

## Chapter 544

## (House Bill 482)

AN ACT concerning

~~Income Tax Credit – Endowments of Maryland Historically Black Colleges and Universities~~  
Income Tax Credits – Endowments of Maryland Historically Black Colleges and Universities and Film Production Activity – Establishment and Alterations

FOR the purpose of allowing a credit against the State income tax for a certain amount of donations to certain qualified permanent endowment funds at certain institutions of higher education; requiring certain taxpayers to add a certain deduction back to federal adjusted gross income to determine Maryland adjusted gross income; providing for the carryforward of the credit; requiring the Comptroller, on application of a taxpayer, to issue a tax credit certificate; requiring the application to contain certain information; requiring the Comptroller to approve applications on a first-come, first-served basis and in a timely manner; providing that the total number of applications certified by the Comptroller may not exceed a certain amount for each taxable year; requiring the Comptroller to make available for certain institutions of higher education a certain percent of the total amount of tax credits that the Comptroller may approve in a calendar year; providing that excess tax credits not certified during a taxable year may be carried over and certified during the next taxable year; requiring the Comptroller to adopt certain regulations; altering a certain definition to include certain entities incorporated in Maryland for at least a certain time period to be eligible for the film production activity tax credit; defining certain terms; ~~providing for the application and termination of this Act~~ providing for the application of this Act; providing for the termination of certain provisions of this Act; and generally relating to a State income tax ~~credit~~ credits for certain donations to certain endowment funds and film production activity.

BY repealing and reenacting, without amendments,

Article – Tax – General

Section 10–204(a) ~~and~~, 10–305(a) and (d)(6), and 10–730(b)(1)

Annotated Code of Maryland

(2016 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 10–204(l) and 10–730(a)(4)

Annotated Code of Maryland

(2016 Replacement Volume and 2018 Supplement)

BY adding to

Article – Tax – General

Section 10–749

Annotated Code of Maryland  
(2016 Replacement Volume and 2018 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.

(l) The addition under subsection (a) of this section includes any amount deducted as a donation, as defined under § 10–736 OR § 10–749 of this title, to the extent that the amount of the donation is included in an application for a credit that is certified under § 10–736 OR § 10–749 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:

(6) § 10–204(l) of this title (Deduction for donations to qualified permanent endowment funds).

**10–749.**

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

(2) **“DONATION” MEANS AN IRREVOCABLE GIFT OF CASH.**

(3) **“INSTITUTION OF HIGHER EDUCATION” MEANS BOWIE STATE UNIVERSITY, COPPIN STATE UNIVERSITY, MORGAN STATE UNIVERSITY, OR UNIVERSITY OF MARYLAND EASTERN SHORE.**

(4) **“QUALIFIED PERMANENT ENDOWMENT FUND” MEANS A FUND THAT IS:**

(I) HELD IN PERPETUITY BY AN INSTITUTION OF HIGHER EDUCATION; AND

(II) USED TO BENEFIT THE INSTITUTION OF HIGHER EDUCATION OR ITS STUDENTS.

(B) (1) SUBJECT TO THE LIMITATIONS OF THIS SECTION, FOR THE TAXABLE YEAR IN WHICH A TAXPAYER MAKES A DONATION TO A QUALIFIED PERMANENT ENDOWMENT FUND AT AN INSTITUTION OF HIGHER EDUCATION, THE TAXPAYER MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN THE AMOUNT STATED ON THE TAX CREDIT CERTIFICATE ISSUED UNDER SUBSECTION (C) OF THIS SECTION.

(2) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, ANY UNUSED CREDIT MAY BE CARRIED FORWARD AND APPLIED TO SUCCEEDING TAXABLE YEARS UNTIL THE FULL AMOUNT OF THE CREDIT IS USED.

(C) (1) ON APPLICATION BY A TAXPAYER, THE COMPTROLLER SHALL ISSUE A CREDIT CERTIFICATE IN THE AMOUNT OF 25% OF A PROPOSED DONATION TO A QUALIFIED PERMANENT ENDOWMENT FUND AT AN INSTITUTION OF HIGHER EDUCATION.

(2) THE APPLICATION SHALL CONTAIN:

(I) THE NAMES OF THE TAXPAYER, THE INSTITUTION OF HIGHER EDUCATION, AND THE QUALIFIED PERMANENT ENDOWMENT FUND TO WHICH THE DONATION WILL BE MADE;

(II) THE TAXABLE YEAR IN WHICH THE DONATION WILL BE MADE;

(III) THE AMOUNT OF THE DONATION; AND

(IV) ANY OTHER INFORMATION THAT THE COMPTROLLER REQUIRES.

(3) THE COMPTROLLER SHALL APPROVE ALL APPLICATIONS THAT QUALIFY FOR A TAX CREDIT CERTIFICATE UNDER THIS SUBSECTION:

(I) ON A FIRST-COME, FIRST-SERVED BASIS; AND

(II) IN A TIMELY MANNER.

(4) (I) FOR EACH TAXABLE YEAR, THE TOTAL AMOUNT OF TAX CREDIT CERTIFICATES CERTIFIED BY THE COMPTROLLER UNDER THIS SECTION MAY NOT EXCEED ~~\$400,000~~ \$240,000.

(II) 1. THE COMPTROLLER SHALL MAKE AVAILABLE 25% OF THE AMOUNT OF CREDITS AUTHORIZED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR DONATIONS TO QUALIFIED PERMANENT ENDOWMENT FUNDS AT EACH INSTITUTION OF HIGHER EDUCATION.

~~(II) 2.~~ IF THE TOTAL AMOUNT OF TAX CREDIT CERTIFICATES CERTIFIED UNDER THIS SECTION FOR AN INSTITUTION OF HIGHER EDUCATION DURING A TAXABLE YEAR TOTALS IS LESS THAN THE AMOUNT AUTHORIZED UNDER THIS PARAGRAPH MADE AVAILABLE FOR THE INSTITUTION OF HIGHER EDUCATION UNDER THIS SUBPARAGRAPH, ANY EXCESS AMOUNT MAY BE CERTIFIED UNDER TAX CREDIT CERTIFICATES FOR THE INSTITUTION OF HIGHER EDUCATION FOR THE NEXT TAXABLE YEAR.

(D) THE COMPTROLLER SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION, INCLUDING THE CRITERIA AND PROCEDURES FOR APPLICATION FOR, APPROVAL OF, AND MONITORING ELIGIBILITY FOR THE TAX CREDIT AUTHORIZED UNDER THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Tax – General

10-730.

(a) (4) “Maryland small or independent film entity” means a qualified film production entity that:

(i) has been incorporated in Maryland for at least [1 year] 3 MONTHS;

(ii) is independently owned and operated;

(iii) is not a subsidiary of another entity;

(iv) is not dominant in its field of operation;

(v) employs 25 or fewer full-time employees; and

*(vi) employs Maryland residents as at least 40% of its workforce in the film production activity.*

*(b) (1) A qualified film production entity may claim a credit against the State income tax for film production activities in the State in an amount equal to the amount stated in the final tax credit certificate approved by the Secretary for film production activities.*

SECTION ~~2~~ 3 AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019, and shall be applicable to all taxable years beginning after December 31, 2018 ~~but before January 1, 2024. It. Section 1 of this Act shall remain effective for a period of 4 years and 6 months and, at the end of December 31, 2023, Section 1 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.~~

**Approved by the Governor, May 13, 2019.**