

SENATE BILL 223

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SB 667/97 - B&T

1998 Regular Session  
8r0602  
CF 8r0601

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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**

Introduced and read first time: January 30, 1998  
Assigned to: Budget and Taxation

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 18, 1998

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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 application  
11 of this Act; and generally relating to ~~the earned income credit~~ certain credits  
12 under the Maryland income tax.

13 BY repealing

14 Article - Tax - General

15 Section 10-207(h)

16 Annotated Code of Maryland

17 (1997 Replacement Volume)

18 BY repealing and reenacting, with amendments,

19 Article - Tax - General

20 Section 10-704 and 10-706(c)

21 Annotated Code of Maryland

22 (1988 Volume and 1997 Supplement)

1 BY adding to  
 2 Article - Tax - General  
 3 Section 10-709  
 4 Annotated Code of Maryland  
 5 (1997 Replacement Volume)

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

8 **Article - Tax - General**

9 10-207.

10 [(h) (1) (i) In this subsection the following words have the meanings  
 11 indicated.

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

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

17 1. whose federal adjusted gross income as modified under §§  
 18 10-204 through 10-206 of this subtitle does not exceed the applicable poverty income  
 19 level;

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

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

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

27 (2) For any eligible low income taxpayer, the subtraction under  
 28 subsection (a) of this section includes the amount of earned income as defined under  
 29 § 32(c)(2) of the Internal Revenue Code.]

30 10-704.

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

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

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

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

4 (2) AN INDIVIDUAL MAY CLAIM A REFUND IN THE AMOUNT, IF ANY, BY  
5 WHICH ~~45%~~ 10% OF THE EARNED INCOME CREDIT ALLOWABLE UNDER § 32 OF THE  
6 INTERNAL REVENUE CODE EXCEEDS THE STATE INCOME TAX FOR THE TAXABLE  
7 YEAR.

8 [(2)] (C) An individual who files an income tax return for a period of less  
9 than 1 year:

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

12 (i) the numerator of which is the number of months that the return  
13 covers; and

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

15 (2) MAY NOT CLAIM A REFUND UNDER SUBSECTION (B)(2) OF THIS  
16 SECTION.

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.

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

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

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

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

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

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

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

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

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

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

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

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

35           (I)     THE NUMERATOR OF WHICH IS THE NUMBER OF MONTHS THAT  
36 THE RETURN COVERS; AND

37           (II)    THE DENOMINATOR OF WHICH IS 12.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 July 1, 1998 and shall be applicable to all taxable years beginning after December 31,  
3 1997.