HB 1331

Department of Legislative Services

Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 1331 (Delegate Rosenberg)
Ways and Means

Income Tax - Earned Income Tax Credit - Noncustodial Parent

This bill provides that a qualifying noncustodial parent age 18 or older with a child support order can claim an enhanced nonrefundable State earned income credit (EIC). The value of the credit is equal to 50% of the federal EIC for the individual calculated as if the individual had one qualifying child. During the tax year, the individual must make, at a minimum, child support payments equal to the amount of current child support payments due for each child support order. Any individual who qualifies for the existing State EIC cannot claim the credit. The Department of Human Resources (DHR) and the Comptroller's Office must jointly adopt regulations to implement the tax credit program.

The bill takes effect July 1, 2008 and applies to tax year 2008 and beyond.

Fiscal Summary

State Effect: General fund revenues could decrease by $988,600 in FY 2009 due to expansion of the State EIC. Future years reflect an increase in the number of claimants and the value of the credit. General fund expenditures would increase by $43,200 in FY 2009 for implementation costs at DHR and the Comptroller's Office. Federal fund expenditures would increase by $17,800 in FY 2009 for implementation costs at DHR.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
GF Revenue	($988,600)	($1,028,100)	($1,069,300)	($1,112,000)	($1,156,500)
GF Expenditure	43,200	0	0	0	0
FF Expenditure	17,800	0	0	0	0
Net Effect	($1,049,600)	($1,028,100)	($1,069,300)	($1,112,000)	($1,156,500)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Taxpayers can claim a State EIC equal to 50% of the federal credit allowed. The amount of the credit cannot exceed the taxpayer's tax liability in that tax year. Taxpayers with one or more dependents may claim a refundable State EIC if the EIC exceeds the individual's State tax liability.

An individual who qualifies for the federal EIC can claim a nonrefundable State EIC equal to 50% of the federal EIC, not to exceed the total pre-credit State income tax liability. In addition, the individual can claim the credit against the county income tax in an amount equal to the lesser of 10 times the county income tax rate multiplied by the federal EIC or the county income tax imposed in the year.

Individuals may also claim a refundable earned income credit equal to the amount, if any, by which 25% the federal EIC exceeds the total pre-credit income tax liability. To the extent provided, the county refundable EIC is the amount by which five times the federal EIC multiplied by the county income tax rate exceeds the county income tax liability. An individual can claim a State credit only if he/she meets the eligibility of the federal credit under Section 32 of the Internal Revenue Code as discussed below:

- must have Federal Adjusted Gross Income (FAGI) less than $37,783 (more than one qualifying child), $33,241 (one child), and $12,590 (no children). Married couples can earn $2,000 more than these specified limits;
- have a valid Social Security number;
- cannot file under Married Filing Separately;
- must be a U.S. citizen or resident alien for the entire year;
- cannot file Form 2555 (Foreign Earned Income) or Form 2555-EZ (Foreign Earned Income Exclusion);
- must have $2,900 or less investment income; and
- must have earned income – individuals must work and have earned income (disability payments up to minimum retirement ages qualify).

In addition to the qualifications above, individuals without a qualifying child must:

- be at least 25 but under 65 years old;
- not be a dependent or a qualifying child of another person; and

- have lived in the United States for more than half of the year.

Individuals might otherwise qualify for the credit but are prohibited from claiming the credit for specified times if the IRS determined that the individual previously claimed the credit fraudulently or through reckless or intentional disregard of EIC rules.

Background: The following is a summary of the federal and State EIC programs.

Federal EIC

The federal EIC began in 1975 as a temporary program to return a portion of the Social Security taxes paid by lower-income taxpayers and was made permanent in 1978. The Tax Reform Act of 1986 increased the maximum benefit of the credit and phase-out levels and indexed the credit to inflation. The next substantive expansion of the credit occurred in the 1990s with the federal Omnibus Budget Reconciliation Acts of 1990 and 1993. Both laws again increased the value of the credit and phase-out levels. The 1990 law provided for different credit amounts for taxpayers with one or two and more children, and the 1993 law expanded the credit to childless taxpayers.

The expansion of the credit in the 1990s is estimated to have tripled the cost of the credit, and the credit is now the largest anti-poverty entitlement program. The federal EIC is generally considered a successful anti-poverty program by researchers. A joint Internal Revenue Service (IRS) – Department of Treasury task force estimated that nationwide the EIC lifted 4.3 million individuals, including 2.3 million children, out of poverty in 2000.

State EIC

Maryland's income tax law has provided a nonrefundable State EIC equal to 50% of the federal EIC since 1987. Chapter 5 of 1998 established a refundable EIC for taxpayers who both meet the eligibility requirements of the federal credit and have at least one dependent. The value of the initial refundable credit was equal to 10% and increased in two steps to 15% in tax year 2001 and beyond.

Chapter 493 of 1999 altered the calculation of the credit allowed against the county income tax in response to the 1997 tax law establishing flat county income tax rates. The amount of credit allowed against the county income tax is equal to the amount of federal EIC claimed multiplied by 10 times the county income tax rate, not to exceed the county income tax liability for the tax year.

Chapter 510 of 2000 accelerated to tax year 2000 the 15% value of the credit and also authorized counties to provide, by law, a county refundable EIC. While no county has provided a refundable credit that can be claimed with the tax return under the formula provided under State law, Montgomery County's Earned Income Credit program acts as a grant program by matching the State EIC claimed by the taxpayer. Under the program, eligible taxpayers receive a check from the Comptroller, but the grants are paid for by Montgomery County.

Chapter 581 of 2001 phased in an additional 5% increase in the value of the credit, with a three-step increase of the credit increasing its value to 20% beginning in tax year 2004. Chapter 3 of the 2007 special session increased the value of the credit to 25% and expanded eligibility to include childless adults.

In tax year 2006, 252,741 tax returns claimed approximately $73.8 million in State EICs, and 214,569 claimed approximately $97.7 million in State refundable EICs. In tax year 2004, the last year of available data, 352,221 State taxpayers claimed approximately $1.2 billion in federal EIC credits.

State Revenues: The bill expands eligibility of the State EIC to noncustodial parents beginning in tax year 2008. As a result, general fund revenues could decrease by $988,600 in fiscal 2009. This estimate is based on the following facts and assumptions:

- According to DHR, there are approximately 112,000 noncustodial parents who during the tax year pay child support payments equal to the amount of current child support payments due for each child support order.
- Approximately 6% of these individuals receive public assistance and are assumed to not file an income tax return.
- Slightly more than 10% of noncustodial parents are estimated to meet the eligibility requirements of the earned income credit.
- Based on average tax liabilities and the value of the federal EIC, each individual claims on average $192.
- Future year losses increase by 4% annually.
- 25% of individuals already qualify for the State EIC.
- One-third of obligors are not residents.

State Expenditures: DHR would incur a one-time computer system programming cost of $26,950 in order to implement the bill. General fund expenditures would increase by $9,163 and federal fund expenditures by $17,787 in fiscal 2009.

The Comptroller's Office would incur a one-time expenditure increase of $34,000 in fiscal 2009 to add the credit to the personal income tax form. This amount includes data processing changes to the SMART income tax return processing and imaging systems and systems testing.

Additional Information

Prior Introductions: HB 534 of 2007, an identical bill, was not reported from the House Ways and Means Committee.

Cross File: None.

Information Source(s): Department of Human Resources, Comptroller's Office, Department of Legislative Services

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Analysis by: Robert J. Rehrmann

Direct Inquiries to:
(410) 946-5510
(301) 970-5510