A BILL ENTITLED

AN ACT concerning

Income Tax – Earned Income Tax Credit – Alteration and Sunset Repeal

FOR the purpose of altering, beginning with a certain taxable year, the percentage of the federal earned income tax credit used for determining the amount that an individual may claim as a refund under the Maryland earned income tax credit under certain circumstances; altering the calculation of the credit for certain individuals; repealing a certain limitation on the amount certain individuals may claim as a refund under the credit; allowing certain residents to continue to claim the credit after a certain taxable year; and generally relating to a credit against the State income tax for earned income.

BY repealing and reenacting, with amendments,

Article – Tax – General
Section 10–704
Annotated Code of Maryland
(2016 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – General
Section 10–704
Annotated Code of Maryland
(2016 Replacement Volume and 2021 Supplement)
(As enacted by Section 3 of Chapter 40 of the Acts of the General Assembly of 2021)

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

Article – Tax – General

10–704.
(a) In this section, “taxpayer” means:

(1) an individual filing an income tax return; or

(2) a married couple filing a joint income tax return.

(b) (1) A resident who is a taxpayer may claim a credit against the State income tax for a taxable year in the amount determined under subsection (c) of this section for earned income.

(2) A resident who is a taxpayer may claim a credit against the county income tax for a taxable year in the amount determined under subsection (d) of this section for earned income.

(c) (1) Except as provided in paragraphs (2) and (3) of this subsection and subject to subsection (e) of this section, the credit allowed against the State income tax under subsection (b)(1) of this section is the lesser of:

(i) 50% of the earned income credit allowable under § 32 of the Internal Revenue Code or that would have been allowable but for the limitation under § 32(m) of the Internal Revenue Code; or

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

(2) (i) Subject to subparagraph (iii) of this paragraph and subsection (e) of this section, a resident may claim a refund in the amount, if any, by which the applicable percentage specified in subparagraph (ii) of this paragraph of the earned income credit allowable under § 32 of the Internal Revenue Code exceeds the State income tax for the taxable year.

(ii) Subject to subparagraph (iii) of this paragraph, the applicable percentage of the earned income credit allowable under § 32 of the Internal Revenue Code to be used for purposes of determining the refund provided under this paragraph is:

1. 25% for a taxable year beginning after December 31, 2013, but before January 1, 2015;

2. 25.5% for a taxable year beginning after December 31, 2014, but before January 1, 2016;

3. 26% for a taxable year beginning after December 31, 2015, but before January 1, 2017;

4. 27% for a taxable year beginning after December 31, 2016, but before January 1, 2018;

5. 28% for a taxable year beginning after December 31, 2017,
but before January 1, 2020; AND

6. 45% for a taxable year beginning after December 31, 2019], but before January 1, 2023; and

7. 28% for a taxable year beginning after December 31, 2022].

(iii) For purposes of determining the refund provided under this paragraph, the earned income credit allowable under § 32 of the Internal Revenue Code is calculated without regard to the limitation under § 32(m) of the Internal Revenue Code.

(3) (I) The credit allowed against the State income tax under subsection (b)(1) of this section for an individual without a qualifying child is calculated by substituting:

1. $6,920 for the earned income amount in § 32(b)(2)(A) of the Internal Revenue Code; and

2. $16,630 for the phase–out amount in § 32(b)(2)(A) of the Internal Revenue Code.

(II) 1. For each taxable year beginning after December 31, 2022, the earned income amount and phase–out amount in subparagraph (i) of this paragraph shall be increased by an amount equal to the product of multiplying each amount by the cost–of–living adjustment specified in subsubparagraph 2 of this subparagraph.

2. For purposes of this subparagraph, the cost–of–living adjustment is the cost–of–living adjustment within the meaning of § 1(f)(3) of the Internal Revenue Code for the calendar year in which the taxable year begins, as determined by the Comptroller by substituting “calendar year 2021” for “calendar year 2016” in § 1(f)(3)(B) of the Internal Revenue Code.

3. If any increase determined under subsubparagraph 1 of this subparagraph is not a multiple of $10, the increase shall be rounded down to the next lowest multiple of $10.

[(iii) (III) For purposes of this section for an individual without a qualifying child, the credit allowable for a taxable year under § 32 of the Internal Revenue Code is calculated without regard to:

1. the minimum age requirement under § 32(c)(1)(A)(ii)(II) of
the Internal Revenue Code; or

2. the limitation under § 32(m) of the Internal Revenue Code.

[(ii)] (IV) [Subject to subparagraph (iii) of this paragraph, for] FOR a taxable year beginning after December 31, 2019, but before January 1, 2023, the credit allowed against the State income tax under subsection (b)(1) of this section for an individual without a qualifying child is equal to 100% of the earned income credit allowable for a taxable year under § 32 of the Internal Revenue Code.

[(iii) The tax credit allowed under this paragraph may not exceed $530 for a taxable year.

(iv) If the tax credit allowed under this paragraph in any taxable year exceeds the total tax otherwise payable by the individual without a qualifying child for that taxable year, the individual may claim a refund in the amount of the excess.

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

(i) the earned income credit allowable for the taxable year under § 32 of the Internal Revenue Code or that would have been allowable but for the limitation under § 32(m) of the Internal Revenue Code multiplied by 10 times the county income tax rate for the taxable year; or

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

(2) (i) A county may provide, by law, for a refundable county earned income credit as provided in this paragraph.

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

(iii) If a county provides for a refundable county earned income credit under this paragraph, a resident may claim a refund of the amount, if any, by which the product of multiplying the credit allowable for the taxable year under § 32 of the Internal Revenue Code or that would have been allowable but for the limitation under § 32(m) of the Internal Revenue Code by 5 times the county income tax rate for the taxable year exceeds the county income tax for the taxable year.

(iv) The amount of any refunds payable under a refundable county earned income credit operates to reduce the income tax revenue from individuals attributable to the county income tax for that county.
(e) (1) Subject to paragraph (2) of this subsection, for an individual who is a resident of the State for only a part of the year, the amount of the credit or refund allowed under this section shall be determined based on the part of the earned income credit allowable for the taxable year under § 32 of the Internal Revenue Code that is attributable to Maryland, determined by multiplying the federal earned income credit by a fraction:

\[
\text{fraction} = \frac{\text{numerator}}{\text{denominator}}
\]

(i) the numerator of which is the Maryland adjusted gross income of the individual; and

(ii) the denominator of which is the federal adjusted gross income of the individual.

(2) For purposes of determining the amount of the credit or refund under paragraph (1) of this subsection, the part of the earned income credit allowable for the taxable year under § 32 of the Internal Revenue Code is calculated without regard to the limitation under § 32(m) of the Internal Revenue Code.

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

Article – Tax – General

10–704.

(a) IN THIS SECTION, “TAXPAYER” MEANS:

(1) AN INDIVIDUAL FILING AN INCOME TAX RETURN; OR

(2) A MARRIED COUPLE FILING A JOINT INCOME TAX RETURN.

(B) (1) A resident WHO IS A TAXPAYER may claim a credit against the State income tax for a taxable year in the amount determined under subsection [(b)] (C) of this section for earned income.

(2) A resident WHO IS A TAXPAYER may claim a credit against the county income tax for a taxable year in the amount determined under subsection [(c)] (D) of this section for earned income.

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

(i) 50% of the earned income credit allowable for the taxable year under § 32 of the Internal Revenue Code OR THAT WOULD HAVE BEEN ALLOWABLE BUT FOR THE LIMITATION UNDER § 32(M) OF THE INTERNAL REVENUE CODE; or
(ii) the State income tax for the taxable year.

(2) (i) Subject to SUBPARAGRAPH (III) OF THIS PARAGRAPH AND subsection [(d)] (E) of this section, a resident may claim a refund in the amount, if any, by which the applicable percentage specified in subparagraph (ii) of this paragraph of the earned income credit allowable for the taxable year under § 32 of the Internal Revenue Code exceeds the State income tax for the taxable year.

(ii) [The] SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE applicable percentage of the earned income credit allowable under § 32 of the Internal Revenue Code to be used for purposes of determining the refund provided under this paragraph is:

1. 25% for a taxable year beginning after December 31, 2013, but before January 1, 2015;
2. 25.5% for a taxable year beginning after December 31, 2014, but before January 1, 2016;
3. 26% for a taxable year beginning after December 31, 2015, but before January 1, 2017;
4. 27% for a taxable year beginning after December 31, 2016, but before January 1, 2018;
5. 28% for a taxable year beginning after December 31, 2017, but before January 1, 2020; AND
6. 45% for a taxable year beginning after December 31, 2019[, but before January 1, 2023; and
7. 28% for a taxable year beginning after December 31, 2022].

(III) FOR PURPOSES OF DETERMINING THE REFUND PROVIDED UNDER THIS PARAGRAPH, THE EARNED INCOME CREDIT ALLOWABLE UNDER § 32 OF THE INTERNAL REVENUE CODE IS CALCULATED WITHOUT REGARD TO THE LIMITATION UNDER § 32(M) OF THE INTERNAL REVENUE CODE.

(3) (I) THE CREDIT ALLOWED AGAINST THE STATE INCOME TAX UNDER SUBSECTION (B)(1) OF THIS SECTION FOR AN INDIVIDUAL WITHOUT A QUALIFYING CHILD IS CALCULATED BY SUBSTITUTING:

1. $6,920 FOR THE EARNED INCOME AMOUNT IN § 32(B)(2)(A) OF THE INTERNAL REVENUE CODE; AND
2. $16,630 for the phase-out amount in § 32(b)(2)(A) of the Internal Revenue Code.

   (II) 1. For each taxable year beginning after December 31, 2022, the earned income amount and phase-out amount in subparagraph (I) of this paragraph shall be increased by an amount equal to the product of multiplying each amount by the cost-of-living adjustment specified in sub subparagraph 2 of this subparagraph.

2. For purposes of this subparagraph, the cost-of-living adjustment is the cost-of-living adjustment within the meaning of § 1(f)(3) of the Internal Revenue Code for the calendar year in which the taxable year begins, as determined by the Comptroller by substituting “calendar year 2021” for “calendar year 2016” in § 1(f)(3)(B) of the Internal Revenue Code.

3. If any increase determined under sub subparagraph 1 of this subparagraph is not a multiple of $10, the increase shall be rounded down to the next lowest multiple of $10.

   [(i)] (III) For purposes of this section for an individual without a qualifying child, the credit allowable for a taxable year under § 32 of the Internal Revenue Code is calculated without regard to:

   1. the minimum age requirement under § 32(c)(1)(A)(ii)(II) of the Internal Revenue Code; OR

   2. the limitation under § 32(m) of the Internal Revenue Code.

   [(ii)] (IV) Subject to subparagraph (iii) of this paragraph, for a taxable year beginning after December 31, 2019, but before January 1, 2023, the credit allowed against the State income tax under subsection [(a)(1)] (B)(1) of this section for an individual without a qualifying child is equal to 100% of the earned income credit allowable for a taxable year under § 32 of the Internal Revenue Code.

   [(iii)] The tax credit allowed under this paragraph may not exceed $530 for a taxable year.

   [(iv)] (V) If the tax credit allowed under this paragraph in any taxable year exceeds the total tax otherwise payable by the individual without a qualifying child for that taxable year, the individual may claim a refund in the amount of the excess.
Except as provided in paragraph (2) of this subsection and subject to subsection [(d)] (E) of this section, the credit allowed against the county income tax under subsection [(a)(2)] (B)(2) of this section is the lesser of:

(i) the earned income credit allowable for the taxable year under § 32 of the Internal Revenue Code OR THAT WOULD HAVE BEEN ALLOWABLE BUT FOR THE LIMITATION UNDER § 32(M) OF THE INTERNAL REVENUE CODE multiplied by 10 times the county income tax rate for the taxable year; or

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

(2) (i) A county may provide, by law, for a refundable county earned income credit as provided in this paragraph.

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

(iii) If a county provides for a refundable county earned income credit under this paragraph, a resident may claim a refund of the amount, if any, by which the product of multiplying the credit allowable for the taxable year under § 32 of the Internal Revenue Code OR THAT WOULD HAVE BEEN ALLOWABLE BUT FOR THE LIMITATION UNDER § 32(M) OF THE INTERNAL REVENUE CODE by 5 times the county income tax rate for the taxable year exceeds the county income tax for the taxable year.

(iv) The amount of any refunds payable under a refundable county earned income credit operates to reduce the income tax revenue from individuals attributable to the county income tax for that county.

[(d)] (E) (1) [For] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, FOR an individual who is a resident of the State for only a part of the year, the amount of the credit or refund allowed under this section shall be determined based on the part of the earned income credit allowable for the taxable year under § 32 of the Internal Revenue Code that is attributable to Maryland, determined by multiplying the federal earned income credit by a fraction:

[(1)] (I) the numerator of which is the Maryland adjusted gross income of the individual; and

[(2)] (II) the denominator of which is the federal adjusted gross income of the individual.

(2) FOR PURPOSES OF DETERMINING THE AMOUNT OF THE CREDIT OR REFUND UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE PART OF THE
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EARNED INCOME CREDIT ALLOWABLE FOR THE TAXABLE YEAR UNDER § 32 OF THE INTERNAL REVENUE CODE IS CALCULATED WITHOUT REGARD TO THE LIMITATION UNDER § 32(M) OF THE INTERNAL REVENUE CODE.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) Section 1 of this Act shall be applicable to all taxable years beginning after December 31, 2021.

(b) Section 2 of this Act shall be applicable to all taxable years beginning after December 31, 2022.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect on the taking effect of the termination provision specified in Section 3 of Chapter 40 of the Acts of the General Assembly of 2021. If that termination provision takes effect, Section 1 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.

SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect July 1, 2022.