

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 369

(Senator King)

Budget and Taxation

Ways and Means

Income Tax - Maryland Earned Income Tax Credit Assistance Program for Low-Income Families

This bill establishes the Maryland Earned Income Tax Credit Assistance Program for Low-Income Families. The Comptroller's Office must (1) identify Maryland residents who are eligible for the State earned income credit but did not claim the tax credit; (2) establish a streamlined mechanism by which eligible taxpayers may claim the credit; and (3) notify eligible taxpayers of the program. **The bill terminates December 31, 2030.**

Fiscal Summary

State Effect: General fund revenues may decrease, likely beginning in FY 2025, due to additional tax credits claimed against the personal income tax and due to a reduction in personal income penalty and interest revenues. General fund expenditures increase by \$665,800 in FY 2024 due to implementation costs at the Comptroller's Office. Future years reflect ongoing expenditures and additional staffing costs.

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
GF Revenue	\$0	\$0	(-)	(-)	(-)
GF Expenditure	\$0	\$665,800	\$284,000	\$278,100	\$285,800
Net Effect	\$0	(\$665,800)	(\$284,000)	(\$278,100)	(\$285,800)

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

Local Effect: Local revenues may decrease, likely beginning in FY 2025, due to additional tax credits claimed against the local income tax and due to a reduction in penalty and interest revenues. Montgomery County expenditures for its earned income credit program may increase beginning in FY 2026.

Small Business Effect: None.

Analysis

Bill Summary: Beginning with tax year 2025, the Comptroller's Office must provide a form to claim the State earned income credit to Maryland residents (1) who are eligible for the State earned income credit; (2) who failed to claim the credit; (3) whose employers reported their wages to the Comptroller's Office; (4) for whom the Comptroller's Office has received federal income tax return information for specified tax years; and (5) who are eligible to file a claim for a refund.

In processing the form to claim the credit, the Comptroller's Office must calculate the credit using the standard deduction method. On request from a resident, the Comptroller's Office must waive any penalties or interest on any assessment of tax due unless the Comptroller's Office reasonably believes the resident knew or should have known the tax was miscalculated.

The Comptroller's Office must (1) report annually to the Governor and General Assembly specified information about the program beginning in 2025 and (2) adopt regulations implementing the program.

Current Law:

State and Federal Earned Income Credits

Low- and moderate-income workers may be eligible for a federal refundable credit that generally equals a specified percentage of earned income (wages and other employee compensation plus net self-employment earnings) up to a maximum dollar amount. Except as discussed below, Maryland conforms to the federal eligibility standards – only those individuals who claim the federal earned income tax credit may claim the State earned income credit. The Internal Revenue Service recently estimated that about 22% of all eligible taxpayers did not claim the earned income tax credit. Maryland had a lower participation rate; about 24% of eligible taxpayers did not claim the credit. Since 2011, the Maryland participation rate decreased by 4 percentage points, compared to a national participation rate decrease of less than 1 percentage point. In recent tax years, a similar number of Maryland taxpayers have claimed the State and federal tax credits.

Under federal law, eligibility for individuals without a qualifying child is limited to individuals who are between ages 25 and 64. Chapters 611 and 612 of 2018 expanded eligibility for the State credit that can be claimed by an individual without a qualifying child by eliminating the requirement that an individual must be at least 25 years of age.

Chapter 40 of 2021 expands eligibility of the State and local earned income tax credits, and thereby the State and local poverty level credits, by allowing a taxpayer to claim the tax

credits notwithstanding certain federal requirements, which generally require that a taxpayer have a valid Social Security number at the time of tax filing. These provisions apply to tax years 2020 through 2022.

State Earned Income Credits

Maryland offers a nonrefundable credit, which is equal to the lesser of 50% of the federal credit or the State income tax liability in the taxable year. If the State nonrefundable credit reduces a taxpayer's liability to zero, the taxpayer is eligible to claim a State refundable credit. Chapter 39 of 2021 (the RELIEF Act) enacted changes to the refundable earned income credit. In tax years 2020 through 2022, the refundable tax credit is generally equal to 45% of the federal credit, minus any pre-credit State tax liability. In these same tax years, an individual without a qualifying child can claim a refundable credit equal to 100% of the federal credit, subject to a maximum of \$530. Beginning in tax year 2023, the percentage value of the refundable tax credit for all taxpayers is equal to 28%.

The RELIEF Act also required the Comptroller's Office to conduct a tax year 2020 eligibility awareness campaign encouraging eligible individuals to claim the federal and State credits.

Local Earned Income Credits

A taxpayer can also claim a nonrefundable earned income credit against the local income tax. The amount of the credit allowed against the local income tax is equal to the federal credit claimed multiplied by 10 times the county income tax rate, not to exceed the income tax liability. Although no county has established a refundable earned income credit that can be claimed with a tax return in the method provided under State law, the Montgomery County Working Families Income Supplement is based on the State refundable credit claimed by a county resident.

Poverty Level Credit

A taxpayer who claims the nonrefundable earned income credit may also qualify to claim the State and local poverty level credits. The nonrefundable poverty level credits are intended to ensure that workers earning less than the poverty level do not pay State and local income taxes. Generally, if a household's State tax exceeds 50% of the federal earned income credit and the household's income is below the applicable poverty level, the household may claim a credit equal to 5% of its earned income. A separate poverty level income credit is allowed against the county income tax, in an amount equal to about 50% of the State credit allowed, depending on the county income tax rate.

Limitations on Claims for Refunds or Tax Paid

In general, a claim for a credit or refund of an overpayment must be filed within the later of three years from the time a return was filed or two years from the time a tax was paid. If a return was not filed, a claim must be filed within two years from the time the tax was paid.

State Revenues: The bill requires the Comptroller's Office to identify Maryland residents who are eligible for the State earned income credit but did not file a tax return and establish a streamlined mechanism by which eligible taxpayers may claim the credit.

It is assumed the Comptroller's Office begins implementing the program in fiscal 2024 and processing amended tax credit claims in fiscal 2025. As a result, general fund revenues will decrease beginning in fiscal 2025 to the extent the program increases the amount of State earned income tax credits claimed. Revenue losses will also occur from additional poverty level tax credits claimed, but this revenue loss is not expected to be significant.

The bill also requires the Comptroller's Office to waive any penalties or interest on any assessment of tax due if specified conditions are met. As a result, general fund revenues may decrease beginning in fiscal 2025.

State Expenditures: The Comptroller's Office indicates it will incur additional costs beginning in fiscal 2024 as a result of hiring additional staff and incurring programming expenses. Accordingly, general fund expenditures for the Comptroller's Office may increase by \$665,800 in fiscal 2024. This estimate reflects the cost of hiring two information technology analysts and incurring \$500,000 in programming expenditures. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2.0
Salaries and Fringe Benefits	\$150,535
Other Operating Expenses	15,227
Programming Expenditures	500,000
Total FY 2024 State Expenditures	\$665,762

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses. In addition, the Comptroller's Office indicates that beginning in fiscal 2025 it will need to hire two office clerks to process additional tax credit claims and perform related tasks.

Local Fiscal Effect: Local revenues may decrease beginning in fiscal 2025 due to a reduction in penalties and interest assessed against the local income tax. Local revenues
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may decrease to the extent the program increases the total amount of local earned income and poverty level tax credits.

Montgomery County has a local grant program based on the State's refundable credit. Payments for this county grant are made in the fiscal year following the fiscal year in which the returns are filed. Accordingly, Montgomery County expenditures may increase beginning in fiscal 2026.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 252 (Delegate Palakovich Carr, *et al.*) - Ways and Means.

Information Source(s): Comptroller's Office; Internal Revenue Service; Department of Legislative Services

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