

Chapter 575

(House Bill 1086)

AN ACT concerning

Maryland Tax Credit Evaluation Act – Alterations

FOR the purpose of requiring a unit of State government that administers certain tax credits to ~~adopt certain regulations before issuing certain certificates~~ report to certain committees of the General Assembly, within a certain period of time after enactment of the credits, on measures that the unit has taken to implement the credits; renaming the Tax Credit Evaluation Act to be the Tax Expenditure Evaluation Act; altering the purposes of the Act to include the legislative review of tax exemptions and preferences; requiring the Department of Legislative Services to conduct an evaluation of a State tax credit, exemption, or preference, or an aspect of a State tax credit, exemption, or preference, under certain circumstances; requiring the Department, beginning after a certain date, to conduct an evaluation of certain credits under certain circumstances; authorizing the Department to conduct an expedited review of a certain credit under certain circumstances; requiring the Department, in consultation with the Senate Budget and Taxation Committee and the House Committee on Ways and Means, to publish a certain schedule on the Department's website; repealing provisions of law establishing a certain evaluation committee; requiring certain instrumentalities of the State and local governments to promptly provide certain information to the Department and otherwise cooperate with the Department; requiring the Department, with respect to each evaluation, to submit a certain report to the General Assembly; defining a certain term; making conforming changes; and generally relating to income tax credits and the review and evaluation of tax credits, exemptions, and preferences.

BY repealing and reenacting, with amendments,
 Article – Economic Development
 Section 5–1407(b)
 Annotated Code of Maryland
 (2018 Replacement Volume and 2020 Supplement)

BY adding to
 Article – Tax – General
 Section 1–206 and 1–306
 Annotated Code of Maryland
 (2016 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,
 Article – Tax – General
 Section 1–301 through 1–303, 1–305, 1–306, and 1–311 to be under the amended
 subtitle “Subtitle 3. Tax Expenditure Evaluation Act”
 Annotated Code of Maryland

(2016 Replacement Volume and 2020 Supplement)

BY repealing

Article – Tax – General

Section 1–304 and 1–307 through 1–310

Annotated Code of Maryland

(2016 Replacement Volume and 2020 Supplement)

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

Article – Economic Development

5–1407.

(b) On or before December 15 of each year, the Department and the Comptroller shall submit to the Governor and, in accordance with § 2–1257 of the State Government Article, the Senate Budget and Taxation Committee[,] AND the House Committee on Ways and Means[, and the Tax Credit Evaluation Committee] a report outlining the findings of the Department and the Comptroller and any other information of value in determining the effectiveness of the tax incentives authorized under this subtitle.

Article – Tax – General

1–206.

(A) THIS SECTION DOES NOT APPLY TO AN INCOME TAX CREDIT THAT:

(1) WAS AUTHORIZED UNDER TITLE 10, SUBTITLE 7 OF THIS ARTICLE BEFORE JULY 1, 2021; OR

(2) HAS AN ANNUAL FISCAL IMPACT OF LESS THAN \$5,000,000.

~~**(B) A UNIT OF STATE GOVERNMENT REQUIRED TO ADMINISTER AN INCOME TAX CREDIT AUTHORIZED UNDER TITLE 10, SUBTITLE 7 OF THIS ARTICLE MAY NOT ISSUE A CERTIFICATE OF ELIGIBILITY TO CLAIM THE CREDIT UNTIL THE UNIT ADOPTS REGULATIONS PROVIDING FOR THE ADMINISTRATION OF THE CREDIT.**~~

(B) WITHIN 1 YEAR AFTER THE ENACTMENT OF AN INCOME TAX CREDIT AUTHORIZED UNDER TITLE 10, SUBTITLE 7 OF THIS ARTICLE, A UNIT OF STATE GOVERNMENT REQUIRED TO ADMINISTER THE CREDIT SHALL REPORT, IN ACCORDANCE WITH § 2–1257 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE BUDGET AND TAXATION COMMITTEE AND THE HOUSE COMMITTEE ON WAYS AND MEANS ON THE MEASURES THAT THE UNIT HAS TAKEN TO IMPLEMENT THE CREDIT.

Subtitle 3. Tax [Credit] **EXPENDITURE** Evaluation Act.

1-301.

(a) In this subtitle the following words have the meanings indicated.

(B) “DEPARTMENT” MEANS THE DEPARTMENT OF LEGISLATIVE SERVICES.

[(b)] (C) “Evaluation” means the process of legislative review of a tax credit, **EXEMPTION, OR PREFERENCE** for which this subtitle provides.

[(c) “Evaluation committee” means a committee that is appointed to carry out an evaluation.

(d) “Evaluation date” means the date on which an evaluation of a tax credit is to be completed.]

1-302.

The [purposes] **PURPOSE** of this subtitle [are] **IS** to[:

(1) establish a system of legislative review that will determine whether a tax credit, **EXEMPTION, OR PREFERENCE** is necessary for the public interest[; and

(2) ensure that the legislative review takes place by establishing, by statute, dates for review and other legislative action].

1-303.

[(a) An evaluation shall be made of the tax credits on or before the dates specified in subsections (b) through (h) of this section.

(b) On or before July 1, 2014, an evaluation shall be made of the tax credits under:

(1) § 10-702 of this article (wages paid in an enterprise zone) and § 9-103 of the Tax – Property Article (qualified property in an enterprise zone); and

(2) Title 6, Subtitle 4 of the Economic Development Article, § 6-119 of the Insurance Article, and § 10-714 of this article (One Maryland economic development).

(c) On or before July 1, 2015, an evaluation shall be made of the tax credits under:

(1) § 10-704 of this article (earned income); and

(2) § 10-730 of this article (film production activity).

(d) On or before July 1, 2016, an evaluation shall be made of the tax credit under § 5A–303 of the State Finance and Procurement Article, § 6–105.2 of the Insurance Article, and § 10–704.5 of this article (sustainable communities).

(e) On or before July 1, 2017, an evaluation shall be made of the tax credits under:

(1) § 9–230 of the Tax – Property Article, § 6–116 of the Insurance Article, and § 10–704.8 of this article (new job creating businesses); and

(2) § 10–704.4 of this article (job creation).

(f) On or before July 1, 2018, an evaluation shall be made of the tax credits under:

(1) § 10–721 of this article (qualified research and development expenses);
and

(2) § 10–725 of this article (biotechnology investment incentive).

(g) On or before July 1, 2019, an evaluation shall be made of the tax credit under § 10–702 of this article (wages paid in a Regional Institution Strategic Enterprise zone) and § 9–103.1 of the Tax – Property Article (qualified property in a Regional Institution Strategic Enterprise zone).

(h) On or before July 1, 2021, an evaluation shall be made of the tax credit under § 10–741 of this article and the sales and use tax refund under § 11–411 of this article (More Jobs for Marylanders tax credit).]

(A) SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, ON A REQUEST BY THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE COMMITTEE ON WAYS AND MEANS, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT, OR THE DIRECTOR OF THE OFFICE OF POLICY ANALYSIS IN THE DEPARTMENT, THE DEPARTMENT SHALL CONDUCT AN EVALUATION OF A STATE TAX CREDIT, EXEMPTION, OR PREFERENCE, OR AN ASPECT OF A STATE TAX CREDIT, EXEMPTION, OR PREFERENCE.

[(i) (B) On or before July 1, 2023, THE DEPARTMENT SHALL CONDUCT an evaluation [shall be made] of the tax credits under § 10–733 of this article (cybersecurity investment incentive) and § 10–733.1 of this article (purchase of cybersecurity technology or service).

(C) (1) BEGINNING OCTOBER 1, 2022, THE DEPARTMENT SHALL CONDUCT AN EVALUATION AT LEAST ONCE EVERY 10 YEARS OF EACH INCOME TAX CREDIT THAT IS PRIMARILY CLAIMED BY BUSINESS ENTITIES AND HAS AN ANNUAL FISCAL IMPACT EXCEEDING \$5,000,000.

(2) IN CONDUCTING A REEVALUATION OF AN INCOME TAX CREDIT DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR WHICH THE DEPARTMENT HAS PREVIOUSLY CONDUCTED AN EVALUATION, THE DEPARTMENT MAY CONDUCT AN EXPEDITED REVIEW OF THE INCOME TAX CREDIT IF THE DEPARTMENT DETERMINES THAT THERE HAVE BEEN NO SUBSTANTIAL ALTERATIONS TO THE INCOME TAX CREDIT SINCE THE PREVIOUS EVALUATION WAS CONDUCTED.

(D) IN CONSULTATION WITH THE SENATE BUDGET AND TAXATION COMMITTEE AND THE HOUSE COMMITTEE ON WAYS AND MEANS, THE DEPARTMENT SHALL PUBLISH ON THE DEPARTMENT'S WEBSITE A SCHEDULE OF THE EVALUATIONS TO BE CONDUCTED BY THE DEPARTMENT.

[1-304.

(a) Evaluation of a tax credit shall be completed by an evaluation committee appointed jointly by the President of the Senate and the Speaker of the House.

(b) Each evaluation committee for a tax credit shall be appointed on or before May 31 of the year before the evaluation date of that tax modification or tax exemption.

(c) An evaluation committee shall include at least one member of the Senate Budget and Taxation Committee and at least one member of the House Committee on Ways and Means.]

[1-305.] **1-304.**

[On or before June 30 of the year before the evaluation date of a tax credit, each evaluation committee for that tax credit] **FOR EACH EVALUATION REQUIRED UNDER THIS SUBTITLE, THE DEPARTMENT shall:**

(1) consult with:

(i) the Department of Budget and Management;

(ii) [the Department of Legislative Services;

(iii)] the Comptroller; and

[(iv)] **(III) the department, INSTRUMENTALITY OF THE STATE, OR LOCAL GOVERNMENT that administers the tax credit, EXEMPTION, OR PREFERENCE under evaluation; and**

(2) prepare a plan for the evaluation.

[1-306.] 1-305.

During an evaluation, the Comptroller, the Department of Budget and Management, and the department, **INSTRUMENTALITY OF THE STATE, OR LOCAL GOVERNMENT** that administers the tax credit, **EXEMPTION, OR PREFERENCE** shall:

(1) provide promptly any information that the Department [of Legislative Services or an evaluation committee] requests; and

(2) otherwise cooperate with the Department [of Legislative Services and the evaluation committee].

1-306.

(A) THE DEPARTMENT SHALL PREPARE A REPORT ON THE EVALUATION THAT:

(1) DISCUSSES, TO THE DEGREE RELEVANT:

(I) THE PURPOSE FOR WHICH THE TAX CREDIT, EXEMPTION, OR PREFERENCE WAS ESTABLISHED;

(II) WHETHER THE ORIGINAL INTENT OF THE TAX CREDIT, EXEMPTION, OR PREFERENCE IS STILL APPROPRIATE;

(III) WHETHER THE TAX CREDIT, EXEMPTION, OR PREFERENCE IS MEETING ITS OBJECTIVES;

(IV) WHETHER THE PURPOSES OF THE TAX CREDIT, EXEMPTION, OR PREFERENCE COULD BE MORE EFFICIENTLY AND EFFECTIVELY CARRIED OUT THROUGH ALTERNATIVE METHODS; AND

(V) THE COSTS OF PROVIDING THE TAX CREDIT, EXEMPTION, OR PREFERENCE, INCLUDING THE ADMINISTRATIVE COST TO THE STATE AND LOST REVENUES TO THE STATE AND LOCAL GOVERNMENTS; AND

(2) INCLUDE A RECOMMENDATION ON WHETHER THE TAX CREDIT, EXEMPTION, OR PREFERENCE SHOULD BE CONTINUED, WITH OR WITHOUT CHANGES, OR TERMINATED.

(B) FOR EACH EVALUATION CONDUCTED BY THE DEPARTMENT, THE DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, ON THE EVALUATION.

[1-307.

(a) (1) Subject to § 2-1257 of the State Government Article, on or before November 15 of the year before the evaluation date of a tax credit, the Department of Legislative Services shall submit to the General Assembly an evaluation report on the tax credit.

(2) The Department of Legislative Services shall make copies of the report available to the public.

(b) The report required under subsection (a) of this section shall discuss:

(1) the purpose for which the tax credit was established;

(2) whether the original intent of the tax credit is still appropriate;

(3) whether the tax credit is meeting its objectives;

(4) whether the purposes of the tax credit could be more efficiently and effectively carried out through alternative methods; and

(5) the costs of providing the tax credit, including the administrative cost to the State and lost revenues to the State and local governments.]

[1-308.

On or before December 31 of the year before the evaluation date of a tax credit, the evaluation committee shall hold a public hearing to receive, from the Comptroller and the public, testimony regarding the evaluation report.]

[1-309.

(a) Subject to § 2-1257 of the State Government Article, on or before the 20th day of the regular session of the General Assembly in the year of the evaluation date of a tax credit, the evaluation committee for the tax credit shall submit a report to the General Assembly.

(b) (1) The report required under subsection (a) of this section shall recommend whether the tax credit should be continued, with or without changes, or terminated.

(2) The report shall be accompanied by any legislation that is needed to accomplish the recommendations in the report.]

[1-310.

The continuation of a tax credit designated for evaluation under this subtitle is for a 7-year period and is subject to reevaluation 7 years after the previous evaluation, unless another period is set by law.]

[1-311.] **1-307.**

This subtitle may be cited as the “Tax [Credit] **EXPENDITURE** Evaluation Act”.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.