

HOUSE BILL 66

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Q3

1998 Regular Session
(81r0601)

ENROLLED BILL

-- Ways and Means/Budget and Taxation --

Introduced by **Delegates Hixson, R. Baker, Barve, Bobo, Bozman, Cadden, Conroy, Cryor, Curran, C. Davis, D. Davis, Doory, Faulkner, Finifter, Frush, Goldwater, Grosfeld, Healey, Hecht, Heller, Hubbard, Hurson, Kopp, Leopold, Linton, Mandel, Montague, Petzold, Pitkin, Rawlings, Rosenberg, Shriver, Workman, Dypski, McIntosh, Poole, and Perry Perry, and Marriott**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Income Tax - Earned Income Credit - Refunds**

3 FOR the purpose of altering the earned income credit allowed against the Maryland
4 income tax; making part of the earned income credit refundable under certain
5 circumstances; providing that any excess credit over the State income tax does
6 not reduce the county income tax below zero; repealing a certain subtraction
7 modification for certain taxpayers whose income does not exceed certain levels;
8 providing a credit against the State income tax for certain taxpayers whose
9 income does not exceed certain levels; providing for the application of a certain
10 credit in the computation of the county income tax; providing for the
11 determination of the amount of certain credits for nonresidents and part-year
12 residents in a certain manner; providing that an individual not otherwise

1 required to file an income tax return may file a return to claim a certain refund;
 2 requiring the Governor to transfer certain funds from the Revenue Stabilization
 3 Account of the State Reserve Fund to the General Fund for certain purposes;
 4 requiring the Spending Affordability Committee to include a certain
 5 recommendation in a certain report; providing for the application of this Act; and
 6 generally relating to ~~the earned income credit~~ certain credits under the
 7 Maryland income tax.

8 BY repealing

9 Article - Tax - General
 10 Section 10-207(h)
 11 Annotated Code of Maryland
 12 (1997 Replacement Volume)

13 BY repealing and reenacting, with amendments,

14 Article - Tax - General
 15 Section 10-704 and ~~10-706(e)~~, 10-706(c), and 10-809
 16 Annotated Code of Maryland
 17 ~~(1988 Volume and 1997 Supplement)~~
 18 (1997 Replacement Volume)

19 BY adding to

20 Article - Tax - General
 21 Section 10-709
 22 Annotated Code of Maryland
 23 (1997 Replacement Volume)

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

26 **Article - Tax - General**

27 10-207.

28 [(h) (1) (i) In this subsection the following words have the meanings
 29 indicated.

30 (ii) "Applicable poverty income level" means the amount specified
 31 in the poverty income standard that corresponds to the number of exemptions to
 32 which the individual is entitled and claims under § 10-211(1) of this subtitle.

33 (iii) "Eligible low income taxpayer" means an individual, or an
 34 individual and the individual's spouse if they file a joint income tax return:

35 1. whose federal adjusted gross income as modified under §§
 36 10-204 through 10-206 of this subtitle does not exceed the applicable poverty income
 37 level;

1 2. whose earned income as defined under § 32(c)(2) of the
 2 Internal Revenue Code does not exceed the applicable poverty income level; and

3 3. who is not claimed as an exemption on another
 4 individual's tax return under § 10-211 of this subtitle.

5 (iv) "Poverty income standard" means the most recent poverty
 6 income guideline published by the United States Department of Health and Human
 7 Services, available as of July 1 of the taxable year.

8 (2) For any eligible low income taxpayer, the subtraction under
 9 subsection (a) of this section includes the amount of earned income as defined under
 10 § 32(c)(2) of the Internal Revenue Code.]

11 10-704.

12 (a) An individual may claim a credit against the income tax for a taxable year
 13 in the amount determined under subsection (b) of this section for earned income.

14 (b) (1) Except as provided in paragraph (2) of this subsection AND SUBJECT
 15 TO SUBSECTION (C) OF THIS SECTION, the credit allowed under subsection (a) of this
 16 section is the lesser of:

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

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

20 (2) (I) AN INDIVIDUAL WITH ONE OR MORE DEPENDENTS THAT MAY
 21 BE CLAIMED AS EXEMPTIONS MAY CLAIM A REFUND IN THE AMOUNT, IF ANY, BY
 22 WHICH 15% THE APPLICABLE PERCENTAGE SPECIFIED IN SUBPARAGRAPH (II) OF
 23 THIS PARAGRAPH OF THE EARNED INCOME CREDIT ALLOWABLE UNDER § 32 OF THE
 24 INTERNAL REVENUE CODE EXCEEDS THE STATE INCOME TAX FOR THE TAXABLE
 25 YEAR.

26 (II) THE APPLICABLE PERCENTAGE OF THE EARNED INCOME
 27 CREDIT ALLOWABLE UNDER § 32 OF THE INTERNAL REVENUE CODE TO BE USED FOR
 28 PURPOSES OF DETERMINING THE REFUND PROVIDED UNDER THIS PARAGRAPH IS:

29 1. 10% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER
 30 31, 1997 BUT BEFORE JANUARY 1, 2000;

31 2. 12.5% FOR A TAXABLE YEAR BEGINNING AFTER
 32 DECEMBER 31, 1999 BUT BEFORE JANUARY 1, 2001; AND

33 3. 15% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER
 34 31, 2000.

35 ~~{(2)}~~ ~~(C)~~ An individual who files an income tax return for a period of less
 36 than 1 year;

1 ~~(1) is allowed from the amount under [paragraph (1) of this subsection]~~
 2 ~~SUBSECTION (B)(1) OF THIS SECTION, a fraction:~~

3 ~~(i) the numerator of which is the number of months that the return~~
 4 ~~covers; and~~

5 ~~(ii) the denominator of which is 12; AND~~

6 ~~(2) MAY NOT CLAIM A REFUND UNDER SUBSECTION (B)(2) OF THIS~~
 7 ~~SECTION OR § 10-706(C)(3) OF THIS SUBTITLE.~~

8 (C) FOR AN INDIVIDUAL WHO IS A NONRESIDENT OR IS A RESIDENT OF THE
 9 STATE FOR ONLY A PART OF THE YEAR, THE AMOUNT OF THE CREDIT OR REFUND
 10 ALLOWED UNDER THIS SECTION SHALL BE DETERMINED BASED ON THE PART OF
 11 THE EARNED INCOME CREDIT ALLOWABLE FOR THE TAXABLE YEAR UNDER § 32 OF
 12 THE INTERNAL REVENUE CODE THAT IS ATTRIBUTABLE TO MARYLAND,
 13 DETERMINED BY MULTIPLYING THE FEDERAL EARNED INCOME CREDIT BY A
 14 FRACTION:

15 (1) THE NUMERATOR OF WHICH IS THE MARYLAND ADJUSTED GROSS
 16 INCOME OF THE INDIVIDUAL; AND

17 (2) THE DENOMINATOR OF WHICH IS THE FEDERAL ADJUSTED GROSS
 18 INCOME OF THE INDIVIDUAL.

19 10-706.

20 (c) (1) A credit under § 10-704 OR § 10-709 of this subtitle:

21 (i) is allowed only against the State income tax; and

22 (ii) operates to reduce the county income tax.

23 (2) ~~(i)~~ THE SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE
 24 county income tax is based on the amount of State income tax after the State income
 25 tax is reduced by the credit THE SUM OF THE CREDITS ALLOWED UNDER §§ 10-704
 26 AND 10-709 OF THIS SUBTITLE.

27 ~~(ii)~~ (3) (I) For purposes of determining the county income tax,
 28 the credit under § 10-704 OR § 10-709 of this subtitle shall be calculated using the
 29 State income tax as modified under § 10-106(d) of this title.

30 ~~(3) AN INDIVIDUAL MAY CLAIM A REFUND IN AN AMOUNT EQUAL TO~~
 31 ~~THE COUNTY INCOME TAX RATE MULTIPLIED BY THE AMOUNT, IF ANY, BY WHICH~~
 32 ~~15% OF THE EARNED INCOME CREDIT ALLOWABLE UNDER § 32 OF THE INTERNAL~~
 33 ~~REVENUE CODE EXCEEDS THE STATE INCOME TAX AS MODIFIED UNDER § 10-106(D)~~
 34 ~~OF THIS TITLE.~~

1 (II) IF THE CREDIT ALLOWED UNDER § 10-704 OF THIS SUBTITLE
2 FOR ANY TAXABLE YEAR EXCEEDS THE STATE INCOME TAX AS MODIFIED UNDER §
3 10-106(D) OF THIS TITLE, THE COUNTY INCOME TAX IS ZERO.

4 10-709.

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

7 (2) "APPLICABLE POVERTY INCOME LEVEL" MEANS THE AMOUNT
8 SPECIFIED IN THE POVERTY INCOME STANDARD THAT CORRESPONDS TO THE
9 NUMBER OF EXEMPTIONS WHICH THE INDIVIDUAL IS ALLOWED AND CLAIMS UNDER
10 § 10-211(1) OF THIS TITLE.

11 (3) "ELIGIBLE LOW INCOME TAXPAYER" MEANS AN INDIVIDUAL, OR AN
12 INDIVIDUAL AND THE INDIVIDUAL'S SPOUSE IF THEY FILE A JOINT INCOME TAX
13 RETURN:

14 (I) WHOSE FEDERAL ADJUSTED GROSS INCOME AS MODIFIED
15 UNDER §§ 10-204 THROUGH 10-206 OF THIS TITLE DOES NOT EXCEED THE
16 APPLICABLE POVERTY INCOME LEVEL;

17 (II) WHOSE EARNED INCOME AS DEFINED UNDER § 32(C)(2) OF THE
18 INTERNAL REVENUE CODE DOES NOT EXCEED THE APPLICABLE POVERTY INCOME
19 LEVEL;

20 (III) WHO IS NOT CLAIMED AS AN EXEMPTION ON ANOTHER
21 INDIVIDUAL'S TAX RETURN UNDER § 10-211 OF THIS TITLE; AND

22 (IV) FOR WHOM THE CREDIT ALLOWED UNDER § 10-704 OF THIS
23 SUBTITLE IS LESS THAN THE STATE INCOME TAX.

24 (4) "POVERTY INCOME STANDARD" MEANS THE MOST RECENT POVERTY
25 INCOME GUIDELINE PUBLISHED BY THE UNITED STATES DEPARTMENT OF HEALTH
26 AND HUMAN SERVICES, AVAILABLE AS OF JULY 1 OF THE TAXABLE YEAR.

27 (B) AN ELIGIBLE LOW INCOME TAXPAYER MAY CLAIM A CREDIT AGAINST THE
28 INCOME TAX FOR A TAXABLE YEAR IN THE AMOUNT DETERMINED UNDER
29 SUBSECTION (C) OF THIS SECTION.

30 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
31 CREDIT ALLOWED UNDER SUBSECTION (B) OF THIS SECTION EQUALS THE LESSER
32 OF:

33 (I) THE STATE INCOME TAX DETERMINED AFTER SUBTRACTING
34 THE CREDIT ALLOWED UNDER § 10-704(B)(1) OF THIS SUBTITLE; OR

35 (II) AN AMOUNT EQUAL TO 5% OF THE ELIGIBLE LOW INCOME
36 TAXPAYER'S EARNED INCOME, AS DEFINED UNDER § 32(C)(2) OF THE INTERNAL
37 REVENUE CODE.

1 (2) OF THE AMOUNT DETERMINED UNDER PARAGRAPH (1) OF THIS
2 SUBSECTION, AN INDIVIDUAL WHO IS A NONRESIDENT OR IS A RESIDENT OF THE
3 STATE FOR ONLY A PART OF THE YEAR IS ALLOWED ONLY A FRACTION:

4 (I) THE NUMERATOR OF WHICH IS THE INDIVIDUAL'S MARYLAND
5 ADJUSTED GROSS INCOME; AND

6 (II) THE DENOMINATOR OF WHICH IS THE INDIVIDUAL'S FEDERAL
7 ADJUSTED GROSS INCOME.

8 10-809.

9 If an individual is not required to file an income tax return under § 10-805, §
10 10-806 or § 10-813 of this subtitle, the individual:

11 (1) is not liable for income tax; and

12 (2) may file an income tax return to claim a refund of the income tax
13 withheld or estimated income tax paid OR A REFUND UNDER § 10-704 OF THIS TITLE.

14 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any
15 other provision of law, for Fiscal Year 1999 only, the Governor shall transfer
16 \$14,500,000 from the Revenue Stabilization Account of the State Reserve Fund to the
17 General Fund in order to offset the effect of this Act on State revenues and expedite the
18 return of those funds set aside for the purpose of providing tax relief to the taxpayers of
19 Maryland.

20 ~~SECTION 3.~~ AND BE IT FURTHER ENACTED, That *the Spending*
21 *Affordability Committee shall include a recommendation in its final report of the 1999*
22 *interim as to the fiscal prudence of accelerating the phase-in of the earned income*
23 *credit refund enacted under this Act.*

24 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 July 1, 1998 and shall be applicable to all taxable years beginning after December 31,
26 1997.