

# SENATE BILL 218

Q3  
SB 638/20 – B&T

EMERGENCY BILL  
(PRE-FILED)

11r0561  
CF HB 143

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By: **Senator King**

Requested: August 21, 2020

Introduced and read first time: January 13, 2021

Assigned to: Budget and Taxation

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 12, 2021

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Maryland Child Tax Credit~~

3 **Income Tax – Child Tax Credit and Expansion of the Earned Income Credit**

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

13 BY repealing and reenacting, with amendments,

14 Article – Tax – General

15 Section 10–704

16 Annotated Code of Maryland

17 (2016 Replacement Volume and 2020 Supplement)

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

19 BY adding to

20 Article – Tax – General

21 Section 10–751

22 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(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;**

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

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

5                                   4.     27% for a taxable year beginning after December 31, 2016,  
6 but before January 1, 2018;

7                                   5.     28% for a taxable year beginning after December 31, 2017,  
8 but before January 1, 2020;

9                                   6.     45% for a taxable year beginning after December 31, 2019,  
10 but before January 1, 2023; and

11                                  7.     28% for a taxable year beginning after December 31, 2022.

12                                   **(III) FOR PURPOSES OF DETERMINING THE REFUND PROVIDED**  
13 **UNDER THIS PARAGRAPH, THE EARNED INCOME CREDIT ALLOWABLE UNDER § 32 OF**  
14 **THE INTERNAL REVENUE CODE IS CALCULATED WITHOUT REGARD TO THE**  
15 **LIMITATION UNDER § 32(M) OF THE INTERNAL REVENUE CODE.**

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

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

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

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

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

30                                  (iv)    If the tax credit allowed under this paragraph in any taxable year  
31 exceeds the total tax otherwise payable by the individual without a qualifying child for that  
32 taxable year, the individual may claim a refund in [an] **THE** amount of the 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  
 36 EARNED INCOME CREDIT ALLOWABLE FOR THE TAXABLE YEAR UNDER § 32 OF THE

1 INTERNAL REVENUE CODE IS CALCULATED WITHOUT REGARD TO THE LIMITATION  
 2 UNDER § 32(M) OF THE INTERNAL REVENUE CODE.

3 10-751.

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

6 (2) "QUALIFIED CHILD" MEANS A DEPENDENT OF A TAXPAYER, IF THE  
 7 DEPENDENT:

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

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

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

12 ~~B. 2. IS A CHILD WITH A DISABILITY, AS DEFINED UNDER §~~  
 13 ~~8-401 OF THE EDUCATION ARTICLE.~~

14 (3) "TAXPAYER" MEANS:

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

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

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

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

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

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect July~~  
 29 ~~1, 2021, and~~ shall be applicable to all taxable years beginning after December 31, ~~2020~~  
 30 ~~2019, but before January 1, 2026 2023. It shall remain effective for a period of 5 years and,~~

1 ~~at the end of June 30, 2026, this Act, with no further action required by the General~~  
2 ~~Assembly, shall be abrogated and of no further force and effect.~~

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

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.