

**Letter of Information – Senate Bill 702 – Biotechnology Investment Incentive Tax Credit
Program – Pass-Through Entities**
Budget and Tax Committee
February 14, 2024

We thank Senator Beidle for putting forward this bill focused on allowing Pass-Through Entities to better utilize the Biotechnology Investment Incentive Tax Program. This is an important program aimed at spurring innovation and growing an important sector of Maryland's economy.

This bill would enable PTE's to allocate the BIITC credit to members in a manner other than in accordance with the member's distributive share, or pro-rata share, of the PTE's taxable income. In order to best operationalize this legislation, the Office of the Comptroller is offering two technical corrections.

1. Section 10-725(b)(5) should be amended to state "[t]he credit allowed under this section may be allocated among the members of a pass-through entity in any manner agreed to by those persons in writing."
 - a. This amendment would make the language more accurate and consistent with HDC § 6-903, the Catalytic Revitalization Tax Credit – which is also allocable to its members in a manner other than in accordance with the member's distributive share.
2. The proposed new language in section 10-725(d)(3)(II) should be stricken in its entirety as it incorrectly reflects how refundable credits are reported by PTEs. No credits, including the biotechnology investment tax credit, are claimed directly by or refunded to PTEs; instead, they are passed through to members on a Form K-1. Each member can claim their share of the credit, as reported on their K-1, on their own income tax return. If the result of the member's return is an overpayment, a member can claim their own refund.

We are thankful the sponsor of this legislation has been open to ongoing conversations with our office to ensure the Comptroller's Office is able to implement this bill as intended. We are committed to providing answers to the sponsor and the committee should any questions arise. As always, the Comptroller's Office remains committed to supporting initiatives that benefit the community and look forward to working with you on this matter. Please contact Justin Hayes, Director of State Affairs at jhayes@marylandtaxes.gov or 410-260-7696, with any questions.

