

Chapter 3

(Senate Bill 552)

AN ACT concerning

Family Prosperity Act of 2023

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; repealing a certain limitation on the amount certain individuals may claim as a refund under the earned income tax credit; altering the definition of “qualified child” and income eligibility requirements for purposes of qualifying for a certain credit against the State income tax for certain dependent children; repealing a certain provision of law reducing the amount of the credit under certain circumstances; allowing certain residents to continue to claim the credits after a certain taxable year; and generally relating to credits against the State income tax for earned income and dependent children.

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 10–704 and 10–751

Annotated Code of Maryland

(2022 Replacement Volume)

BY repealing and reenacting, with amendments,

Chapter 40 of the Acts of the General Assembly of 2021

Section 2 and 3

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 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 (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) 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) 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~~ ~~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~~ **FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2019, BUT BEFORE JANUARY 1, 2023, 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:

(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.

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.** is under the age of 17 years; and

[2.] B. 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 **IS A RESIDENT AND** has federal adjusted gross income for the taxable year of ~~[\$6,000]~~ **\$15,000** 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 the Laws of Maryland read as follows:

Chapter 40 of the Acts of 2021

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be applicable to all taxable years beginning after December 31, 2019[, but before January 1, 2023].

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.]

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be applicable to all taxable years beginning after December 31, 2022.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2023.

Approved by the Governor, April 11, 2023.