

Chapter 40

(Senate Bill 218)

AN ACT concerning

~~Maryland Child Tax Credit~~
Income Tax – Child Tax Credit and Expansion of the Earned Income Credit

FOR the purpose of altering the calculation of the Maryland earned income credit to allow certain residents to claim the credit; allowing certain taxpayers to claim a credit against the State income tax for certain dependent children under certain circumstances; establishing the credit amount for each qualified child, subject to certain limitations; allowing certain taxpayers to claim a refund in the amount of any excess credit; defining certain terms; making a technical correction; providing for the application and termination of this Act; making this Act an emergency measure; and generally relating to ~~a credit~~ credits against the State income tax for earned income and certain dependent children.

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 10–704

Annotated Code of Maryland

(2016 Replacement Volume and 2020 Supplement)

(As enacted by Chapter 39 of the Acts of the General Assembly of 2021)

BY adding to

Article – Tax – General

Section 10–751

Annotated Code of Maryland

(2016 Replacement Volume and 2020 Supplement)

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 [(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;

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) 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) 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) 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 [an] **THE** amount of the excess.

[(c)] (D) (1) 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 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.

10-751.

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

(2) “QUALIFIED CHILD” MEANS A DEPENDENT OF A TAXPAYER, IF THE DEPENDENT:

(I) IS A DEPENDENT FOR PURPOSES OF § 152 OF THE INTERNAL REVENUE CODE; AND

~~(II) 1. IS UNDER THE AGE OF 6 YEARS; OR~~

~~2. A (II) 1. IS UNDER THE AGE OF 17 YEARS; AND~~

~~B. 2. IS A CHILD WITH A DISABILITY, AS DEFINED UNDER § 8-401 OF THE EDUCATION ARTICLE.~~

(3) “TAXPAYER” MEANS:

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

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

(B) A TAXPAYER WHO HAS FEDERAL ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR OF \$6,000 OR LESS MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX FOR EACH QUALIFIED CHILD IN AN AMOUNT EQUAL TO \$500.

(C) THE AMOUNT OF THE CREDIT ALLOWED UNDER SUBSECTION (B) OF THIS SECTION FOR A QUALIFIED CHILD SHALL BE REDUCED, BUT NOT BELOW ZERO, BY THE AMOUNT OF ANY FEDERAL CHILD TAX CREDIT CLAIMED AGAINST THE FEDERAL INCOME TAX FOR THE QUALIFIED CHILD UNDER § 24 OF THE INTERNAL REVENUE CODE.

(D) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, THE TAXPAYER MAY CLAIM A REFUND IN THE AMOUNT OF THE EXCESS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect July 1, 2021, and shall be applicable to all taxable years beginning after December 31, 2020 2019, but before January 1, 2026 2023. It shall remain effective for a period of 5 years and, at the end of June 30, 2026, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.~~

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. It shall remain effective through June 30, 2023, and, at the end of June 30, 2023, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Enacted under Article II, § 17(b) of the Maryland Constitution, March 5, 2021.