

HOUSE BILL 1294

Q3, Q4

4lr2873

By: **Delegate Young**

Introduced and read first time: February 9, 2024

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Artificial Intelligence Tools – Income Tax Credit and Sales and Use Tax**

3 FOR the purpose of prohibiting the Secretary of Commerce from issuing a credit certificate
4 for the purchase of certain cybersecurity technologies or services for a taxable year
5 beginning after a certain date; altering the definition of “digital product” under the
6 State sales and use tax to include certain artificial intelligence tools; allowing a
7 credit against the State income tax for costs paid or incurred by a certain qualified
8 buyer for the use of certain artificial intelligence tools; and generally relating to the
9 State tax treatment of artificial intelligence tools.

10 BY repealing and reenacting, without amendments,
11 Article – Tax – General
12 Section 10–733.1(b)(1) and 11–101(a)
13 Annotated Code of Maryland
14 (2022 Replacement Volume and 2023 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Tax – General
17 Section 10–733.1(d)(3) and 11–101(a–4) and (c–4)
18 Annotated Code of Maryland
19 (2022 Replacement Volume and 2023 Supplement)

20 BY adding to
21 Article – Tax – General
22 Section 10–758 and 11–101(a–4) and (a–5)
23 Annotated Code of Maryland
24 (2022 Replacement Volume and 2023 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Tax – General**

2 10–733.1.

3 (b) (1) Subject to paragraphs (2) and (3) of this subsection, a qualified buyer
4 may claim a credit against the State income tax in an amount equal to 50% of the cost
5 incurred during the taxable year to purchase cybersecurity technology or a cybersecurity
6 service from one or more qualified sellers.

7 (d) (3) (i) The total amount of the credit certificates approved by the
8 Secretary of Commerce under this subsection may not exceed:

9 1. for taxable year 2018, \$2,000,000; and

10 2. for taxable [year] YEARS 2019 [and each taxable year
11 thereafter] **THROUGH 2023**, \$4,000,000.

12 **(II) THE SECRETARY OF COMMERCE MAY NOT ISSUE A CREDIT**
13 **CERTIFICATE FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2023.**

14 **[(ii)] (III)** For each taxable year, the Secretary of Commerce shall
15 award 25% of the amount of tax credits authorized under subparagraph (i) of this
16 paragraph to qualified buyers that purchase cybersecurity services.

17 11–101.

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

19 **(A–4) “ARTIFICIAL INTELLIGENCE” HAS THE MEANING STATED IN 15 U.S.C. §**
20 **9401(3).**

21 **(A–5) “ARTIFICIAL INTELLIGENCE TOOL” MEANS SOFTWARE OR SOFTWARE AS**
22 **A SERVICE THAT UTILIZES ARTIFICIAL INTELLIGENCE FOR VARIOUS PURPOSES,**
23 **INCLUDING DATA ANALYSIS, AUTOMATION, AND MACHINE LEARNING.**

24 **[(a–4)] (A–6)** “Booking transaction” means any transaction in which there is a
25 retail sale of an accommodation.

26 (c–4) (1) “Digital product” means a product that is obtained electronically by the
27 buyer or delivered by means other than tangible storage media through the use of
28 technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar
29 capabilities.

30 (2) “Digital product” includes:

1 (i) a work that results from the fixation of a series of sounds that
2 are transferred electronically, including:

3 1. prerecorded or live music or performances, readings of
4 books or other written materials, and speeches; and

5 2. audio greeting cards sent by e-mail;

6 (ii) a digitized sound file, such as a ring tone, that is downloaded onto
7 a device and may be used to alert the user of the device with respect to a communication;

8 (iii) a series of related images that, when shown in succession, impart
9 an impression of motion, together with any accompanying sounds that are transferred
10 electronically, including motion pictures, musical videos, news and entertainment
11 programs, live events, video greeting cards sent by e-mail, and video or electronic games;

12 (iv) a book, generally known as an “e-book”, that is transferred
13 electronically; [and]

14 (v) a newspaper, magazine, periodical, chat room discussion, weblog,
15 or any other similar product that is transferred electronically; AND

16 **(VI) AN ARTIFICIAL INTELLIGENCE TOOL.**

17 (3) “Digital product” does not include:

18 (i) prerecorded or live instruction by a public, private, or parochial
19 elementary or secondary school or a public or private institution of higher education;

20 (ii) instruction in a skill or profession in a buyer’s current or
21 prospective business, occupation, or trade if the instruction:

22 1. is not prerecorded; and

23 2. features an interactive element between the buyer and the
24 instructor or other buyers contemporaneous with the instruction;

25 (iii) a seminar, discussion, or similar event hosted by a nonprofit
26 organization or business association, if the seminar, discussion, or event:

27 1. is not prerecorded; and

28 2. features an interactive element between the buyer and
29 host or other buyers contemporaneous with the seminar, discussion, or event;

1 (iv) a professional service obtained electronically or delivered
2 through the use of technology having electrical, digital, magnetic, wireless, optical,
3 electromagnetic, or similar capabilities;

4 (v) a product having electrical, digital, magnetic, wireless, optical,
5 electromagnetic, or similar capabilities where the purchaser holds a copyright or other
6 intellectual property interest in the product, in whole or in part, if the purchaser uses the
7 product solely for commercial purposes, including advertising or other marketing activities;
8 or

9 (vi) computer software or software as a service purchased or licensed
10 solely for commercial purposes in an enterprise computer system, including operating
11 programs or application software for the exclusive use of the enterprise software system,
12 that is housed or maintained by the purchaser or on a cloud server, whether hosted by the
13 purchaser, the software vendor, or a third party.

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

16 **Article – Tax – General**

17 **10-758.**

18 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
19 INDICATED.

20 (2) “ARTIFICIAL INTELLIGENCE” HAS THE MEANING STATED IN 15
21 U.S.C. § 9401(3).

22 (3) “ARTIFICIAL INTELLIGENCE TOOL” MEANS SOFTWARE OR
23 SOFTWARE AS A SERVICE THAT UTILIZES ARTIFICIAL INTELLIGENCE FOR VARIOUS
24 PURPOSES, INCLUDING DATA ANALYSIS, AUTOMATION, AND MACHINE LEARNING.

25 (4) “DEPARTMENT” MEANS THE DEPARTMENT OF COMMERCE.

26 (5) “QUALIFIED BUYER” MEANS A RESIDENT OF THE STATE OR A
27 BUSINESS ENTITY.

28 (B) THE PURPOSE OF THE CREDIT ALLOWED UNDER THIS SECTION IS TO
29 FOSTER TECHNOLOGICAL ADVANCEMENT, IMPROVE PRODUCTIVITY, AND
30 ENCOURAGE DIGITAL LITERACY AND INNOVATION WITHIN THE STATE BY MAKING
31 ARTIFICIAL INTELLIGENCE TOOLS MORE FINANCIALLY ACCESSIBLE AND THEREBY
32 ENCOURAGING RESIDENTS AND BUSINESSES TO INCREASE THEIR DIGITAL
33 LITERACY AND UTILIZATION OF ARTIFICIAL INTELLIGENCE TOOLS.

1 **(C) (1) SUBJECT TO THE LIMITATIONS OF THIS SECTION, A QUALIFIED**
2 **BUYER MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX FOR COSTS PAID OR**
3 **INCURRED DURING THE TAXABLE YEAR FOR THE USE OF ARTIFICIAL INTELLIGENCE**
4 **TOOLS.**

5 **(2) FOR ANY TAXABLE YEAR, THE AMOUNT OF THE CREDIT ALLOWED**
6 **UNDER THIS SECTION MAY NOT EXCEED \$50 FOR EACH QUALIFIED BUYER.**

7 **(D) (1) (I) A QUALIFIED BUYER MAY APPLY TO THE DEPARTMENT FOR**
8 **A CREDIT CERTIFICATE THAT STATES THE AMOUNT OF THE CREDIT THE QUALIFIED**
9 **BUYER MAY CLAIM UNDER SUBSECTION (C) OF THIS SECTION.**

10 **(II) A QUALIFIED BUYER SHALL ATTACH THE CREDIT**
11 **CERTIFICATE TO THE INCOME TAX RETURN ON WHICH THE QUALIFIED BUYER**
12 **CLAIMS THE CREDIT ALLOWED UNDER SUBSECTION (C) OF THIS SECTION.**

13 **(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE**
14 **SECRETARY OF COMMERCE SHALL APPROVE EACH APPLICATION UNDER**
15 **PARAGRAPH (1) OF THIS SUBSECTION THAT QUALIFIES FOR A CREDIT CERTIFICATE.**

16 **(3) FOR EACH TAXABLE YEAR, THE TOTAL AMOUNT OF CREDIT**
17 **CERTIFICATES APPROVED BY THE SECRETARY OF COMMERCE UNDER THIS**
18 **SUBSECTION MAY NOT EXCEED \$4,000,000.**

19 **(E) IN ACCORDANCE WITH § 2.5-109 OF THE ECONOMIC DEVELOPMENT**
20 **ARTICLE, THE DEPARTMENT SHALL SUBMIT A REPORT THAT INCLUDES:**

21 **(1) THE NUMBER AND AMOUNT OF CREDIT CERTIFICATES AWARDED**
22 **UNDER THIS SECTION FOR THE CALENDAR YEAR;**

23 **(2) THE TYPES OF ARTIFICIAL INTELLIGENCE TOOLS UTILIZED BY**
24 **QUALIFIED BUYERS; AND**

25 **(3) ANY TRENDS OR ECONOMIC IMPACTS IDENTIFIED BY THE**
26 **DEPARTMENT.**

27 **(F) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT**
28 **THIS SECTION.**

29 **(2) THE REGULATIONS REQUIRED UNDER PARAGRAPH (1) OF THIS**
30 **SUBSECTION SHALL INCLUDE ELIGIBILITY CRITERIA AND APPLICATION**
31 **PROCEDURES FOR THE TAX CREDIT ALLOWED UNDER THIS SECTION.**

1 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall be
2 applicable to all taxable years beginning after December 31, 2023, but before January 1,
3 2027.

4 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July
5 1, 2024. Section 2 of this Act shall remain effective for a period of 3 years and, at the end of
6 June 30, 2027, Section 2 of this Act, with no further action required by the General
7 Assembly, shall be abrogated and of no further force and effect.