

---

By: **Delegates Costa, Boschert, Dwyer, Frank, Leopold, McConkey,  
McMillan, and Sophocleus**

Introduced and read first time: January 19, 2005

Assigned to: Ways and Means

---

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Estate Tax - Federal Credit and Federal Deduction for State**  
3 **Death Taxes and Unified Credit Effective Exemption Amount**

4 FOR the purpose of repealing a requirement that the Maryland estate tax be  
5 determined without regard to a certain reduction or repeal of the federal credit  
6 for State death taxes paid; repealing a certain limit on the unified credit used  
7 for determining the Maryland estate tax; repealing a certain requirement that a  
8 person responsible for paying the inheritance tax file an estate tax return and  
9 pay the estate tax under certain circumstances; repealing a requirement that  
10 the Maryland estate tax be determined without regard to a certain deduction  
11 allowed under the federal estate tax; providing for the application of this Act;  
12 and generally relating to the Maryland estate tax.

13 BY repealing and reenacting, with amendments,

14 Article - Tax - General  
15 Section 7-304  
16 Annotated Code of Maryland  
17 (2004 Replacement Volume)

18 BY repealing

19 Article - Tax - General  
20 Section 7-309  
21 Annotated Code of Maryland  
22 (2004 Replacement Volume)

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

1

**Article - Tax - General**

2 7-304.

3 (a) [Subject to § 7-309 of this subtitle, in] IN this section, "federal credit"  
4 means the maximum credit for death taxes paid to any state that is allowable under  
5 § 2011 of the Internal Revenue Code against the federal estate tax of a decedent as  
6 reduced by the proportion that the amount of the estate not included in the Maryland  
7 estate bears to the amount of the entire estate of the decedent.

8 (b) (1) Except as otherwise provided in this subsection, the Maryland estate  
9 tax is the amount, if any, by which the federal credit exceeds the total of death taxes  
10 other than the Maryland estate tax that:

11 (i) are imposed by a state on property included in the Maryland  
12 estate;

13 (ii) are allowable in computing the federal credit; and

14 (iii) except as provided in § 13-906 of this article, have actually been  
15 paid out of the Maryland estate and received by the appropriate unit of this State.

16 (2) [Subject to § 7-309 of this subtitle, the] THE Maryland estate tax  
17 may not exceed the amount whose timely payment in accordance with federal law  
18 would reduce the amount of the federal estate tax payable out of the Maryland estate  
19 had this subtitle not been enacted.

20 (c) The Maryland estate tax is not affected by a failure to take or preserve the  
21 federal credit.

22 [7-309.

23 (a) Notwithstanding an Act of Congress that repeals or reduces the federal  
24 credit under § 2011 of the Internal Revenue Code, the provisions of this subtitle in  
25 effect before the passage of the Act of Congress shall apply with respect to a decedent  
26 who dies after the effective date of the Act of Congress so as to continue the Maryland  
27 estate tax in force without reduction in the same manner as if the federal credit had  
28 not been repealed or reduced.

29 (b) (1) Except as provided in paragraphs (2) and (3) of this subsection, after  
30 the effective date of an Act of Congress described in subsection (a) of this section, the  
31 Maryland estate tax shall be determined using:

32 (i) the federal credit allowable by § 2011 of the Internal Revenue  
33 Code as in effect before the reduction or repeal of the federal credit pursuant to the  
34 Act of Congress; and

35 (ii) other provisions of federal estate tax law as in effect on the date  
36 of the decedent's death.

1           (2)       Except as provided in paragraph (3) of this subsection, if the federal  
2 estate tax is not in effect on the date of the decedent's death, the Maryland estate tax  
3 shall be determined using:

4                   (i)       the federal credit allowable by § 2011 of the Internal Revenue  
5 Code as in effect before the reduction or repeal of the federal credit pursuant to the  
6 Act of Congress; and

7                   (ii)       other provisions of federal estate tax law as in effect on the date  
8 immediately preceding the effective date of the repeal of the federal estate tax.

9           (3)       (i)       Notwithstanding any increase in the unified credit allowed  
10 against the federal estate tax for decedents dying after 2003, the unified credit used  
11 for determining the Maryland estate tax may not exceed the applicable credit amount  
12 corresponding to an applicable exclusion amount of \$1,000,000 within the meaning of  
13 § 2010(c) of the Internal Revenue Code.

14                   (ii)       The Maryland estate tax shall be determined without regard to  
15 any deduction for State death taxes allowed under § 2058 of the Internal Revenue  
16 Code.

17           (4)       If a federal estate tax return is not required to be filed, the person  
18 responsible for paying the inheritance tax on property that passes from a decedent  
19 under Subtitle 2 of this title is responsible for filing a Maryland estate tax return and  
20 paying the Maryland estate tax imposed on the transfer of the Maryland estate of the  
21 decedent.]

22       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 July 1, 2005, and shall be applicable to decedents dying after December 31, 2004.