

HOUSE BILL 992

Q3

2lr2702

By: **Delegate Wilkins**

Introduced and read first time: February 10, 2022

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

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

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

11 BY repealing and reenacting, with amendments,
12 Article – Tax – General
13 Section 10–704
14 Annotated Code of Maryland
15 (2016 Replacement Volume and 2021 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Tax – General
18 Section 10–704
19 Annotated Code of Maryland
20 (2016 Replacement Volume and 2021 Supplement)
21 (As enacted by Section 3 of Chapter 40 of the Acts of the General Assembly of 2021)

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

24 **Article – Tax – General**

25 10–704.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) In this section, “taxpayer” means:

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

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

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

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

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

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

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

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

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

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

27 2. 25.5% for a taxable year beginning after December 31,
28 2014, but before January 1, 2016;

29 3. 26% for a taxable year beginning after December 31, 2015,
30 but before January 1, 2017;

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

33 5. 28% for a taxable year beginning after December 31, 2017,

1 but before January 1, 2020; AND

2 6. 45% for a taxable year beginning after December 31,
3 2019[, but before January 1, 2023; and

4 7. 28% for a taxable year beginning after December 31,
5 2022].

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

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

12 1. **\$6,920 FOR THE EARNED INCOME AMOUNT IN §**
13 **32(B)(2)(A) OF THE INTERNAL REVENUE CODE; AND**

14 2. **\$16,630 FOR THE PHASE-OUT AMOUNT IN §**
15 **32(B)(2)(A) OF THE INTERNAL REVENUE CODE.**

16 (II) 1. **FOR EACH TAXABLE YEAR BEGINNING AFTER**
17 **DECEMBER 31, 2022, THE EARNED INCOME AMOUNT AND PHASE-OUT AMOUNT IN**
18 **SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE INCREASED BY AN AMOUNT**
19 **EQUAL TO THE PRODUCT OF MULTIPLYING EACH AMOUNT BY THE COST-OF-LIVING**
20 **ADJUSTMENT SPECIFIED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH.**

21 2. **FOR PURPOSES OF THIS SUBPARAGRAPH, THE**
22 **COST-OF-LIVING ADJUSTMENT IS THE COST-OF-LIVING ADJUSTMENT WITHIN THE**
23 **MEANING OF § 1(F)(3) OF THE INTERNAL REVENUE CODE FOR THE CALENDAR YEAR**
24 **IN WHICH THE TAXABLE YEAR BEGINS, AS DETERMINED BY THE COMPTROLLER BY**
25 **SUBSTITUTING “CALENDAR YEAR 2021” FOR “CALENDAR YEAR 2016” IN § 1(F)(3)(B)**
26 **OF THE INTERNAL REVENUE CODE.**

27 3. **IF ANY INCREASE DETERMINED UNDER**
28 **SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH IS NOT A MULTIPLE OF \$10, THE**
29 **INCREASE SHALL BE ROUNDED DOWN TO THE NEXT LOWEST MULTIPLE OF \$10.**

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

33 1. the minimum age requirement under § 32(c)(1)(A)(ii)(II) of

1 the Internal Revenue Code; or

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

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

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

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

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

16 (i) the earned income credit allowable for the taxable year under §
17 32 of the Internal Revenue Code or that would have been allowable but for the limitation
18 under § 32(m) of the Internal Revenue Code multiplied by 10 times the county income tax
19 rate for the taxable year; or

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

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

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

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

33 (iv) The amount of any refunds payable under a refundable county
34 earned income credit operates to reduce the income tax revenue from individuals
35 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:

(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**

1 **2. \$16,630 FOR THE PHASE-OUT AMOUNT IN §**
2 **32(B)(2)(A) OF THE INTERNAL REVENUE CODE.**

3 **(II) 1. FOR EACH TAXABLE YEAR BEGINNING AFTER**
4 **DECEMBER 31, 2022, THE EARNED INCOME AMOUNT AND PHASE-OUT AMOUNT IN**
5 **SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE INCREASED BY AN AMOUNT**
6 **EQUAL TO THE PRODUCT OF MULTIPLYING EACH AMOUNT BY THE COST-OF-LIVING**
7 **ADJUSTMENT SPECIFIED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH.**

8 **2. FOR PURPOSES OF THIS SUBPARAGRAPH, THE**
9 **COST-OF-LIVING ADJUSTMENT IS THE COST-OF-LIVING ADJUSTMENT WITHIN THE**
10 **MEANING OF § 1(F)(3) OF THE INTERNAL REVENUE CODE FOR THE CALENDAR YEAR**
11 **IN WHICH THE TAXABLE YEAR BEGINS, AS DETERMINED BY THE COMPTROLLER BY**
12 **SUBSTITUTING “CALENDAR YEAR 2021” FOR “CALENDAR YEAR 2016” IN § 1(F)(3)(B)**
13 **OF THE INTERNAL REVENUE CODE.**

14 **3. IF ANY INCREASE DETERMINED UNDER**
15 **SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH IS NOT A MULTIPLE OF \$10, THE**
16 **INCREASE SHALL BE ROUNDED DOWN TO THE NEXT LOWEST MULTIPLE OF \$10.**

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

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

22 **2. THE LIMITATION UNDER § 32(M) OF THE INTERNAL**
23 **REVENUE CODE.**

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

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

31 **[(iv)] (V)** If the tax credit allowed under this paragraph in any
32 taxable year exceeds the total tax otherwise payable by the individual without a qualifying
33 child for that taxable year, the individual may claim a refund in [an] **THE** amount of the
34 excess.

1 ~~[(c)] (D)~~ (1) Except as provided in paragraph (2) of this subsection and
 2 subject to subsection ~~[(d)] (E)~~ of this section, the credit allowed against the county income
 3 tax under subsection ~~[(a)(2)] (B)(2)~~ of this section is the lesser of:

4 (i) the earned income credit allowable for the taxable year under §
 5 32 of the Internal Revenue Code **OR THAT WOULD HAVE BEEN ALLOWABLE BUT FOR**
 6 **THE LIMITATION UNDER § 32(M) OF THE INTERNAL REVENUE CODE** multiplied by 10
 7 times the county income tax rate for the taxable year; or

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

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

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

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

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

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

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

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

34 (2) **FOR PURPOSES OF DETERMINING THE AMOUNT OF THE CREDIT**
 35 **OR REFUND UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE PART OF THE**

1 EARNED INCOME CREDIT ALLOWABLE FOR THE TAXABLE YEAR UNDER § 32 OF THE
2 INTERNAL REVENUE CODE IS CALCULATED WITHOUT REGARD TO THE LIMITATION
3 UNDER § 32(M) OF THE INTERNAL REVENUE CODE.

4 SECTION 3. AND BE IT FURTHER ENACTED, That:

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

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

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

15 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section
16 4 of this Act, this Act shall take effect July 1, 2022.