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**By: Delegates Shriver and Rosapepe**

Introduced and read first time: February 25, 1997

Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2 **Individual Development Accounts**

3 FOR the purpose of authorizing individuals to establish individual development accounts  
4 eligible for certain tax benefits to be used for certain educational and  
5 entrepreneurial purposes; providing a subtraction modification under the Maryland  
6 income tax for certain amounts contributed to an individual development account  
7 and for certain income of an individual development account; defining certain  
8 terms; providing an addition modification for certain amounts distributed from an  
9 individual development account; requiring a trustee of an individual development  
10 account to submit certain reports to certain persons; providing for the application of  
11 this Act; and generally relating to the Maryland income taxation of individual  
12 development accounts.

13 BY repealing and reenacting, without amendments,  
14 Article - Tax - General  
15 Section 10-205(a) and 10-208(a)  
16 Annotated Code of Maryland  
17 (1988 Volume and 1996 Supplement)

18 BY adding to  
19 Article - Tax - General  
20 Section 10-205(h) and 10-208(g-1); and 10-224 to be under the amended part "Part  
21 IV. Deductions; Miscellaneous"  
22 Annotated Code of Maryland  
23 (1988 Volume and 1996 Supplement)

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

26 **Article - Tax - General**

27 10-205.

28 (a) In addition to the modification under § 10-204 of this subtitle, the amounts  
29 under this section are added to the federal adjusted gross income of a resident to  
30 determine Maryland adjusted gross income.

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1 (H) (1) FOR AN INDIVIDUAL WHO IS AT LEAST 60 YEARS OLD AT THE END  
2 OF THE TAXABLE YEAR OR FOR AN INDIVIDUAL'S ESTATE, THE ADDITION UNDER  
3 SUBSECTION (A) OF THIS SECTION INCLUDES THE AMOUNT OF NONQUALIFYING  
4 DISTRIBUTIONS FOR THE TAXABLE YEAR FROM AN INDIVIDUAL DEVELOPMENT  
5 ACCOUNT AS DETERMINED UNDER § 10-224 OF THIS SUBTITLE.

6 (2) FOR AN INDIVIDUAL WHO IS LESS THAN 60 YEARS OF AGE AT THE  
7 END OF THE TAXABLE YEAR, THE ADDITION UNDER SUBSECTION (A) OF THIS  
8 SECTION INCLUDES AN AMOUNT EQUAL TO TWICE THE AMOUNT DETERMINED  
9 UNDER PARAGRAPH (1) OF THIS SUBSECTION.

10 10-208.

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

14 (G-1) (1) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION  
15 INCLUDES:

16 (I) SUBJECT TO THE LIMITATION UNDER PARAGRAPH (2) OF THIS  
17 SUBSECTION, THE AMOUNT THE INDIVIDUAL CONTRIBUTED FOR THE TAXABLE  
18 YEAR TO AN INDIVIDUAL DEVELOPMENT ACCOUNT UNDER § 10-224 OF THIS  
19 SUBTITLE; AND

20 (II) ANY INTEREST, DIVIDENDS, AND OTHER INCOME OF AN  
21 INDIVIDUAL DEVELOPMENT ACCOUNT THAT IS INCLUDED IN THE INDIVIDUAL'S  
22 FEDERAL ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR.

23 (2) THE SUBTRACTION ALLOWED UNDER PARAGRAPH (1)(I) OF THIS  
24 SUBSECTION:

25 (I) IS NOT ALLOWED FOR ANY TAXABLE YEAR FOR WHICH THE  
26 INDIVIDUAL'S FEDERAL ADJUSTED GROSS INCOME EXCEEDS \$50,000;

27 (II) MAY NOT EXCEED \$3,000 FOR ANY TAXABLE YEAR; AND

28 (III) DOES NOT INCLUDE ANY TRANSFER CONTRIBUTIONS FROM  
29 ANOTHER INDIVIDUAL DEVELOPMENT ACCOUNT.

30 Part IV. Deductions [and Tax Preference Items]; MISCELLANEOUS.

31 10-224.

32 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
33 INDICATED.

34 (2) "ELIGIBLE EDUCATIONAL OR ENTREPRENEURIAL PURPOSE"  
35 MEANS:

36 (I) TUITION, FEES, AND OTHER EXPENSES INCURRED FOR THE  
37 INDIVIDUAL OR OF THE INDIVIDUAL'S SPOUSE OR DEPENDENTS, WITHIN THE

3  
1 MEANING OF § 152 OF THE INTERNAL REVENUE CODE, TO ATTEND AN INSTITUTION  
2 OF HIGHER EDUCATION; OR

3 (II) THE PURPOSE OF ESTABLISHING A BUSINESS, INCLUDING  
4 WITHOUT LIMITATION THE PURCHASE OF ASSETS FOR USE IN A BUSINESS,  
5 ENTREPRENEURIAL TRAINING, BUSINESS COUNSELING, AND TECHNICAL  
6 ASSISTANCE.

7 (3) "INDIVIDUAL DEVELOPMENT ACCOUNT" MEANS A TRUST CREATED  
8 OR ORGANIZED IN THE UNITED STATES TO BE USED EXCLUSIVELY FOR ELIGIBLE  
9 EDUCATIONAL OR ENTREPRENEURIAL PURPOSES, UNDER THE TERMS OF WHICH:

10 (I) EXCEPT FOR TRANSFER CONTRIBUTIONS FROM ANOTHER  
11 INDIVIDUAL DEVELOPMENT ACCOUNT:

12 1. ONLY CASH CONTRIBUTIONS MAY BE ACCEPTED; AND

13 2. CONTRIBUTIONS MAY NOT BE ACCEPTED FOR ANY  
14 TAXABLE YEAR ON BEHALF OF ANY INDIVIDUAL IN EXCESS OF \$3,000;

15 (II) THE TRUSTEE IS A BANK, AS DEFINED IN § 408(N) OF THE  
16 INTERNAL REVENUE CODE, OR ANOTHER PERSON WHO DEMONSTRATES TO THE  
17 SATISFACTION OF THE COMPTROLLER THAT THE PERSON WILL ADMINISTER THE  
18 TRUST IN A MANNER CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION;

19 (III) THE TRUST FUNDS MAY NOT BE INVESTED IN LIFE INSURANCE  
20 CONTRACTS;

21 (IV) THE INTEREST OF AN INDIVIDUAL IN THE BALANCE OF THE  
22 INDIVIDUAL'S ACCOUNT IS NONFORFEITABLE; AND

23 (V) THE ASSETS OF THE TRUST MAY NOT BE COMMINGLED WITH  
24 OTHER PROPERTY EXCEPT IN A COMMON TRUST FUND OR A COMMON INVESTMENT  
25 FUND.

26 (B) SUBJECT TO THE REQUIREMENTS OF THIS SECTION, AN ELIGIBLE  
27 INDIVIDUAL MAY ESTABLISH AN INDIVIDUAL DEVELOPMENT ACCOUNT  
28 QUALIFYING FOR SPECIAL TAX BENEFITS UNDER THIS SUBTITLE TO BE USED FOR  
29 ELIGIBLE EDUCATIONAL OR ENTREPRENEURIAL PURPOSES.

30 (C) FOR ANY TAXABLE YEAR, AN INDIVIDUAL MAY NOT CONTRIBUTE MORE  
31 THAN \$3,000 TO AN INDIVIDUAL DEVELOPMENT ACCOUNT.

32 (E) EXCEPT AS PROVIDED IN § 10-205(H) OF THIS SUBTITLE:

33 (1) AN INDIVIDUAL DEVELOPMENT ACCOUNT SHALL BE EXEMPT FROM  
34 TAXATION UNDER THIS TITLE; AND

35 (2) AS PROVIDED UNDER § 10-208(G-1) OF THIS SUBTITLE,  
36 CONTRIBUTIONS TO AN INDIVIDUAL DEVELOPMENT ACCOUNT UNDER SUBSECTION  
37 (C) OF THIS SECTION MAY BE SUBTRACTED FROM FEDERAL ADJUSTED GROSS  
38 INCOME OF AN INDIVIDUAL AND THE INCOME OF AN INDIVIDUAL DEVELOPMENT

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1 ACCOUNT MAY NOT BE CONSIDERED INCOME TO THE EMPLOYEE UNTIL  
2 WITHDRAWN FROM THE ACCOUNT.

3 (F) EXCEPT WHEN THE INDIVIDUAL IS FACED WITH AN UNFORESEEABLE  
4 EMERGENCY WITHIN THE MEANING OF § 457(D)(1)(III) OF THE INTERNAL REVENUE  
5 CODE AND REGULATIONS ADOPTED THEREUNDER, A WITHDRAWAL OR  
6 DISTRIBUTION MAY ONLY BE MADE FROM AN INDIVIDUAL DEVELOPMENT  
7 ACCOUNT TO BE USED FOR ELIGIBLE EDUCATIONAL OR ENTREPRENEURIAL  
8 PURPOSES.

9 (G) IF A WITHDRAWAL OR DISTRIBUTION IS MADE IN VIOLATION OF  
10 SUBSECTION (F) OF THIS SECTION OR IF AN INDIVIDUAL OR THE INDIVIDUAL'S  
11 SPOUSE OR DEPENDENT ENGAGES IN A PROHIBITED TRANSACTION, WITHIN THE  
12 MEANING OF § 4975 OF THE INTERNAL REVENUE CODE, WITH RESPECT TO AN  
13 INDIVIDUAL DEVELOPMENT ACCOUNT ESTABLISHED BY THE INDIVIDUAL:

14 (1) THE ACCOUNT SHALL CEASE TO BE AN INDIVIDUAL DEVELOPMENT  
15 ACCOUNT FOR PURPOSES OF THIS SUBTITLE AS OF THE FIRST DAY OF THE TAXABLE  
16 YEAR IN WHICH THE PROHIBITED WITHDRAWAL OR DISTRIBUTION OR THE  
17 PROHIBITED TRANSACTION OCCURS; AND

18 (2) AN AMOUNT EQUAL TO THE FULL FAIR MARKET VALUE OF ALL THE  
19 ASSETS IN THE ACCOUNT SHALL BE DEEMED TO HAVE BEEN DISTRIBUTED OUT OF  
20 THE ACCOUNT ON THE FIRST DAY OF THE TAXABLE YEAR IN WHICH THE  
21 PROHIBITED WITHDRAWAL OR DISTRIBUTION OR THE PROHIBITED TRANSACTION  
22 OCCURS.

23 (H) IF ANY PART OF AN INDIVIDUAL DEVELOPMENT ACCOUNT IS USED AS  
24 SECURITY FOR A LOAN, AN AMOUNT EQUAL TO THE LESSER OF THE AMOUNT OF  
25 THE LOAN OR THE FULL FAIR MARKET VALUE OF THE ASSETS IN THE ACCOUNT  
26 SHALL BE DEEMED TO HAVE BEEN DISTRIBUTED OUT OF THE ACCOUNT ON THE  
27 DATE OF THE LOAN.

28 (I) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, FOR ANY  
29 TAXABLE YEAR, ANY AMOUNT PAID OR DISTRIBUTED OUT OF AN INDIVIDUAL  
30 DEVELOPMENT ACCOUNT IN EXCESS OF THE AMOUNT USED FOR ELIGIBLE  
31 EDUCATIONAL OR ENTREPRENEURIAL PURPOSES FOR THE TAXABLE YEAR IS A  
32 NONQUALIFYING DISTRIBUTION SUBJECT TO THE ADDITION MODIFICATION UNDER  
33 § 10-205(H) OF THIS SUBTITLE.

34 (2) THE AMOUNT PAID OR DISTRIBUTED OUT OF AN INDIVIDUAL  
35 DEVELOPMENT ACCOUNT DOES NOT INCLUDE AMOUNTS TRANSFERRED DIRECTLY  
36 FROM ONE INDIVIDUAL DEVELOPMENT ACCOUNT OF AN INDIVIDUAL TO ANOTHER  
37 INDIVIDUAL DEVELOPMENT ACCOUNT OF THE SAME INDIVIDUAL.

38 (J) FOR PURPOSES OF THIS SUBTITLE, AN INDIVIDUAL MAY ELECT TO TREAT  
39 ANY OR ALL CONTRIBUTIONS TO OR DISTRIBUTIONS OUT OF AN INDIVIDUAL  
40 DEVELOPMENT ACCOUNT THAT ARE MADE ON OR BEFORE THE DATE REQUIRED BY  
41 LAW FOR FILING THE RETURN FOR A TAXABLE YEAR, NOT INCLUDING EXTENSIONS,  
42 AS HAVING BEEN MADE ON THE LAST DAY OF THAT TAXABLE YEAR.

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1           (K) (1) EACH YEAR THE TRUSTEE OF AN INDIVIDUAL DEVELOPMENT  
2 ACCOUNT SHALL SUBMIT A REPORT TO THE COMPTROLLER AND THE INDIVIDUAL  
3 REGARDING THE ACCOUNT CONCERNING CONTRIBUTIONS, INCOME EARNED  
4 DURING THE TAXABLE YEAR, DISTRIBUTIONS, AND ANY OTHER INFORMATION  
5 THAT THE COMPTROLLER MAY REQUIRE BY REGULATION.

6                   (2) THE REPORT SHALL BE:

7                           (I) FILED WITH THE COMPTROLLER AT THE TIME AND IN THE  
8 MANNER REQUIRED BY THE COMPTROLLER; AND

9                           (II) ON OR BEFORE JANUARY 31 OF THE CALENDAR YEAR TO  
10 WHICH THE REPORT RELATES, FURNISHED TO THE INDIVIDUAL IN THE MANNER  
11 REQUIRED BY THE COMPTROLLER.

12           (L) ON THE DEATH OF AN INDIVIDUAL, AFTER TAKING INTO ACCOUNT  
13 QUALIFYING DISTRIBUTIONS MADE ON OR BEFORE THE DATE REQUIRED FOR  
14 FILING THE INDIVIDUAL'S LAST INCOME TAX RETURN, THE TRUSTEE OF THE  
15 ACCOUNT SHALL DISTRIBUTE ANY AMOUNT REMAINING IN AN INDIVIDUAL  
16 DEVELOPMENT ACCOUNT TO THE INDIVIDUAL'S ESTATE.

17           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 July 1, 1997 and shall be applicable to all taxable years beginning after December 31,  
19 1996.