

SENATE BILL 223

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Q3

1998 Regular Session
(8lr0602)

ENROLLED BILL

-- Budget and Taxation/Ways and Means --

Introduced by **Senators Hoffman, Currie, Van Hollen, Ruben, McFadden, Middleton, Kasemeyer, Lawlah, Blount, Fry, Hollinger, Hughes, Conway, Frosh, Forehand, Dyson, Collins, Sfikas, Della, Kelley, Teitelbaum, Green, Pinsky, and Trotter**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

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 requiring the Governor to transfer certain funds from the Revenue Stabilization

1 Account of the State Reserve Fund to the General Fund for certain purposes;
 2 requiring the Spending Affordability Committee to include a certain
 3 recommendation in a certain report; providing for the application of this Act; and
 4 generally relating to ~~the earned income credit~~ certain credits under the
 5 Maryland income tax.

6 BY repealing

7 Article - Tax - General
 8 Section 10-207(h)
 9 Annotated Code of Maryland
 10 (1997 Replacement Volume)

11 BY repealing and reenacting, with amendments,

12 Article - Tax - General
 13 Section 10-704 and ~~10-706(e), 10-706(c), and 10-809~~
 14 Annotated Code of Maryland
 15 (~~1988 Volume and 1997 Supplement~~) (1997 Replacement Volume)

16 BY adding to

17 Article - Tax - General
 18 Section 10-709
 19 Annotated Code of Maryland
 20 (1997 Replacement Volume)

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

23 **Article - Tax - General**

24 10-207.

25 (h) (1) (i) In this subsection the following words have the meanings
 26 indicated.

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

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

32 1. whose federal adjusted gross income as modified under §§
 33 10-204 through 10-206 of this subtitle does not exceed the applicable poverty income
 34 level;

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

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

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

6 (2) For any eligible low income taxpayer, the subtraction under
 7 subsection (a) of this section includes the amount of earned income as defined under
 8 § 32(c)(2) of the Internal Revenue Code.]

9 10-704.

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

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

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

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

18 (2) (I) AN INDIVIDUAL WITH ONE OR MORE DEPENDENTS THAT MAY
 19 BE CLAIMED AS EXEMPTIONS MAY CLAIM A REFUND IN THE AMOUNT, IF ANY, BY
 20 WHICH ~~45%~~ ~~40%~~ THE APPLICABLE PERCENTAGE SPECIFIED IN SUBPARAGRAPH (II) OF
 21 THIS PARAGRAPH OF THE EARNED INCOME CREDIT ALLOWABLE UNDER § 32 OF THE
 22 INTERNAL REVENUE CODE EXCEEDS THE STATE INCOME TAX FOR THE TAXABLE
 23 YEAR.

24 (II) THE APPLICABLE PERCENTAGE OF THE EARNED INCOME
 25 CREDIT ALLOWABLE UNDER § 32 OF THE INTERNAL REVENUE CODE TO BE USED FOR
 26 PURPOSES OF DETERMINING THE REFUND PROVIDED UNDER THIS PARAGRAPH IS:

27 1. 10% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER
 28 31, 1997 BUT BEFORE JANUARY 1, 2000;

29 2. 12.5% FOR A TAXABLE YEAR BEGINNING AFTER
 30 DECEMBER 31, 1999 BUT BEFORE JANUARY 1, 2001; AND

31 3. 15% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER
 32 31, 2000.

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

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

1 (i) the numerator of which is the number of months that the return
2 covers; and

3 (ii) the denominator of which is 12; AND

4 (2) ~~MAY NOT CLAIM A REFUND UNDER SUBSECTION (B)(2) OF THIS~~
5 ~~SECTION.~~

6 (C) FOR AN INDIVIDUAL WHO IS A NONRESIDENT OR IS A RESIDENT OF THE
7 STATE FOR ONLY A PART OF THE YEAR, THE AMOUNT OF THE CREDIT OR REFUND
8 ALLOWED UNDER THIS SECTION SHALL BE DETERMINED BASED ON THE PART OF
9 THE EARNED INCOME CREDIT ALLOWABLE FOR THE TAXABLE YEAR UNDER § 32 OF
10 THE INTERNAL REVENUE CODE THAT IS ATTRIBUTABLE TO MARYLAND,
11 DETERMINED BY MULTIPLYING THE FEDERAL EARNED INCOME CREDIT BY A
12 FRACTION:

13 (1) THE NUMERATOR OF WHICH IS THE MARYLAND ADJUSTED GROSS
14 INCOME OF THE INDIVIDUAL; AND

15 (2) THE DENOMINATOR OF WHICH IS THE FEDERAL ADJUSTED GROSS
16 INCOME OF THE INDIVIDUAL.

17 10-706.

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

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

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

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

25 [(ii)] (3) (I) For purposes of determining the county income tax, the
26 credit under § 10-704 OR § 10-709 of this subtitle shall be calculated using the State
27 income tax as modified under § 10-106(d) of this title.

28 (II) IF THE CREDIT ALLOWED UNDER § 10-704 OF THIS SUBTITLE
29 FOR ANY TAXABLE YEAR EXCEEDS THE STATE INCOME TAX AS MODIFIED UNDER §
30 10-106(D) OF THIS TITLE, THE COUNTY INCOME TAX IS ZERO.

31 10-709.

32 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
33 INDICATED.

34 (2) "APPLICABLE POVERTY INCOME LEVEL" MEANS THE AMOUNT
35 SPECIFIED IN THE POVERTY INCOME STANDARD THAT CORRESPONDS TO THE

1 ~~NUMBER OF EXEMPTIONS TO WHICH THE INDIVIDUAL IS ENTITLED ALLOWED AND~~
2 ~~CLAIMS UNDER § 10-211(1) OF THIS TITLE.~~

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

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

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

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

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

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

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

22 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
23 CREDIT ALLOWED UNDER SUBSECTION (B) OF THIS SECTION EQUALS THE LESSER
24 OF:

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

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

30 ~~(2) OF THE AMOUNT DETERMINED UNDER PARAGRAPH (1) OF THIS~~
31 ~~SUBSECTION, AN INDIVIDUAL WHO FILES AN INCOME TAX RETURN FOR A PERIOD OF~~
32 ~~LESS THAN 1 YEAR IS ALLOWED A FRACTION:~~

33 ~~(I) THE NUMERATOR OF WHICH IS THE NUMBER OF MONTHS THAT~~
34 ~~THE RETURN COVERS; AND~~

35 ~~(II) THE DENOMINATOR OF WHICH IS 12.~~

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

4 (1) THE NUMERATOR OF WHICH IS THE INDIVIDUAL'S MARYLAND
5 ADJUSTED GROSS INCOME; AND

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

8 10-809.

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

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

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

14 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any
15 other provision of law, for Fiscal Year 1999 only, the Governor shall transfer
16 \$14,500,000 from the Revenue Stabilization Account of the State Reserve Fund to the
17 General Fund in order to offset the effect of this Act on State revenues and expedite the
18 return of those funds set aside for the purpose of providing tax relief to the taxpayers of
19 Maryland.

20 ~~SECTION 3.~~ AND BE IT FURTHER ENACTED, That *the Spending*
21 Affordability Committee shall include a recommendation in its final report of the 1999
22 interim as to the fiscal prudence of accelerating the phase-in of the earned income
23 credit refund enacted under this Act.

24 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 July 1, 1998 and shall be applicable to all taxable years beginning after December 31,
26 1997.