

Chapter 512

(House Bill 1178)

AN ACT concerning

**Income Tax – Subtraction Modification – First–Time Homebuyer Savings
Accounts**

FOR the purpose of allowing a subtraction modification under the Maryland income tax for a certain amount contributed to a certain first–time homebuyer savings account and certain earnings on the account; providing that the account holder may claim the subtraction modification under certain circumstances; providing that certain transfers of money to or from the account are subject to certain requirements and limitations; providing that a certain person who transfers money to the account is not entitled to the subtraction modification; authorizing an individual to jointly establish an account under certain circumstances; prohibiting an individual from being the account holder of more than one account; authorizing the account holder to withdraw and deposit certain money in certain accounts under certain circumstances; requiring the account holder to use the funds in the account for certain eligible costs within a certain time period; providing that certain funds remaining in the account on a certain date shall be subject to taxation as ordinary income; providing that a certain financial institution may not be held responsible for certain actions; authorizing a certain financial institution to use certain funds for a certain purpose; providing that, except under certain circumstances, certain funds withdrawn from the account for certain purposes shall be taxed as ordinary income and subject to a certain penalty; requiring a certain account holder claiming the subtraction modification to submit certain documentation under certain circumstances; requiring the financial institution to provide each account holder certain information regarding homebuyer education and housing counseling in a certain manner; requiring the Department of Housing and Community Development to provide and maintain certain information; requiring the Department to conduct certain outreach to certain communities; requiring the Comptroller to adopt certain regulations; defining certain terms; providing for the application of this Act; and generally relating to a Maryland income tax subtraction modification for certain amounts paid into and earned on certain first–time homebuyer savings accounts.

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 10–208(a)
Annotated Code of Maryland
(2016 Replacement Volume and 2020 Supplement)

BY adding to
Article – Tax – General
Section 10–208(y)
Annotated Code of Maryland

(2016 Replacement Volume and 2020 Supplement)

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

Article – Tax – General

10–208.

(a) In addition to the modification under § 10–207 of this subtitle, the amounts under this section are subtracted from the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(Y) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) “ACCOUNT HOLDER” MEANS ~~AN INDIVIDUAL~~ A FIRST-TIME HOMEBUYER WHO ESTABLISHES, INDIVIDUALLY OR JOINTLY WITH ONE OR MORE OTHER INDIVIDUALS, A FIRST-TIME HOMEBUYER SAVINGS ACCOUNT.

(III) “ALLOWABLE CLOSING COSTS” MEANS A DISBURSEMENT LISTED ON A SETTLEMENT STATEMENT FOR THE PURCHASE OF A HOME IN THE STATE BY ~~A QUALIFIED BENEFICIARY~~ AN ACCOUNT HOLDER.

(IV) “ELIGIBLE COSTS” MEANS THE DOWN PAYMENT AND ALLOWABLE CLOSING COSTS FOR THE PURCHASE OF A HOME IN THE STATE BY ~~A QUALIFIED BENEFICIARY~~ AN ACCOUNT HOLDER.

(V) “FINANCIAL INSTITUTION” HAS THE MEANING STATED IN § 1–101 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(VI) “FIRST-TIME HOMEBUYER” MEANS AN INDIVIDUAL WHO IS A RESIDENT OF THE STATE AND WHO HAS NOT OWNED OR PURCHASED, EITHER INDIVIDUALLY OR JOINTLY, A HOME IN THE STATE IN THE LAST 7 YEARS.

~~(VI)~~ (VII) “FIRST-TIME HOMEBUYER SAVINGS ACCOUNT” OR “ACCOUNT” MEANS AN ACCOUNT WITH A FINANCIAL INSTITUTION THAT AN ACCOUNT HOLDER DESIGNATES AS A FIRST-TIME HOMEBUYER SAVINGS ACCOUNT ON THE ACCOUNT HOLDER’S MARYLAND INCOME TAX RETURN FOR TAXABLE YEAR 2021 OR ANY FOLLOWING TAXABLE YEAR AND THAT IS ESTABLISHED FOR THE SOLE PURPOSE OF PAYING OR REIMBURSING ELIGIBLE COSTS FOR THE PURCHASE OF A HOME IN THE STATE BY ~~A QUALIFIED BENEFICIARY~~ THE ACCOUNT HOLDER.

~~(VII)~~ (VIII) "HOME" MEANS A SINGLE-FAMILY RESIDENTIAL REAL PROPERTY, INCLUDING A MOBILE HOME AS DEFINED IN § 8A-101 OF THE REAL PROPERTY ARTICLE.

~~(VIII) "QUALIFIED BENEFICIARY" MEANS AN INDIVIDUAL, INCLUDING AN ACCOUNT HOLDER, WHO PURCHASES A HOME AS A PRINCIPAL RESIDENCE IN THE STATE WHO:~~

~~1. HAS NOT OWNED OR PURCHASED, EITHER INDIVIDUALLY OR JOINTLY, A HOME IN THE STATE IN THE LAST 7 YEARS; AND~~

~~2. IS DESIGNATED AS THE BENEFICIARY OF AN ACCOUNT DESIGNATED BY THE ACCOUNT HOLDER AS A FIRST-TIME HOMEBUYER SAVINGS ACCOUNT.~~

(IX) "SETTLEMENT STATEMENT" MEANS THE STATEMENT OF RECEIPTS AND DISBURSEMENTS FOR A TRANSACTION RELATED TO REAL ESTATE, INCLUDING A STATEMENT PRESCRIBED UNDER THE REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974, 12 U.S.C. § 2601 ET SEQ., AS AMENDED, AND ASSOCIATED REGULATIONS.

(2) (I) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION AND SUBJECT TO THE LIMITATIONS UNDER THIS PARAGRAPH, THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES:

1. UP TO \$5,000 OF THE AMOUNT CONTRIBUTED BY AN ACCOUNT HOLDER TO A FIRST-TIME HOMEBUYER SAVINGS ACCOUNT DURING THE TAXABLE YEAR; AND

2. THE EARNINGS, INCLUDING INTEREST AND OTHER INCOME ON THE PRINCIPAL, FROM THE ACCOUNT DURING THE TAXABLE YEAR.

(II) AN ACCOUNT HOLDER MAY CLAIM A SUBTRACTION UNDER THIS SUBSECTION:

1. FOR A PERIOD NOT TO EXCEED 10 YEARS;

2. FOR TOTAL EARNINGS NOT TO EXCEED \$50,000 DURING THAT 10-YEAR PERIOD; AND

3. EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION, ONLY IF THE PRINCIPAL AND EARNINGS OF THE ACCOUNT REMAIN IN THE ACCOUNT UNTIL A WITHDRAWAL IS MADE FOR ELIGIBLE COSTS RELATED TO THE PURCHASE OF A HOME BY ~~A QUALIFIED BENEFICIARY~~ THE ACCOUNT HOLDER.

(3) A TRANSFER OF MONEY INTO OR FROM THE ACCOUNT BY A PERSON OTHER THAN THE ACCOUNT HOLDER TO THE ACCOUNT IS SUBJECT TO THE REQUIREMENTS AND LIMITATIONS PROVIDED UNDER THIS SUBSECTION.

(4) A PERSON OTHER THAN AN ACCOUNT HOLDER WHO TRANSFERS MONEY TO THE ACCOUNT IS NOT ENTITLED TO THE SUBTRACTION UNDER THIS SUBSECTION.

(5) (I) AN INDIVIDUAL MAY JOINTLY ESTABLISH AN ACCOUNT WITH ANOTHER PERSON IF THE JOINT ACCOUNT HOLDERS ARE BOTH FIRST-TIME HOMEBUYERS AND FILE A JOINT INCOME TAX RETURN.

(II) AN INDIVIDUAL MAY NOT BE THE ACCOUNT HOLDER OF MORE THAN ONE ACCOUNT.

~~(5)~~ (6) AN ACCOUNT HOLDER MAY WITHDRAW MONEY FROM THE ACCOUNT AND DEPOSIT THE MONEY IN A NEW FIRST-TIME HOMEBUYER SAVINGS ACCOUNT HELD BY A DIFFERENT FINANCIAL INSTITUTION OR THE SAME FINANCIAL INSTITUTION.

~~(6)~~ (7) (I) THE ACCOUNT HOLDER SHALL USE THE FUNDS IN THE ACCOUNT FOR ELIGIBLE COSTS RELATED TO THE PURCHASE OF A HOME WITHIN 15 YEARS FOLLOWING THE DATE ON WHICH THE ACCOUNT WAS ESTABLISHED.

(II) 1. THIS SUBPARAGRAPH DOES NOT APPLY TO ANY FUNDS IN THE ACCOUNT FOR WHICH A SUBTRACTION HAS NOT BEEN CLAIMED UNDER THIS SUBSECTION.

2. ANY FUNDS IN THE ACCOUNT NOT EXPENDED ON ELIGIBLE COSTS BY DECEMBER 31 OF THE LAST YEAR OF THE 15-YEAR PERIOD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE SUBJECT TO TAXATION AS ORDINARY INCOME.

~~(7)~~ (8) THE FINANCIAL INSTITUTION HOLDING THE FIRST-TIME HOMEBUYER SAVINGS ACCOUNT:

(I) MAY NOT BE HELD RESPONSIBLE FOR THE USE OR APPLICATION OF FUNDS DEPOSITED IN OR WITHDRAWN FROM THE ACCOUNT; AND

(II) MAY USE FUNDS HELD IN THE ACCOUNT FOR PAYING THE EXPENSES OF ADMINISTERING THE ACCOUNT.

~~(8)~~ (9) (I) EXCEPT AS AUTHORIZED UNDER PARAGRAPH ~~(5)~~ (6) OF THIS SUBSECTION OR AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF THE ACCOUNT HOLDER WITHDRAWS ANY FUNDS FROM THE ACCOUNT FOR A PURPOSE OTHER THAN ELIGIBLE COSTS FOR THE PURCHASE OF A HOME:

1. THOSE FUNDS SHALL BE TAXED AS ORDINARY INCOME OF THE ACCOUNT HOLDER; AND

2. THE ACCOUNT HOLDER SHALL PAY A PENALTY TO THE STATE EQUAL TO 10% OF THE AMOUNT WITHDRAWN.

(II) A DISBURSEMENT OF ANY ASSETS OF A FIRST-TIME HOMEBUYER SAVINGS ACCOUNT UNDER A FILING BY AN ACCOUNT HOLDER FOR PROTECTION UNDER THE UNITED STATES BANKRUPTCY CODE, 11 U.S.C. §§ 101 THROUGH 1330, MAY NOT SUBJECT THE ACCOUNT HOLDER TO TAX LIABILITY.

~~(9)~~ (10) AN ACCOUNT HOLDER CLAIMING A SUBTRACTION UNDER THIS SUBSECTION SHALL:

(I) SUBMIT TO THE COMPTROLLER DETAILED INFORMATION REGARDING THE FIRST-TIME HOMEBUYER SAVINGS ACCOUNT WITH THE ACCOUNT HOLDER'S INCOME TAX RETURN, INCLUDING A LIST OF TRANSACTIONS FOR THE ACCOUNT DURING THE TAXABLE YEAR; AND

(II) ON A WITHDRAWAL OF FUNDS FROM THE ACCOUNT, SUBMIT TO THE COMPTROLLER A DETAILED ACCOUNT OF THE ELIGIBLE COSTS TOWARD WHICH THE ACCOUNT FUNDS WERE APPLIED AND A STATEMENT OF THE AMOUNT OF FUNDS REMAINING IN THE ACCOUNT, IF ANY.

(11) (I) THE FINANCIAL INSTITUTION SHALL PROVIDE TO EACH ACCOUNT HOLDER, IN THE MANNER SPECIFIED BY THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, INFORMATION ABOUT HOMEBUYER EDUCATION AND HOUSING COUNSELING PROGRAMS AND SERVICES PROVIDED BY NONPROFIT AND GOVERNMENT ORGANIZATIONS CERTIFIED BY THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT THAT ARE AVAILABLE TO RESIDENTS OF THE STATE.

(II) THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT SHALL PROVIDE AND MAINTAIN THE INFORMATION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(12) THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT SHALL CONDUCT OUTREACH TO COMMUNITIES OF THE STATE THAT HAVE EXPERIENCED LOWER RATES OF HOMEOWNERSHIP REGARDING FIRST-TIME

HOMEBUYER SAVINGS ACCOUNTS AND THE AVAILABILITY OF THE SUBTRACTION UNDER THIS SUBSECTION.

~~(10)~~ (13) THE COMPTROLLER SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021, and shall be applicable to all taxable years beginning after December 31, 2020.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.