

HOUSE BILL 1710

Q3

8lr3576

By: **Delegate Dumais**

Introduced and read first time: February 16, 2018

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Addition and Subtraction Modifications – Alimony or Separate**
3 **Maintenance Payments**

4 FOR the purpose of requiring that a resident add certain amounts of alimony or separate
5 maintenance payments received during the taxable year to federal adjusted gross
6 income for purposes of determining Maryland adjusted gross income; allowing a
7 resident to subtract certain amounts of alimony or separate maintenance payments
8 made during the taxable year from federal adjusted gross income for purposes of
9 determining Maryland adjusted gross income; applying the adjustments to payments
10 made under certain divorce or separation agreements; defining certain terms;
11 providing for the application of this Act; and generally relating to adjustments for
12 alimony and separate maintenance payments under the State income tax.

13 BY repealing and reenacting, without amendments,
14 Article – Tax – General
15 Section 10–204(a) and 10–207(a)
16 Annotated Code of Maryland
17 (2016 Replacement Volume and 2017 Supplement)

18 BY adding to
19 Article – Tax – General
20 Section 10–204(m) and 10–207(gg)
21 Annotated Code of Maryland
22 (2016 Replacement Volume and 2017 Supplement)

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

25 **Article – Tax General**

26 10–204.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) To the extent excluded from federal adjusted gross income, the amounts under
2 this section are added to the federal adjusted gross income of a resident to determine
3 Maryland adjusted gross income.

4 (M) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
5 MEANINGS INDICATED.

6 (II) "ALIMONY OR SEPARATE MAINTENANCE PAYMENT" MEANS
7 ANY PAYMENT IN CASH IF:

8 1. THE PAYMENT IS RECEIVED BY OR ON BEHALF OF A
9 SPOUSE UNDER A DIVORCE OR SEPARATION INSTRUMENT;

10 2. THE DIVORCE OR SEPARATION INSTRUMENT DOES
11 NOT DESIGNATE THE PAYMENT AS A PAYMENT THAT IS NOT INCLUDIBLE IN FEDERAL
12 ADJUSTED GROSS INCOME;

13 3. IN THE CASE OF AN INDIVIDUAL LEGALLY SEPARATED
14 FROM A SPOUSE UNDER A DECREE OF DIVORCE OR OF SEPARATE MAINTENANCE,
15 THE PAYEE SPOUSE AND THE PAYOR SPOUSE ARE NOT MEMBERS OF THE SAME
16 HOUSEHOLD AT THE TIME THE PAYMENT IS MADE; AND

17 4. THERE IS NO LIABILITY TO MAKE THE PAYMENT FOR
18 ANY PERIOD AFTER THE DEATH OF THE PAYEE SPOUSE AND THERE IS NO LIABILITY
19 TO MAKE ANY PAYMENT IN CASH OR PROPERTY AS A SUBSTITUTE FOR THE
20 PAYMENTS AFTER THE DEATH OF THE PAYEE SPOUSE.

21 (III) "DIVORCE OR SEPARATION INSTRUMENT" MEANS:

22 1. A DECREE OF DIVORCE OR SEPARATE MAINTENANCE
23 OR A WRITTEN INSTRUMENT INCIDENT TO THE DECREE;

24 2. A WRITTEN SEPARATION AGREEMENT; OR

25 3. A DECREE NOT DESCRIBED IN ITEM 1 OF THIS
26 SUBPARAGRAPH REQUIRING A SPOUSE TO MAKE PAYMENTS FOR THE SUPPORT OR
27 MAINTENANCE OF THE OTHER SPOUSE.

28 (2) THIS SUBSECTION DOES NOT APPLY TO AN ALIMONY OR A
29 SEPARATE MAINTENANCE PAYMENT MADE UNDER A DIVORCE OR SEPARATION
30 INSTRUMENT THAT IS ENTERED INTO ON OR BEFORE DECEMBER 31, 2018, UNLESS:

31 (I) THE INSTRUMENT IS MODIFIED AFTER DECEMBER 31, 2018;

1 AND

2 (II) THE MODIFICATION EXPRESSLY PROVIDES THAT THE
3 AMENDMENTS MADE BY THE FEDERAL TAX CUTS AND JOBS ACT TO THE INCOME
4 TAX TREATMENT OF ALIMONY AND SEPARATE MAINTENANCE PAYMENTS APPLY TO
5 THE MODIFICATION.

6 (3) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION
7 INCLUDES THE TOTAL AMOUNT OF ALIMONY OR SEPARATE MAINTENANCE
8 PAYMENTS RECEIVED DURING THE TAXABLE YEAR.

9 10–207.

10 (a) To the extent included in federal adjusted gross income, the amounts under
11 this section are subtracted from the federal adjusted gross income of a resident to determine
12 Maryland adjusted gross income.

13 (GG) (1) IN THIS SUBSECTION, “ALIMONY OR SEPARATE MAINTENANCE
14 PAYMENT” AND “DIVORCE OR SEPARATION INSTRUMENT” HAVE THE MEANINGS
15 STATED IN § 10–204(M) OF THIS SUBTITLE.

16 (2) THIS SUBSECTION DOES NOT APPLY TO AN ALIMONY OR A
17 SEPARATE MAINTENANCE PAYMENT MADE UNDER A DIVORCE OR SEPARATION
18 INSTRUMENT THAT IS ENTERED INTO ON OR BEFORE DECEMBER 31, 2018, UNLESS:

19 (I) THE INSTRUMENT IS MODIFIED AFTER DECEMBER 31, 2018;
20 AND

21 (II) THE MODIFICATION EXPRESSLY PROVIDES THAT THE
22 AMENDMENTS MADE BY THE FEDERAL TAX CUTS AND JOBS ACT TO THE INCOME
23 TAX TREATMENT OF ALIMONY AND SEPARATE MAINTENANCE PAYMENTS APPLY TO
24 THE MODIFICATION.

25 (3) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION
26 INCLUDES THE TOTAL AMOUNT OF ALIMONY OR SEPARATE MAINTENANCE
27 PAYMENTS MADE DURING THE TAXABLE YEAR.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
29 1, 2018, and shall be applicable to all taxable years beginning after December 31, 2018.