

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

Senate Bill 351 (Senator Ready, *et al.*)
Budget and Taxation

Cybersecurity Investment Incentive Tax Credit - Eligible Investments

This bill allows convertible debt to qualify as an investment for the cybersecurity investment incentive tax credit.

The bill takes effect June 1, 2015, and applies to investments made in qualified Maryland cybersecurity companies after June 30, 2015.

Fiscal Summary

State Effect: Allowing convertible debt to qualify as an investment is not expected to alter the fiscal impact of the tax credit program beyond that provided under current law.

Local Effect: None.

Small Business Effect: Minimal. The limited number of small businesses who qualify for the credit as a result of the proposed change will benefit.

Analysis

Current Law: Qualified taxpayers may claim a tax credit against the State income tax for qualified investments in Maryland cybersecurity companies. The refundable credit is equal to 33% of the qualified investment, not to exceed \$250,000, and is claimed by the Maryland cybersecurity company. The amount of credits that the Department of Business and Economic Development (DBED) can award each year cannot exceed the amount of money appropriated to a specified reserve fund.

The credit is claimed by a qualified Maryland cybersecurity company which (1) meets specified qualifications; (2) follows the specified application certification process; and

(3) receives an investment from a qualified investor. DBED may not certify investments in a single cybersecurity company that total more than 15% of the total appropriations to the reserve fund for that fiscal year. An eligible investment is defined as an at-risk investment of at least \$25,000 in exchange for stock or ownership interest. An eligible investment does not include debt, and an investor may not acquire an ownership interest in a company that exceeds 25%.

A qualifying company is defined as a for-profit entity that is primarily engaged in the development of innovative and proprietary cybersecurity technology and meets specified criteria including requirements that the company (1) has been in business for no more than five years; (2) has less than 50 full-time employees; (3) has its headquarters and base of operations in Maryland; (4) is not publicly traded on any exchange; (5) has not participated in the tax credit program for more than one prior fiscal year; (6) owns or has properly licensed any proprietary technology; and (7) has an aggregate capitalization of at least \$100,000.

Tax credit applications are approved on a first-come, first-served basis until the total cap for the year is reached.

State Revenues: The bill allows additional types of investments to qualify for the tax credit. The total amount of tax credit certificates issued by DBED in each fiscal year cannot exceed the amount appropriated to the reserve fund in the State budget. Any amount of money in the fund that is not expended in the fiscal year is rolled over into the next fiscal year and does not revert to the general fund. The program received a total of \$3 million in fiscal 2013 and \$4 million in fiscal 2014. In fiscal 2015, the fund had \$5 million in available funding for the program. However, the amount of available funding was reduced to \$1.5 million by the Board of Public Works in January 2015.

In the 2014 *Cybersecurity Investment Incentive Tax Credit Program Report*, DBED reports that “to date, the program has been mildly received by the industry and investors but attracted \$3.8 million in total capital investment into QMCCs.” As of December 31, 2014, DBED has awarded a total of just over \$1.0 million in final tax certificates.

To the extent the bill allows additional types of investments to qualify, DBED will issue additional tax credits. However, this provision will not increase revenue losses beyond that already provided under current law.

Additional Information

Prior Introductions: None.

Cross File: HB 950 (Delegate Shoemaker, *et al.*) - Ways and Means.

Information Source(s): Department of Business and Economic Development,
Comptroller's Office, Department of Legislative Services

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md/jrb

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