

HOUSE BILL 66

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1998 Regular Session
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(PRE-FILED)

By: **Delegates Hixson, R. Baker, Barve, Bobo, Bozman, Cadden, Conroy, Cryor, Curran, C. Davis, D. Davis, Doory, Faulkner, Finifter, Frush, Goldwater, Grosfeld, Healey, Hecht, Heller, Hubbard, Hurson, Kopp, Leopold, Linton, Mandel, Montague, Petzold, Pitkin, Rawlings, Rosenberg, Shriver, Workman, Dypski, McIntosh, Poole, and Perry Perry, and Marriott**

Requested: October 27, 1997
Introduced and read first time: January 14, 1998
Assigned to: Ways and Means

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 25, 1998

CHAPTER _____

1 AN ACT concerning

2 **Income Tax - Earned Income Credit - Refunds**

3 FOR the purpose of altering the earned income credit allowed against the Maryland
4 income tax; making part of the earned income credit refundable under certain
5 circumstances; providing that any excess credit over the State income tax does
6 not reduce the county income tax below zero; repealing a certain subtraction
7 modification for certain taxpayers whose income does not exceed certain levels;
8 providing a credit against the State income tax for certain taxpayers whose
9 income does not exceed certain levels; providing for the application of a certain
10 credit in the computation of the county income tax; providing for the
11 determination of the amount of certain credits for nonresidents and part-year
12 residents in a certain manner; providing that an individual not otherwise
13 required to file an income tax return may file a return to claim a certain refund;
14 providing for the application of this Act; and generally relating to ~~the earned~~
15 ~~income credit~~ certain credits under the Maryland income tax.

16 BY repealing
17 Article - Tax - General
18 Section 10-207(h)
19 Annotated Code of Maryland
20 (1997 Replacement Volume)

1 BY repealing and reenacting, with amendments,
 2 Article - Tax - General
 3 Section 10-704 ~~and 10-706(e)~~, 10-706(c), and 10-809
 4 Annotated Code of Maryland
 5 (1988 Volume and 1997 Supplement)

6 BY adding to
 7 Article - Tax - General
 8 Section 10-709
 9 Annotated Code of Maryland
 10 (1997 Replacement Volume)

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

13 **Article - Tax - General**

14 10-207.

15 (h) (1) (i) In this subsection the following words have the meanings
 16 indicated.

17 (ii) "Applicable poverty income level" means the amount specified
 18 in the poverty income standard that corresponds to the number of exemptions to
 19 which the individual is entitled and claims under § 10-211(1) of this subtitle.

20 (iii) "Eligible low income taxpayer" means an individual, or an
 21 individual and the individual's spouse if they file a joint income tax return:

22 1. whose federal adjusted gross income as modified under §§
 23 10-204 through 10-206 of this subtitle does not exceed the applicable poverty income
 24 level;

25 2. whose earned income as defined under § 32(c)(2) of the
 26 Internal Revenue Code does not exceed the applicable poverty income level; and

27 3. who is not claimed as an exemption on another
 28 individual's tax return under § 10-211 of this subtitle.

29 (iv) "Poverty income standard" means the most recent poverty
 30 income guideline published by the United States Department of Health and Human
 31 Services, available as of July 1 of the taxable year.

32 (2) For any eligible low income taxpayer, the subtraction under
 33 subsection (a) of this section includes the amount of earned income as defined under
 34 § 32(c)(2) of the Internal Revenue Code.]

1 10-704.

2 (a) An individual may claim a credit against the income tax for a taxable year
3 in the amount determined under subsection (b) of this section for earned income.

4 (b) (1) Except as provided in paragraph (2) of this subsection AND SUBJECT
5 TO SUBSECTION (C) OF THIS SECTION, the credit allowed under subsection (a) of this
6 section is the lesser of:

7 (i) 50% of the earned income credit allowable for the taxable year
8 under § 32 of the Internal Revenue Code; or

9 (ii) the State income tax for the taxable year.

10 (2) AN INDIVIDUAL WITH ONE OR MORE DEPENDENTS THAT MAY BE
11 CLAIMED AS EXEMPTIONS MAY CLAIM A REFUND IN THE AMOUNT, IF ANY, BY WHICH
12 15% OF THE EARNED INCOME CREDIT ALLOWABLE UNDER § 32 OF THE INTERNAL
13 REVENUE CODE EXCEEDS THE STATE INCOME TAX FOR THE TAXABLE YEAR.

14 ~~{(2)}~~ ~~(C)~~ ~~An individual who files an income tax return for a period of less~~
15 ~~than 1 year;~~

16 ~~(1)~~ ~~is allowed from the amount under [paragraph (1) of this subsection]~~
17 ~~SUBSECTION (B)(1) OF THIS SECTION, a fraction:~~

18 ~~(i)~~ ~~the numerator of which is the number of months that the return~~
19 ~~covers; and~~

20 ~~(ii)~~ ~~the denominator of which is 12; AND~~

21 ~~(2)~~ ~~MAY NOT CLAIM A REFUND UNDER SUBSECTION (B)(2) OF THIS~~
22 ~~SECTION OR § 10-706(C)(3) OF THIS SUBTITLE.~~

23 (C) FOR AN INDIVIDUAL WHO IS A NONRESIDENT OR IS A RESIDENT OF THE
24 STATE FOR ONLY A PART OF THE YEAR, THE AMOUNT OF THE CREDIT OR REFUND
25 ALLOWED UNDER THIS SECTION SHALL BE DETERMINED BASED ON THE PART OF
26 THE EARNED INCOME CREDIT ALLOWABLE FOR THE TAXABLE YEAR UNDER § 32 OF
27 THE INTERNAL REVENUE CODE THAT IS ATTRIBUTABLE TO MARYLAND,
28 DETERMINED BY MULTIPLYING THE FEDERAL EARNED INCOME CREDIT BY A
29 FRACTION:

30 (1) THE NUMERATOR OF WHICH IS THE MARYLAND ADJUSTED GROSS
31 INCOME OF THE INDIVIDUAL; AND

32 (2) THE DENOMINATOR OF WHICH IS THE FEDERAL ADJUSTED GROSS
33 INCOME OF THE INDIVIDUAL.

34 10-706.

35 (c) (1) A credit under § 10-704 OR § 10-709 of this subtitle:

1 (i) is allowed only against the State income tax; and

2 (ii) operates to reduce the county income tax.

3 (2) ~~(i)~~ The SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE
 4 county income tax is based on the amount of State income tax after the State income
 5 tax is reduced by ~~the credit~~ THE SUM OF THE CREDITS ALLOWED UNDER §§ 10-704
 6 AND 10-709 OF THIS SUBTITLE.

7 ~~(ii)~~ (3) (I) For purposes of determining the county income tax,
 8 the credit under § 10-704 OR § 10-709 of this subtitle shall be calculated using the
 9 State income tax as modified under § 10-106(d) of this title.

10 ~~(3) AN INDIVIDUAL MAY CLAIM A REFUND IN AN AMOUNT EQUAL TO~~
 11 ~~THE COUNTY INCOME TAX RATE MULTIPLIED BY THE AMOUNT, IF ANY, BY WHICH~~
 12 ~~15% OF THE EARNED INCOME CREDIT ALLOWABLE UNDER § 32 OF THE INTERNAL~~
 13 ~~REVENUE CODE EXCEEDS THE STATE INCOME TAX AS MODIFIED UNDER § 10-106(D)~~
 14 ~~OF THIS TITLE.~~

15 (II) IF THE CREDIT ALLOWED UNDER § 10-704 OF THIS SUBTITLE
 16 FOR ANY TAXABLE YEAR EXCEEDS THE STATE INCOME TAX AS MODIFIED UNDER §
 17 10-106(D) OF THIS TITLE, THE COUNTY INCOME TAX IS ZERO.

18 10-709.

19 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 20 INDICATED.

21 (2) "APPLICABLE POVERTY INCOME LEVEL" MEANS THE AMOUNT
 22 SPECIFIED IN THE POVERTY INCOME STANDARD THAT CORRESPONDS TO THE
 23 NUMBER OF EXEMPTIONS WHICH THE INDIVIDUAL IS ALLOWED AND CLAIMS UNDER
 24 § 10-211(1) OF THIS TITLE.

25 (3) "ELIGIBLE LOW INCOME TAXPAYER" MEANS AN INDIVIDUAL, OR AN
 26 INDIVIDUAL AND THE INDIVIDUAL'S SPOUSE IF THEY FILE A JOINT INCOME TAX
 27 RETURN:

28 (I) WHOSE FEDERAL ADJUSTED GROSS INCOME AS MODIFIED
 29 UNDER §§ 10-204 THROUGH 10-206 OF THIS TITLE DOES NOT EXCEED THE
 30 APPLICABLE POVERTY INCOME LEVEL;

31 (II) WHOSE EARNED INCOME AS DEFINED UNDER § 32(C)(2) OF THE
 32 INTERNAL REVENUE CODE DOES NOT EXCEED THE APPLICABLE POVERTY INCOME
 33 LEVEL;

34 (III) WHO IS NOT CLAIMED AS AN EXEMPTION ON ANOTHER
 35 INDIVIDUAL'S TAX RETURN UNDER § 10-211 OF THIS TITLE; AND

36 (IV) FOR WHOM THE CREDIT ALLOWED UNDER § 10-704 OF THIS
 37 SUBTITLE IS LESS THAN THE STATE INCOME TAX.

1 (4) "POVERTY INCOME STANDARD" MEANS THE MOST RECENT POVERTY
2 INCOME GUIDELINE PUBLISHED BY THE UNITED STATES DEPARTMENT OF HEALTH
3 AND HUMAN SERVICES, AVAILABLE AS OF JULY 1 OF THE TAXABLE YEAR.

4 (B) AN ELIGIBLE LOW INCOME TAXPAYER MAY CLAIM A CREDIT AGAINST THE
5 INCOME TAX FOR A TAXABLE YEAR IN THE AMOUNT DETERMINED UNDER
6 SUBSECTION (C) OF THIS SECTION.

7 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
8 CREDIT ALLOWED UNDER SUBSECTION (B) OF THIS SECTION EQUALS THE LESSER
9 OF:

10 (I) THE STATE INCOME TAX DETERMINED AFTER SUBTRACTING
11 THE CREDIT ALLOWED UNDER § 10-704(B)(1) OF THIS SUBTITLE; OR

12 (II) AN AMOUNT EQUAL TO 5% OF THE ELIGIBLE LOW INCOME
13 TAXPAYER'S EARNED INCOME, AS DEFINED UNDER § 32(C)(2) OF THE INTERNAL
14 REVENUE CODE.

15 (2) OF THE AMOUNT DETERMINED UNDER PARAGRAPH (1) OF THIS
16 SUBSECTION, AN INDIVIDUAL WHO IS A NONRESIDENT OR IS A RESIDENT OF THE
17 STATE FOR ONLY A PART OF THE YEAR IS ALLOWED ONLY A FRACTION:

18 (I) THE NUMERATOR OF WHICH IS THE INDIVIDUAL'S MARYLAND
19 ADJUSTED GROSS INCOME; AND

20 (II) THE DENOMINATOR OF WHICH IS THE INDIVIDUAL'S FEDERAL
21 ADJUSTED GROSS INCOME.

22 10-809.

23 If an individual is not required to file an income tax return under § 10-805, §
24 10-806 or § 10-813 of this subtitle, the individual:

25 (1) is not liable for income tax; and

26 (2) may file an income tax return to claim a refund of the income tax
27 withheld or estimated income tax paid OR A REFUND UNDER § 10-704 OF THIS TITLE.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 July 1, 1998 and shall be applicable to all taxable years beginning after December 31,
30 1997.

