

BY: Budget and Taxation Committee

AMENDMENTS TO HOUSE BILL NO. 511
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, strike line 2 in its entirety and substitute:

“1997 Tax Reduction Act”;

in line 4, after “individuals;” insert “altering the amount that an individual may deduct for certain exemptions to determine Maryland taxable income for purposes of the State income tax; altering the maximum amount of a certain subtraction modification for two-income married couples filing joint returns;”; strike beginning with the second “altering” in line 4 down through “tables;” in line 5; in line 7, after “payments;” insert “requiring the Comptroller to design the returns and other forms under the income tax in a certain manner; providing a credit against the sales and use tax for certain sales and use tax paid on certain tangible personal property; defining certain terms; altering certain definitions under the sales and use tax; altering an exemption under the sales and use tax for certain property used in a production activity; providing for the effective dates of this Act; providing for the termination of part of this Act;”; strike beginning with “providing” in line 9 down through “Act;” in line 22; and in line 23, strike “income”.

AMENDMENT NO. 2

On page 2, in line 3, strike “2-106;” in the same line, after “10-106” insert “(a)(1), 10-207(r)”; in line 4, strike “10-704;” in the same line, after “10-706” insert “(c)”; in the same line, strike the first “and”; in the same line, after “10-908(d) and (e)” insert “, 11-101(d), (f)(3)(ii), and (l)(3)(ii), and 11-210(b)(1)”; strike in their entirety lines 7 through 11, inclusive; and strike line 14 in its entirety and substitute:

“Section 2-104(d), 10-106(d), and 11-107”.

AMENDMENT NO. 3

(Over)

On pages 2 and 3, strike in their entirety the lines beginning with line 20 on page 2 through line 32 on page 3, inclusive, and substitute:

“2-104.

(D) (1) THE COMPTROLLER SHALL DESIGN THE RETURNS AND OTHER FORMS UNDER THE INCOME TAX SO THAT, TO THE EXTENT PRACTICABLE, INCOME TAX PAYMENTS ATTRIBUTABLE TO THE COUNTY INCOME TAX ARE COLLECTED BY THE COMPTROLLER AS SEPARATE PAYMENTS MADE PAYABLE TO “LOCAL INCOME TAX FUND - COMPTROLLER”.

(2) THIS SUBSECTION DOES NOT APPLY TO PAYMENTS TO THE COMPTROLLER BY EMPLOYERS OR OTHER PAYORS OF INCOME TAX WITHHELD FROM WAGES OR OTHER PAYMENTS.

(3) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, ALL INCOME TAX PAYMENTS FROM INDIVIDUALS COLLECTED BY THE COMPTROLLER:

(I) SHALL BE DEPOSITED TO THE ACCOUNT OF THE STATE; AND

(II) SHALL BE ACCOUNTED FOR AND DISTRIBUTED AS PROVIDED UNDER SUBTITLE 6 OF THIS TITLE.”.

AMENDMENT NO. 4

On page 4, in line 6, after “residents” insert “, DETERMINED AS PROVIDED UNDER § 10-106(D) OF THIS ARTICLE”; in lines 7 and 11, in each instance, strike “TOP MARGINAL”; in lines 8 and 10, in each instance, strike “2.5%” and substitute “50%”.

AMENDMENT NO. 5

On page 4, in line 28, strike the bracket; and in line 29, strike “] ON THE MARYLAND TAXABLE INCOME” and substitute “, MODIFIED AS PROVIDED UNDER § 10-106(D) OF THIS SUBTITLE,”.

AMENDMENT NO. 6

On page 5, strike in their entirety lines 13 through 18, inclusive, and substitute:

“(I) 4.95% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 1997 BUT BEFORE JANUARY 1, 1999;

(II) 4.9% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 1998 BUT BEFORE JANUARY 1, 2000;

(III) 4.85% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 1999 BUT BEFORE JANUARY 1, 2001;

(IV) 4.8% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2000 BUT BEFORE JANUARY 1, 2002; AND

(V) 4.75% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2001.”.

AMENDMENT NO. 7

On pages 5 through 13, strike in their entirety the lines beginning with line 19 on page 5 through line 4 on page 13, inclusive, and substitute:

“10-106.

(a) (1) Each county shall set, by ordinance or resolution, a county income tax equal to at least 20% but not more than 60%, to be applied to the State income tax for an individual, MODIFIED AS PROVIDED UNDER SUBSECTION (D) OF THIS SECTION.

(D) FOR PURPOSES OF DETERMINING THE COUNTY INCOME TAX, THE STATE INCOME TAX SHALL BE CALCULATED BY:

(1) USING A STATE TAX RATE OF 5% FOR MARYLAND TAXABLE INCOME IN EXCESS OF \$3,000 INSTEAD OF THE MARGINAL STATE TAX RATE FOR INDIVIDUALS SPECIFIED UNDER § 10-105(A)(4) OF THIS SUBTITLE;

(2) ALLOWING A MAXIMUM OF \$1,200 INSTEAD OF THE MAXIMUM AMOUNT SPECIFIED UNDER § 10-207(R) OF THIS TITLE FOR THE SUBTRACTION MODIFICATION FOR TWO-INCOME MARRIED COUPLES; AND

(Over)

(3) ALLOWING \$1,200 INSTEAD OF THE AMOUNT SPECIFIED IN § 10-211(1) OR (2) OF THIS TITLE FOR EACH EXEMPTION ALLOWED UNDER § 10-211(1) AND (2) OF THIS TITLE.

10-207.

(r) (1) In this subsection, “modified Maryland adjusted gross income” means Maryland adjusted gross income determined separately for each spouse on a joint return without regard to the subtraction allowed under this subsection.

(2) [For] SUBJECT TO THE LIMITATION UNDER PARAGRAPH (3) OF THIS SUBSECTION, FOR a two-income married couple filing a joint return, the subtraction under subsection (a) of this section includes [the lesser of:

(i) \$1,200; or

(ii)] the modified Maryland adjusted gross income of the spouse with the lesser modified Maryland adjusted gross income for the taxable year.

(3) THE SUBTRACTION UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY NOT EXCEED:

(I) \$1,182 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 1997 BUT BEFORE JANUARY 1, 1999;

(II) \$1,163 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 1998 BUT BEFORE JANUARY 1, 2000;

(III) \$1,144 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 1999 BUT BEFORE JANUARY 1, 2001;

(IV) \$1,125 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2000 BUT BEFORE JANUARY 1, 2002; AND

(V) \$1,105 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2001. 10-211.

Whether or not a federal return is filed, to determine Maryland taxable income, an individual other than a fiduciary may deduct as an exemption:

(1) [\$1,200] for each exemption that the individual may deduct in the taxable year to determine federal taxable income under § 151 of the Internal Revenue Code:

(I) \$1,400 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 1997 BUT BEFORE JANUARY 1, 1999;

(II) \$1,600 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 1998 BUT BEFORE JANUARY 1, 2000;

(III) \$1,850 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 1999 BUT BEFORE JANUARY 1, 2001;

(IV) \$2,100 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2000 BUT BEFORE JANUARY 1, 2002; AND

(V) \$2,400 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2001;

(2) [an additional \$1,200] for each dependent, as defined in § 152 of the Internal Revenue Code, who is at least 65 years old on the last day of the taxable year, AN ADDITIONAL:

(I) \$1,400 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 1997 BUT BEFORE JANUARY 1, 1999;

(II) \$1,600 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 1998 BUT BEFORE JANUARY 1, 2000;

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(III) \$1,850 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 1999 BUT BEFORE JANUARY 1, 2001;

(IV) \$2,100 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2000 BUT BEFORE JANUARY 1, 2002; AND

(V) \$2,400 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2001;

(3) an additional \$1,000 if the individual, on the last day of the taxable year, is at least 65 years old; and

(4) an additional \$1,000 if the individual, on the last day of the taxable year, is a blind individual, as described in § 10-208(c) of this subtitle.

10-604.

[An] EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AN individual shall compute the county income tax by applying the county tax rate to the State income tax computed under § 10-601 or § 10-602 of this subtitle, [as] DETERMINED AS PROVIDED UNDER § 10-106(D) OF THIS SUBTITLE AND modified by the credits allowed under Subtitle 7 of this title against the county income tax.

10-706.

(c) (1) A credit under § 10-704 of this subtitle:

(i) is allowed only against the State income tax; and

(ii) operates to reduce the county income tax.

(2) (I) The county income tax is based on the amount of State income tax after the State income tax is reduced by the credit.

(II) FOR PURPOSES OF DETERMINING THE COUNTY INCOME TAX, THE CREDIT UNDER § 10-704 OF THIS SUBTITLE SHALL BE CALCULATED USING THE STATE INCOME TAX AS MODIFIED UNDER § 10-106(D) OF THIS TITLE.

10-908.

(d) A payor shall withhold from a payment subject to withholding of winnings derived from wagering:

(1) if the payee is a resident, [7.5% of] A RATE EQUAL TO THE SUM OF 2.5% AND THE TOP MARGINAL STATE INCOME TAX RATE FOR INDIVIDUALS UNDER § 10-105(A) OF THIS TITLE, APPLIED TO the payment; and

(2) if the payee is a nonresident, [5% of] THE TOP MARGINAL STATE INCOME TAX RATE FOR INDIVIDUALS UNDER § 10-105(A) OF THIS TITLE, APPLIED TO the payment.

(e) The Board of Trustees of the State Retirement and Pension System shall withhold from a payment of a death benefit to a resident payee the sum of:

(1) [5% of] THE TOP MARGINAL STATE INCOME TAX RATE FOR INDIVIDUALS UNDER § 10-105(A) OF THIS TITLE APPLIED TO the payment; and

(2) the county income tax rate applied to 5% of the payment.”.

AMENDMENT NO. 8

On page 13, after line 4, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Tax - General

(Over)

11-107.

(A) IN THIS SECTION, "TANGIBLE PERSONAL PROPERTY USED IN A MANUFACTURING PROCESS" MEANS:

(1) NONCAPITALIZED MACHINERY OR EQUIPMENT THAT WOULD QUALIFY FOR THE EXEMPTION UNDER § 11-210(B)(1) OF THIS TITLE IF IT WERE CAPITALIZED;

(2) TANGIBLE PERSONAL PROPERTY THAT WOULD BE PROPERTY DESCRIBED UNDER § 11-101(F)(3)(II)3 AND (L)(3)(II)3 OF THIS SUBTITLE BUT FOR THE FACT THAT IT IS NOT CONSUMED WITHIN 1 YEAR AFTER THE PROPERTY IS FIRST USED IN A PRODUCTION ACTIVITY;

(3) EQUIPMENT THAT IS USED PHYSICALLY TO MOVE A FINISHED PRODUCT ON THE PRODUCTION ACTIVITY SITE;

(4) MACHINERY AND EQUIPMENT THAT IS USED TO MAINTAIN MACHINERY AND EQUIPMENT THAT IS EXEMPT UNDER § 11-210(B)(1) OF THIS TITLE;

(5) SAFETY EQUIPMENT USED ON THE PRODUCTION ACTIVITY SITE; OR

(6) MACHINERY AND EQUIPMENT USED IN QUALITY CONTROL ON A PRODUCTION ACTIVITY SITE.

(B) A PERSON IS ALLOWED A CREDIT AGAINST THE SALES AND USE TAX THAT THE PERSON IS REQUIRED TO PAY TO THE COMPTROLLER IN AN AMOUNT EQUAL TO:

(1) ONE-THIRD OF THE SALES AND USE TAX THAT THE PERSON PAYS ON OR AFTER JULY 1, 1998 BUT BEFORE JULY 1, 1999 ON THE PURCHASE OF TANGIBLE PERSONAL PROPERTY USED IN A MANUFACTURING PROCESS; AND

(2) TWO-THIRDS OF THE SALES AND USE TAX THAT THE PERSON PAYS

ON OR AFTER JULY 1, 1999 ON THE PURCHASE OF TANGIBLE PERSONAL PROPERTY USED IN A MANUFACTURING PROCESS.

(C) (1) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A PERSON SHALL CLAIM THE CREDIT UNDER SUBSECTION (B) OF THIS SECTION ON THE PERSON'S SALES AND USE TAX RETURN WITHIN 4 YEARS AFTER THE DUE DATE OF THE SALES AND USE TAX RETURN FOR THE PERIOD DURING WHICH THE SALES AND USE TAX ON THE PURCHASE WAS PAID.

(2) A CLAIM FOR A CREDIT UNDER THIS SECTION SHALL BE MADE IN THE MANNER THAT THE COMPTROLLER REQUIRES BY REGULATION.

(D) THE COMPTROLLER BY REGULATION SHALL PROVIDE FOR REFUNDS IN LIEU OF THE CREDIT ALLOWED UNDER THIS SECTION FOR PERSONS WHOSE ANNUAL SALES AND USE TAX PAYMENTS TO THE COMPTROLLER ARE INSUFFICIENT TO USE THE FULL AMOUNT OF THE CREDIT WITHIN 1 YEAR.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Tax - General

11-101.

(d) (1) "Production activity" means:

(i) except for processing food or a beverage by a retail food vendor, assembling, manufacturing, processing, or refining tangible personal property for resale;

(ii) generating electricity;

(iii) laundering, maintaining, or preparing textile products for rental;

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(iv) producing or repairing production machinery or equipment; [or]

(v) establishing or maintaining clean rooms or clean zones as required by applicable provisions of the federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and the Virus-Serum-Toxin Act, and the regulations adopted thereunder, pertaining to the manufacture of drugs, medical devices, or biologics;

(VI) PROVIDING FOR THE SAFETY OF EMPLOYEES; OR

(VII) PROVIDING FOR QUALITY CONTROL.

(2) "Production activity" does not include:

(i) servicing or repairing tangible personal property, except for servicing or repairing production machinery or equipment;

(ii) maintaining tangible personal property, except textile products for rental AND PRODUCTION MACHINERY AND EQUIPMENT; [or]

(iii) providing for the comfort or health of employees; OR

(IV) STORING THE FINISHED PRODUCT.

(f) (3) "Retail sale" does not include:

(ii) a sale of tangible personal property if the buyer intends to:

1. resell the tangible personal property in the form that the buyer receives or is to receive the property;

2. use or incorporate the tangible personal property in a production activity as a material or part of other tangible personal property to be produced for sale; OR

[3. consume the tangible personal property directly and predominantly

in a production activity by destroying, using up, or wearing out the property, other than through obsolescence, to the extent that the property cannot be rendered fit for further use in a production activity, if the consumption occurs within 1 year after the property is first used in a production activity; or]

[4.] 3. transfer the tangible personal property as a part of a taxable service transaction; or

(l) (3) "Use" does not include:

(ii) an exercise of a right or power over tangible personal property acquired by a sale for use if the buyer intends to:

1. resell the tangible personal property in the form that the buyer receives or is to receive the property;

2. use or incorporate the tangible personal property in a production activity as a material or part of other tangible personal property to be produced for sale; OR

[3. consume the tangible personal property directly and predominantly in a production activity by destroying, using up, or wearing out the property, other than through obsolescence, to the extent that the property cannot be rendered fit for further use in a production activity, if the consumption occurs within 1 year after the property is first used in a production activity; or]

[4.] 3. transfer the tangible personal property as part of a taxable service transaction; or

11-210.

(b) The sales and use tax does not apply to a sale of:

(1) [machinery or equipment, a replacement part of machinery or equipment, or a

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service for the assembly or fabrication of machinery or equipment or replacement part that:

(i) is capitalized to claim depreciation, using acceptable and consistent accounting standards;

(ii) at any stage of operation from the handling of raw material or components on the production activity site to the time the product is ready for delivery or storage, is used predominantly in a production activity; and

(iii) except for a foundation to support other machinery or equipment or for an item required to conform to an air or water pollution law and normally considered part of real property, is not installed so that it becomes real property] TANGIBLE PERSONAL PROPERTY USED DIRECTLY AND PREDOMINANTLY IN A PRODUCTION ACTIVITY AT ANY STAGE OF OPERATION ON THE PRODUCTION ACTIVITY SITE FROM THE HANDLING OF RAW MATERIAL OR COMPONENTS TO THE MOVEMENT OF THE FINISHED PRODUCT; or”.

AMENDMENT NO. 9

On page 13, in line 5, strike “5.” and substitute “4.”; in the same line, after “That” insert “Section 1 of”; and after line 7, insert:

“SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 1998. It shall remain effective for a period of 2 years and, at the end of June 30, 2000, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

SECTION 6. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect July 1, 2000.”.