HOUSE BILL 28

Q3 3lr0445

(PRE–FILED)

By: **Delegates Lehman, Foley, Hartman, Henson, Hill, D. Jones, Pena–Melnyk, Ruth, Solomon, and Terrasa**

Requested: September 22, 2022
Introduced and read first time: January 11, 2023
Assigned to: Ways and Means

A BILL ENTITLED

AN ACT concerning

Income Tax – Credit for Caregivers of Senior Family Members

FOR the purpose of allowing a credit against the State income tax for qualified expenses paid or incurred by a taxpayer during the taxable year in caring for a qualified senior family member; and generally relating to an income tax credit for expenses paid or incurred by caregivers of senior family members.

BY adding to
Article – Tax – General
Section 10–757
Annotated Code of Maryland
(2022 Replacement Volume)

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

Article – Tax – General

10–757.

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

(2) (I) "QUALIFIED EXPENSES" MEANS EXPENSES PAID OR INCURRED BY A TAXPAYER DURING THE TAXABLE YEAR FOR THE PURCHASE, LEASE, OR RENTAL OF TANGIBLE PERSONAL PROPERTY OR SERVICES ACQUIRED FOR THE BENEFIT OF A QUALIFIED SENIOR FAMILY MEMBER THAT:

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.

1. ARE PROVIDED BY AN ORGANIZATION OR AN INDIVIDUAL WHO IS NOT A RELATIVE OF THE TAXPAYER OR QUALIFIED SENIOR FAMILY MEMBER; AND

2. A. ARE NECESSARY TO ENABLE THE QUALIFIED SENIOR FAMILY MEMBER TO STAY AT THE TAXPAYER'S ABODE IN THE STATE; OR

B. ASSIST THE TAXPAYER IN PROVIDING CARE AND SUPPORT TO THE QUALIFIED SENIOR FAMILY MEMBER.

(II) "QUALIFIED EXPENSES" INCLUDES:

1. HOME HEALTH AGENCY SERVICES;

2. ADULT DAY CARE;

3. COMPANIONSHIP SERVICES;

4. PERSONAL CARE ATTENDANT SERVICES;

5. HOMEMAKER SERVICES;

6. RESPITE CARE;

7. HEALTH CARE EQUIPMENT AND SUPPLIES;

8. HOME MODIFICATION SERVICES;

9. SERVICES NECESSARY TO PROVIDE CARE AND SUPPORT TO A QUALIFIED SENIOR FAMILY MEMBER IN CONNECTION WITH TWO OR MORE DAILY LIVING ACTIVITIES; AND

10. ASSISTIVE DEVICES.

(III) "QUALIFIED EXPENSES" DOES NOT INCLUDE EXPENSES THAT ARE REIMBURSED BY INSURANCE OR A PROGRAM ADMINISTERED BY THE FEDERAL GOVERNMENT, THE STATE, OR A POLITICAL SUBDIVISION OF THE STATE.

(3) (I) "QUALIFIED SENIOR FAMILY MEMBER" MEANS AN INDIVIDUAL WHO:

1. IS AT LEAST 60 YEARS OF AGE;

2. IS A RELATIVE OF THE TAXPAYER; AND

3. FOR AT LEAST 6 MONTHS OF THE TAXABLE YEAR, RESIDES ON THE SAME PROPERTY AS THE TAXPAYER'S PERMANENT PLACE OF ABODE IN THE STATE.

(II) "QUALIFIED SENIOR FAMILY MEMBER" INCLUDES AN INDIVIDUAL WHO MEETS THE QUALIFICATIONS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH WHILE OCCUPYING A SEPARATE ROOM OR ROOMS THAT CONSTITUTE A SELF–CONTAINED LIVING ARRANGEMENT SUCH AS A SECONDARY SUITE OR AN IN–LAW APARTMENT.

(III) "QUALIFIED SENIOR FAMILY MEMBER" DOES NOT INCLUDE AN INDIVIDUAL WHO IS CHARGED A FEE OR PAYS RENT FOR THE OCCUPANCY OF A ROOM OR ROOMS LOCATED ON THE SAME PROPERTY AS THE TAXPAYER'S PERMANENT PLACE OF ABODE IN THE STATE.

(4) "RELATIVE" MEANS AN INDIVIDUAL RELATED BY BLOOD OR MARRIAGE WITHIN THE THIRD DEGREE OF CONSANGUINITY OR AFFINITY, INCLUDING ADOPTION, UNDER THE CIVIL LAW RULE.

(B) SUBJECT TO THE LIMITATIONS OF THIS SECTION, A TAXPAYER MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX FOR THE AMOUNT OF QUALIFIED EXPENSES PAID OR INCURRED BY THE TAXPAYER DURING THE TAXABLE YEAR IN CARING FOR A QUALIFIED SENIOR FAMILY MEMBER.

(C) (1) IN ORDER TO CLAIM THE CREDIT ALLOWED UNDER THIS SECTION, THE TAXPAYER SHALL SUBMIT WITH THE TAXPAYER'S INCOME TAX RETURN PROOF OF THE TAXPAYER'S QUALIFIED EXPENSES.

(2) THE PROOF SHALL INCLUDE A LETTER OF MEDICAL NECESSITY THAT:

(I) IS SIGNED BY A PHYSICIAN OR NURSE PRACTITIONER WHO IS LICENSED TO PRACTICE IN THE STATE, DELAWARE, THE DISTRICT OF COLUMBIA, PENNSYLVANIA, VIRGINIA, OR WEST VIRGINIA; AND

(II) STATES THAT THE TAXPAYER PROVIDED ASSISTANCE TO THE QUALIFIED SENIOR FAMILY MEMBER WITH AT LEAST THREE OF THE FOLLOWING ACTIVITIES:

1. BATHING AND GROOMING;

2. DRESSING AND UNDRESSING;

3. MEAL PREPARATION AND FEEDING;

4. FUNCTIONAL TRANSFERS;

5. SAFE RESTROOM USE AND ASSISTANCE WITH CONTINENCE;

6. AMBULATION; OR

7. MEMORY CARE AND STIMULATION.

(D) (1) THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT EXCEED:

(I) $5,000 FOR THE QUALIFIED EXPENSES PAID OR INCURRED BY THE TAXPAYER FOR THE BENEFIT OF ONE QUALIFIED SENIOR FAMILY MEMBER; OR

(II) $10,000 FOR THE QUALIFIED EXPENSES PAID OR INCURRED BY THE TAXPAYER FOR THE BENEFIT OF TWO OR MORE QUALIFIED SENIOR FAMILY MEMBERS.

(2) IF TWO OR MORE TAXPAYERS MAINTAIN RESIDENCY AT THE SAME PERMANENT PLACE OF ABODE IN THE STATE AND EACH TAXPAYER IS ALLOWED A CREDIT IN ACCORDANCE WITH THIS SECTION FOR THE SAME QUALIFIED SENIOR FAMILY MEMBER, THE TOTAL AMOUNT OF THE CREDIT ALLOWED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE ALLOCATED IN EQUAL AMOUNTS BETWEEN EACH OF THE TAXPAYERS UNLESS THE TAXPAYERS SUBMIT WITH THE PROOF REQUIRED UNDER SUBSECTION (C) OF THIS SECTION AN AGREEMENT IN WRITING TO THE COMPTROLLER ESTABLISHING A DIFFERENT ALLOCATION.

(3) FOR THE TAXABLE YEAR, A TAXPAYER MAY CLAIM BOTH THE CREDIT ALLOWED UNDER THIS SECTION AND THE CREDIT ALLOWED UNDER § 10–716 OF THIS SUBTITLE WITH RESPECT TO THE SAME QUALIFIED SENIOR FAMILY MEMBER.

(E) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, THE UNUSED AMOUNT OF THE CREDIT MAY NOT BE CARRIED OVER TO ANY OTHER TAXABLE YEAR.

(F) THE COMPTROLLER MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION, INCLUDING CRITERIA AND PROCEDURES FOR

APPLICATION FOR, APPROVAL OF, AND MONITORING ELIGIBILITY FOR THE TAX CREDIT AUTHORIZED UNDER THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2023, and shall be applicable to all taxable years beginning after December 31, 2022.