
By: Senators Boozer, Kelley, McCabe, Sfikas, and Van Hollen

Introduced and read first time: January 31, 1996

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 2, 1996

CHAPTER _____

1 AN ACT concerning

2 **Work, Not Welfare, and Enterprise Zone Income Tax Credits - Tax Exempt**

3 **Organizations - ~~Withholding Taxes~~ Unrelated Business Taxable Income**

4 FOR the purpose of allowing certain tax exempt organizations to apply certain tax credits
5 against certain ~~taxes withheld from the wages of employees and required to be paid~~
6 ~~to the Comptroller~~ income tax due on unrelated business taxable income; ~~providing~~
7 ~~that certain addition modifications relating to certain tax credits do not apply to~~
8 ~~certain tax exempt organizations~~; altering certain definitions; providing for the
9 application of this Act; providing for the termination of part of this Act; and
10 generally relating to certain tax credits for certain tax exempt organizations against
11 certain taxes.

12 BY repealing and reenacting, with amendments,
13 Article - Tax - General
14 Section 10-702(a)(2)(i), ~~(b), (c), and (f)~~ and (b)
15 Annotated Code of Maryland
16 (1988 Volume and 1995 Supplement)

17 ~~BY repealing and reenacting, without amendments,~~
18 ~~Article - Tax - General~~
19 ~~Section 10-906(a)~~
20 ~~Annotated Code of Maryland~~
21 ~~(1988 Volume and 1995 Supplement)~~

22 BY repealing and reenacting, with amendments,
23 Article 88A - Social Services Administration
24 Section 56(a)(2) ~~and (g)~~

2

1 Annotated Code of Maryland
2 (1995 Replacement Volume)

3 BY repealing and reenacting, without amendments,
4 Article 88A - Social Services Administration
5 Section 56(b) and (f)
6 Annotated Code of Maryland
7 (1995 Replacement Volume)

8 BY repealing and reenacting, with amendments,
9 Article - Tax - General
10 Section 10-704.3
11 Annotated Code of Maryland
12 (1988 Volume and 1995 Supplement)

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

15 **Article - Tax - General**

16 10-702.

17 (a) (2) (i) "Business entity" means:

18 1. a person conducting or operating a trade or business; OR

19 2. AN ORGANIZATION THAT IS EXEMPT FROM TAXATION
20 UNDER § 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE[;].

21 (b) (1) Any business entity that is located in an enterprise zone and satisfies the
22 requirements of Article 83A, § 5-404 of the Code may claim a credit only against the
23 State income tax for the wages specified in subsections (c) and (d) of this section that are
24 paid in the taxable year for which the entity claims the credit.

25 ~~(2) AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER §~~
26 ~~501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE MAY APPLY THE CREDIT UNDER~~
27 ~~THIS SECTION AS A CREDIT AGAINST INCOME TAX THAT THE ORGANIZATION HAS~~
28 ~~WITHHELD FROM THE WAGES OF EMPLOYEES AND IS REQUIRED TO PAY TO THE~~
29 ~~COMPTROLLER UNDER § 10-906(A) OF THIS TITLE.~~

30 (2) AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER §
31 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE MAY APPLY THE CREDIT UNDER
32 THIS SECTION AS A CREDIT AGAINST INCOME TAX DUE ON UNRELATED BUSINESS
33 TAXABLE INCOME AS PROVIDED UNDER §§ 10-304 AND 10-812 OF THIS TITLE.

34 ~~(e) (1) If the credit allowed under this section in any taxable year exceeds the~~
35 ~~State income tax for that taxable year, a business entity may apply the excess as a credit~~
36 ~~against the State income tax for succeeding taxable years until the earlier of:~~

37 ~~[(1)] (1) the full amount of the excess is used; or~~

1 ~~{(2)} (II) the expiration of the 5th taxable year from the date on which the~~
2 ~~business entity hired the qualified employee to whom the credit first applies.~~

3 ~~(2) FOR AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER §~~
4 ~~501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE, IF THE CREDIT ALLOWED UNDER~~
5 ~~THIS SECTION IN ANY TAXABLE YEAR EXCEEDS THE SUM OF THE STATE INCOME~~
6 ~~TAX OTHERWISE PAYABLE BY THE ORGANIZATION FOR THAT TAXABLE YEAR AND~~
7 ~~THE INCOME TAX THAT THE ORGANIZATION HAS WITHHELD FROM THE WAGES OF~~
8 ~~EMPLOYEES FOR THAT TAXABLE YEAR AND IS REQUIRED TO PAY TO THE~~
9 ~~COMPTROLLER UNDER § 10-906(A) OF THIS TITLE, THE ORGANIZATION MAY APPLY~~
10 ~~THE EXCESS AS A CREDIT FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER~~
11 ~~OF:~~

12 ~~(I) THE FULL AMOUNT OF THE EXCESS IS USED; OR~~

13 ~~(II) THE EXPIRATION OF THE 5TH TAXABLE YEAR FROM THE DATE~~
14 ~~ON WHICH THE ORGANIZATION HIRED THE QUALIFIED EMPLOYEE TO WHOM THE~~
15 ~~CREDIT FIRST APPLIES.~~

16 ~~(f) (1) [if] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,~~
17 ~~IF a credit is claimed under this section, the claimant must make the addition required in~~
18 ~~§ 10-205, § 10-206, or § 10-306 of this title.~~

19 ~~(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO AN~~
20 ~~ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OR (4) OF THE~~
21 ~~INTERNAL REVENUE CODE.~~

22 ~~10-906.~~

23 ~~(a) Except as provided in § 10-907 of this subtitle, each employer or payor shall:~~

24 ~~(1) withhold the income tax required to be withheld under § 10-908 of this~~
25 ~~subtitle; and~~

26 ~~(2) pay to the Comptroller the income tax withheld for a period with the~~
27 ~~withholding return that covers the period.~~

28 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
29 read as follows:

30 **Article 88A - Social Services Administration**

31 56.

32 (a) (2) "Business entity" means:

33 (I) [a] A person conducting or operating a trade or business in
34 Maryland; OR

35 (II) AN ORGANIZATION OPERATING IN MARYLAND THAT IS
36 EXEMPT FROM TAXATION UNDER § 501(C)(3) OR (4) OF THE INTERNAL REVENUE
37 CODE.

4

1 (b) (1) Except as provided in subsection (e) of this section, a business entity
2 may claim a tax credit in the amounts determined under subsections (c) and (d) of this
3 section for the wages and qualified child care expenses with respect to a qualified
4 employment opportunity employee that are paid in the taxable year for which the
5 business entity claims the credit.

6 (2) The same tax credit cannot be applied more than once against different
7 taxes by the same taxpayer.

8 (f) If the credit allowed under this section in any taxable year exceeds the total
9 tax otherwise payable by the business entity for that taxable year, a business entity may
10 apply the excess as a credit for succeeding taxable years until the earlier of:

11 (1) The full amount of the excess is used; or

12 (2) The expiration of the fifth taxable year after the taxable year in
13 which the wages or qualified child care expenses for which the credit is claimed are paid.

14 ~~(g) (1) [IF] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,~~
15 ~~IF a credit is claimed under this section, the claimant must make the addition required in~~
16 ~~§ 10-205 or § 10-306 of the Tax - General Article.~~

17 ~~(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO AN~~
18 ~~ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OR (4) OF THE~~
19 ~~INTERNAL REVENUE CODE.~~

20 **Article - Tax - General**

21 10-704.3.

22 (A) An individual or a corporation may claim a credit against the income tax for
23 wages paid to qualified employment opportunity employees and for child care provided or
24 paid for by a business entity for the children of a qualified employment opportunity
25 employee as provided under Article 88A, § 56 of the Code.

26 ~~(B) AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3)~~
27 ~~OR (4) OF THE INTERNAL REVENUE CODE MAY APPLY THE CREDIT UNDER THIS~~
28 ~~SECTION AS A CREDIT AGAINST INCOME TAX THAT THE ORGANIZATION HAS~~
29 ~~WITHHELD FROM THE WAGES OF ITS EMPLOYEES AND IS REQUIRED TO PAY TO THE~~
30 ~~COMPTROLLER UNDER § 10-906(A) OF THIS TITLE.~~

31 (B) AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3)
32 OR (4) OF THE INTERNAL REVENUE CODE MAY APPLY THE CREDIT UNDER THIS
33 SECTION AS A CREDIT AGAINST INCOME TAX DUE ON UNRELATED BUSINESS
34 TAXABLE INCOME AS PROVIDED UNDER §§ 10-304 AND 10-812 OF THIS TITLE.

35 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
36 be applicable to all taxable years beginning after December 31, 1995.

37 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
38 be applicable to all taxable years beginning after December 31, 1995, but before January
39 1, 2002; provided however, that:

SENATE BILL 412

5

1 (1) The tax credits allowed under Section 2 of this Act shall be allowed only
2 for employees hired on or after June 1, 1995, but before July 1, 1998; and

3 (2) Any excess credits may be carried forward and, subject to the limitations
4 of, may be applied as a credit for taxable years beginning on or after January 1, 2002.

5 SECTION 5. AND BE IT FURTHER ENACTED, That, subject to Section 4 of
6 this Act, Section 2 of this Act shall remain in effect for a period of 2 years and at the end
7 of June 30, 1998, with no further action required by the General Assembly, Section 2 of
8 this Act shall be abrogated and of no further force and effect.

9 SECTION 6. AND BE IT FURTHER ENACTED, That, subject to Sections 3
10 through 5 of this Act, this Act shall take effect July 1, 1996.