

Chapter 352

(House Bill 632)

AN ACT concerning

Earned Income Credit Information Act

FOR the purpose of requiring the Comptroller to publish certain information relating to eligibility for the State earned income tax credit; requiring the Comptroller to prepare and ~~make available~~ *mail* to *all* employers ~~of~~ *in* the State a certain notice; requiring an employer to provide certain notification to an employee who may be eligible for the State earned income tax credit; providing that an employee may not pursue a private cause of action against an employer for the employer's failure to provide certain notice; providing for the effective date of this Act; and generally relating to employee notification of the State earned income tax credit.

BY repealing and reenacting, without amendments,

Article – Tax – General
 Section 10–905(a), (b), and (f)
 Annotated Code of Maryland
 (2010 Replacement Volume)

BY adding to

Article – Tax – General
 Section 10–913
 Annotated Code of Maryland
 (2010 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Tax – General

10–905.

(a) In this Part II of this subtitle the following words have the meanings indicated.

(b) (1) “Employer” has the meaning stated in § 3401 of the Internal Revenue Code.

(2) “Employer” includes:

- (i) the federal government;
- (ii) the State;
- (iii) a county, municipal corporation, political subdivision, or instrumentality of the State;
- (iv) another state to the extent that functions of its government are carried on or performed in this State; and
- (v) if the employer is a corporation:
 1. any officer of the corporation who exercises direct control over its fiscal management; and
 2. any agent of the corporation who has a duty to withhold income tax from wages.

(f) (1) Except as provided in paragraph (2) of this subsection, “wages” means salary, wages, or compensation for personal services of any kind as defined in §§ 3401 and 3402(o)(2)(A) of the Internal Revenue Code.

(2) “Wages” includes remuneration paid for services described in § 3401(a)(5) and (6) of the Internal Revenue Code.

10-913.

(A) (1) ON OR BEFORE JANUARY 1 OF EACH CALENDAR YEAR, THE COMPTROLLER SHALL PUBLISH THE MAXIMUM INCOME ELIGIBILITY FOR THE EARNED INCOME TAX CREDIT UNDER § 10-704 OF THIS TITLE FOR THE CALENDAR YEAR.

(2) THE COMPTROLLER SHALL PREPARE A NOTICE THAT MEETS THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION AND ~~MAKE~~ MAIL THE NOTICE ~~AVAILABLE~~ TO ALL EMPLOYERS IN THE STATE.

(B) (1) ON OR BEFORE DECEMBER 31 OF EACH CALENDAR YEAR, AN EMPLOYER SHALL PROVIDE ELECTRONIC OR WRITTEN NOTICE TO AN EMPLOYEE WHO MAY BE ELIGIBLE FOR THE EARNED INCOME TAX CREDIT UNDER § 10-704 OF THIS TITLE THAT:

(I) THE EMPLOYEE MAY BE ELIGIBLE FOR THE FEDERAL EARNED INCOME TAX CREDIT UNDER § 32 OF THE INTERNAL REVENUE CODE; AND

(II) THE EMPLOYEE MAY BE ELIGIBLE FOR THE EARNED INCOME TAX CREDIT UNDER § 10-704 OF THIS TITLE;

~~(III) THE EMPLOYEE MUST FILE AN INCOME TAX RETURN TO RECEIVE THE EARNED INCOME TAX CREDIT EVEN IF THE EMPLOYEE DOES NOT OWE ANY TAXES; AND~~

~~(IV) A PORTION OF THE EARNED INCOME TAX CREDIT MAY BE REFUNDABLE.~~

(2) AN EMPLOYER MAY PROVIDE THE NOTICE REQUIRED UNDER THIS SUBSECTION TO:

(I) ALL EMPLOYEES; OR

(II) EMPLOYEES WITH WAGES THAT ARE LESS THAN OR EQUAL TO THE MAXIMUM INCOME ELIGIBILITY PUBLISHED UNDER SUBSECTION (A) OF THIS SECTION.

(C) AN EMPLOYEE MAY NOT PURSUE A PRIVATE CAUSE OF ACTION AGAINST AN EMPLOYER FOR THE EMPLOYER'S FAILURE TO PROVIDE THE NOTICE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2012.

Approved by the Governor, May 10, 2011.