

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 726

(Senator Guzzone)

Budget and Taxation

Ways and Means

Income Tax Credit - Purchase of Cybersecurity Technology or Service

This bill expands eligibility for the purchase of cybersecurity technology or service tax credit by eliminating the requirement that a qualified buyer must have fewer than 50 employees in the State. **The bill takes effect June 1, 2019, and applies to all tax credit certificates issued after June 30, 2019.**

Fiscal Summary

State Effect: Allowing additional companies to qualify for tax credits may decrease State revenues beginning in FY 2020. However, the total annual amount of tax credits that may be awarded under current law is limited to \$4.0 million. Expenditures are not affected.

Local Effect: Local highway user revenues will decrease to the extent additional credits are claimed against the corporate income tax. Local expenditures are not affected.

Small Business Effect: Potential meaningful.

Analysis

Current Law: A qualified buyer who purchases cybersecurity technology or service from a Maryland company that meets specified requirements can claim a State income tax credit equal to 50% of the cost incurred to purchase the technology or service. A qualified buyer is any entity that has fewer than 50 employees in the State and is required to file a State income tax return. The Department of Commerce (Commerce) may not certify purchases from a single cybersecurity company that total more than \$200,000 in a tax year.

The purchase must be made from a cybersecurity company that meets specified criteria, including requirements that the company (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 United States Small Business Administration; and (3) owns or has properly licensed any proprietary cybersecurity technology or provides cybersecurity service.

The Secretary of Commerce may approve a total of \$2.0 million in tax credits in tax year 2018 and \$4.0 million annually beginning in tax year 2019. The Secretary of Commerce must award 25% of the total tax credits awarded in each year to qualified buyers that purchase cybersecurity services.

Background: Chapter 390 of 2013 established a refundable tax credit for investments in qualified cybersecurity companies. Commerce administers the tax credit application, approval, and certification process. The Governor is required to appropriate at least \$2 million to the reserve fund in each fiscal year. Chapter 578 of 2018 extended through fiscal 2023 the termination date of the tax credit and altered the program by specifying that the investor who makes the qualifying investment in a Maryland cybersecurity company claims the tax credit instead of the cybersecurity company. Chapter 578 also established the purchase of cybersecurity technology or service tax credit.

Commerce has certified that sales from 11 cybersecurity companies qualify for the tax credit. As of February 2019, Commerce has received a total of 20 tax credit applications for qualified purchases made beginning on May 15, 2018, and through the end of the year. These companies may qualify for \$133,200 in tax credits. Commerce expects that it will receive additional applications for tax year 2018.

State Revenues: The bill expands eligibility for the purchase of cybersecurity technology or service tax credit by eliminating the requirement that a qualified buyer must have fewer than 50 employees in the State. While the bill allows additional companies to qualify for the tax credit, the total amount of tax credits that may be awarded in each year is limited to \$4.0 million. Given the recent enactment of the tax credit and lack of program activity, it cannot be reliably estimated if Commerce will award the full amount of tax credits under current law. To the extent the bill increases the amount of credits awarded in each year State revenues will decrease, potentially significantly, beginning in fiscal 2020.

Small Business Impact: If under current law Commerce awards the maximum amount of tax credits, eliminating the requirement that a company has less than 50 employees in the State will negatively impact small businesses that will no longer be able to claim credits due to the maximum annual limit on tax credits. To the extent the bill results in additional tax credit claims being awarded in each year small businesses that are sellers of cybersecurity technologies and services may benefit.

Although the potential impact to a small business may be meaningful, the overall impact on small businesses in the State is limited given 11 companies are currently certified sellers.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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