

HOUSE BILL 140

Q3
HB 544/07 – W&M

8lr1016

By: Delegates Ross, Barnes, Howard, Hubbard, ~~and Kaiser~~ Kaiser, Elmore, Hixson, Doory, Bartlett, Barve, Cardin, Frick, George, Gilchrist, Ivey, Jennings, Krebs, Serafini, Murphy, Olszewski, Rice, Stukes, F. Turner, and Walker

Introduced and read first time: January 18, 2008
Assigned to: Ways and Means

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 19, 2008

CHAPTER _____

1 AN ACT concerning

2 **Income Tax – Credit for Cellulosic Ethanol Technology Research and**
3 **Development**

4 FOR the purpose of allowing a credit against the State income tax for certain cellulosic
5 ethanol technology research and development expenses paid or incurred by an
6 individual or corporation; providing for applications to the Department of
7 Business and Economic Development for approval of the credit and certification
8 by the Department to taxpayers of approved credit amounts; limiting the total
9 amount of credits that the Department may approve for any calendar year to a
10 certain amount; requiring the Department to approve a prorated credit for each
11 applicant if the total amount applied for exceeds the maximum that may be
12 approved; providing that certain unused credits may be carried forward to
13 certain taxable years; requiring a certain addition modification if a certain
14 credit is claimed; requiring the Comptroller to adopt certain regulations;
15 requiring the Department and the Comptroller jointly to adopt certain
16 regulations; defining certain terms; providing for the application of this Act; and
17 generally relating to certain credits against the State income tax based on
18 certain expenses paid or incurred for certain cellulosic ethanol technology
19 research and development conducted in the State.

20 BY repealing and reenacting, without amendments,
21 Article – Tax – General
22 Section 10–205(a) and 10–306(a)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2004 Replacement Volume and 2007 Supplement)

3 BY adding to
4 Article – Tax – General
5 Section 10–205(j), 10–306(f), and 10–726
6 Annotated Code of Maryland
7 (2004 Replacement Volume and 2007 Supplement)

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

10 **Article – Tax – General**

11 10–205.

12 (a) In addition to the modification under § 10–204 of this subtitle, the
13 amounts under this section are added to the federal adjusted gross income of a
14 resident to determine Maryland adjusted gross income.

15 **(J) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES**
16 **THE AMOUNT OF A CREDIT CLAIMED UNDER § 10–726 OF THIS TITLE FOR**
17 **RESEARCH AND DEVELOPMENT EXPENSES FOR CELLULOSIC ETHANOL**
18 **TECHNOLOGY.**

19 10–306.

20 (a) In addition to the modification under § 10–305 of this subtitle, the
21 amounts under this section are added to the federal taxable income of a corporation to
22 determine Maryland modified income.

23 **(F) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES**
24 **THE AMOUNT OF A CREDIT CLAIMED UNDER § 10–726 OF THIS TITLE FOR**
25 **RESEARCH AND DEVELOPMENT EXPENSES FOR CELLULOSIC ETHANOL**
26 **TECHNOLOGY.**

27 **10–726.**

28 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
29 **MEANINGS INDICATED.**

30 **(2) “CELLULOSIC ETHANOL TECHNOLOGY” MEANS TECHNOLOGY**
31 **THAT IS USED TO DEVELOP CELLULOSIC BIOMASS FOR CONVERSION TO**
32 **ETHANOL FUEL.**

1 **(3) “DEPARTMENT” MEANS THE DEPARTMENT OF BUSINESS AND**
2 **ECONOMIC DEVELOPMENT.**

3 **(4) “QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES”**
4 **MEANS EXPENSES PAID OR INCURRED FOR CELLULOSIC ETHANOL TECHNOLOGY**
5 **RESEARCH AND DEVELOPMENT THAT IS CONDUCTED IN THE STATE.**

6 **(B) SUBJECT TO THE LIMITATIONS OF THIS SECTION, AN INDIVIDUAL**
7 **OR CORPORATION MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN**
8 **AMOUNT EQUAL TO 10% OF THE QUALIFIED RESEARCH AND DEVELOPMENT**
9 **EXPENSES PAID OR INCURRED BY THE INDIVIDUAL OR CORPORATION DURING**
10 **THE TAXABLE YEAR.**

11 **(C) (1) BY SEPTEMBER 15 OF THE CALENDAR YEAR FOLLOWING THE**
12 **END OF THE TAXABLE YEAR IN WHICH THE QUALIFIED RESEARCH AND**
13 **DEVELOPMENT EXPENSES WERE PAID OR INCURRED, AN INDIVIDUAL OR**
14 **CORPORATION SHALL SUBMIT AN APPLICATION TO THE DEPARTMENT FOR THE**
15 **CREDIT ALLOWED UNDER THIS SECTION.**

16 **(2) (I) THE TOTAL AMOUNT OF CREDITS APPROVED BY THE**
17 **DEPARTMENT UNDER THIS SECTION MAY NOT EXCEED ~~\$3,000,000~~ \$250,000**
18 **FOR ANY CALENDAR YEAR.**

19 **(II) IF THE TOTAL AMOUNT OF CREDITS APPLIED FOR BY**
20 **ALL INDIVIDUALS AND CORPORATIONS UNDER THIS SECTION EXCEEDS THE**
21 **MAXIMUM SPECIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE**
22 **DEPARTMENT SHALL APPROVE A CREDIT UNDER THIS SECTION FOR EACH**
23 **APPLICANT IN AN AMOUNT EQUAL TO THE PRODUCT OF MULTIPLYING THE**
24 **CREDIT APPLIED FOR BY THE APPLICANT TIMES A FRACTION:**

25 **1. THE NUMERATOR OF WHICH IS THE MAXIMUM**
26 **SPECIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH; AND**

27 **2. THE DENOMINATOR OF WHICH IS THE TOTAL OF**
28 **ALL CREDITS APPLIED FOR BY ALL APPLICANTS IN THE CALENDAR YEAR.**

29 **(3) BY DECEMBER 15 OF THE CALENDAR YEAR FOLLOWING THE**
30 **END OF THE TAXABLE YEAR IN WHICH THE QUALIFIED RESEARCH AND**
31 **DEVELOPMENT EXPENSES WERE PAID OR INCURRED, THE DEPARTMENT SHALL**
32 **CERTIFY TO THE INDIVIDUAL OR CORPORATION THE AMOUNT OF THE**
33 **RESEARCH AND DEVELOPMENT TAX CREDIT APPROVED BY THE DEPARTMENT**
34 **FOR THE INDIVIDUAL OR CORPORATION UNDER THIS SECTION.**

1 (4) TO CLAIM THE APPROVED CREDIT ALLOWED UNDER THIS
2 SECTION, AN INDIVIDUAL OR CORPORATION SHALL:

3 (I) FILE AN AMENDED INCOME TAX RETURN FOR THE
4 TAXABLE YEAR IN WHICH THE QUALIFIED RESEARCH AND DEVELOPMENT
5 EXPENSES WERE PAID OR INCURRED; AND

6 (II) ATTACH A COPY OF THE DEPARTMENT'S
7 CERTIFICATION OF THE APPROVED CREDIT AMOUNT TO THE AMENDED INCOME
8 TAX RETURN.

9 (D) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE
10 YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, AN
11 INDIVIDUAL OR CORPORATION MAY APPLY THE EXCESS AS A CREDIT AGAINST
12 THE STATE INCOME TAX FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER
13 OF:

14 (1) THE FULL AMOUNT OF THE EXCESS IS USED; OR

15 (2) THE EXPIRATION OF THE 15TH TAXABLE YEAR AFTER THE
16 TAXABLE YEAR IN WHICH THE QUALIFIED RESEARCH AND DEVELOPMENT
17 EXPENSES WERE PAID OR INCURRED.

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

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

23 (II) THE CREDIT ALLOWABLE BY THIS SECTION TO EACH
24 MEMBER SHALL BE ITS PROPORTIONATE SHARE OF THE QUALIFIED RESEARCH
25 AND DEVELOPMENT EXPENSES GIVING RISE TO THE CREDIT.

26 (2) THE COMPTROLLER SHALL ADOPT REGULATIONS PROVIDING
27 FOR:

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

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

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

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

6 (F) (1) THE DEPARTMENT AND THE COMPTROLLER JOINTLY SHALL
7 ADOPT REGULATIONS TO PRESCRIBE STANDARDS FOR DETERMINING WHEN
8 RESEARCH OR DEVELOPMENT IS CONSIDERED CONDUCTED IN THE STATE FOR
9 PURPOSES OF DETERMINING THE CREDIT UNDER THIS SECTION.

10 (2) IN ADOPTING REGULATIONS UNDER THIS SUBSECTION, THE
11 DEPARTMENT AND THE COMPTROLLER MAY CONSIDER:

12 (I) THE LOCATION WHERE SERVICES ARE PERFORMED;

13 (II) THE RESIDENCE OR BUSINESS LOCATION OF THE
14 PERSON OR PERSONS PERFORMING SERVICES;

15 (III) THE LOCATION WHERE SUPPLIES USED IN RESEARCH
16 AND DEVELOPMENT ARE CONSUMED; AND

17 (IV) ANY OTHER FACTORS THAT THE DEPARTMENT
18 DETERMINES ARE RELEVANT FOR THE DETERMINATION.

19 (G) THE CREDIT UNDER THIS SECTION DOES NOT APPLY TO ANY
20 QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES PAID OR INCURRED
21 AFTER DECEMBER 31, 2016.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 July 1, 2008, and shall be applicable to all taxable years beginning after December 31,
24 2007.