
DIGEST

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HB 617 Original

2023 Regular Session

Edmonds

Abstract: Establishes the Life Sciences Investment Tax Credit Program, which consists of the life sciences investment tax credit and the life sciences Food and Drug Administration (FDA) medical device user fee tax credit for investments in life sciences.

Proposed law establishes the Life Sciences Investment Tax Credit Program which consists of the life sciences investment tax credit, hereinafter "life sciences tax credit" and the life sciences Food and Drug Administration (FDA) medical device user fee tax credit, hereinafter "FDA medical device tax credit" for investments in life sciences.

Proposed law defines "life sciences" as advanced and applied sciences that expand the understanding of human physiology and have the potential to lead to medical advances or therapeutic applications, limited to agricultural biotechnology, biogenerics, bioinformatics, biomedical engineering, biopharmaceuticals, biotechnology, chemical synthesis, chemistry technology, diagnostics, genomics, image analysis, marine biology, marine technology, medical devices, nanotechnology, natural product pharmaceuticals, proteomics, regenerative medicine, RNA interference, stem cell research, and veterinary science.

Proposed law provides that the life sciences income or corporation franchise tax credit shall apply towards the cost of the acquisition or construction of qualifying property and shall be earned in the year in which the qualifying property is placed in service. The amount of the credit shall be equal to 10% of the cost of qualifying property. Proposed law defines "qualifying property" as tangible personal property and other tangible property including buildings and structural components of buildings acquired by purchase as defined in federal law and used for research, development, manufacturing, or commercialization in the life sciences sector.

Proposed law provides that the FDA medical device income or corporation income tax credit shall apply to user fees paid by the tax credit applicant to the FDA for a medical device and shall be earned in the year in which the application for licensure of a medical device is approved by the FDA. The amount of the credit shall be equal to the actual amount of user fees paid by the applicant to the FDA for a medical device. Proposed law further provides that in order to be eligible for this tax credit, more than 50% of the research and development costs for the medical device must have been incurred in La.

Proposed law prohibits a life sciences company claiming the FDA medical device tax credit from also deducting the FDA user fees on its income tax return.

Proposed law requires the Dept. of Economic Development (DED) to establish an application and application process for taxpayers to apply for these credits. Further requires DED to either approve or disapprove each application and to certify the approved amount of the credit. Once DED approves an application and certifies the credit amount, the department is required to notify the Dept. of Revenue (DOR) and provide DOR with a copy of the approval and certification of credits for each taxpayer.

Proposed law authorizes DED to require that applications include documentation to substantiate the credit claim.

Proposed law prohibits credits from being granted to a taxpayer or claimed on a tax return unless the credit is approved and certified by DED.

Proposed law provides for the claiming of tax credits on tax returns and for the recovery of tax credits disallowed by DOR. If the amount of the tax credit exceeds a taxpayer's tax liability for that year, the taxpayer may carry forward any unused portion of the credit as a credit against subsequent tax liability for a period not to exceed five years. However, the amount of the tax credit applied by a taxpayer in a taxable period shall not exceed the amount of taxes due from the taxpayer for that taxable period.

Proposed law authorizes the secretary of DED to promulgate rules in accordance with present law (Administrative Procedure Act) as are necessary to implement the provisions of proposed law. The rules shall be subject to oversight by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs.

Proposed law prohibits a taxpayer from receiving any other incentive administered by DED for any expenditures for which the taxpayer has received a tax credit pursuant to proposed law.

Proposed law prohibits credits from being earned after Dec. 31, 2029.

Proposed law is applicable to taxable years beginning on or after Jan. 1, 2024.

Effective Jan. 1, 2024.

(Adds R.S. 47:6043)