Q3   5lr1872

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By: **Delegates Rosenberg and Healey**
Introduced and read first time: February 11, 2005
Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2   **Income Tax - Credit for Earned Income - Noncustodial Parents**

3 FOR the purpose of providing for a certain refundable credit for earned income
4   against the State income tax for certain noncustodial parents under certain
5   circumstances; limiting the credit to certain taxable years; requiring the Child
6   Support Enforcement Administration in the Department of Human Resources or
7   a local child support enforcement office to certify to the Comptroller of the
8   Treasury that certain eligibility requirements for the credit have been met;
9   requiring the Department of Human Resources and the Comptroller to make
10   certain assessments and to submit a certain report to the General Assembly;
11   repealing certain obsolete provisions; providing for the application of this Act;
12   and generally relating to a certain refundable earned income tax credit for
13   certain noncustodial parents.

14 BY repealing and reenacting, with amendments,
15   Article - Tax - General
16   Section 10-704
17   Annotated Code of Maryland
18   (2004 Replacement Volume)

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

21   **Article - Tax - General**

22 10-704.

23   (a)   (1)   An individual may claim a credit against the State income tax for a
24 taxable year in the amount determined under subsection (b) of this section for earned
25 income.

26   (2)   An individual may claim a credit against the county income tax for a
27 taxable year in the amount determined under subsection (c) of this section for earned
28 income.

1   (b)   (1)   Except as provided in [paragraph (2)] PARAGRAPHS (2) AND (3) of this
2 subsection and subject to subsection (d) of this section, the credit allowed against the
3 State income tax under subsection (a)(1) of this section is the lesser of:

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

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

7   (2)   [(i)]   An individual with one or more dependents that may be claimed
8 as exemptions may claim a refund in the amount, if any, by which [the applicable
9 percentage specified in subparagraph (ii) of this paragraph] 20% of the earned income
10 credit allowable under § 32 of the Internal Revenue Code exceeds the State income
11 tax for the taxable year.

12   [(ii)   The applicable percentage of the earned income credit allowable
13 under § 32 of the Internal Revenue Code to be used for purposes of determining the
14 refund provided under this paragraph is:

15   1.   16% for a taxable year beginning after December 31, 2000
16 but before January 1, 2002;

17   2.   16% for a taxable year beginning after December 31, 2001
18 but before January 1, 2003;

19   3.   18% for a taxable year beginning after December 31, 2002
20 but before January 1, 2004; and

21   4.   20% for a taxable year beginning after December 31,
22 2003.]

23   (3)   (I)   NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION AND
24 SUBJECT TO THE LIMITATIONS OF THIS PARAGRAPH AND SUBSECTION (D) OF THIS
25 SECTION, THE CREDIT ALLOWED AGAINST THE STATE INCOME TAX UNDER
26 SUBSECTION (A)(1) OF THIS SECTION IS 400% OF THE EARNED INCOME CREDIT
27 ALLOWABLE UNDER § 32 OF THE INTERNAL REVENUE CODE IF THE INDIVIDUAL
28 CLAIMING THE CREDIT:

29   1.   IS A NONCUSTODIAL PARENT OF A MINOR CHILD;

30   2.   IS AT LEAST 18 YEARS OF AGE BUT NOT OLDER THAN 30
31 YEARS OF AGE; AND

32   3.   A.   IS SUBJECT TO A COURT ORDER TO PAY CHILD
33 SUPPORT THAT HAS BEEN IN EFFECT FOR AT LEAST 6 MONTHS OF THE TAXABLE
34 YEAR; AND

35   B.   HAS PAID AT LEAST 75% OF THE AMOUNT OF THE
36 INDIVIDUAL'S CHILD SUPPORT OBLIGATIONS DUE DURING THE TAXABLE YEAR.

1   (II)   AN INDIVIDUAL ELIGIBLE FOR THE CREDIT UNDER
2 SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY CLAIM A REFUND IN THE AMOUNT, IF
3 ANY, BY WHICH 400% OF THE EARNED INCOME CREDIT ALLOWABLE UNDER § 32 OF
4 THE INTERNAL REVENUE CODE EXCEEDS THE STATE INCOME TAX FOR THE
5 TAXABLE YEAR.

6   (III)   THE CHILD SUPPORT ENFORCEMENT ADMINISTRATION IN THE
7 DEPARTMENT OF HUMAN RESOURCES OR THE LOCAL CHILD SUPPORT
8 ENFORCEMENT OFFICE SHALL CERTIFY TO THE COMPTROLLER THAT THE
9 INDIVIDUAL CLAIMING THE CREDIT UNDER THIS PARAGRAPH HAS MET THE
10 REQUIREMENTS UNDER SUBPARAGRAPH (I)3 OF THIS PARAGRAPH.

11   (IV)   THE EARNED INCOME CREDIT UNDER THIS PARAGRAPH MAY
12 BE ALLOWED ONLY FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2004 BUT
13 BEFORE JANUARY 1, 2013.

14   (V)   1.   ON OR BEFORE DECEMBER 15 OF EACH YEAR, THE
15 DEPARTMENT OF HUMAN RESOURCES AND THE COMPTROLLER JOINTLY SHALL
16 ASSESS THE COST OF THE EARNED INCOME CREDIT FOR QUALIFIED NONCUSTODIAL
17 PARENTS ESTABLISHED UNDER THIS PARAGRAPH AND THE CREDIT'S SUCCESS IN
18 CREATING INCENTIVES FOR NONCUSTODIAL PARENTS TO FULFILL THEIR CHILD
19 SUPPORT OBLIGATIONS.

20   2.   THE DEPARTMENT OF HUMAN RESOURCES AND THE
21 COMPTROLLER JOINTLY SHALL REPORT THEIR FINDINGS, SUBJECT TO § 2-1246 OF
22 THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON OR BEFORE
23 DECEMBER 15 OF EACH YEAR.

24   (c)   (1)   Except as provided in paragraph (2) of this subsection and subject to
25 subsection (d) of this section, the credit allowed against the county income tax under
26 subsection (a)(2) of this section is the lesser of:

27   (i)   the earned income credit allowable for the taxable year under §
28 32 of the Internal Revenue Code multiplied by 10 times the county income tax rate for
29 the taxable year; or

30   (ii)   the county income tax for the taxable year.

31   (2)   (i)   A county may provide, by law, for a refundable county earned
32 income credit as provided in this paragraph for individuals having one or more
33 dependents that may be claimed as exemptions OR FOR NONCUSTODIAL PARENTS.

34   (ii)   If a county provides for a refundable county earned income
35 credit under this paragraph, on or before July 1 prior to the beginning of the first
36 taxable year for which it is applicable, the county shall give the Comptroller notice of
37 the refundable county earned income credit.

38   (iii)   If a county provides for a refundable county earned income
39 credit under this paragraph, an individual with one or more dependents that may be
40 claimed as exemptions OR FOR NONCUSTODIAL PARENTS may claim a refund of the

1 amount, if any, by which the product of multiplying 4 TIMES the credit allowable
2 under § 32 of the Internal Revenue Code [by the applicable number specified in
3 subparagraph (iv) of this paragraph] times the county income tax rate for the taxable
4 year exceeds the county income tax for the taxable year.

5   [(iv)   The applicable number to be multiplied by the county income
6 tax rate for purposes of determining a refund provided under this paragraph is:

7   1.   3.2 for a taxable year beginning after December 31, 2000
8 but before January 1, 2002;

9   2.   3.2 for a taxable year beginning after December 31, 2001
10 but before January 1, 2003;

11   3.   3.6 for a taxable year beginning after December 31, 2002
12 but before January 1, 2004; and

13   4.   4 for a taxable year beginning after December 31, 2003.]

14   [(v)]   (IV)   The amount of any refunds payable under a refundable
15 county earned income credit operates to reduce the income tax revenue from
16 individuals attributable to the county income tax for that county.

17   (d)   For an individual who is a nonresident or is a resident of the State for only
18 a part of the year, the amount of the credit or refund allowed under this section shall
19 be determined based on the part of the earned income credit allowable for the taxable
20 year under § 32 of the Internal Revenue Code that is attributable to Maryland,
21 determined by multiplying the federal earned income credit by a fraction:

22   (1)   the numerator of which is the Maryland adjusted gross income of the
23 individual; and

24   (2)   the denominator of which is the federal adjusted gross income of the
25 individual.

26   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 July 1, 2005, and shall be applicable to all taxable years beginning after December 31,
28 2004.