANS GROSS RECEIPTS THAT ARE REASONABLY ATTRIBUTABLE TO THE CONDUCT OF A TRADE OR BUSINESS IN THIS STATE, DETERMINED UNDER METHODS PRESCRIBED BY THE COMPTROLLER BASED ON STANDARDS SIMILAR TO THE STANDARDS UNDER § 10-402 OF THIS TITLE.

(5) “MARYLAND QUALIFIED RESEARCH AND DEVELOPMENT” MEANS QUALIFIED RESEARCH AS DEFINED IN § 41(D) OF THE INTERNAL REVENUE CODE THAT IS CONDUCTED IN THIS STATE.

(6) “MARYLAND QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES” MEANS QUALIFIED RESEARCH EXPENSES AS DEFINED IN § 41(B) OF THE INTERNAL REVENUE CODE INCURRED FOR MARYLAND QUALIFIED RESEARCH AND

DEVELOPMENT.

AMENDMENT NO. 4

On page 2, in line 29, strike "A CREDIT" and substitute "CREDITS"; in line 30, after "TO" insert ":

(1);

in line 31, after "EXPENSES" insert ", NOT EXCEEDING THE MARYLAND BASE AMOUNT FOR THE INDIVIDUAL OR CORPORATION,"; and in line 32, after "YEAR" insert "; AND

(2) 10% OF THE AMOUNT BY WHICH THE MARYLAND QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES PAID OR INCURRED BY THE INDIVIDUAL OR CORPORATION DURING THE TAXABLE YEAR EXCEED THE MARYLAND BASE AMOUNT FOR THE INDIVIDUAL OR CORPORATION.

AMENDMENT NO. 4

On page 2, in line 35, strike "EXPENSE WAS" and substitute "EXPENSES WERE".

On page 3, in line 1, strike "CREDIT UNDER" and substitute "CREDITS ALLOWED UNDER SUBSECTION (B)(1) AND (2) OF"; in line 3, after "(2)" insert "(I)"; in line 4, after "UNDER" insert "SUBSECTION (B)(1) OF"; in the same line, strike "\$10,000,000" and substitute "\$3,000,000"; in line 5, strike "(3)" and substitute "(II)"; in line 6, strike "EXCEEDS \$10,000,000" and substitute "UNDER SUBSECTION (B)(1) OF THIS SECTION EXCEEDS THE MAXIMUM SPECIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH"; in line 7, after "APPROVE" insert "A CREDIT UNDER SUBSECTION (B)(1) OF THIS SECTION"; in the same line, strike "A CREDIT"; in line 9, strike "(I)" and substitute "1."; in the same line, strike "\$10,000,000" and substitute "THE MAXIMUM SPECIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH"; in line 10, strike "(II)" and substitute "2."; in line 11, after "APPLICANTS" insert "UNDER SUBSECTION (B)(1) OF THIS SECTION"; and after line 11, insert:

(3) (I) THE TOTAL AMOUNT OF CREDITS APPROVED BY THE DEPARTMENT UNDER SUBSECTION (B)(2) OF THIS SECTION MAY NOT EXCEED \$3,000,000 FOR ANY CALENDAR YEAR.

(Over)

(II) IF THE TOTAL AMOUNT OF CREDITS APPLIED FOR BY ALL INDIVIDUALS AND CORPORATIONS UNDER SUBSECTION (B)(2) OF THIS SECTION EXCEEDS THE MAXIMUM SPECIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DEPARTMENT SHALL APPROVE A CREDIT UNDER SUBSECTION (B)(2) 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)(2) OF THIS SECTION IN THE CALENDAR YEAR.”.

AMENDMENT NO. 5

On page 3, in line 14, strike “EXPENSE WAS” and substitute “EXPENSES WERE”; in lines 16 and 18, in each instance, strike “CREDIT” and substitute “CREDITS”; in line 17, after “CORPORATION” insert “UNDER SUBSECTION (B)(1) AND (2) OF THIS SECTION”; after line 32, insert:

“(E) (1) IN DETERMINING THE AMOUNT OF THE CREDIT UNDER THIS SECTION:

(I) ALL MEMBERS OF THE SAME CONTROLLED GROUP OF CORPORATIONS, AS DEFINED UNDER § 41(F) OF THE INTERNAL REVENUE CODE, SHALL BE TREATED AS A SINGLE TAXPAYER; AND

(II) THE CREDIT ALLOWABLE BY THIS SECTION TO EACH MEMBER SHALL BE ITS PROPORTIONATE SHARES OF THE QUALIFIED RESEARCH EXPENSES GIVING RISE TO THE CREDIT.

(2) THE COMPTROLLER SHALL ADOPT REGULATIONS PROVIDING

FOR:

(I) DETERMINATION OF THE AMOUNT OF THE CREDIT UNDER THIS SECTION IN THE CASE OF TRADES OR BUSINESSES, WHETHER OR NOT INCORPORATED, THAT ARE UNDER COMMON CONTROL;

(II) PASS-THROUGH AND ALLOCATION OF THE CREDIT IN THE CASE OF ESTATES AND TRUSTS, PARTNERSHIPS, UNINCORPORATED TRADES OR BUSINESSES, AND S CORPORATIONS;

(III) ADJUSTMENTS IN THE CASE OF ACQUISITIONS AND DISPOSITIONS DESCRIBED IN § 41(F)(3) OF THE INTERNAL REVENUE CODE; AND

(IV) DETERMINATION OF THE CREDIT IN THE CASE OF SHORT TAXABLE YEARS.

(3) THE REGULATIONS ADOPTED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE BASED ON PRINCIPLES SIMILAR TO THE PRINCIPLES APPLICABLE UNDER § 41 OF THE INTERNAL REVENUE CODE AND REGULATIONS ADOPTED THEREUNDER.”;

in line 33, strike “(E)” and substitute “(F)”;

and in line 33, after “DEVELOPMENT” insert “AND THE COMPTROLLER JOINTLY”.

On page 4, in line 2, after “DEPARTMENT” insert “AND THE COMPTROLLER”.

AMENDMENT NO. 6

On page 4, after line 22, insert:

“SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Economic and Employment Development and the Comptroller shall jointly assess the cost of the research and development tax credit program established under this Act and the program’s success in increasing the level of investment in research and development activities and attracting and retaining businesses that engage in research and development in Maryland. Subject to § 2-1246 of the State Government

(Over)

Article, a consolidated report of the findings of the Department and the Comptroller and any other information of value to the General Assembly in determining the effectiveness of the research and development tax credit program shall be submitted to the General Assembly on or before December 15, 2005.”;

and in line 23, strike “3.” and substitute “4.”.