

Chapter 582

(Senate Bill 843)

AN ACT concerning

Tax Credits – Evaluations ~~and Sunset Provisions~~

FOR the purpose of ~~expanding~~ altering the State tax credits subject to legislative review and evaluation under the Tax Credit Evaluation Act; repealing a certain requirement that certain tax credits with termination dates be evaluated on or before a certain date; providing that certain departments that administer certain tax credits must promptly provide certain requested information; altering certain dates for certain tax credit evaluations, evaluation reports, and public hearings; altering the time period for the continuation and reevaluation of certain tax credits designated for evaluation; ~~terminating the biotechnology investment tax credit, new job creating businesses tax credit, and certain tax credits available under the Enterprise Zone Program, the Regional Institution Strategic Enterprise Zone Program, and the One Maryland Program; making conforming changes;~~ requiring the Comptroller to adopt certain procedures and protocols and make, under certain circumstances, a certain request; ~~providing for the delayed effective date of certain provisions of this Act; providing for the application of certain provisions of this Act;~~ and generally relating to the Tax Credit Evaluation Act ~~and the termination of certain tax credits.~~

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 1–303, 1–306 through 1–308, 1–310, 10–205(b), and 10–804(j) and 1–310

Annotated Code of Maryland

(2010 Replacement Volume and 2015 Supplement)

~~BY repealing and reenacting, with amendments,~~~~Article – Economic Development~~~~Section 5–702, 5–707, and 5–1406~~~~Annotated Code of Maryland~~~~(2008 Volume and 2015 Supplement)~~~~BY repealing and reenacting, without amendments,~~~~Article – Tax – General~~~~Section 10–205(a)~~~~Annotated Code of Maryland~~~~(2010 Replacement Volume and 2015 Supplement)~~~~BY repealing and reenacting, with amendments,~~~~Article – Tax – Property~~~~Section 9–317(f)~~~~Annotated Code of Maryland~~

~~(2012 Replacement Volume and 2015 Supplement)~~

~~BY repealing~~

~~Article – Economic Development~~

~~Section 5–709 and 5–1407; and 6–401 through 6–407 and the subtitle “Subtitle 4,
One Maryland Economic Development Tax Credit”~~

~~Annotated Code of Maryland~~

~~(2008 Volume and 2015 Supplement)~~

~~BY repealing~~

~~Article – Insurance~~

~~Section 6–116 and 6–119~~

~~Annotated Code of Maryland~~

~~(2011 Replacement Volume and 2015 Supplement)~~

~~BY repealing~~

~~Article – Tax – General~~

~~Section 8–220, 10–702, 10–704.8, 10–714, and 10–725~~

~~Annotated Code of Maryland~~

~~(2010 Replacement Volume and 2015 Supplement)~~

~~BY repealing~~

~~Article – Tax – Property~~

~~Section 9–103, 9–103.1, and 9–230~~

~~Annotated Code of Maryland~~

~~(2012 Replacement Volume and 2015 Supplement)~~

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

Article – Tax – General

1–303.

(a) ~~(1) If a tax credit has a termination date provided for by law, an evaluation shall be made of that credit on or before July 1 of the year preceding the calendar year of the termination date.~~

~~(2) Except as provided in paragraph (1) of this subsection, an AN~~ evaluation shall be made of the tax credits on or before the dates specified in subsections (b) through (e) 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 ~~credits~~ **CREDIT** under:

~~(1) § 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); and~~

~~(2) § 10–721 of this article (qualified research and development expenses).~~

(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) ~~§ 10–725~~ **§ 10–704.4** of this article (~~biotechnology investment incentive~~) **(JOB CREATION)**; and

~~(3) § 10–735 of this article (wineries and vineyards).~~

(F) ON OR BEFORE JULY 1, 2018, AN EVALUATION SHALL BE MADE OF THE TAX ~~CREDIT~~ CREDITS UNDER:

(1) § 10–721 OF THIS ARTICLE (QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES); AND

(2) ~~§ 10–733~~ § 10–725 OF THIS ARTICLE (CYBERSECURITY (BIOTECHNOLOGY INVESTMENT INCENTIVE)).

(G) ON OR BEFORE JULY 1, 2019, AN EVALUATION SHALL BE MADE OF THE TAX CREDITS UNDER:

(1) § 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); AND

**(2) ~~§ 10-704.4~~ § 10-733 OF THIS ARTICLE (~~JOB CREATION~~)
(CYBERSECURITY INVESTMENT INCENTIVE).**

1-306.

During an evaluation, the Comptroller [and], the Department of Budget and Management, AND THE DEPARTMENT THAT ADMINISTERS THE TAX CREDIT 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.

1-307.

(a) (1) Subject to § 2-1246 of the State Government Article, on or before [October 31] **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 [14] **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.

1-310.

The continuation of a tax credit designated for evaluation under this subtitle is for a ~~[5-year]~~ **7-YEAR** period and is subject to reevaluation ~~[5]~~ **7** years after the previous evaluation, unless another period is set by law.

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

~~**Article—Economic Development**~~

~~5-702.~~

~~[Subject to § 9-103 of the Tax—Property Article, a] A business entity that owns, operates, develops, constructs, or rehabilitates property intended for use primarily as single or multifamily residential property located in an enterprise zone may not benefit from an incentive or initiative under this subtitle.~~

~~5-707.~~

~~(a) To the extent provided for in this section, a business entity is entitled to:~~

- ~~(1) the special property tax credit in § 9-103 of the Tax—Property Article;~~
- ~~(2) the income tax credits in § 10-702 of the Tax—General Article; and~~
- ~~(3) consideration for financial assistance from programs in Subtitle 1 of this title.~~

~~(b) A business entity that moves into or locates in an enterprise zone on or after the date that the enterprise zone is designated under § 5-704 of this subtitle may benefit from the incentives and initiatives in this section if:~~

~~(1) the business entity meets the requirements and conditions of the Code section applicable to each incentive or initiative;~~

~~(2) the respective political subdivision certifies that the business entity has complied with the standards that the subdivision submitted under § 5-703(b)(5) of this subtitle; AND~~

~~(3) [the business entity creates new or additional jobs or makes a capital investment to qualify for the property tax credit under § 9-103 of the Tax—Property Article and the income tax credits under § 10-702 of the Tax—General Article; and~~

~~(4) in considering whether the business entity qualifies for financial assistance from the programs in Subtitle 1 of this title, the Secretary determines that the business entity will create new or additional jobs.~~

~~(e) The incentives and initiatives provided for in this section are not available to a business entity that:~~

~~(1) was in an enterprise zone before the date that the enterprise zone is designated, except for a capital investment or expansion of its labor force that occurs on or after the enterprise zone is designated; or~~

~~(2) is located in an enterprise zone that was designated under federal law unless the Secretary and the Board of Public Works consent to the designation.~~

~~(d) (1) [Except as provided in § 10-702 of the Tax — General Article and § 9-103 of the Tax — Property Article, the] THE incentives and initiatives set forth in this section are available for 10 years after the date that an area is designated an enterprise zone.~~

~~(2) A law enacted after the enactment of this section that eliminates or reduces the benefits available to a business entity under this section does not apply to a business entity that was in an enterprise zone before the effective date of the law.~~

~~[(c) (1) (i) Notwithstanding subsection (d) of this section, except for a business entity certified to receive a property tax credit under § 9-103 of the Tax — Property Article for a tax year beginning before July 1, 2008, a business entity located in an enterprise zone may not receive the incentives and initiatives set forth in subsection (a)(1) and (2) of this section if the entity is located on land or within improvements owned by the federal government, the State, a county, or a municipal corporation unless the business entity has first utilized all applicable property tax exemptions under Title 7 of the Tax — Property Article, including entering into any available payment in lieu of tax agreement.~~

~~(ii) Subparagraph (i) of this paragraph does not apply to a business entity leasing land or improvements owned by the Maryland Economic Development Corporation.~~

~~(2) Notwithstanding subsection (d) of this section, a business entity located in a BRAC Revitalization and Incentive Zone established under Subtitle 13 of this title may not receive the property tax credit under § 9-103 of the Tax — Property Article unless:~~

~~(i) the business entity qualified for the property tax credit before the date that the BRAC Revitalization and Incentive Zone is designated; or~~

~~(ii) the political subdivision where the business entity is located expressly grants the property tax credit to the business entity.]~~

~~5-1406.~~

~~(a) [(1)] To the extent provided for in this section, a business entity that locates in a RISE zone is entitled to[~~

- ~~Article;~~
- (i) ~~the property tax credit under § 9-103.1 of the Tax — Property~~
- ~~Article;~~
- (ii) ~~the income tax credit under § 10-702 of the Tax — General~~
- ~~Article; and~~
- (iii) ~~priority consideration for financial assistance from programs in~~
- ~~Subtitle 1 of this title.~~

~~[(2) For purposes of the income tax credit authorized under paragraph (1)(ii) of this subsection, the business entity is treated as being located in an enterprise zone.]~~

~~(b) A business entity that moves into or locates in a RISE zone on or after the date that the zone is designated under this subtitle may qualify for the incentives under this section.~~

~~(c) A business entity may not qualify for the incentives under subsection (a) of this section unless the Department, in consultation with the county or municipal corporation in which a RISE zone is located, certifies the business entity and its location as consistent with the target strategy of the RISE zone.~~

~~(d) (1) Unless a business entity makes a significant capital investment or expansion of its labor force after a RISE zone is designated, the incentives under this section are not available to a business entity that was in a RISE zone before the date that the zone is designated.~~

~~(2) The Department shall adopt regulations establishing factors to determine if a business entity makes a significant capital investment or expansion of its labor force under paragraph (1) of this subsection.~~

~~Article — Tax — General~~

~~10-205.~~

~~(a) In addition to the modification under § 10-204 of this subtitle, the amounts under this section are added to the federal adjusted gross income of a resident to determine Maryland adjusted gross income.~~

~~(b) The addition under subsection (a) of this section includes the amount of a credit claimed under:~~

~~(1) [§ 10-702 of this title for wages paid to an employee in an enterprise zone;~~

~~(2) § 10-704.3 of this title or § 8-213 of this article for wages paid and qualified child care or transportation expenses incurred with respect to qualified employment opportunity employees; and~~

~~[(3)] (2) § 10-704.7 of this title or § 8-216 of this article for wages paid and qualified child care or transportation expenses incurred with respect to a qualified employee with a disability.~~

~~10-804.~~

~~(j) (1) A taxpayer claiming any of the following tax credits shall submit a claim for the credit by electronic means as required by the Comptroller by regulation:~~

~~(i) the Job Creation Tax Credit, as provided under Title 6, Subtitle 2 of the Economic Development Article;~~

~~(ii) the One Maryland Tax Credit, as provided under Title 6, Subtitle 4 of the Economic Development Article;~~

~~(iii) the Biotechnology Investment Incentive Tax Credit, as provided under § 10-725 of this title;~~

~~(iv) the Enterprise Zone Income Tax Credit, as provided under § 10-702 of this title; and~~

~~[(v)] (II) any other tax credit specified by the Comptroller through regulation.~~

~~(2) Before adding any tax credit [not listed in paragraph (1)(i) through (iv) of this subsection] to the requirement of this subsection, the Comptroller shall determine whether the addition of the tax credit will have a material adverse impact or undue administrative burden on the Comptroller.~~

~~Article Tax Property~~

~~9-317.~~

~~(f) (1) (i) In this subsection the following words have the meanings indicated.~~

~~(ii) “Eligible business entity” means a person who operates or conducts a trade or business on qualified enterprise zone property but does not own the qualified enterprise zone property.~~

~~(iii) “Qualified enterprise zone property” means real property that:~~

~~1. A. is not used for residential purposes;~~
~~B. is used in a trade or business by an eligible business entity; AND~~
~~C. is located in an enterprise zone that is designated under Title 5, Subtitle 7 of the Economic Development Article; [and~~
~~D. is eligible for the property tax credit under § 9-103 of this title;]~~

~~2. A. is located within the area encompassed by the Burtonsville Crossroads Neighborhood Plan developed by the Montgomery County Planning Department;~~
~~B. is zoned for commercial or commercial/residential mixed use development; and~~
~~C. has had improvements made on it on or before January 1, 2020; or~~

~~3. A. is located within the area encompassed by the Glenmont Shopping Center area, the Metro Station/Layhill Triangle Block, the Winexburg Manor Apartments area, the Glenmont Forest Apartments area, and the Privacy World area of the Glenmont Sector Plan developed by the Montgomery County Planning Department;~~
~~B. is zoned for commercial or commercial/residential mixed use development; and~~
~~C. has had improvements made on it on or before January 1, 2025.~~

~~(2) Subject to [paragraphs (4) and (5)] PARAGRAPH (4) of this subsection, the governing body of Montgomery County or of a municipal corporation in Montgomery County may grant, by law, a property tax credit against the county or municipal corporation property tax imposed on:~~

~~(i) improvements made by an eligible business entity to qualified enterprise zone property; and~~

~~(ii) personal property owned by an eligible business entity located on qualified enterprise zone property.~~

~~(3) (i) The governing body of Montgomery County or of a municipal corporation in Montgomery County may provide, by law, for:~~

- ~~1. the amount and duration of a credit under this subsection;~~
- ~~2. additional eligibility criteria for a credit under this subsection; and~~
- ~~3. any other provision necessary to carry out a credit under this subsection.~~

~~(ii) The governing body of Montgomery County or of a municipal corporation in Montgomery County shall define, by law, the improvements eligible for a credit under this subsection.~~

~~(4) The lessor of real property granted a credit under paragraph (2)(i) of this subsection shall reduce the amount of taxes for which an eligible business entity is contractually liable under the lease agreement by the amount of any credit granted under paragraph (2)(i) of this subsection for improvements made by the eligible business entity.~~

~~[(5) The lessor of real property that receives a credit under § 9-103 of this title may not be granted a credit under this subsection.]~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 5-709 and 5-1407; and 6-401 through 6-407 and the subtitle “Subtitle 4. One Maryland Economic Development Tax Credit” of Article — Economic Development of the Annotated Code of Maryland be repealed.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That Section(s) 6-116 and 6-119 of Article — Insurance of the Annotated Code of Maryland be repealed.~~

~~SECTION 5. AND BE IT FURTHER ENACTED, That Section(s) 8-220, 10-702, 10-704.8, 10-714, and 10-725 of Article — Tax — General of the Annotated Code of Maryland be repealed.~~

~~SECTION 6. AND BE IT FURTHER ENACTED, That Section(s) 9-103, 9-103.1, and 9-230 of Article — Tax — Property of the Annotated Code of Maryland be repealed.~~

~~SECTION 7. 2. AND BE IT FURTHER ENACTED, That:~~

(a) The Comptroller shall adopt procedures and protocols related to the administration of Maryland’s tax system to:

(1) improve the accuracy and collection of tax data necessary to allow for more effective evaluations of State tax incentive programs;

(2) notwithstanding any federal or State confidentiality requirements, share with the Department of Legislative Services and other appropriate State agencies data related to State tax incentive programs to better assess the effectiveness of those programs; and

(3) implement a private letter ruling process to provide additional tax guidance to taxpayers.

(b) If the Comptroller determines that the increased responsibilities under subsection (a) of this section will have more than an incidental impact on the Comptroller's annual budget, the Comptroller shall request additional resources in the Comptroller's fiscal year 2018 budget request to the Governor.

~~SECTION 8. AND BE IT FURTHER ENACTED, That Sections 2 through 6 of this Act shall take effect June 1, 2021, and shall be applicable to all taxable years beginning after December 31, 2020.~~

~~SECTION 9. AND BE IT FURTHER ENACTED, That, except as provided in Section 8 of this Act, this Act shall take effect June 1, 2016.~~

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2016.

Approved by the Governor, May 19, 2016.