

SENATE BILL 452

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1998 Regular Session  
8r1796  
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By: **Senators Boozer, Kelley, Middleton, Van Hollen, McCabe, Currie,  
Munson, Ruben, Sfikas, and McFadden**

Introduced and read first time: February 6, 1998  
Assigned to: Budget and Taxation

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Committee Report: Favorable with amendments  
Senate action: Adopted with floor amendments  
Read second time: March 26, 1998

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2                                   **Work, Not Welfare, and Qualifying Employees with Disabilities Tax Credits -**  
3                                   **Tax Exempt Organizations - Withholding Taxes**

4 FOR the purpose of allowing certain tax exempt organizations to apply certain tax  
5 credits against the payment to the Comptroller of certain taxes required to be  
6 withheld from the wages of employees and required to be paid to the  
7 Comptroller; altering certain provisions relating to the applicability of certain  
8 tax credits; making certain provisions of this Act contingent on the taking effect  
9 of certain other legislation; and generally relating to the application of certain  
10 tax credits for certain tax exempt organizations against certain payments.

11 BY repealing and reenacting, with amendments,  
12 Article - Tax - General  
13 Section 10-704.3  
14 Annotated Code of Maryland  
15 (1997 Replacement Volume)

16 BY repealing and reenacting, with amendments,  
17 Chapter 626 of the Acts of the General Assembly of 1996, as amended by  
18 Chapter 14 of the Acts of 1997  
19 Section 4

20 BY repealing and reenacting, with amendments,  
21 Chapter 626 of the Acts of the General Assembly of 1996  
22 Section 5

1 BY repealing and reenacting, with amendments,  
2 Article - Tax - General  
3 Section 10-704.7  
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 10-704.3.

10 (a) An individual or a corporation may claim a credit against the income tax  
11 for wages paid to qualified employment opportunity employees and for child care  
12 provided or paid for by a business entity for the children of a qualified employment  
13 opportunity employee as provided under Article 88A, § 54 of the Code.

14 (b) (1) An organization that is exempt from taxation under § 501(c)(3) or (4)  
15 of the Internal Revenue Code may apply the credit under this section:

16 (I) as a credit against income tax due on unrelated business  
17 taxable income as provided under §§ 10-304 and 10-812 of this title; OR

18 (II) AS A CREDIT FOR THE PAYMENT TO THE COMPTROLLER OF  
19 TAXES THAT THE ORGANIZATION:

20 1. ~~HAS WITHHELD IS REQUIRED TO WITHHOLD~~ FROM THE  
21 WAGES OF EMPLOYEES UNDER § 10-908 OF THIS TITLE; AND

22 2. IS REQUIRED TO PAY TO THE COMPTROLLER UNDER §  
23 10-906(A) OF THIS TITLE.

24 (2) IF THE CREDIT ALLOWED UNDER THIS SUBSECTION IN ANY TAXABLE  
25 YEAR EXCEEDS THE SUM OF THE STATE INCOME TAX OTHERWISE PAYABLE BY THE  
26 ORGANIZATION FOR THAT TAXABLE YEAR AND THE TAXES THAT THE ORGANIZATION  
27 HAS WITHHELD FROM THE WAGES OF EMPLOYEES AND IS REQUIRED TO PAY TO THE  
28 COMPTROLLER UNDER § 10-906(A) OF THIS TITLE FOR THE TAXABLE YEAR, THE  
29 ORGANIZATION MAY APPLY THE EXCESS AS A CREDIT UNDER PARAGRAPH (1)(I) OR (II)  
30 OF THIS SUBSECTION IN SUCCEEDING TAXABLE YEARS FOR THE CARRY FORWARD  
31 PERIOD PROVIDED IN ARTICLE 88A, § 54 OF THE CODE.

32 (3) THE COMPTROLLER SHALL ADOPT REGULATIONS TO PROVIDE  
33 PROCEDURES FOR CLAIMING AND APPLYING CREDITS AUTHORIZED UNDER  
34 PARAGRAPH (1)(II) OF THIS SUBSECTION.

**Chapter 626 of the Acts of 1996, as amended by Chapter 14 of the Acts of 1997**

SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall be applicable to all taxable years beginning after December 31, 1995 [, but before January 1, 2002] TO WHICH CHAPTER 492 OF THE ACTS OF 1995, AS AMENDED, ARE APPLICABLE; provided however, that:

(1) The tax credits allowed under Section 2 of this Act shall be allowed only for employees hired [on or after June 1, 1995, but before July 1, 1998] DURING THE PERIOD SPECIFIED IN CHAPTER 492 OF THE ACTS OF 1995, AS AMENDED; and

(2) Any excess credits may be carried forward and, subject to the limitations of Article 88A, § 54(f) of the Code, may be applied as a credit for LATER taxable years [beginning on or after January 1, 2002] AS PROVIDED IN CHAPTER 492 OF THE ACTS OF 1995, AS AMENDED.

**Chapter 626 of the Acts of 1996**

SECTION 5. AND BE IT FURTHER ENACTED, That, subject to Section 4 of this Act, Section 2 of this Act shall remain in effect [for a period of 2 years] ONLY UNTIL THE EXPIRATION OF CHAPTER 492 OF THE ACTS OF 1995, AS AMENDED, and, [at the end of June 30, 1998] WHEN CHAPTER 492 OF THE ACTS OF 1995, AS AMENDED, TERMINATES AND BECOMES OF NO FURTHER FORCE AND EFFECT, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

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

**Article - Tax - General**

10-704.7.

(a) An individual or a corporation may claim a credit against the income tax for:

(1) wages paid to a qualified employee with a disability; and

(2) (i) child care provided or paid for by a business entity for the children of a qualified employee with a disability as provided under § 21-309 of the Education Article; or

(ii) transportation provided or paid for by the business entity for a qualified employee with a disability as provided under § 21-309 of the Education Article.

(b) (1) An organization that is exempt from taxation under § 501(c)(3) or (4) of the Internal Revenue Code may apply the credit under this section:

1 (I) as a credit against income tax due on unrelated business  
2 taxable income as provided under §§ 10-304 and 10-812 of this title; OR

3 (II) AS A CREDIT FOR THE PAYMENT TO THE COMPTROLLER OF  
4 TAXES THAT THE ORGANIZATION:

5 1. ~~HAS WITHHELD IS REQUIRED TO WITHHOLD~~ FROM THE  
6 WAGES OF EMPLOYEES UNDER § 10-908 OF THIS TITLE; AND

7 2. IS REQUIRED TO PAY TO THE COMPTROLLER UNDER §  
8 10-906(A) OF THIS TITLE.

9 (2) IF THE CREDIT ALLOWED UNDER THIS SUBSECTION IN ANY TAXABLE  
10 YEAR EXCEEDS THE SUM OF THE STATE INCOME TAX OTHERWISE PAYABLE BY THE  
11 ORGANIZATION FOR THAT TAXABLE YEAR AND THE TAXES THAT THE ORGANIZATION  
12 HAS WITHHELD FROM THE WAGES OF EMPLOYEES AND IS REQUIRED TO PAY TO THE  
13 COMPTROLLER UNDER § 10-906(A) OF THIS TITLE FOR THE TAXABLE YEAR, THE  
14 ORGANIZATION MAY APPLY THE EXCESS AS A CREDIT UNDER PARAGRAPH (1)(I) OR (II)  
15 OF THIS SUBSECTION IN SUCCEEDING TAXABLE YEARS FOR THE CARRY FORWARD  
16 PERIOD PROVIDED IN § 21-309 OF THE EDUCATION ARTICLE.

17 (3) THE COMPTROLLER SHALL ADOPT REGULATIONS TO PROVIDE  
18 PROCEDURES FOR CLAIMING AND APPLYING CREDITS AUTHORIZED UNDER  
19 PARAGRAPH (1)(II) OF THIS SUBSECTION.

20 SECTION 3. AND BE IT FURTHER ENACTED, That the taking effect of  
21 Section 1 of this Act is contingent on the taking effect of ~~legislation during the 1998~~  
22 ~~Session of the General Assembly extending the effectiveness of Chapter 492 of the~~  
23 ~~Acts of 1995 Chapter \_\_\_\_\_ (S.B. 292/H.B. 565) of the Acts of the General Assembly of~~  
24 ~~1998, and if such legislation Chapter \_\_\_\_\_ does not become effective, Section 1 of this~~  
25 Act shall be null and void without the necessity of further action by the General  
26 Assembly.

27 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Section 3 of  
28 this Act, this Act shall take effect July 1, 1998; provided, however, that only credits  
29 with respect to employees hired on or after July 1, 1998 may be applied against the  
30 payment to the Comptroller of taxes that an organization has withheld from the  
31 wages of employees in accordance with §§ 10-704.3(b)(1)(ii) and 10-704.7(b)(1)(ii) of  
32 the Tax - General Article as enacted under this Act.