
By: **Delegates Taylor and Rawlings**

Introduced and read first time: March 1, 2001

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **One Maryland Economic Development Tax Credits - Insurers and**
3 **Tax-Exempt Organizations**

4 FOR the purpose of clarifying that certain organizations exempt from taxation are
5 included in the definition of "qualified business entity" for the purposes of
6 certain tax credits allowed for certain costs of certain economic development
7 projects and certain start-up costs; clarifying that certain individuals and
8 certain organizations exempt from taxation may file an income tax return to
9 claim certain refunds authorized under certain tax credits; providing that a
10 person subject to the insurance premiums tax may claim a certain credit against
11 the premium tax for certain taxable years for certain costs of certain economic
12 development projects; clarifying the revenue effect of certain refunds payable
13 under certain tax credits; providing for the application of this Act; and generally
14 relating to certain tax credits allowed for certain costs of certain economic
15 development projects and certain start-up costs.

16 BY repealing and reenacting, with amendments,
17 Article 83A - Department of Business and Economic Development
18 Section 5-1501(a)(7) and (b)
19 Annotated Code of Maryland
20 (1998 Replacement Volume and 2000 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article 83A - Department of Business and Economic Development
23 Section 15-1501(c)
24 Annotated Code of Maryland
25 (1998 Replacement Volume and 2000 Supplement)

26 BY adding to
27 Article 83A - Department of Business and Economic Development
28 Section 5-1501(g)
29 Annotated Code of Maryland
30 (1998 Replacement Volume and 2000 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article - Insurance
3 Section 6-119
4 Annotated Code of Maryland
5 (1997 Volume and 2000 Supplement)

6 BY repealing and reenacting, without amendments,
7 Article - Tax - General
8 Section 10-714
9 Annotated Code of Maryland
10 (1997 Replacement Volume and 2000 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article - Tax - General
13 Section 10-809 and 10-812
14 Annotated Code of Maryland
15 (1997 Replacement Volume and 2000 Supplement)

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

18 **Article 83A - Department of Business and Economic Development**

19 5-1501.

20 (a) (7) "Qualified business entity" means a person [conducting or
21 operating] THAT:

22 (I) CONDUCTS OR OPERATES a trade or business in Maryland
23 [who:] OR IS AN ORGANIZATION OPERATING IN MARYLAND THAT IS EXEMPT FROM
24 TAXATION UNDER § 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE;

25 [(i)] (II) Establishes or expands a business facility that:

26 1. Is located in a qualified distressed county in the State; and

27 2. Is located within a priority funding area under § 5-7B-02
28 of the State Finance and Procurement Article or is eligible for funding outside of a
29 priority funding area under § 5-7B-05 or § 5-7B-06 of the State Finance and
30 Procurement Article;

31 [(ii)] (III) During any 24-month period creates at least 25 qualified
32 positions at the new or expanded business facility;

33 [(iii)] (IV) Is primarily engaged at the new or expanded business
34 facility in the qualified distressed county in one or more of the following:

- 1 1. Manufacturing or mining;
- 2 2. Transportation or communications;
- 3 3. Filmmaking, resort, and recreational business;
- 4 4. Agriculture, forestry, or fishing;
- 5 5. Research, development, or testing;
- 6 6. Biotechnology;
- 7 7. Computer programming, data processing, or other
8 computer related services;
- 9 8. Central financial, real estate, or insurance services;
- 10 9. The operation of central administrative offices or a
11 company headquarters;
- 12 10. A public utility;
- 13 11. Warehousing; or
- 14 12. Business services; and

15 [(iv)] (V) Is certified by the Secretary under subsection (e) of this
16 section as qualifying for the tax credits under this section.

17 (b) (1) A qualified business entity may claim a tax credit under this
18 subsection for the costs of an eligible economic development project in a qualified
19 distressed county if the amount of the qualified business entity's total eligible project
20 costs for the eligible economic development project is at least \$500,000.

21 (2) (I) [The] SUBJECT TO THE LIMITATION UNDER SUBPARAGRAPH
22 (II) OF THIS PARAGRAPH, THE credit allowed under this subsection equals [the lesser
23 of:

24 (i)] 100% of the eligible project costs for the eligible economic
25 development project, less the amount of the credit allowed with respect to the project
26 for prior taxable years[; or].

27 (ii) [The] EXCEPT AS PROVIDED IN PARAGRAPHS (4) AND (5) OF
28 THIS SUBSECTION, THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY
29 TAXABLE YEAR MAY NOT EXCEED THE State tax for the taxable year on the qualified
30 business entity's income generated by or arising out of the project, as determined
31 under paragraph (3) of this subsection.

32 (3) (i) [The] FOR A QUALIFIED BUSINESS ENTITY OTHER THAN A
33 PERSON SUBJECT TO TAXATION UNDER TITLE 6 OF THE INSURANCE ARTICLE, THE
34 State tax for the taxable year on the qualified business entity's income generated by

1 or arising out of an eligible economic development project shall equal the difference
2 between:

3 1. The State tax without regard to this section; and

4 2. The State tax on the qualified business entity's Maryland
5 taxable income reduced by the amount of its net income attributable to the eligible
6 economic development project.

7 (ii) 1. If an eligible economic development project is a totally
8 separate facility, net income attributable to the project shall be determined under the
9 separate accounting method reflecting only the gross income, deductions, expenses,
10 gains, and losses that are directly attributable to the facility and overhead expenses
11 apportioned to the facility.

12 2. If the eligible economic development project is an
13 expansion to a previously existing facility:

14 A. Net income attributable to the entire facility shall be
15 determined under the separate accounting method reflecting only the gross income,
16 deductions, expenses, gains, and losses that are directly attributable to the facility
17 and overhead expenses apportioned to the facility; and

18 B. The net income attributable to the eligible economic
19 development project shall be determined by apportioning the separate accounting net
20 income of the entire facility to the eligible economic development project by a formula
21 approved by the Comptroller or the Department of Assessments and Taxation.

22 3. If a qualified business entity can show to the satisfaction
23 of the Comptroller or the Department of Assessments and Taxation that the nature of
24 the operations and activities of the qualified business entity are such that it is not
25 practical to use the separate accounting method to determine the net income from the
26 facility at which the eligible economic development project is located, the qualified
27 business entity shall determine net income from the eligible economic development
28 project using an alternative method approved by the Comptroller or the Department
29 of Assessments and Taxation.

30 (III) A QUALIFIED BUSINESS ENTITY THAT IS SUBJECT TO
31 TAXATION UNDER TITLE 6 OF THE INSURANCE ARTICLE MAY NOT CLAIM THE CREDIT
32 UNDER THIS SUBSECTION FOR THE TAXABLE YEAR IN WHICH THE PROJECT IS
33 PLACED IN SERVICE OR FOR THE FIRST 4 TAXABLE YEARS FOLLOWING THE TAXABLE
34 YEAR IN WHICH THE PROJECT IS PLACED IN SERVICE.

35 (4) If the eligible project costs for the eligible economic development
36 project exceed the State tax on the qualified business entity's income generated by or
37 arising out of the project for the taxable year in which the project is placed in service,
38 the qualified business entity may apply any excess as a credit for succeeding taxable
39 years against the State tax on the qualified business entity's income generated by or
40 arising out of the project until the earlier of:

1 (i) The full amount of the excess is used; or

2 (ii) The expiration of the 14th taxable year following the taxable
3 year in which the project is placed in service.

4 (5) (i) Subject to the limitation under subparagraph (ii) of this
5 paragraph, for any taxable year after the 4th taxable year following the taxable year
6 in which the project is placed in service but before the 15th taxable year following the
7 taxable year in which the project is placed in service:

8 1. [Any] A QUALIFIED BUSINESS ENTITY OTHER THAN A
9 PERSON SUBJECT TO TAXATION UNDER TITLE 6 OF THE INSURANCE ARTICLE:

10 A. MAY APPLY ANY excess of eligible project costs for the
11 eligible economic development project over the cumulative amount used as a tax
12 credit under this subsection for the taxable year and all prior taxable years [may be
13 applied] as a tax credit against the State tax for the taxable year on the qualified
14 business entity's income other than income generated by or arising out of the project;
15 and

16 [2.] B. [The qualified business entity may] MAY claim a
17 refund in the amount, if any, by which the unused excess exceeds the State tax for the
18 taxable year on the qualified business entity's income other than income generated by
19 or arising out of the project; AND

20 2. A QUALIFIED BUSINESS ENTITY THAT IS SUBJECT TO
21 TAXATION UNDER TITLE 6 OF THE INSURANCE ARTICLE:

22 A. MAY APPLY ANY EXCESS OF ELIGIBLE PROJECT COSTS
23 FOR THE ELIGIBLE ECONOMIC DEVELOPMENT PROJECT OVER THE CUMULATIVE
24 AMOUNT USED AS A TAX CREDIT UNDER THIS SUBSECTION FOR THE TAXABLE YEAR
25 AND ALL PRIOR TAXABLE YEARS AS A TAX CREDIT AGAINST THE PREMIUM TAX
26 IMPOSED FOR THE TAXABLE YEAR; AND

27 B. MAY CLAIM A REFUND IN THE AMOUNT, IF ANY, BY WHICH
28 THE UNUSED EXCESS EXCEEDS THE PREMIUM TAX FOR THE TAXABLE YEAR.

29 (ii) For any taxable year, the total of the amounts used as a tax
30 credit and claimed as a refund as provided in this paragraph may not exceed the
31 amount of taxes that the qualified business entity is required to withhold for the
32 taxable year from the wages of qualified employees under § 10-908 of the Tax -
33 General Article.

34 (c) (1) A qualified business entity that locates in a qualified distressed
35 county may claim a tax credit in the amount provided in paragraph (2) of this
36 subsection.

37 (2) The credit allowed under this subsection for each taxable year equals
38 the lesser of:

1 (i) 100% of the qualified business entity's eligible start-up costs
2 associated with establishing or expanding a business facility in a qualified distressed
3 county, less the amount of the credit allowed with respect to the project for prior
4 taxable years; or

5 (ii) The product of multiplying \$10,000 times the number of
6 qualified employees employed at the new or expanded business facility.

7 (3) If the credit allowed under this subsection for the taxable year in
8 which a qualified business entity locates in a qualified distressed county exceeds the
9 total tax otherwise due from the qualified business entity for that taxable year, the
10 qualified business entity may apply the excess as a credit for succeeding taxable years
11 until the earlier of:

12 (i) The full amount of the excess is used; or

13 (ii) The expiration of the 14th taxable year following the taxable
14 year in which the qualified business entity locates in a qualified distressed county.

15 (4) (i) Subject to the limitation under subparagraph (ii) of this
16 paragraph, for any taxable year after the 4th taxable year following the taxable year
17 in which the qualified business entity locates in a qualified distressed county but
18 before the 15th taxable year following the taxable year in which the qualified
19 business entity locates in a qualified distressed county, the qualified business entity
20 may claim a refund in the amount, if any, by which the qualified business entity's
21 eligible start-up costs exceed the cumulative amount used as a tax credit under this
22 subsection for the taxable year and all prior taxable years.

23 (ii) For any taxable year, the total amount claimed as a refund as
24 provided in this paragraph may not exceed the amount of taxes that the qualified
25 business entity is required to withhold for the taxable year from the wages of
26 qualified employees under § 10-908 of the Tax - General Article.

27 (G) A REFUND PAYABLE TO A QUALIFIED BUSINESS ENTITY UNDER
28 SUBSECTION (B)(5) OR (C)(4) OF THIS SECTION:

29 (1) OPERATES TO REDUCE THE INCOME TAX REVENUE FROM
30 CORPORATIONS IF THE QUALIFIED BUSINESS ENTITY IS A CORPORATION SUBJECT
31 TO THE INCOME TAX UNDER TITLE 10 OF THE TAX - GENERAL ARTICLE;

32 (2) OPERATES TO REDUCE INSURANCE PREMIUM TAX REVENUES IF THE
33 QUALIFIED BUSINESS ENTITY IS SUBJECT TO TAXATION UNDER TITLE 6 OF THE
34 INSURANCE ARTICLE; AND

35 (3) OPERATES TO REDUCE THE INCOME TAX REVENUE FROM
36 INDIVIDUALS IF THE BUSINESS ENTITY IS:

37 (I) AN INDIVIDUAL SUBJECT TO THE INCOME TAX UNDER TITLE 10
38 OF THE TAX - GENERAL ARTICLE; OR

1 (II) AN ORGANIZATION EXEMPT FROM TAXATION UNDER § 501(C)(3)
2 OR (4) OF THE INTERNAL REVENUE CODE.

3 **Article - Insurance**

4 6-119.

5 An insurer may claim a credit against the premium tax for One Maryland
6 PROJECT COSTS AND start-up costs as provided under Article 83A, § [5-1501(c)]
7 5-1501(B) AND (C) of the Code.

8 **Article - Tax - General**

9 10-714.

10 An individual or corporation may claim a credit against the State income tax for
11 One Maryland project costs and start-up costs as provided under Article 83A, §
12 5-1501(b) and (c) of the Code.

13 10-809.

14 If an individual is not required to file an income tax return under § 10-805, §
15 10-806 or § 10-813 of this subtitle, the individual:

16 (1) is not liable for income tax; and

17 (2) may file an income tax return to claim a refund of the income tax
18 withheld or estimated income tax paid or a refund under § 10-704, § 10-707, OR §
19 10-714 of this title.

20 10-812.

21 (A) A corporation exempt from income tax under § 10-104 of this title shall file
22 an income tax return if the corporation:

23 (1) has unrelated business taxable income, as defined under § 512 of the
24 Internal Revenue Code;

25 (2) is exempt from taxation under § 501(c)(2) of the Internal Revenue
26 Code; or

27 (3) is an S corporation that is incorporated or does business in the State.

28 (B) AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OR
29 (4) OF THE INTERNAL REVENUE CODE MAY FILE AN INCOME TAX RETURN TO CLAIM
30 A REFUND UNDER § 10-714 OF THIS TITLE.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 July 1, 2001 and shall be applicable to all taxable years beginning after December 31,
33 1999.

