

Chapter 571

(Senate Bill 134)

AN ACT concerning

Small Business Relief Tax Credit

FOR the purpose of authorizing a tax credit against the State income tax for certain small businesses that provide certain employer benefits to certain qualified employees; providing for the calculation of the credit; *making the credit refundable*; requiring the Department of Commerce, on application of a small business, to issue a tax credit certificate under certain circumstances; requiring the application to contain certain information; requiring the Department to approve applications on a first-come, first-served basis and notify applicants of approval or denial of an application within a certain number of days after receipt of the application; providing that the total amount of tax credit certificates issued by the Department may not exceed a certain amount for each taxable year; requiring the Department to report certain information to the Comptroller on or before a certain date each year; requiring the Department *and the Comptroller jointly* to adopt certain regulations; defining certain terms; providing for the application of this Act; ~~making this Act contingent on the taking effect of another Act~~; and generally relating to a State income tax credit for businesses that provide employer benefits to qualified employees.

BY adding to

Article – Tax – General

Section 10–746

Annotated Code of Maryland

(2016 Replacement Volume and 2017 Supplement)

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

Article – Tax – General**10–746.**

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

(2) “DEPARTMENT” MEANS THE DEPARTMENT OF COMMERCE.

(3) “QUALIFIED EMPLOYEE” MEANS AN INDIVIDUAL WHO:

(I) IS EMPLOYED BY A SMALL BUSINESS;

(II) EARNS WAGES PAID BY THE SMALL BUSINESS THAT ARE EQUAL TO OR LESS THAN ~~200% OF THE ANNUAL FEDERAL POVERTY GUIDELINES FOR A SINGLE PERSON HOUSEHOLD \$30,000 A YEAR~~ 250% OF THE ANNUAL FEDERAL POVERTY GUIDELINES FOR A SINGLE PERSON HOUSEHOLD; AND

(III) EARNS PAID ~~TIME OFF~~ SICK AND SAFE LEAVE IN ACCORDANCE WITH TITLE 3, SUBTITLE 13 OF THE LABOR AND EMPLOYMENT ARTICLE ~~AND AT LEAST ONE ADDITIONAL QUALIFIED EMPLOYER BENEFIT DESCRIBED UNDER PARAGRAPH (4)(II) THROUGH (V) OF THIS SUBSECTION.~~

(4) “QUALIFIED EMPLOYER BENEFIT” MEANS PAID EARNED SICK AND SAFE LEAVE THAT:

(I) IS PAID AT THE SAME WAGE RATE AS THE QUALIFIED EMPLOYEE NORMALLY EARNS; AND

~~(I) (II) PAID TIME OFF PROVIDED IN ACCORDANCE WITH MEETS OR EXCEEDS THE REQUIREMENTS UNDER~~ TITLE 3, SUBTITLE 13 OF THE LABOR AND EMPLOYMENT ARTICLE~~;~~

~~(II) A QUALIFIED TRANSPORTATION FRINGE, AS DEFINED IN § 132(F) OF THE INTERNAL REVENUE CODE;~~

~~(III) A DEPENDENT CARE ASSISTANCE PROGRAM, AS DESCRIBED IN § 129 OF THE INTERNAL REVENUE CODE;~~

~~(IV) AN EDUCATIONAL ASSISTANCE PROGRAM, AS DESCRIBED IN § 127 OF THE INTERNAL REVENUE CODE; OR~~

~~(V) EMPLOYER CONTRIBUTIONS TO HEALTH SAVINGS ACCOUNTS, AS DESCRIBED IN § 106 OF THE INTERNAL REVENUE CODE.~~

(5) “SMALL BUSINESS” MEANS AN INDIVIDUAL, A PARTNERSHIP, A LIMITED PARTNERSHIP, A LIMITED LIABILITY PARTNERSHIP, A LIMITED LIABILITY COMPANY, OR A CORPORATION THAT EMPLOYS 14 OR FEWER ~~THAN 50~~ 25 EMPLOYEES.

(B) A SMALL BUSINESS THAT ~~HIRES~~ EMPLOYS A QUALIFIED EMPLOYEE MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN THE AMOUNT STATED ON THE TAX CREDIT CERTIFICATE ISSUED UNDER SUBSECTION (D) OF THIS SECTION.

(C) (1) FOR EACH TAXABLE YEAR, THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT EXCEED THE LESSER OF:

~~(1)~~ (I) AN AMOUNT THAT EQUALS ~~\$1,000~~ \$500 FOR EACH QUALIFIED EMPLOYEE; OR

~~(2)~~ (II) AN AMOUNT THAT EQUALS THE TOTAL AMOUNT OF QUALIFIED EMPLOYER BENEFITS ACCRUED BY ALL QUALIFIED EMPLOYEES OF THE SMALL BUSINESS.

(2) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, A SMALL BUSINESS MAY CLAIM A REFUND IN THE AMOUNT OF THE EXCESS.

(D) (1) SUBJECT TO THE LIMITATIONS OF THIS SUBSECTION, ON APPLICATION BY A SMALL BUSINESS, THE DEPARTMENT SHALL ISSUE A TAX CREDIT CERTIFICATE IN THE AMOUNT ALLOWABLE UNDER SUBSECTION (C) OF THIS SECTION.

(2) THE APPLICATION SHALL INCLUDE:

(I) THE NAME OF THE SMALL BUSINESS;

(II) EVIDENCE THAT THE SMALL BUSINESS IS:

1. DULY ORGANIZED AND IN GOOD STANDING IN THE JURISDICTION UNDER THE LAWS UNDER WHICH IT IS ORGANIZED;

2. CURRENT IN THE PAYMENT OF ALL TAX OBLIGATIONS TO THE STATE OR ANY UNIT OR SUBDIVISION OF THE STATE; AND

3. NOT IN DEFAULT UNDER THE TERMS OF ANY CONTRACT WITH, INDEBTEDNESS TO, OR GRANT FROM THE STATE OR ANY UNIT OR SUBDIVISION OF THE STATE;

~~(III)~~ (III) PROOF OF THE WAGES PAID TO EACH QUALIFIED EMPLOYEE;

~~(IV)~~ (IV) PROOF OF THE ~~TYPE AND VALUE OF~~ QUALIFIED EMPLOYER BENEFITS ACCRUED TO EACH QUALIFIED EMPLOYEE; AND

~~(V)~~ (V) ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES.

(3) THE DEPARTMENT SHALL:

(I) APPROVE ALL APPLICATIONS THAT QUALIFY FOR A TAX CREDIT CERTIFICATE UNDER THIS SUBSECTION ON A FIRST-COME, FIRST-SERVED BASIS; AND

(II) NOTIFY THE SMALL BUSINESS WITHIN 45 DAYS AFTER THE RECEIPT OF THE APPLICATION OF THE DEPARTMENT’S APPROVAL OR DENIAL OF THE APPLICATION.

(4) ~~THE~~ FOR ANY TAXABLE YEAR, THE TOTAL AMOUNT OF CREDIT CERTIFICATES ISSUED BY THE DEPARTMENT UNDER THIS SUBSECTION MAY NOT EXCEED:

~~(I) FOR TAXABLE YEAR 2018, \$5,000,000;~~

~~(II) FOR TAXABLE YEAR 2019, \$15,000,000;~~

~~(III) FOR TAXABLE YEAR 2020, \$35,000,000 \$25,000,000;~~

~~(IV) FOR TAXABLE YEAR 2021, \$75,000,000 \$35,000,000; AND~~

~~(V) FOR TAXABLE YEAR 2022 AND EACH TAXABLE YEAR THEREAFTER, \$100,000,000 \$40,000,000 \$5,000,000.~~

(E) ON OR BEFORE JANUARY 31 EACH TAXABLE YEAR, THE DEPARTMENT SHALL REPORT TO THE COMPTROLLER ON THE TAX CREDIT CERTIFICATES ISSUED UNDER THIS SECTION DURING THE PRIOR TAXABLE YEAR.

(F) THE DEPARTMENT AND THE COMPTROLLER JOINTLY SHALL ADOPT REGULATIONS TO:

(1) IMPLEMENT THE PROVISIONS OF THIS SECTION; AND

(2) SPECIFY CRITERIA AND PROCEDURES FOR THE APPLICATION FOR, APPROVAL OF, AND MONITORING OF CONTINUING ELIGIBILITY FOR THE TAX CREDIT UNDER THIS SECTION.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all taxable years beginning after December 31, 2017.~~

SECTION ~~2.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2018, ~~contingent on the taking effect of Chapter _____ (S.B. _____/H.B. _____)(8lr0118/8lr0117) of the Acts of the General Assembly of 2018, and if Chapter _____ (S.B. _____/H.B. _____)(8lr0118/8lr0117) does not become effective, this Act, with no further~~

~~action required by the General Assembly, shall be null and void~~ and shall be applicable to all taxable years beginning after December 31, 2017.

Approved by the Governor, May 15, 2018.