



SPONSOR: Rep. Baumbach & Rep. Longhurst & Rep. Yearick &
Sen. Sokola & Sen. Lavelle
Reps. Bentz, Briggs-King, Dukes, Gray, Keeley, Lynn,
Mitchell, Mulrooney, Osienski, Paradee, Potter, D. Short,
Spiegelman; Sens. Delcollo, Lopez, Pettyjohn, Townsend

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 113

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO EARNED INCOME TAX CREDIT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend § 1117, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions shown by underline as follows:

§ 1117 Earned income tax credit.

(a)(1) ~~For any tax year prior to 2018, an individual who is a resident of this State shall be entitled to a nonrefundable credit against the individual's tax otherwise due under this chapter in the amount of 20% of the corresponding federal earned income credit allowed pursuant to § 32 or successor provision of the Internal Revenue Code [26 U.S.C. § 32].~~

(2) For tax year 2018 and thereafter, an individual who is a resident of this State shall be entitled to a credit against the individual's tax under this chapter in an amount based on a percentage, in the table below, of the corresponding federal earned income credit allowed pursuant to § 32 or successor provision of the Internal Revenue Code [26 U.S.C. § 32]. Such credit shall be calculated according to the following table:

For Taxable Years Starting

<u>After December 31</u>	<u>And Before January 1</u>	<u>Percentage of Federal Credit</u>
<u>2017</u>	<u>2019</u>	<u>6%</u>
<u>2018</u>	<u>2020</u>	<u>7%</u>
<u>2019</u>	<u>2021</u>	<u>8%</u>
<u>2020</u>	<u>2022</u>	<u>9%</u>
<u>2021</u>	<u>2023</u>	<u>10%</u>

<u>2022</u>	<u>2024</u>	<u>11%</u>
<u>2023</u>	<u>2025</u>	<u>12%</u>
<u>2024</u>	<u>2026</u>	<u>13%</u>
<u>2025</u>	<u>2027</u>	<u>14%</u>
<u>2026</u>	<u>and thereafter</u>	<u>15%</u>

(b) For any tax year prior to 2018, in ~~In~~ the case of spouses who file a joint federal return but who elect to determine their Delaware taxes separately, the credit allowed under subsection (a) of this section may only be used by the spouse with the greater tax otherwise due, computed without regard to this credit. For any tax year after 2017, in the case of spouses who file a joint federal return but who elect to determine their Delaware taxes separately, the credit allowed under subsection (a) of this section shall be divided equally between such spouses.

(c) In no event shall the credit allowed under paragraph (1) of subsection (a) of this section exceed the tax otherwise due under this chapter. However, the credit allowed under paragraph (2) of subsection (a) of this section may exceed the tax otherwise due under this chapter.

SYNOPSIS

This bill changes the earned income tax credit from nonrefundable to refundable. This bill creates a table for the percentage of earned income credit for tax years 2018 and after. Currently, if spouses file a joint federal return but separate State returns, only the spouse with the higher taxes due can use the State earned income tax credit. This bill eliminates that limitation starting with tax year 2018 and provides that the credit shall be divided equally between such spouses.