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**By: Delegates Rosapepe, R. Baker, Barve, Benson, Crumlin, Cryor, Curran, DeCarlo, Dembrow, Doory, Dypski, Exum, Frank, Frush, Fry, Fulton, Genn, Getty, Gordon, Harrison, Healey, Hecht, Heller, Howard, B. Hughes, Hurson, Hutchins, Klausmeier, Kopp, Love, Marriott, McIntosh, McKee, Menes, Minnick, Montague, Morgan, Mossburg, Muse, Opara, Parker, Patterson, Pendergrass, Perry, Petzold, Pitkin, Proctor, Rawlings, Rzepkowski, and Shriver**

Introduced and read first time: February 6, 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 Expenses**

3 FOR the purpose of providing a subtraction modification under the Maryland individual  
4 income tax for certain higher education expenses 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.

1 (II) 1. "QUALIFIED HIGHER EDUCATION EXPENSES" MEANS  
2 TUITION AND FEES CHARGED BY AN EDUCATIONAL INSTITUTION FOR THE  
3 ENROLLMENT OR ATTENDANCE OF THE INDIVIDUAL, THE INDIVIDUAL'S SPOUSE,  
4 OR A DEPENDENT, AS DEFINED IN § 152 OF THE INTERNAL REVENUE CODE, AS AN  
5 ELIGIBLE STUDENT AT AN INSTITUTION OF HIGHER EDUCATION IN THE STATE.

6 2. "QUALIFIED HIGHER EDUCATION EXPENSES" DOES NOT  
7 INCLUDE:

8 A. EXPENSES WITH RESPECT TO ANY COURSE OR OTHER  
9 EDUCATION INVOLVING SPORTS, GAMES, OR HOBBIES, UNLESS THOSE EXPENSES  
10 ARE PART OF A DEGREE PROGRAM;

11 B. STUDENT ACTIVITY FEES, ATHLETIC FEES, INSURANCE  
12 EXPENSES, OR OTHER EXPENSES UNRELATED TO A STUDENT'S ACADEMIC COURSE  
13 OF INSTRUCTION; OR

14 C. TUITION OR FEES PAID DURING A TAXABLE YEAR IN  
15 CONNECTION WITH ENROLLMENT FOR AN ACADEMIC TERM BEGINNING LATER  
16 THAN 3 MONTHS AFTER THE END OF THE TAXABLE YEAR.

17 (III) "ELIGIBLE STUDENT" MEANS A STUDENT WHO:

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

20 2. A. IS CARRYING AT LEAST ONE-HALF THE NORMAL  
21 FULL-TIME WORK LOAD FOR THE COURSE OF STUDY THE STUDENT IS PURSUING, AS  
22 DETERMINED BY THE INSTITUTION OF HIGHER EDUCATION; OR

23 B. IS ENROLLED IN A COURSE THAT ENABLES THE STUDENT  
24 TO IMPROVE THE STUDENT'S JOB SKILLS OR TO ACQUIRE NEW JOB SKILLS.

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

29 (2) (I) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE  
30 SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE FIRST  
31 \$10,000 OF QUALIFIED HIGHER EDUCATION EXPENSES PAID BY AN INDIVIDUAL  
32 DURING THE TAXABLE YEAR.

33 (II) THE AMOUNT OF QUALIFIED HIGHER EDUCATION EXPENSES  
34 OTHERWISE TAKEN INTO ACCOUNT UNDER SUBPARAGRAPH (I) OF THIS  
35 PARAGRAPH WITH RESPECT TO THE EDUCATION OF ANY ELIGIBLE STUDENT SHALL  
36 BE REDUCED BY THE SUM OF THE AMOUNTS RECEIVED WITH RESPECT TO THAT  
37 ELIGIBLE STUDENT FOR THE TAXABLE YEAR AS:

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

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

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

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

8 B. IS EXEMPT FROM INCOME TAXATION BY ANY LAW OF  
9 THE UNITED STATES.

10 (3) (I) 1. IN THIS PARAGRAPH THE FOLLOWING WORDS HAVE THE  
11 MEANINGS INDICATED.

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

15 3. "THRESHOLD AMOUNT" MEANS:

16 A. \$80,000 FOR SPOUSES ON A JOINT RETURN OR FOR AN  
17 INDIVIDUAL DESCRIBED IN § 2 OF THE INTERNAL REVENUE CODE AS A HEAD OF  
18 HOUSEHOLD OR AS A SURVIVING SPOUSE; OR

19 B. \$50,000 FOR AN INDIVIDUAL OTHER THAN ONE  
20 DESCRIBED IN ITEM A OF THIS SUB-SUBPARAGRAPH.

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

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

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

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

32 (I) FOR QUALIFIED HIGHER EDUCATION EXPENSES WITH  
33 RESPECT TO WHICH A DEDUCTION IS ALLOWABLE TO THE INDIVIDUAL UNDER ANY  
34 PROVISION OF THE INTERNAL REVENUE CODE;

35 (II) TO AN INDIVIDUAL WHO MAY BE CLAIMED AS A DEPENDENT  
36 ON THE RETURN OF ANOTHER TAXPAYER FOR THE TAXABLE YEAR; OR

37 (III) EXCEPT AS PROVIDED BY THE COMPTROLLER BY  
38 REGULATION, TO A MARRIED INDIVIDUAL FILING A SEPARATE RETURN.

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

5                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 July 1, 1997 and shall be applicable to all taxable years beginning after December 31,  
7 1996.