

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 936
Ways and Means

Income Tax - Credit for Cybersecurity Measures Undertaken by Small Businesses

This bill creates a refundable credit against the State income tax for costs incurred by small businesses, defined as specified businesses that employ no more than 50 employees, for cybersecurity measures. A small business taxpayer may be eligible to claim a credit of up to \$1,000 for costs incurred to conduct or implement the recommendations of an initial cybersecurity assessment and up to \$500 for costs incurred for recurring cybersecurity measures, including subsequent risk assessments, antivirus software, multifactor authentication, and data encryption. To claim the credit, a small business must include specified documentation of eligible costs incurred during the taxable year. **The bill takes effect July 1, 2023, and applies to tax year 2023 and beyond.**

Fiscal Summary

State Effect: General fund revenues decrease significantly beginning in FY 2024. To the extent credits are claimed against the corporate income tax, Higher Education Investment Fund (HEIF) revenues and Transportation Trust Fund (TTF) revenues and expenditures are also affected. General fund expenditures for the Comptroller's Office increase by an estimated \$63,000 in FY 2024 only.

Local Effect: Local highway user revenues decrease beginning in FY 2024 to the extent credits are claimed against the corporate income tax. Local expenditures are not affected.

Small Business Effect: Meaningful.

Analysis

Current Law: Chapter 578 of 2018 established a credit against the State income tax for costs incurred by qualified buyers (defined as any entity that has fewer than 50 employees in the State and is required to file a Maryland income tax return) to purchase cybersecurity technology or services from a qualified seller. The value of the credit is equal to 50% of the eligible costs incurred, not to exceed \$50,000 per qualified buyer.

For purposes of the credit, “qualified seller” is defined as a cybersecurity business that (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 U.S. Small Business Administration; and (3) owns or has properly licensed any proprietary cybersecurity technology or provides a cybersecurity service (among other specified requirements).

The Secretary of Commerce may approve up to \$4.0 million in tax credit certificates annually and must award 25% of the amount of authorized tax credits to qualified buyers that purchase cybersecurity services.

State Revenues: General fund revenues decrease significantly beginning in fiscal 2024 due to credits claimed against the State income tax. To the extent credits are claimed against the corporate income tax, a portion of foregone tax revenues will reduce HEIF and TTF revenues. While it is unknown how many taxpayers will be eligible for and claim the credit, a preliminary estimate by the Comptroller’s Office based on Maryland small business data suggests that State revenue reductions may exceed \$70 million annually.

State Expenditures: Based on analyses of similar legislation, it is estimated that general fund expenditures for the Comptroller’s Office may increase by \$63,000 in fiscal 2024 for one-time changes to the Comptroller’s tax systems necessary to implement the State income tax credit established under the bill.

A portion of TTF revenues from the corporate income tax is used to provide capital transportation grants to local governments (local highway user revenues). Thus, TTF expenditures for highway user revenue grants to local governments decrease beginning in fiscal 2024, to the extent credits are claimed against the corporate income tax.

Local Revenues: Local highway user revenues decrease beginning in fiscal 2024, to the extent credits are claimed against the corporate income tax.

Small Business Effect: Small businesses are the primary beneficiaries of the tax credit proposed under the bill. Maryland small businesses may be meaningfully affected to the extent that they are eligible to claim credits against the State income tax for cybersecurity-related costs.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See HB 1284 of 2022.

Designated Cross File: None.

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

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