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**By: Delegate Walkup**

Introduced and read first time: January 31, 1997

Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax - Subtraction Modification for Qualified Higher Education Tuition**

3 FOR the purpose of providing a subtraction modification under the Maryland individual  
4 income tax for certain higher education tuition paid by an individual during the  
5 taxable year; providing for calculation of the amount of the subtraction allowed;  
6 defining certain terms; and providing for the application of the Act.

7 BY repealing and reenacting, without amendments,

8 Article - Tax - General

9 Section 10-208(a)

10 Annotated Code of Maryland

11 (1988 Volume and 1996 Supplement)

12 BY adding to

13 Article - Tax - General

14 Section 10-208(l)

15 Annotated Code of Maryland

16 (1988 Volume and 1996 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article - Tax - General**

20 10-208.

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

24 (L) (1) (I) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
25 MEANINGS INDICATED.

26 (II) "ELIGIBLE STUDENT" MEANS A STUDENT WHO:

27 1. MEETS THE REQUIREMENTS OF § 484(A)(1) OF THE  
28 HIGHER EDUCATION ACT OF 1965 (20 U.S.C. 1091(A)(1));

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1                                   2. IS CARRYING AT LEAST THE NORMAL FULL-TIME  
2 WORKLOAD FOR THE COURSE OF STUDY THE STUDENT IS PURSUING, AS  
3 DETERMINED BY THE INSTITUTION OF HIGHER EDUCATION; AND

4                                   3. HAS NOT ATTENDED ANY INSTITUTION OF HIGHER  
5 EDUCATION FOR MORE THAN THE EQUIVALENT OF 10 FULL-TIME SEMESTERS.

6                                   (III) 1. "QUALIFIED HIGHER EDUCATION TUITION" MEANS  
7 TUITION PAID BY AN INDIVIDUAL TO AN EDUCATIONAL INSTITUTION FOR THE  
8 ENROLLMENT OR ATTENDANCE OF A CHILD OF THE INDIVIDUAL WHO IS A  
9 DEPENDENT, AS DEFINED IN § 152 OF THE INTERNAL REVENUE CODE, AS AN  
10 ELIGIBLE STUDENT AT AN INSTITUTION OF HIGHER EDUCATION IN THE STATE.

11                                  2. "QUALIFIED HIGHER EDUCATION EXPENSES" DOES NOT  
12 INCLUDE:

13                                  A. TUITION WITH RESPECT TO ANY COURSE OR OTHER  
14 EDUCATION INVOLVING SPORTS, GAMES, OR HOBBIES, UNLESS THAT TUITION IS  
15 PART OF A DEGREE PROGRAM;

16                                  B. STUDENT ACTIVITY FEES, ATHLETIC FEES, INSURANCE  
17 EXPENSES, OR OTHER EXPENSES UNRELATED TO A STUDENT'S ACADEMIC COURSE  
18 OF INSTRUCTION; OR

19                                  C. TUITION PAID DURING A TAXABLE YEAR IN CONNECTION  
20 WITH ENROLLMENT FOR AN ACADEMIC TERM BEGINNING LATER THAN 3 MONTHS  
21 AFTER THE END OF THE TAXABLE YEAR.

22                                  (IV) "INSTITUTION OF HIGHER EDUCATION" MEANS AN  
23 INSTITUTION OF HIGHER EDUCATION WITHIN THE MEANING OF § 481 OF THE  
24 FEDERAL HIGHER EDUCATION ACT OF 1965 (20 U.S.C. § 1088) THAT IS ELIGIBLE TO  
25 PARTICIPATE IN PROGRAMS UNDER TITLE IV OF THAT ACT (20 U.S.C. § 1070 ET SEQ.).

26                                  (2) (I) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, IF AN  
27 INDIVIDUAL PAID QUALIFIED HIGHER EDUCATION TUITION DURING THE TAXABLE  
28 YEAR FOR TWO OR MORE DEPENDENT CHILDREN, THE SUBTRACTION UNDER  
29 SUBSECTION (A) OF THIS SECTION INCLUDES THE FULL AMOUNT OF THE QUALIFIED  
30 HIGHER EDUCATION TUITION PAID BY AN INDIVIDUAL DURING THE TAXABLE  
31 YEAR.

32                                  (II) THE AMOUNT OF QUALIFIED HIGHER EDUCATION TUITION  
33 OTHERWISE TAKEN INTO ACCOUNT UNDER SUBPARAGRAPH (I) OF THIS  
34 PARAGRAPH WITH RESPECT TO THE EDUCATION OF ANY ELIGIBLE STUDENT MAY  
35 NOT INCLUDE ANY AMOUNTS RECEIVED WITH RESPECT TO THAT ELIGIBLE  
36 STUDENT FOR THE TAXABLE YEAR AS:

37                                  1. A QUALIFIED SCHOLARSHIP WHICH UNDER § 117 OF THE  
38 INTERNAL REVENUE CODE IS NOT INCLUDABLE IN GROSS INCOME;

39                                  2. AN EDUCATIONAL ASSISTANCE ALLOWANCE UNDER  
40 CHAPTER 30, 31, 32, 34, OR 35 OF TITLE 38 OF THE UNITED STATES CODE; OR

3

1                                   3. A PAYMENT, OTHER THAN A GIFT, BEQUEST, DEVISE, OR  
2 INHERITANCE WITHIN THE MEANING OF § 102(A) OF THE INTERNAL REVENUE CODE,  
3 THAT:

4                                   A. IS A PAYMENT FOR EDUCATIONAL EXPENSES OR IS  
5 ATTRIBUTABLE TO ENROLLMENT AT AN INSTITUTION OF HIGHER EDUCATION; AND

6                                   B. IS EXEMPT FROM INCOME TAXATION BY ANY LAW OF  
7 THE UNITED STATES.

8                                   (3) (I) 1. IN THIS PARAGRAPH THE FOLLOWING WORDS HAVE THE  
9 MEANINGS INDICATED.

10                                  2. "MODIFIED FEDERAL ADJUSTED GROSS INCOME" MEANS  
11 MODIFIED ADJUSTED GROSS INCOME WITHIN THE MEANING OF § 135 OF THE  
12 INTERNAL REVENUE CODE.

13                                  3. "THRESHOLD AMOUNT" MEANS:

14                                  A. \$110,000 FOR SPOUSES ON A JOINT RETURN OR FOR AN  
15 INDIVIDUAL DESCRIBED IN § 2 OF THE INTERNAL REVENUE CODE AS A HEAD OF  
16 HOUSEHOLD OR AS A SURVIVING SPOUSE; OR

17                                  B. \$75,000 FOR AN INDIVIDUAL OTHER THAN ONE  
18 DESCRIBED IN ITEM A OF THIS SUB-SUBPARAGRAPH.

19                                  (II) IF THE INDIVIDUAL'S MODIFIED FEDERAL ADJUSTED GROSS  
20 INCOME EXCEEDS THE THRESHOLD AMOUNT, THE AMOUNT THAT WOULD  
21 OTHERWISE BE ALLOWED AS A SUBTRACTION UNDER PARAGRAPH (2) OF THIS  
22 SUBSECTION SHALL BE REDUCED, BUT NOT BELOW ZERO, BY AN AMOUNT EQUAL  
23 TO THE PRODUCT OF MULTIPLYING THE AMOUNT THAT WOULD OTHERWISE BE  
24 ALLOWED BY A FRACTION:

25                                  1. THE NUMERATOR OF WHICH IS THE EXCESS OF THE  
26 INDIVIDUAL'S MODIFIED FEDERAL ADJUSTED GROSS INCOME OVER THE  
27 THRESHOLD AMOUNT; AND

28                                  2. THE DENOMINATOR OF WHICH IS \$20,000.

29                                  (4) THE SUBTRACTION UNDER THIS SUBSECTION IS NOT ALLOWED:

30                                  (I) FOR QUALIFIED HIGHER EDUCATION TUITION WITH RESPECT  
31 TO WHICH A DEDUCTION IS ALLOWABLE TO THE INDIVIDUAL UNDER ANY  
32 PROVISION OF THE INTERNAL REVENUE CODE; OR

33                                  (II) EXCEPT AS PROVIDED BY THE COMPTROLLER BY  
34 REGULATION, TO A MARRIED INDIVIDUAL FILING A SEPARATE RETURN.

35                                  (5) AN INDIVIDUAL SHALL INCLUDE ON THE INCOME TAX RETURN FOR  
36 THE TAXABLE YEAR THE NAME, AGE, AND TAXPAYER IDENTIFICATION NUMBER OF  
37 EACH ELIGIBLE STUDENT WITH RESPECT TO WHOM THE SUBTRACTION UNDER THIS  
38 SUBSECTION IS CLAIMED.

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 July 1, 1997 and shall be applicable to all taxable years beginning after December 31,  
3 1996.