

# Tax Alert



COMPTROLLER  
*of* MARYLAND  
*Serving the People*

Revenue Administration Division  
110 Carroll Street  
Annapolis, Maryland 21411

Call: 1-800-MD-TAXES  
TTY: Maryland Relay 711

For More Information: [www.marylandtaxes.gov](http://www.marylandtaxes.gov)  
Questions? Ask: [taxhelp@marylandtaxes.gov](mailto:taxhelp@marylandtaxes.gov)

## EIC Expansion & Child Tax Credit 03/11/2021

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### What's New?

This alert addresses changes brought by passage of Chapter 40 of the Acts of 2021 concerning Income Tax – Child Tax Credit and Expansion of the Earned Income Credit. It discusses the additional taxpayers eligible to claim the Maryland Earned Income Credits and the requirements for claiming the Child Tax Credit.

Additional and updated instructions will be provided with any forms revised as a result of this legislation. Please carefully review the instructions for any filing impacted by this bill, as formatting and calculations may have changed.

Tax professionals and practitioners should review the complete text of the bill posted on the Maryland General Assembly's [website](#).

## Introduction

On March 5<sup>th</sup>, 2021, Senate Bill 218, 2021 Session, concerning Income Tax – Child Tax Credit and Expansion of the Earned Income Credit (SB218) was enacted under Article II, Section 17(b) of the Maryland Constitution. The bill’s purpose is to expand the numbers of taxpayers to whom the Earned Income Credit (EIC) is available and to provide for a new Maryland Child Tax Credit.

The Comptroller began accepting tax year 2020 returns for processing prior to the enactment of SB218. Due to the emergency nature of this bill, individual tax forms and instructions will be revised to account for its provisions. Our office strongly recommends any filer impacted by this bill delay filing until revised forms have been published, in order to take full advantage of the relief offered.

The guidance provided in this Tax Alert should be considered secondary to any tax forms, filing instructions, or regulations promulgated by the Comptroller of Maryland.

## EIC Expansion

Prior to passage of SB218, Maryland conformed to federal law codified in Internal Revenue Code § 32(m) by restricting the Maryland EIC to filers with a social security number. SB218 decoupled Maryland from this requirement and expands eligibility to individual and joint federal filers who were otherwise eligible but for the § 32(m) limitation.<sup>1</sup>

As a practical matter, this change means filers using an Individual Taxpayer Identification Number (ITIN) in lieu of a social security number may now be eligible for EICs on their Maryland return. SB218 did not change the other eligibility requirements or calculations pertaining to a claim for these credits, and not all filers using an ITIN will be eligible for the expanded credit.

The Consolidated Appropriations Act (CAA) of 2021 allows a taxpayer to calculate their federal EIC using their 2019 income if that calculation would yield a higher EIC. Maryland conforms to this provision. ITIN filers may use their 2019 income to calculate their 2020 state and county EIC.

The expanded Maryland EICs are available in tax years 2020, 2021, and 2022.

## Maryland Child Tax Credit

SB218 created a refundable credit available to certain individual and joint married filers with one or more dependent, disabled<sup>2</sup> children under the age of seventeen. Such filers with a federal adjusted gross income of \$6,000 or less may claim a credit for each qualifying child in the amount of \$500. There is no limit on the

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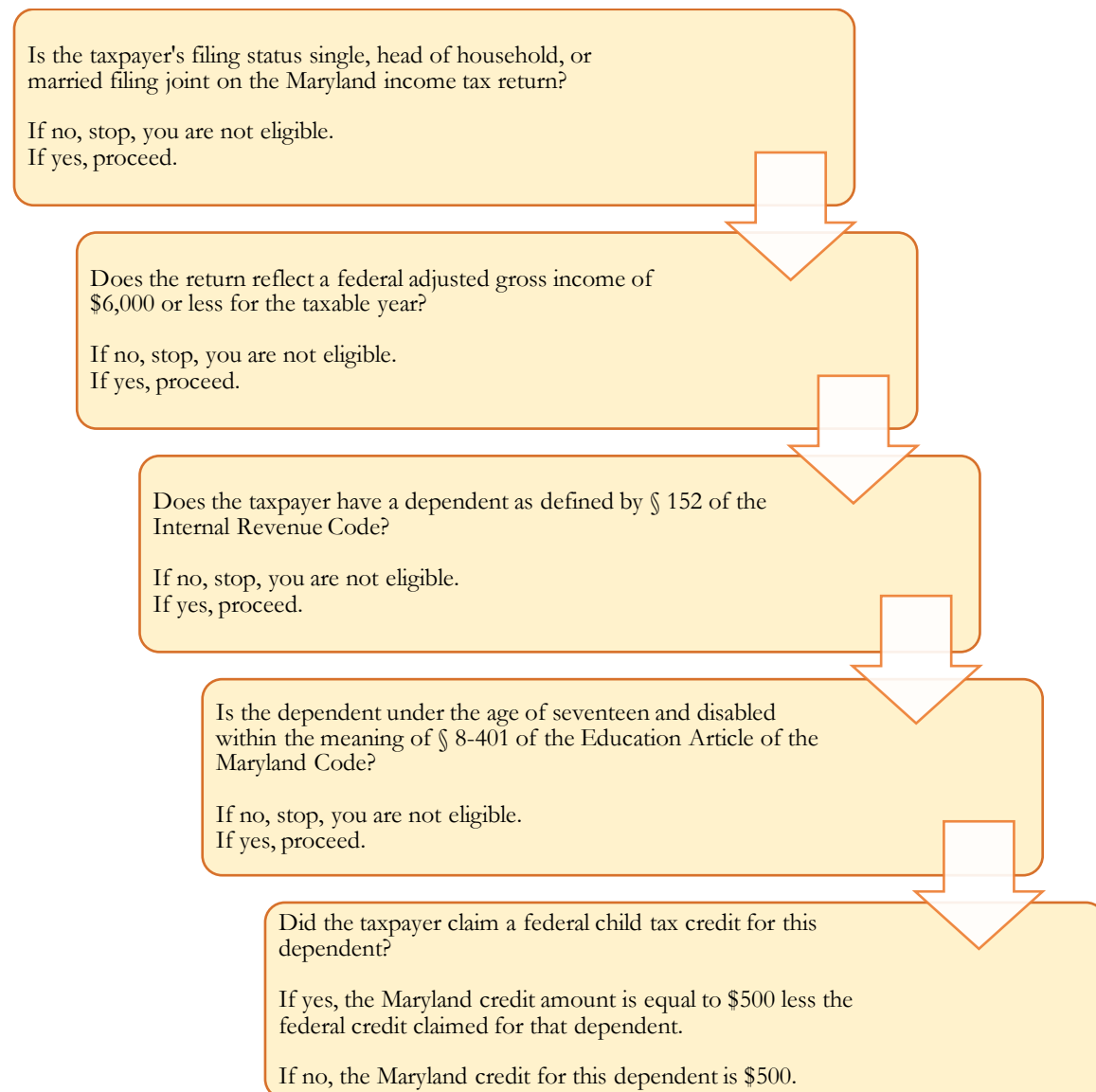
<sup>1</sup> Married taxpayers filing separate federal returns remain ineligible for the EIC on both their federal and Maryland returns.

<sup>2</sup> “A child is classified as disabled if it has been determined through appropriate assessment that the child has autism, deaf-blindness, a hearing impairment, including deafness, emotion disturbance, mental retardation, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, visual impairment, including blindness, and who because of that impairment needs special education and related services.” MD Education § 8-401(a)(2).

number of qualifying children for which the credit may be claimed, so long as they satisfy the dependent and age requirements.

The amount of the credit claimed on the Maryland return must be reduced, but not below zero, by the amount of any federal child tax credit claimed for the same dependent. The federal child tax credit is typically claimed on Line 19 of federal Form 1040.

This new credit is available in tax years 2020, 2021, and 2022. A diagram below explains eligibility for this new credit:



## FAQ

### **Does SB218 change my federal EIC or federal child tax credit?**

No. This change to Maryland law does not impact the calculation of these credits on your federal income tax return.

### **I already filed my Maryland return using an ITIN and didn't claim a Maryland EIC. Do I need to amend?**

No. Where sufficient data is available, the Comptroller of Maryland will affirmatively identify qualifying ITIN filers and issue payment without the requirement of an amended return. If you believe you are qualified for the Maryland EIC expansion and do not receive a payment within two (2) months of this Tax Alert, please contact our office by phone or email.

### **I do not have a Social Security number. Does that mean I can't claim the child tax credit?**

If you have an ITIN and file a return using your ITIN you are eligible to claim the credit if all other requirements are satisfied.

### **How do I claim the refundable credit for a child with a disability?**

This credit can be claimed on line 6.1, under Part CC, on Maryland Form 502CR.

### **If after I file my return there is a change in my filing status, federal adjusted gross income, or number of dependents, do I have to notify the Comptroller?**

Yes. If there is a change in your federal adjusted gross income, filing status, or number of dependents, whether it is based on a federal amended return you file, or an adjustment made by the IRS, you must report the change to Maryland and file an amended Maryland income tax return.

### **What tax years does this apply to?**

Tax years 2020 through 2022. The provisions of SB218 terminate on June 30, 2023.