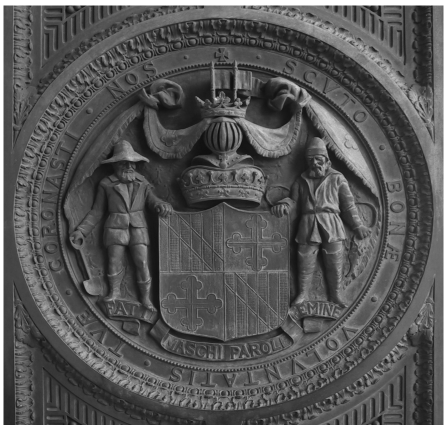
# Evaluation of the Businesses That Create New Jobs Tax Credit Program




DEPARTMENT OF LEGISLATIVE SERVICES 2025

# Evaluation of the Businesses That Create New Jobs Tax Credit Program

**Department of Legislative Services**
**Office of Policy Analysis**
**Annapolis, Maryland**

**December 2025**

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Executive Director

Ryan Bishop
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**DEPARTMENT OF LEGISLATIVE SERVICES**
OFFICE OF POLICY ANALYSIS
MARYLAND GENERAL ASSEMBLY

December 2025

The Honorable Bill Ferguson, President of the Senate
The Honorable Joseline A. Peña-Melnyk, Speaker of the House of Delegates
Members of the General Assembly

President Ferguson, Speaker Peña-Melnyk, and Members:

The Tax Expenditure Evaluation Act (formerly the Tax Credit Evaluation Act) establishes a process for evaluating certain tax credits, exemptions, and preferences. The Department of Legislative Services (DLS) is required to evaluate a tax credit, exemption, or preference on a number of factors, including (1) the purpose for which the tax credit, exemption, or preference was established; (2) whether the original intent of the tax credit, exemption, or preference is still appropriate; (3) whether the tax credit, exemption, or preference is meeting its objectives; (4) whether the goals of the tax credit, exemption, or preference could be more effectively carried out by other means; and (5) the cost of the tax credit, exemption, or preference to the State and local governments. DLS must reevaluate the program in 2025 in accordance with a schedule published as required under the Tax Expenditure Evaluation Act.

DLS has conducted its evaluation of the program and makes several findings and recommendations about the program. The document is divided into five chapters.

- Chapter 1 provides an overview of the businesses that create new jobs tax credit.
- Chapter 2 provides a discussion of the program's objectives and goals and their effectiveness.
- Chapter 3 provides information on employment tax credits in Maryland and other states.
- Chapter 4 provides information on the tax credit's reporting requirements and fiscal impact.
- Chapter 5 summarizes the findings of the report and discusses recommended changes to the program.

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We wish to acknowledge the cooperation and assistance provided by the State Department of Assessments and Taxation, the Department of Commerce, and the Comptroller's Office, along with local governments. DLS trusts that this report will be useful to members of the General Assembly in future deliberations about the businesses that create new jobs tax credit program.

Sincerely,

Victoria L. Gruber
Executive Director

Ryan Bishop
Director

VLG:RB/GHB/bao

# Contents

# Executive Summary

Since the mid-1990s, the number of State business tax credits has grown significantly as have related concerns about the actual benefits and costs of these credits. In response to concerns about the fiscal impact of tax credits on State finances, the Tax Expenditure Evaluation Act (formerly the Tax Credit Evaluation Act) establishes a process for evaluating certain tax credits, exemptions, and preferences.

As part of the Tax Expenditure Evaluation Act, the Department of Legislative Services (DLS) is required to evaluate the businesses that create new jobs tax credit on a number of factors, including (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 goals of the tax credit could be more effectively carried out by other means; and (5) the cost of the tax credit to the State and local governments.

Chapters 623 and 624 of 1997 established the businesses that create new jobs tax credit program. A business that establishes or expands a business facility and creates and/or retains a specified number of jobs can qualify for both a local and a State tax credit. Based on the scale of the expansion and jobs created or retained, a business qualifies for a standard credit or an enhanced credit.

DLS first evaluated the businesses that create new jobs tax credit program in 2016 but was unable to satisfactorily evaluate the credit, primarily due to failures by various State agencies and local governments to certify and collect information about the credit. Issues identified by DLS in 2016 still persist.

DLS makes several findings and recommendations related to the businesses that create new jobs tax credit, as follows.

## The Credit Is Overly Complex, Difficult to Administer, Appears to Have Few Claimants, and Overlaps with Other State Employment Tax Credits

The businesses that create new jobs tax credit is a complex credit with numerous requirements. Unlike with many other State business tax credits, there is no maximum limit on the credit value or limit on the aggregate amount of credits that can be awarded in each year. The total cost of each tax credit cannot be accurately estimated since the credit depends on the eligible assessment of real and personal property for up to 24 years.

**Recommendation: DLS recommends that the General Assembly should consider terminating the businesses that create new jobs tax credit program.**

If the General Assembly decides not to eliminate the businesses that create new jobs tax credit program, DLS has several recommendations to improve the credit that are discussed in the following.

**Recommendation: Given the lack of transparency and oversight on the State level of the program, DLS recommends continuing to authorize the local property tax credit while eliminating the State income tax credit.**

## Various State Agencies Have Not Met Statutory Requirements for Certifying and Calculating the Credit and Providing Information About the Credit

Under current law, the State Department of Assessments and Taxation (SDAT) is required to certify the value of the State tax credit and notify the Comptroller and the Maryland Insurance Agency (MIA) of the tax credit that can be claimed in each year. SDAT, however, does not appear to be certifying the credit as required and then providing this information to MIA and the Comptroller's Office, as those agencies have no record of receiving this information.

**Recommendation: DLS recommends that SDAT comment on why it is not certifying the State tax credit amounts as required by statute.**

**Recommendation: DLS recommends that the Department of Commerce (Commerce) promote the businesses that create new jobs tax credit program on its website.**

**Recommendation: DLS recommends that the General Assembly adopt legislation requiring a taxpayer claiming the credit to include with the applicable tax return a certification from SDAT of the amount of the credit that may be claimed.**

## Local Governments Have Not Met Statutory Requirements for Certifying and Providing Information About the Credit

Local jurisdictions that have granted tax credits have not provided required information to State agencies about the tax credits that have been certified. In addition, local jurisdictions did not provide information on the jobs and investment associated with the program. As a result, the total jobs created or retained by the program and the overall fiscal and economic impacts of the program are not known.

**Recommendation: DLS recommends that the General Assembly adopt legislation requiring (1) a local jurisdiction to report to SDAT the number of jobs and investment associated with each tax credit project and (2) SDAT to report annually to the General Assembly on the local jurisdictions that have authorized the program, the name and location of each business claiming the credit, and the credit claimed by the business and the jobs and investment associated with each qualifying project.**

**Recommendation: In order to better assess the credit's effectiveness in promoting job creation for different categories of businesses, DLS recommends that local jurisdictions collect and report specified information.**

## The Legislative Intent and Performance Metrics of the Credit Are Not Defined

Chapters 623 and 624 established the tax credit but did not specify a specific goal or intent for the credit. Without clearly defined goals and objectives, it is difficult to identify metrics and data requirements to evaluate the effectiveness of the tax credit.

**Recommendation: The General Assembly should clearly define the intent of the businesses that create new jobs tax credit program in statute and consider requiring the intent of any new tax incentive to be clearly expressed.**

**Recommendation: Commerce should define performance metrics for the tax credit program and periodically evaluate the program based on those metrics.**

# Chapter 1. Overview and Background of the Businesses That Create New Jobs Tax Credit

## Overview

Since the mid-1990s, the number of State business tax credits has grown significantly, as have related concerns about the actual benefits and costs of many of these credits. Prior to 1995, there was 1 tax credit for individuals (earned income) and 2 primarily business tax credits (enterprise zone and Maryland-mined coal credits). Since 1995, at least 40 tax credits primarily for businesses and at least 20 tax credits primarily for individuals have been established. This includes temporary and expired tax credits.

According to the Department of Budget and Management's (DBM) tax expenditure reports, the fiscal impact of individual income tax credits has increased from an estimated $140.5 million in fiscal 2003 to about $350 million in fiscal 2022.

Although the reduction in State revenues from tax credits is generally incorporated in the State budget, many tax credits are not subject to an annual appropriation as required for other State programs. However, most of the larger business credits are subject to an aggregate annual limitation that limits fiscal uncertainty. This limitation is typically either an annual budget appropriation, such as under the historic revitalization and biotechnology incentive investment tax credits, or a limitation on the maximum annual amount of credits that can be awarded, such as under the research and development (R&D), film production activity, and job creation tax credits.

Most of these limitations became a component of business tax credits after a significant and unexpected increase in the fiscal cost of the Heritage Structure Rehabilitation Tax Credit Program (since renamed as the historic revitalization tax credit). Of the major business tax credits, the businesses that create new jobs tax credit and the One Maryland tax credit are not subject to an aggregate annual limitation or annual budget appropriation. The American Institute of Certified Public Accountants lists appropriate government revenues as one of the guiding principles of good tax policy, stating the need to have appropriate levels of predictability, stability, and reliability in a tax system. Improving fiscal certainty can be achieved through annual program limits.

## Tax Expenditure Evaluation Act

In response to concerns about the impacts of certain tax credits, Chapters 568 and 569 of 2012 established the Tax Credit Evaluation Act, a legislative process for evaluating certain tax credits. The evaluation process was conducted by a legislative evaluation committee and done in consultation with the Comptroller of Maryland, DBM, the Department of Legislative Services (DLS), and the agency that administered each tax credit. The committee reviewed the following credits: enterprise zone; One Maryland; earned income; film production activity; sustainable communities (historic revitalization); businesses that create new jobs; job creation; R&D; biotechnology investment incentive; and Regional Institution Strategic Enterprise Zone Program.

Chapter 575 of 2021 expanded the scope of the Tax Credit Evaluation Act, renaming it to the Tax Expenditure Evaluation Act, and eliminated the evaluation committee. Under the Tax Expenditure Evaluation Act, DLS must evaluate tax credits, exemptions, or preferences on request from the Senate Budget and Taxation Committee, the House Ways and Means Committee, the Executive Director of DLS, or the Director of the Office of Policy Analysis of DLS. In addition, beginning October 1, 2022, DLS must (1) evaluate at least once every 10 years each income tax credit that is primarily claimed by businesses and has an annual fiscal impact exceeding \$5.0 million and (2) in consultation with the Senate Budget and Taxation Committee and the House Ways and Means Committee, publish on its website a schedule of the evaluations that will be conducted. In December 2022, DLS published its evaluation of the More Jobs for Marylanders Program income and sales tax credits and its reevaluation of the One Maryland and enterprise zone tax credits. In December 2023, DLS published its evaluation of the innovation investment incentive and purchase of cybersecurity technology or service tax credits. In December 2024, DLS published its evaluation of the Maryland Small Business Retirement Savings Program and its reevaluation of the R&D tax credit program. As previously indicated, under the former Tax Credit Evaluation Act, DLS reviewed the businesses that create new jobs tax credit in 2016 but was unable to satisfactorily evaluate the credit. As a result, this report is the first evaluation of the credit.

Under the Tax Expenditure Evaluation Act, DLS is required to evaluate a tax credit, exemption, or preference on a number of factors, including (1) the purpose for which the tax credit, exemption, or preference was established; (2) whether the original intent of the tax credit, exemption, or preference is still appropriate; (3) whether the tax credit, exemption, or preference is meeting its objectives; (4) whether the goals of the tax credit, exemption, or preference could be more effectively carried out by other means; and (5) the cost of the tax credit, exemption, or preference to the State and local governments.

## Businesses That Create New Jobs Tax Credit Program

Chapters 623 and 624 of 1997 established the businesses that create new jobs tax credit program. Under the current program, a business that establishes or expands a business facility and creates and/or retains a specified number of jobs can qualify for both a local and a State tax credit. Both credits are based on a specified percentage of the property tax imposed on the assessment of the new or expanded premises and the personal property tax imposed on specified personal property. Based on the scale of the expansion and jobs created or retained, a business qualifies for a standard credit or an enhanced credit.

Before credits may be granted, a county or municipal corporation must enact legislation establishing the tax credit. A county or municipal corporation grants the property tax credit, and the State Department of Assessments and Taxation (SDAT) is required to certify in each year the value of the State tax credit. The State tax credit may be claimed against the individual or corporate income tax or the insurance premium tax.

## Eligibility

The new or expanded premises must be located in (1) a priority funding area as designated under Title 5, Subtitle 7B of the State Finance and Procurement Article or (2) an area designated as an opportunity zone under 1400Z–1 of the Internal Revenue Code and located in Allegany, Garrett, Somerset, or Wicomico counties. A business may not receive a tax credit if (1) the business or any of its affiliates have moved their operations from one county to another county in the State or (2) the new or expanded premises has otherwise been granted a tax credit or exemption under the Tax – Property Article for the taxable year.

### Standard Credit

To qualify for the standard credit, a business must create at least 25 new positions as part of the new or expanded business facility, which must be at least 5,000 square feet. Businesses located in counties with a population of less than 30,000 must create at least 10 new positions. The definition of a new permanent full-time position is "a full-time position (defined as a position requiring at least 840 hours of an individual's time during at least 24 weeks in a 6-month period) of indefinite duration" or, in Montgomery County or Washington County, "a full-time position of indefinite duration or a contract position of definite duration lasting at least 12 months with an unlimited renewal option." The position must be newly created as a result of the business facility establishment or expansion. A new or expanded premises is "real property, including a building or part of a building that has not been previously occupied, where a business entity or its affiliates locate to conduct business."

### Enhanced Credit

To qualify for the enhanced credit, a business engaged in certain eligible activities must (1) obtain at least 250,000 square feet of new or expanded premises, continue to employ at least 2,500 individuals in existing full-time positions, and employ at least 500 individuals in new permanent full-time positions or (2) obtain 250,000 square feet of new or expanded premises and employ at least 1,250 individuals in new permanent full-time positions. In Montgomery County only, a business must spend at least $150 million to obtain at least 700,000 square feet of new or expanded business premises (through the purchase, construction, or lease of a new premises) and employ at least 1,100 individuals including at least 500 new, permanent full-time positions. All of the positions must receive employer-provided subsidized health care benefits, be paid at least 150% of the federal minimum wage, and be located in or neighboring the new, expanded, or renovated premises. A business must, within six years of the date of the notification of its intent to claim the credit, create the required jobs and obtain and occupy the business facility.

In addition, the business entity and its affiliates must be primarily engaged in an eligible activity that includes manufacturing or mining; transportation or communications; agriculture, forestry, or fishing; R&D or testing; biotechnology; computer programming, data processing, or other computer-related services; central financial, real estate, or insurance services; the operation of central administrative offices or a company headquarters; a public utility; warehousing; or business services.

## Credit Value and Funding

In general, the local property tax credit comprises 65% of the total credit received by the business, and the State tax credit equals the remaining 35%. As illustrated in **Exhibit 1.1**, standard credits are claimed over six years, with the total value of the credit ranging between 40% and 80% of the eligible taxes imposed. The enhanced credit is claimed over 24 years with a percentage value of 90% of the eligible taxes in each year.

**Exhibit 1.1**
**Businesses that Create New Jobs**
**Standard and Enhanced Credits**

| Taxable Years | Property Tax Credit[1] | Income Tax Credit | Total |
|---|---|---|---|
| **Standard Credit** | | | |
| Years 1 through 2 | 52.0% | 28.0% | 80.0% |
| Years 3 through 4 | 39.0% | 21.0% | 60.0% |
| Years 5 through 6 | 26.0% | 14.0% | 40.0% |
| **Enhanced Credit** | | | |
| Years 1 through 24 | 58.5% | 31.5% | 90.0% |

[1] Percentage calculated based on the property tax imposed on the increase in the assessed value of the new or expanded business premises and eligible personal property taxes located within eligible premises.

Source: Department of Legislative Services

For the standard credit, the business entity is granted a local property tax credit equal to 52% of the amount of property tax imposed on the assessed value of the new or expanded premises in the first and second taxable years. In addition, the business also qualifies for a State tax credit equal to 28% of the amount of property tax of the new or expanded premises for the first and second taxable years. Combined, the business qualifies for a credit of 80% of property taxes that may be claimed against local and State taxes.

If a business qualifies for the enhanced credit, for each of the first 24 taxable years, the business may claim a property tax credit equal to 58.5% of the property tax imposed on the increase in assessment of (1) the new or expanded premises; (2) newly renovated real property improvements adjoining or otherwise neighboring the new or expanded premises, if the renovations are substantial; and (3) the personal property located on those premises. In addition, for each of the 24 taxable years for which the property tax credit is allowed, the business may claim a corresponding State income tax credit or insurance premium tax credit equal to 31.5% of the amount of property tax imposed on the increase in assessment of the real and personal property.

The program does not establish a limitation on the maximum annual amount of credits that can be awarded and is not included in the annual State budget. The same State tax credit may not be applied more than once against different taxes by the same taxpayer. If the credit is more than the State tax liability, the unused credit may be carried forward for the next five taxable years.

### Credit Recapture

Credits claimed under the program for a taxable year must be recaptured if, during the three taxable years after the taxable year during which the credit was claimed:

- for the standard credit, the employment level or square footage of a business entity at the premises falls below the applicable thresholds required to qualify for the property tax credit; or

- for the enhanced property tax credit, the employment level or square footage of a business entity, together with its affiliates, at the premises falls below the applicable thresholds required to qualify.

## Legislative Changes

As previously indicated, Chapters 623 and 624 of 1997 established the businesses that create new jobs tax credit program for tax years 1997 through 2005. The Acts authorized local governments to grant credits against real and personal property taxes for businesses that locate or expand a business facility. If a property tax credit was granted under the program, a State tax credit could also be claimed against the income, insurance premium, or public service company franchise tax. To qualify for the real property tax credit, a business had to expand its premises by at least 5,000 square feet and create at least 25 new permanent full-time jobs in order to qualify for the real property tax credit. Any personal property located on real property eligible for the tax credit would also be eligible. The local tax credits were equal to 52% of property taxes imposed in the first and second year and phased out over six years. The State credit was equal to 28% of the property taxes imposed in the first and second years and also phased out over six years.

Chapter 623 of 1998 extended the authorization for local governments to grant property tax credits under the program by two years. The Act also required that the new or expanded premises of a business must be located in a State priority funding area, consistent with the goals of the State's Smart Growth Initiative.

Chapters 492 and 510 of 1999 (1) created an enhanced tax credit for business entities that substantially expand their businesses in the State; (2) required that the business entity, along with its affiliates, must be primarily engaged in a specified industry or activity at the qualifying premises; and (3) repealed the termination date of the program and the ability of businesses to claim the credit against the public service company franchise tax.

Chapter 501 of 2000 reduced from 25 to 10 the number of new full-time positions a business must fill to qualify for the credit if the business expands in a county with a population of less than 30,000.

Chapter 538 of 2002 altered certain qualifications for the enhanced tax credit in Montgomery County.

Chapter 538 and Chapter 191 of 2006 expanded the definition of new permanent full-time position in Montgomery County and Washington County, respectively, to include a contract position of definite duration lasting at least 12 months with an unlimited renewal option.

Chapter 128 of 2012 increased the value of the enhanced credit by doubling, from 12 to 24 years, the duration of the credit.

Chapter 211 of 2019 expanded eligibility for the credit to new or expanded premises in qualified opportunity zones in Allegany, Garrett, Somerset, or Wicomico counties.

## Overview of the 2016 Businesses That Create New Jobs Tax Credit Program Review

As previously indicated, under the former Tax Credit Evaluation Act, DLS reviewed the businesses that create new jobs tax credit but was unable to satisfactorily evaluate the credit, primarily due to failures by various State agencies and local governments to certify and collect information about the credit. As such, DLS was only able to obtain limited information about program costs. The lack of program transparency prevented DLS from (1) verifying that credits were being awarded and claimed as required by statute; (2) determining the full economic impacts of the program; (3) calculating the program's fiscal costs; and (4) analyzing whether the program effectively achieved its objectives.

In lieu of a full evaluation, on November 18, 2016, DLS detailed in a letter to the evaluation committee the background information about the tax credit and limited information about credit activity. The letter also detailed difficulties DLS had in adequately evaluating the tax credit and recommendations that the evaluation committee and the General Assembly should consider in future deliberations about the credit. Recommendations highlighted in the letter included the following:

- considering the tax credit program's complexity, lack of transparency, and overlap with other employment tax credit programs, eliminate the program or consolidate the existing credits into another similar but less complex tax credit program;

- adopt legislation requiring that certain conditions are met before SDAT may certify and a business may claim the State tax credit;

- adopt legislation requiring (1) a local jurisdiction to report to SDAT the number of jobs and investment associated with each tax credit project and (2) SDAT to report annually to the General Assembly on the local jurisdictions that have authorized the program, the name and location of each business claiming the credit, and the credit claimed by the business and the jobs and investment associated with each qualifying project;

- require SDAT to report on the number of businesses claiming the credit that qualify as small, minority, and women-owned businesses; and

- require local governments to collect and report specified information for each credit recipient in order to better assess program effectiveness in promoting job creation.

# Chapter 2. Intent and Objectives of the Businesses That Create New Jobs Tax Credit and Their Effectiveness

## Legislation Did Not Establish a Program Objective or Intent

Chapters 623 and 624 of 1997 established the businesses that create new jobs tax credit but did not specify a specific goal or intent for the credit. However, a review of the legislative history for both Acts supports the conclusion that, at its outset, the credits were intended to encourage the expansion of business facilities and the creation of new jobs. Testimony submitted by the Montgomery County Office of Intergovernmental Relations notes that the Acts expanded the number of economic development tools available to local governments. Multiple local chambers of commerce also submitted testimony in support of the Acts, the enactment of which they indicated provided "an additional tool for economic development to be used in conjunction with State income tax credits for new job creation." In addition, at the time that the tax credit was established, the credit was viewed as a tool to allow counties in the Washington, D.C. metropolitan area to compete with counties in Northern Virginia for businesses, as it was believed that Northern Virginia then had an abundance of vacant, newly constructed office buildings.

In addition to encouraging the expansion of business facilities and the creation of new jobs, the businesses that create new jobs tax credit program evolved over time into a tool to encourage the revitalization of certain areas of the State and the retention of certain employers in the State. For example, the enhanced property tax credit was one of the incentives offered by Montgomery County and the Department of Business and Economic Development (now the Department of Commerce (Commerce)) to Marriott International Inc., to maintain its company headquarters in Montgomery County. Similarly, the Montgomery County Office of Intergovernmental Relations testified that the enactment of Chapter 538 of 2002 would "assist in the revitalization of the Silver Spring central business district by facilitating the construction of the world headquarters of Discovery Communications Inc., and related facilities." The county also noted that the Act's criteria were consistent with Discovery's Sunny Day Fund agreement with the State and "appropriate for strategic economic development opportunities with other companies in the future." Finally, in 2012, the Montgomery County Department of Economic Development noted that the extension of the businesses that create new jobs tax credit program would "provide economic development professionals throughout the State of Maryland with one more tool to use as [they] strive to retain [Maryland's] leading employers." The Montgomery County Department of Finance states on its website that the tax credit "promotes job and construction growth throughout the county and benefits businesses that are planning to increase both their space and their staff."

## Effectiveness of the Program's Objectives

The Tax Expenditure Evaluation Act requires the Department of Legislative Services (DLS) to evaluate whether the original intent of the tax credit, exemption, or preference is still appropriate; whether the tax credit, exemption, or preference is meeting its objectives; and whether the goals of the tax credit, exemption, or preference could be more effectively carried out by other means. As there is no statutory intent of the program, DLS assumes the intent is fourfold: (1) encourage the expansion of business facilities; (2) create new jobs; (3) revitalize certain areas of the State; and (4) retain certain employers in the State. These four goals are individually addressed below.

### Encourage the Expansion of Business Facilities

To qualify for the businesses that create new jobs tax credit, a business must obtain at least 5,000 square feet of new or expanded premises by purchasing newly constructed premises, constructing new premises, causing new premises to be constructed, or leasing newly constructed premises. Businesses moving into existing structures do not qualify for the tax credit, meaning there is no incentive under the businesses that create new jobs program for those businesses to move into vacant buildings, despite the current high level of commercial vacancies across the State.

A primary reason for structuring the businesses that create new jobs program this way was to encourage new construction. When the credit was first introduced in 1997, legislators were seeking to help counties like Montgomery County compete with Northern Virginia, which had a large number of vacant, new office buildings at the time. In 2000, the occupancy rate for the Washington, D.C. metropolitan region was 94%, and during that same time of 1998 through 2000, Montgomery County had a low vacancy rate of approximately 6%. As a result of the low commercial vacancy rate in the county, there was not much opportunity to attract new businesses looking to expand to the area. Limiting the tax credit to benefit only businesses that were expanding into new premises was seen as a way to both encourage the construction of new buildings and attract new businesses.

Today, the same economic desire to attract new and expanding businesses to areas in Maryland still exists and may perhaps be even greater than when the credit was first introduced. According to Montgomery County, the county's labor force lost 10% of workers ages 25 to 34 years old from 2013 to 2023, compared to a 5% loss in the Washington, D.C. region as a whole. However, the underlying conditions that initially prompted the State to implement the businesses that create new jobs program have changed. Since the implementation of the tax credit, commercial office vacancies have steadily risen in Montgomery County, with 18.5% of office spaces remaining vacant in 2024. Similar patterns have been observed across the State. This high vacancy rate reflects extensive construction that was done in the early- and mid-2000s as well as the exodus from office space and the significant rise of teleworking nationwide in the wake of the COVID-19 pandemic.

This has created an issue for Montgomery County and other areas of the State where there is an excess of vacant office space. High vacancies are problematic because they place pressure on landlords to lower rents to attract tenants and, as more buildings are affected, reduced property values could decrease property tax revenues. Meanwhile, the businesses that create new jobs credit was not designed to help with bringing businesses to existing buildings, and the credit's use has seen recent decreases. The Montgomery County Economic Development Corporation attributes the lack of usage in the program to the lack of new commercial construction.

## Create New Jobs

Creating new jobs in the State is an important goal that helps to boost Maryland's economy. Policies can promote employment by providing an employer subsidy that increases labor demand (*i.e.*, an employment tax credit) or an employee subsidy that increases labor supply (*i.e.*, child care and earned income tax credits). An employment tax credit subsidizes part of the cost for employers to hire workers. In theory, this decrease in cost to the employer will increase total employment as employers hire more workers than they would have without the credit. Additionally, an effective credit increases overall growth and is not merely accelerating when the growth occurs or shifting activity from a nearby location. An employment credit that creates sustained job growth is more effective than one whose effects disappear upon expiration of the incentive.

Proponents conclude that well-designed job creation tax credit programs are cost-effective policies that can encourage significant job creation. Additionally, state programs may help attract businesses from other states or to retain existing businesses.

Opponents conclude that the vast majority of job creation tax credits are given to businesses that would have hired employees in the absence of the credit and are therefore not an effective policy. Opponents also maintain that although job creation tax credits in theory may be a good idea, they are too often overly complex and have low utilization rates. Finally, targeted population employment tax credits have additional shortcomings that further limit their effectiveness.

Despite the lack of agreement, a majority of the research reviewed by DLS concludes that a well-designed employment tax credit can be at a minimum a modestly effective policy option. A common theme of this research, however, is that the efficacy of the credit is critically dependent on the program's design and implementation.

A well-designed credit is one that is available to a wide spectrum of businesses that are aware of the credit before hiring decisions are made, is not complex or administratively burdensome, and provides a sufficient incentive that spurs additional hiring and generates the maximum benefit relative to its fiscal cost. Each of these key elements are described in the following.

- ***Credit Complexity/Administrative Burdens:*** A more complex or administratively burdensome credit increases the cost of obtaining the credit. Greater complexity, especially if there are multiple components, reduces business awareness of the credit and dampens the incentive to increase employment. A common critique of the businesses that create new jobs tax credit program is that it is complicated. The Montgomery County Economic Development Corporation notes that there are other incentive programs that are easier to understand and administer while the businesses that create new jobs tax credit is a long-term depreciating tax credit. The standard credit can be claimed for 6 years while the enhanced tax credit can be claimed for 24 years; this long timeframe adds to the complexity of the program.

- ***Awareness of the Credit:*** A credit is more effective if businesses are aware of the program's incentives before hiring decisions are made as this increased awareness influences more employment decisions throughout the economy. The U.S. Congressional Budget Office (CBO) notes that a shortcoming of the federal New Jobs Tax Credit of the 1970s was that many employers were unaware of the credit until they filed their tax returns, at which point the credit could no longer impact hiring decisions. CBO also states that although an outreach campaign requires additional resources it probably increases program effectiveness. DLS notes that Commerce does not advertise the businesses that create new jobs tax credit program on its website.

- ***Restricting Eligibility to Certain Businesses:*** Restricting a credit to certain firms or industries typically requires more complex rules. In addition to the negative impact of requiring more complex rules, restricting eligibility to certain firms can reduce a credit's effectiveness if the employment characteristics of target firms differ from the average employer. For example, restricting a credit to small businesses or startups typically reduces effectiveness since employment at smaller businesses is often volatile. As a result, the average duration of employment subsidized by a tax credit is shorter than the average duration of jobs subsidized under a broad-based policy. Targeting a tax credit to certain firms or industries can also decrease effectiveness if the firms have lower rates of employment and by causing a misallocation of resources as some industries and firms are favored over others. The businesses that create new jobs tax credit program was designed and modified for targeted businesses to benefit.

- ***Limiting the Maximum Value of the Credit:*** Limiting the maximum value of a credit reduces budgetary costs but limits the incentive to increase employment for firms that reach the maximum limit. A policy that has a low credit percentage and high maximum value is more effective than a high credit percentage and low maximum value.

- ***Incentive Value:*** A credit must provide a sufficient incentive for businesses to increase employment. A credit that provides an insufficient incentive does not increase overall employment and will be claimed by companies who would have hired the employees in the absence of the credit. The credit will have little effect on wages and employment and will instead be passed on to the shareholders and business owners. On the other hand, a credit that is overly generous will lead to some employment increase, but the excess value of the credit will not spur additional employment and will instead be retained by shareholders and business owners. The value of the incentive that generates the greatest benefits relative to its cost is a critical element yet often difficult to determine. Montgomery County noted that several businesses eligible for the businesses that create new jobs tax credit had property tax assessments that were too small for the credit.

- ***Targeted Populations and Geographies:*** As discussed in detail in Chapter 3, there are various types of employment tax credits. The businesses that create new jobs tax credit is a targeted tax credit. Broad-based credits are more effective than targeted (people- or place-based) incentives as targeted incentives can lead to low utilization rates, and place-based incentives may not increase overall employment but lead to a reallocation from other areas.

## Revitalize Certain Areas of the State

A number of federal and State programs aim to promote economic development within economically distressed areas and provide job opportunities to low-income residents. These programs include the One Maryland tax credit program, the Opportunity Zone Enhancement Program, the enterprise zone program, and the More Jobs for Marylanders program. In addition, the businesses that create new jobs program is similar to the One Maryland tax credit by providing incentives for new and expanded facilities within certain counties. Research indicates that effective programs:

- use appropriate measures to designate and target economically distressed areas;
- create opportunities for the residents of the low-income areas;
- provide consistent, coordinated incentives across programs; and
- have clear objectives and measurable outcomes to measure program efficiency.

Previous DLS tax credit evaluations have found that these programs fall short of the best practices described above. DLS conducted a reevaluation of the enterprise zone program and an evaluation of the More Jobs for Marylanders Program. These reports provide more information and recommended changes to the State's economically distressed programs. Additionally, the 2022 reevaluation of the One Maryland tax credit program recommended that the General Assembly require Commerce to submit a report on consolidating or eliminating the following State tax credits given the overlap of programs to promote economic development and job creation within economically distressed areas: One Maryland; enterprise zone; More Jobs for Marylanders; businesses that create new jobs; and the Opportunity Zone Enhancement Program.

## Retain Certain Employers in the State

The State has several tools to help retain employers in the State. One such program, the Economic Development Opportunities (better known as Sunny Day) Program Account, provides conditional loans and investments intended to take advantage of extraordinary economic development opportunities, defined in part as situations that create or retain a substantial number of jobs and where a considerable private investment is leveraged. The Sunny Day Account is a fund under the State Reserve Fund. In addition to being offered the enhanced property tax credit under the businesses that create new jobs program, Marriott International, Inc. received conditional loans under the Sunny Day Program. Projects under the Sunny Day Program are evaluated on a competitive basis. In DLS's evaluation of the sustainable communities tax credit program, DLS found that awarding tax credits on a competitive award process is effective in maximizing the economic benefits to the State and recommended that the State consider implementing competitive processes for other State tax credits. Due to the competitive nature of the Sunny Day Program, DLS believes the Sunny Day Program is a better alternative than the businesses that create new jobs tax credit program to retain employers in the State.

# Chapter 3. Employment Tax Credits in Maryland and Other States

## Types of Employment Tax Credits

Tax credits designed to increase or retain employment have significant variation in their key elements, but most can be classified into five different categories based on the credit's design and objectives:

- ***Broad-based:*** Tax credits might be restricted to certain businesses, such as those that increase employment but, in general, are available to a significant portion of all businesses and directed at job creation for the general population.

- ***Geographically Targeted:*** Geographically targeted tax credits restrict eligibility or provide an enhanced credit to certain areas that have been targeted for revitalization due to economic distress and poverty. Geographically targeted credits can also complement other policies such as land development strategies. Enterprise zones are a common example of geographically targeted programs.

- ***Targeted Populations:*** Targeted tax credits are also available to most businesses but are designed to increase the employment of certain populations, typically focusing on individuals that may have barriers to employment (such as the long-term unemployed, ex-felons, or individuals with disabilities) or groups such as military veterans.

- ***Targeted Firms/Industries:*** These tax credits are often complex with a significant number of requirements that only a few firms meet. On a state level, these are often enacted when certain firms announce the possibility of locating or relocating a business enterprise.

- ***Countercyclical:*** Governments enact employment tax credits in the midst of a recession or periods of significant underemployment to boost an economic recovery and decrease joblessness.

Tax credits often combine several of these elements. For example, there is no employment tax credit that is available to all employers in Maryland – each available credit has restrictions on the eligible business activities and minimum job creation or investment requirements. Of the current State business tax credits that explicitly provide an incentive to create or retain jobs, the job creation tax credit and the More Jobs for Marylanders tax credits are the only credits that can be classified as broad-based employment tax credits. (Note, however, that enrollment for the More Jobs for Marylanders tax credit program terminated on June 1, 2024). Two credits – enterprise zone and One Maryland – are geographically targeted credits whose goals are mostly to increase investment and jobs within economically distressed areas. The State work opportunity tax credit is a nonrefundable credit against the State income tax for up to 50% of the federal Work Opportunity Tax Credit claimed by an employer for hiring individuals in the State who are considered to face significant barriers to employment. Lastly, the businesses that create new jobs credit was designed to provide tax incentives to specific firms.

## Employment Credits in Other States

The first federal employment tax credit, the New Jobs Tax Credit, was established in 1978. Nebraska established the first state job creation tax credit in 1987. Tax credits later became more common, with numerous states enacting credits during the 1990s and 2000s. According to CCH Intelliconnect, 32 states have a broad-based job creation or retention credit as of July 2025. Credits are generally calculated based on either the number of jobs created or the eligible employee wages. Although broad-based employment tax credits are the most popular type of employment tax credit, 22 states have a population-targeted job creation tax credit. Lastly, 19 states have credits for corporate headquarters relocation, investments, and jobs creation or retention. Four states (Nevada, South Dakota, Washington, and Wyoming) do not offer job creation tax credits as those states do not tax general business corporation or pass-through income.

## Employment Credits in Nearby States

### Delaware

Delaware offers incentives that encourage job creation and businesses to relocate to the state. The Delaware job creation tax credit allows an eligible business engaged in qualified activities to claim a tax credit if, during any consecutive 12-month period, the business hires at least 5 regular, full-time employees and invests a minimum of $200,000 at a qualified facility. At least one-quarter of the employees must be Delaware residents when the facility is placed in service. Eligible corporations receive a credit of $500 for each new qualified employee and an additional credit equal to $500 for every $100,000 invested, not to exceed 50% of the tax liability imposed in the year. These tax credits can be claimed annually over 10 years but may not exceed 50% of the company's pre-credit tax liability in each year.

The Business Finder's Fee Tax Credit is designed to incentivize existing Delaware businesses to help relocate out-of-state businesses to Delaware. Both the existing business and the relocating business are eligible for a tax credit equal to $500 times the number of full-time employees of the new business. Each business can claim the credit annually over three years. This credit became effective on October 1, 2010. As of 2023, no businesses have applied for the credit.

In 2016, Delaware's Commitment to Innovation Act reestablished the New Economy Jobs Tax Credit that had terminated in 2014. According to the fiscal note prepared for the Act, the New Economy Jobs Tax Credit is designed to incentivize out-of-state firms to relocate to Delaware through a refundable tax credit ranging from 25% to 65% of the added employee withholdings attributable to new jobs created in Delaware. Prior to 2014, the credit was never used. The credit was reinstated as part of an effort to attract the headquarters facility that resulted from the 2017 Dow-DuPont merger. While two of the three companies resulting from the merger were located in Delaware, one of the spin-off companies, Corteva, Inc., moved to Indiana in 2022. In 2019, the credit was modified by allowing a prorated credit for job creation activity in the first certified year, indexing the salary threshold prior to the calendar year to assist with business planning (in line with the indexation of other tax provisions), and establishing an incentive to maintain employment above the credit thresholds.

## District of Columbia

The District of Columbia does not currently provide a broad-based job creation tax credit. Eligibility for the District of Columbia's job growth tax credit extended only for tax years 2010 through 2014. Eligible taxpayers could claim the tax credit to offset the taxpayer's franchise tax liability if the taxpayer adds at least 10 new jobs meeting certain criteria for at least one year. While the credit does not terminate until January 1, 2030, there has been no legislative action to extend the eligibility period beyond December 31, 2014.

## North Carolina

North Carolina does not currently provide a broad-based job creation tax credit. North Carolina's tax credits for growing businesses program terminated January 1, 2014. Under the program, eligible taxpayers in certain industries could claim tax credits to offset up to 50% of the taxpayer's income, franchise, or gross premium tax liability by engaging in job creation, investment in business property, and investment in real property.

## Pennsylvania

Pennsylvania does not currently provide a broad-based job creation tax credit. The Job Creation Tax Credit in Pennsylvania terminated on June 30, 2020. Under the program, eligible Pennsylvania businesses that, within three years, created at least 25 jobs or increased employment by 20% could claim a $1,000 credit for each new full-time job that met certain minimum wage standards. The credit, which could be applied against a number of state business taxes, was claimed only after the jobs were created. A taxpayer that did not maintain existing operations in Pennsylvania for at least five years from the start date was required to repay all of the credits received. A taxpayer who received credits but failed to create the approved number of jobs within three years of the start date was required to also repay all credits received.

## Virginia

The Major Business Facility Job Tax Credit allows qualified companies locating or expanding in Virginia to claim a $1,000 income tax credit for each new full-time job created over a threshold number of jobs (either 25 or 50 jobs depending on location) beginning in the first taxable year following the taxable year in which the major business facility commenced or expanded its operations. The threshold number of jobs must be created within a 12-month period. The credit is not available for the creation of seasonal or temporary jobs, positions in building and grounds maintenance, security, positions ancillary to the principal activities of the facility, or jobs created when a position is shifted from an existing location within the state to the new facility. The credits are taken in equal installments over 2 years, and unused credits may be carried forward for up to 10 years. The credit recently expired on July 1, 2025.

## West Virginia

Under the Economic Opportunity Tax Credit, qualified companies that create at least 20 new jobs within specified time limits as a result of new or expanded projects in West Virginia may be eligible for an offset of up to 80% of the corporate net income tax and personal income tax on pass-through income that is attributable to the qualified investment. If a qualified company pays its qualified employees an annual median wage higher than the statewide average nonfarm payroll wage, the qualified company may offset up to 100% of the corporate net income tax and personal income tax on pass-through income that is attributable to the qualified investment.

For tax years beginning on or after January 1, 2022, a qualified business creating less than 10 new jobs within specified time limits may claim a credit of $3,000 per new full-time job for five years, provided the new job pays at least a certain amount ($46,450 for tax year 2025) and offers health insurance benefits.

## Maryland's Competitiveness

As noted above, the District of Columbia, North Carolina, and Pennsylvania do not currently have a broad-based job creation tax credit, and Virginia recently allowed its program to expire. Meanwhile, Maryland offers the job creation tax credit and for those already enrolled, the More Jobs for Marylanders tax credit. As such, the Department of Legislative Services believes that the businesses that create new jobs tax credit program is not necessary for Maryland to remain competitive with neighboring states.

# Chapter 4. Tax Credit Reporting Requirements and Fiscal Impact

## Statutory Tax Credit Certification Procedures and Reporting Requirements

Before obtaining the new or expanded premises or hiring employees, a business must provide written notice to the county or municipal corporation in which the facility is located of the following:

- that it intends to claim the standard or enhanced property tax credit;
- if it intends to claim the enhanced property tax credit, how it expects to meet the requirements to qualify for the credit; and
- when it expects to obtain the new or expanded premises and hire the required number of employees.

The county or municipal corporation must (1) certify to the State Department of Assessments and Taxation (SDAT) and the Department of Commerce (Commerce) that the business has met the requirements of the credit for the taxable year following the date on which it qualified and (2) compute the value of the local property tax credit in each year the business qualifies.

Upon notification from a local jurisdiction, SDAT must (1) compute and certify the value of the State credit that can be claimed against the income tax or insurance premium tax and (2) notify the Comptroller and the Maryland Insurance Administration (MIA), respectively, of the tax credit that can be claimed in each year.

On October 1 of each year, each county and municipal corporation that has granted a tax credit must report to SDAT, Commerce, and the Comptroller the amount of any credit granted and whether the business is in compliance with program requirements. **Exhibit 4.1** shows the process of granting, calculating, certifying, and reporting tax credits that is required by statute.

**Exhibit 4.1**
## Required Certification and Reporting Requirements

**Local Jurisdiction**
Enacts legislation authorizing program and credit(s)

**Business**
Provides written notice to the local jurisdiction of its intent to claim the credit prior to obtaining the new or expanded premises and hiring new employees

**Local Jurisdiction**
Computes the property tax credit
Certifies the business as meeting program requirements and sends notification to:

**SDAT** | **Department of Commerce**
Computes and certifies the State tax credit to:

**Comptroller** | **MIA**

**Local Jurisdiction that Has Granted Tax Credits**
By October 1 of each year, reports on credits granted and program compliance to:

**SDAT** | **Department of Commerce** | **Comptroller**

MIA: Maryland Insurance Administration
SDAT: State Department of Assessments and Taxation

Source: Department of Legislative Services

## Information Provided by State Agencies

The Department of Legislative Services (DLS) requested from State agencies information on the businesses that participated in the program and the tax credits awarded. Despite statutory reporting and credit certification requirements, SDAT, Commerce, and the Comptroller's Office were not able to provide full information on the use of the tax credit. Meanwhile, MIA stated that no credits have been claimed against the insurance premium tax since at least 2015, when it started keeping digital records.

### Department of Commerce

In response to a request for information, Commerce reported that it had not received required submissions from local jurisdictions regarding businesses that met the tax credit requirements or certifications of compliance with program requirements. Commerce suggested that this absence of information was likely due to inactivity under the credit, noting that one county (Frederick County) confirmed its program was inactive while another did not respond to outreach. SDAT is not required to report any information to Commerce. DLS notes that Commerce does not include information about the tax credit on its website where it lists Maryland financial incentives for businesses.

### State Department of Assessments and Taxation

SDAT noted that its role in the businesses that create new jobs credit is purely clerical and it does not manage the program. In 2016 when DLS initially reviewed the program, SDAT stated that it only confirms to local governments that property assessment information is accurate and does not certify any additional information. However, SDAT has a statutory requirement to certify the State credit, so DLS asserts that SDAT should be actively managing the program.

After multiple requests for data, SDAT provided a list of eligible projects in Montgomery County, along with a tax certification form of a recent eligible project in Hagerstown in Washington County. It was unclear whether the Montgomery County data presented to DLS was project assessments eligible for the tax credits or if it was the local property tax credits. The data provided by SDAT did not distinguish which projects were eligible for standard credits versus enhanced credits. SDAT did not respond to questions from DLS about the information. Regardless, the businesses deemed eligible for the credits reported by SDAT did not tie to those that Montgomery County reported as being eligible for the credits. When questioned about the difference, SDAT stated that Montgomery County did not report those businesses to SDAT. It does not appear that SDAT is effectively certifying the State income tax credits as required by statute nor is it fulfilling its reporting requirements to the Comptroller's Office. DLS questions whether SDAT is keeping adequate records of the program. The standard credit can be claimed over 6 years, while the enhanced credit can be claimed over 24 years, so DLS speculates that the long timeframes may be a contributing factor to problems associated with recordkeeping.

## Comptroller

The Comptroller's Office did not provide DLS with full data on the number of businesses that claimed credits against the income tax or on the total amount claimed, citing confidentiality requirements. The Comptroller's Office advised DLS that, although six companies claimed only $8,500 in income tax credits in tax year 2018, five companies claimed $2.3 million in income tax credits in tax year 2023, as shown in **Exhibit 4.2**. Most of these credits were claimed against the corporate income tax. In all other tax years since tax year 2018, the number of filers receiving the credit, if any, was below taxpayer disclosure thresholds and could not be reported.

**Exhibit 4.2**
**Businesses That Create New Jobs**
**Tax Credit Activity by Agency**
**Tax Years 2018-2024**

| | | Comptroller's Data | |
|---|---|---|---|
| **Year** | **Total SDAT Certifications** | **Tax Returns** | **Total State Credits** |
| 2018 | 8 | 6 | $8,500 |
| 2019 | 0 | * | * |
| 2020 | 0 | * | * |
| 2021 | 0 | * | * |
| 2022 | 1 | * | * |
| 2023 | 1 | 5 | 2,260,000 |
| 2024 | 1 | * | * |

SDAT: State Department of Assessments and Taxation

* Credit was either not claimed or was claimed but the Comptroller's Office could not disclose due to taxpayer confidentiality.

Source: State Department of Assessments and Taxation; Comptroller's Office; Department of Legislative Services

From what limited data that DLS was able to gather, the number of businesses claiming the credit appear greater than the number of businesses being certified for the credit in tax year 2023. SDAT reports only one business was eligible for the tax credit in tax year 2023, but the Comptroller's Office reports that five businesses claimed the credit. Meanwhile, Montgomery County reports that four businesses were eligible for the local property tax credit in 2023. This disconnect highlights the complexity of the program and the lack of communication between agencies and local governments.

## Estimated State Costs

The businesses that create new jobs tax credit is an unbudgeted tax credit that is not subject to an aggregate limit on the amount of credits that can be awarded in each year. The annual revenue loss depends primarily on the assessed property value of the new or expanded premises, the property tax rate, the tax liability of the business, and the years in which the business claims the credit.

The credit is nonrefundable, but unused amounts can be carried forward into a subsequent tax year, so Exhibit 4.2 does not capture the full cost of the program to the State. The Comptroller advises that the amount claimed does not include any amount claimed as a carry-forward credit, as the agency does not identify which credit is being claimed by a business if it is a carry-forward.

Due to the apparent lack of SDAT certifying State income tax credits, taxpayer disclosure thresholds at the Comptroller's Office, and the use of carry-forwards, DLS cannot accurately determine the annual or cumulative fiscal impact of the program to the State. Unlike with many other State business tax credits, there is no maximum limit on the credit value or limit on the aggregate amount of credits that can be awarded in each year. Thus, in any given year, the businesses that create new jobs program could potentially significantly decrease State revenues. The businesses that create new jobs tax credit program lacks fiscal certainty. The American Institute of Certified Public Accountants lists appropriate government revenues as one of the guiding principles of good tax policy, stating the need to have appropriate levels of predictability, stability, and reliability in a tax system. The businesses that create new jobs tax credit program does not meet this principle.

Shortening the time period in which tax credits may be claimed could improve the program's fiscal certainty and increase economic benefits by providing additional certainty to businesses claiming the tax credit. Research suggests that businesses may significantly discount future tax credit benefits, particularly if there is uncertainty about how and when the benefits may be claimed. A tax credit program that provides more tax benefits at the time of the project is more likely to encourage a business to undertake projects and increase employment.

### Program Administrative Costs

State program administrative costs are likely minimal as there does not appear to be any State employee actively administering the credit. Local jurisdictions are responsible for calculating the credit and providing information to State agencies.

## Information Provided by Local Governments

The decision to offer the businesses that create new jobs tax credit ultimately lies with local governments, which can decide to authorize use of the credit in their jurisdiction. SDAT did not provide information on which local jurisdictions have authorized the program, but a previous examination into which counties implemented the program indicates that at least six jurisdictions have passed a local law authorizing tax credits, as shown in **Exhibit 4.3**.

**Exhibit 4.3**

**Counties with Authorizing Legislation**
**Businesses That Create New Jobs Credit**

| County | Year Authorized |
|---|---|
| Carroll | 2004 |
| Frederick | 2011 |
| Kent | 2001 |
| Montgomery | 1998 |
| Prince George's | 2010 |
| Washington | 2002 |

Source: Montgomery County; Department of Legislative Services

DLS contacted Baltimore City and each county for information on whether the local jurisdiction had granted the credit over the past 10 years. Of the nine counties that responded – Calvert, Cecil, Frederick, Garrett, Montgomery, Prince George's, Queen Anne's, St. Mary's, and Wicomico – only Montgomery and Frederick counties reported granting the credit to a business within the past decade. However, the data that these counties supplied to DLS did not tie to what SDAT reported to DLS. It is unclear whether local jurisdictions are failing to properly report projects to SDAT or whether SDAT is failing to keep proper records.

Frederick, Montgomery, and Prince George's counties were the only local jurisdictions that provided DLS information or feedback on the program. Frederick County established the tax credit in 2011. One company qualified for the credit in fiscal 2017 by expanding its facility by 38,309 square feet and hiring 98 new full-time employees but elected not to send in their annual certification to receive the credit in future years. The credit was granted to two other businesses in fiscal 2024, but both businesses were subsequently dissolved.

Prince George's County reported that no businesses have claimed the credit in recent years, citing the many requirements of the program as the reason for its unpopularity. Additionally, Prince George's County asserts that other credits, such as the enterprise zone and the revitalization tax credits, have fewer requirements and may provide a larger credit.

Montgomery County reports that the tax credit has been granted 13 times since 2018. Most recently, the county reports the credit being claimed by four businesses in 2023 for a total of \$3,050,590 in local property tax credits, as shown in **Exhibit 4.4**. As previously noted, these projects do not match what SDAT has reported.

**Exhibit 4.4**
## Businesses That Create New Jobs Local Tax Credits Certified by Montgomery County
**2018-2023**

| Year | Total Certifications | Total Local Credits |
|---|---|---|
| 2018 | 1 | $55,613 |
| 2019 | 1 | 58,077 |
| 2020 | 2 | 276,720 |
| 2021 | 2 | 292,698 |
| 2022 | 3 | 662,617 |
| 2023 | 4 | 3,050,590 |

Source: Montgomery County; Department of Legislative Services

# Chapter 5. Findings and Recommendations

Based on the information and analysis provided in this report, the Department of Legislative Services (DLS) makes a number of findings and recommendations about the businesses that create new jobs tax credit, as discussed below.

## The Credit is Overly Complex, Difficult to Administer, Appears to Have Few Claimants, and Overlaps with Other State Employment Tax Credits

The businesses that create new jobs tax credit is a complex credit with numerous requirements. There are two credits, a standard and an enhanced credit, each with its own requirements and credit calculations. In addition to a local property tax credit, there is a State tax credit that is calculated based on a specified percentage of the property tax imposed on the assessment of the new or expanded premises and the personal property tax imposed on specified personal property. Unlike with many other State business tax credits, there is no maximum limit on the credit value or limit on the aggregate amount of credits that can be awarded in each year. The total cost of each tax credit cannot be accurately estimated since the credit depends on the eligible assessment of real and personal property for up to 24 years.

**Recommendation:** Considering the tax credit's complexity, lack of transparency, and overlap with other employment tax credits and grant programs, DLS recommends that the General Assembly consider terminating the businesses that create new jobs tax credit program.

If the General Assembly decides not to eliminate the businesses that create new jobs tax credit program, DLS has several recommendations to improve the credit that are discussed below.

**Recommendation:** Given the lack of transparency and oversight on the State level of the program, DLS recommends continuing to authorize the local property tax credit while eliminating the State income tax credit.

## Various State Agencies Have Not Met Statutory Requirements for Certifying and Calculating the Credit and Providing Information About the Credit

Under current law, the State Department of Assessments and Taxation (SDAT) is required to certify the value of the State tax credit and notify the Comptroller and the Maryland Insurance Agency (MIA) of the tax credit that can be claimed in each year. SDAT, however, does not appear to be certifying the credit as required and then providing this information to MIA and the Comptroller's Office, as those agencies have no record of receiving this information. Absent this information, it is not clear that the appropriate State agencies are verifying that a taxpayer is correctly claiming the credit.

**Recommendation:** DLS recommends that the General Assembly adopt legislation to require that SDAT may only certify the State tax credit for a business if the local jurisdiction in which the business is located has, in the most recent applicable year, (1) certified that the business has met the program requirements for the taxable year that follows the date on which the business met the requirements and (2) reported to SDAT, the Department of Commerce (Commerce), and the Comptroller the amount of any local property tax credit granted, whether the business is in compliance with program requirements, and any other information required by statute.

**Recommendation:** DLS recommends that SDAT comment on why it is not certifying the State tax credit amounts as required by statute.

**Recommendation:** DLS recommends that Commerce promote the businesses that create new jobs tax credit program on its website.

**Recommendation:** DLS recommends that the General Assembly adopt legislation requiring a taxpayer claiming the credit to include with the applicable tax return a certification from SDAT of the amount of the credit that may be claimed.

## Local Governments Have Not Met Statutory Requirements for Certifying and Providing Information About the Credit

Local jurisdictions that have granted tax credits have not provided required information to State agencies about the tax credits that have been certified. In addition, local jurisdictions did not provide information on the jobs and investment associated with the program. As a result, the total jobs created or retained by the program and the overall fiscal and economic impacts of the program are not known.

**Recommendation:** DLS recommends that the General Assembly adopt legislation requiring (1) a local jurisdiction to report to SDAT the number of jobs and investment associated with each tax credit project and (2) SDAT to report annually to the General Assembly on the local jurisdictions that have authorized the program, the name and location of each business claiming the credit, and the credit claimed by the business and the jobs and investment associated with each qualifying project.

**Recommendation:** In order to better assess the credit's effectiveness in promoting job creation for different categories of businesses, DLS recommends that local jurisdictions collect and report the following information for each credit recipient: (1) whether the credit resulted from a business expansion, new business, or relocation; (2) whether the business had a presence in Maryland before claiming the credit; (3) the total employment of the business; and (4) the total number of years the company has been in business.

## The Legislative Intent and Performance Metrics of the Credit Are Not Defined

Chapters 623 and 624 of 1997 established the tax credit but did not specify a specific goal or intent for the credit. Without clearly defined goals and objectives, it is difficult to identify metrics and data requirements to evaluate the effectiveness of the tax credit.

**Recommendation:** The General Assembly should clearly define the intent of the businesses that create new jobs tax credit program in statute and consider requiring the intent of any new tax incentive to be clearly expressed.

**Recommendation:** Commerce should define performance metrics for the tax credit program and periodically evaluate the program based on those metrics.