

# SENATE BILL 1

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3lr0827

(PRE-FILED)

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By: **Senator Brinkley**

Requested: November 15, 2012

Introduced and read first time: January 9, 2013

Assigned to: Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Pass-Through Entity – Maximum Rate**

3 FOR the purpose of providing that for income distributed to members of certain  
4 pass-through entities the State and county income tax rates are limited to  
5 certain amounts; defining certain terms; providing for the application of this  
6 Act; repealing an obsolete provision; and generally relating to the State and  
7 county income tax rates that may apply to income received from certain  
8 pass-through entities.

9 BY repealing and reenacting, with amendments,  
10 Article – Tax – General  
11 Section 10–105(a) and 10–106(a)  
12 Annotated Code of Maryland  
13 (2010 Replacement Volume and 2012 Supplement)

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

16 **Article – Tax – General**

17 10–105.

18 (a) (1) **[For] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**  
19 **SUBSECTION, FOR** an individual other than an individual described in paragraph (2)  
20 of this subsection, the State income tax rate is:

21 (i) 2% of Maryland taxable income of \$1 through \$1,000;

22 (ii) 3% of Maryland taxable income of \$1,001 through \$2,000;

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (iii) 4% of Maryland taxable income of \$2,001 through \$3,000;
- 2 (iv) 4.75% of Maryland taxable income of \$3,001 through  
3 \$100,000;
- 4 (v) 5% of Maryland taxable income of \$100,001 through  
5 \$125,000;
- 6 (vi) 5.25% of Maryland taxable income of \$125,001 through  
7 \$150,000;
- 8 (vii) 5.5% of Maryland taxable income of \$150,001 through  
9 \$250,000; and
- 10 (viii) 5.75% of Maryland taxable income in excess of \$250,000.

11 (2) [For] **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**  
12 **SUBSECTION, FOR** spouses filing a joint return or for a surviving spouse or head of  
13 household as defined in § 2 of the Internal Revenue Code, the State income tax rate is:

- 14 (i) 2% of Maryland taxable income of \$1 through \$1,000;
- 15 (ii) 3% of Maryland taxable income of \$1,001 through \$2,000;
- 16 (iii) 4% of Maryland taxable income of \$2,001 through \$3,000;
- 17 (iv) 4.75% of Maryland taxable income of \$3,001 through  
18 \$150,000;
- 19 (v) 5% of Maryland taxable income of \$150,001 through  
20 \$175,000;
- 21 (vi) 5.25% of Maryland taxable income of \$175,001 through  
22 \$225,000;
- 23 (vii) 5.5% of Maryland taxable income of \$225,001 through  
24 \$300,000; and
- 25 (viii) 5.75% of Maryland taxable income in excess of \$300,000.

26 (3) (I) **IN THIS PARAGRAPH THE FOLLOWING WORDS HAVE THE**  
27 **MEANINGS INDICATED.**

28 (II) **“MEMBER” MEANS:**

- 1                   1.    A SHAREHOLDER OF AN S CORPORATION;
- 2                   2.    A GENERAL OR LIMITED PARTNER OF A
- 3 PARTNERSHIP, LIMITED PARTNERSHIP, OR LIMITED LIABILITY PARTNERSHIP;
- 4                   3.    A MEMBER OF A LIMITED LIABILITY COMPANY; OR
- 5                   4.    A BENEFICIARY OF A BUSINESS TRUST OR
- 6 STATUTORY TRUST.

7                   (III) “PASS-THROUGH ENTITY” MEANS:

- 8                   1.    AN S CORPORATION;
- 9                   2.    A PARTNERSHIP;
- 10                  3.    A LIMITED LIABILITY COMPANY THAT IS NOT
- 11 TAXED AS A CORPORATION UNDER THIS TITLE; OR
- 12                  4.    A BUSINESS TRUST OR STATUTORY TRUST THAT IS
- 13 NOT TAXED AS A CORPORATION UNDER THIS TITLE.

14                   (IV) NOTWITHSTANDING PARAGRAPHS (1) AND (2) OF THIS

15 SUBSECTION, FOR INCOME DISTRIBUTED TO A MEMBER OF A

16 PASS-THROUGH ENTITY, THE TAX RATE IS 2.875%.

17 10-106.

18           (a) (1) [Each] EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS

19 SUBSECTION, EACH county shall set, by ordinance or resolution, a county income tax

20 equal to at least 1% but not more than [the percentage] 3.2% of an individual’s

21 Maryland taxable income [as follows:

22                   (i) 3.05% for a taxable year beginning after December 31, 1998

23 but before January 1, 2001;

24                   (ii) 3.10% for a taxable year beginning after December 31, 2000

25 but before January 1, 2002; and

26                   (iii) 3.20% for a taxable year beginning after December 31,

27 2001].

28                   (2) A county income tax rate continues until the county changes the

29 rate by ordinance or resolution.

1                   (3)   (i)    A county may not increase its county income tax rate above  
2 2.6% until after the county has held a public hearing on the proposed act, ordinance,  
3 or resolution to increase the rate.

4                   (ii)   The county shall publish at least once each week for 2  
5 successive weeks in a newspaper of general circulation in the county:

6                               1.    notice of the public hearing; and

7                               2.    a fair summary of the proposed act, ordinance, or  
8 resolution to increase the county income tax rate above 2.6%.

9                   (4)    Notwithstanding paragraph (1) or (2) of this subsection, in Howard  
10 County, the county income tax rate may be changed only by ordinance and not by  
11 resolution.

12                   **(5)   (I)    IN THIS PARAGRAPH THE FOLLOWING WORDS HAVE THE**  
13 **MEANINGS INDICATED.**

14                               **(II)   “MEMBER” MEANS:**

15                                       1.    **A SHAREHOLDER OF AN S CORPORATION;**

16                                       2.    **A GENERAL OR LIMITED PARTNER OF A**  
17 **PARTNERSHIP, LIMITED PARTNERSHIP, OR LIMITED LIABILITY PARTNERSHIP;**

18                                       3.    **A MEMBER OF A LIMITED LIABILITY COMPANY; OR**

19                                       4.    **A BENEFICIARY OF A BUSINESS TRUST OR**  
20 **STATUTORY TRUST.**

21                               **(III)   “PASS-THROUGH ENTITY” MEANS:**

22                                       1.    **AN S CORPORATION;**

23                                       2.    **A PARTNERSHIP;**

24                                       3.    **A LIMITED LIABILITY COMPANY THAT IS NOT**  
25 **TAXED AS A CORPORATION UNDER THIS TITLE; OR**

26                                       4.    **A BUSINESS TRUST OR STATUTORY TRUST THAT IS**  
27 **NOT TAXED AS A CORPORATION UNDER THIS TITLE.**

1                   **(IV) NOTWITHSTANDING PARAGRAPH (1) OF THIS**  
2 **SUBSECTION, FOR INCOME DISTRIBUTED TO A MEMBER OF A PASS-THROUGH**  
3 **ENTITY, THE TAX RATE MAY NOT EXCEED 1.6%.**

4           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 July 1, 2013, and shall be applicable to all taxable years beginning after December 31,  
6 2012.