

(ii) "Qualified position" does not include a position that is:

1. Created when an employment function is shifted from an existing business facility of the business entity located in Maryland to another business facility of the same business entity if the position does not represent a net new job in the State;
2. Created through a change in ownership of a trade or business;
3. Created through a consolidation, merger, or restructuring of a business entity if the position does not represent a net new job in the State;
4. Created when an employment function is contractually shifted from an existing business entity located in the State to another business entity if the position does not represent a net new job in the State; or
5. Filled for a period of less than 12 months.

(b) (5) (i) Subject to the limitation under subparagraph (ii) of this paragraph AND SUBJECT TO SUBSECTION (H) OF THIS SECTION, for any taxable year after the 4th taxable year following the taxable year in which the project is placed in service but before the 15th taxable year following the taxable year in which the project is placed in service:

1. A qualified business entity other than a person subject to taxation under Title 6 of the Insurance Article:

A. May apply any excess of eligible project costs for the eligible economic development project over the cumulative amount used as a tax credit under this subsection for the taxable year and all prior taxable years as a tax credit against the State tax for the taxable year on the qualified business entity's income other than income generated by or arising out of the project; and

B. May claim a refund in the amount, if any, by which the unused excess exceeds the State tax for the taxable year on the qualified business entity's income other than income generated by or arising out of the project; and

2. A qualified business entity that is subject to taxation under Title 6 of the Insurance Article:

A. May apply any excess of eligible project costs for the eligible economic development project over the cumulative amount used as a tax credit under this subsection for the taxable year and all prior taxable years as a tax credit against the premium tax imposed for the taxable year; and

B. May claim a refund in the amount, if any, by which the unused excess exceeds the premium tax for the taxable year.

(ii) For any taxable year, the total of the amounts used as a tax credit and claimed as a refund as provided in this paragraph may not exceed the