
By: Delegates Schade and Ports

Introduced and read first time: March 3, 1997

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Higher Education Tuition Savings Accounts**

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

13 BY repealing and reenacting, without amendments,
14 Article - Tax - General
15 Section 10-205(a), 10-207(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), 10-207(s), and 10-208(g-1); and 10-224 to be under the
21 amended part "Part 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) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES AN
2 AMOUNT EQUAL TO TWICE THE AMOUNT OF NONQUALIFYING DISTRIBUTIONS FOR
3 THE TAXABLE YEAR FROM A HIGHER EDUCATION TUITION SAVINGS ACCOUNT AS
4 DETERMINED UNDER § 10-224 OF THIS SUBTITLE.

5 10-207.

6 (a) To the extent included in federal adjusted gross income, the amounts under
7 this section are subtracted from the federal adjusted gross income of a resident to
8 determine Maryland adjusted gross income.

9 (S) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES
10 ANY INTEREST, DIVIDENDS, AND OTHER INCOME OF A HIGHER EDUCATION
11 TUITION SAVINGS ACCOUNT UNDER § 10-224 OF THIS SUBTITLE THAT IS INCLUDED
12 IN THE INDIVIDUAL'S FEDERAL ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR.

13 10-208.

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

17 (G-1) (1) SUBJECT TO THE LIMITATION UNDER PARAGRAPH (2) OF THIS
18 SUBSECTION, THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION
19 INCLUDES THE AMOUNT THE INDIVIDUAL CONTRIBUTED FOR THE TAXABLE YEAR
20 TO A HIGHER EDUCATION TUITION SAVINGS ACCOUNT UNDER § 10-224 OF THIS
21 SUBTITLE.

22 (2) THE SUBTRACTION ALLOWED UNDER PARAGRAPH (1) OF THIS
23 SUBSECTION FOR ANY TAXABLE YEAR MAY NOT EXCEED AN AMOUNT EQUAL TO
24 \$1,500 FOR EACH CHILD FOR WHOM THE INDIVIDUAL IS ALLOWED TO DEDUCT AN
25 EXEMPTION UNDER § 151 OF THE INTERNAL REVENUE CODE.

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

27 10-224.

28 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
29 INDICATED.

30 (2) "ELIGIBLE EDUCATIONAL PURPOSE" MEANS TUITION, FEES, BOOKS,
31 SUPPLIES, AND EQUIPMENT REQUIRED FOR THE ENROLLMENT OR ATTENDANCE AT
32 AN INSTITUTION OF HIGHER EDUCATION.

33 (3) "HIGHER EDUCATION TUITION SAVINGS ACCOUNT" MEANS A TRUST
34 CREATED OR ORGANIZED IN THE UNITED STATES TO BE USED EXCLUSIVELY FOR
35 ELIGIBLE EDUCATIONAL PURPOSES, UNDER THE TERMS OF WHICH:

36 (I) 1. ONLY CASH CONTRIBUTIONS MAY BE ACCEPTED; AND

37 2. CONTRIBUTIONS MAY NOT BE ACCEPTED FOR ANY
38 TAXABLE YEAR ON BEHALF OF ANY INDIVIDUAL IN EXCESS OF \$1,500 MULTIPLIED

3

1 TIMES THE NUMBER OF CHILDREN FOR WHOM THE INDIVIDUAL IS ALLOWED TO
2 DEDUCT AN EXEMPTION UNDER § 151 OF THE INTERNAL REVENUE CODE;

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

7 (III) THE TRUST FUNDS MAY NOT BE INVESTED IN LIFE INSURANCE
8 CONTRACTS;

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

11 (V) THE ASSETS OF THE TRUST MAY NOT BE COMMINGLED WITH
12 OTHER PROPERTY EXCEPT IN A COMMON TRUST FUND OR A COMMON INVESTMENT
13 FUND.

14 (B) SUBJECT TO THE REQUIREMENTS OF THIS SECTION, AN ELIGIBLE
15 INDIVIDUAL MAY ESTABLISH A HIGHER EDUCATION TUITION SAVINGS ACCOUNT
16 QUALIFYING FOR SPECIAL TAX BENEFITS UNDER THIS SUBTITLE TO BE USED FOR
17 ELIGIBLE EDUCATIONAL PURPOSES.

18 (C) FOR ANY TAXABLE YEAR, AN INDIVIDUAL MAY NOT CONTRIBUTE TO A
19 HIGHER EDUCATION TUITION SAVINGS ACCOUNT MORE THAN \$1,500 MULTIPLIED
20 TIMES THE NUMBER OF CHILDREN FOR WHOM THE INDIVIDUAL IS ALLOWED TO
21 DEDUCT AN EXEMPTION UNDER § 151 OF THE INTERNAL REVENUE CODE.

22 (D) EXCEPT AS PROVIDED IN § 10-205(H) OF THIS SUBTITLE:

23 (1) A HIGHER EDUCATION TUITION SAVINGS ACCOUNT SHALL BE
24 EXEMPT FROM TAXATION UNDER THIS TITLE; AND

25 (2) AS PROVIDED UNDER §§ 10-207(S) AND 10-208(G-1) OF THIS SUBTITLE,
26 CONTRIBUTIONS TO A HIGHER EDUCATION TUITION SAVINGS ACCOUNT UNDER
27 SUBSECTION (C) OF THIS SECTION MAY BE SUBTRACTED FROM FEDERAL ADJUSTED
28 GROSS INCOME OF AN INDIVIDUAL AND THE INCOME OF A HIGHER EDUCATION
29 TUITION SAVINGS ACCOUNT MAY NOT BE CONSIDERED INCOME TO THE
30 INDIVIDUAL UNTIL WITHDRAWN FROM THE ACCOUNT.

31 (E) EXCEPT WHEN THE INDIVIDUAL IS FACED WITH AN UNFORESEEABLE
32 EMERGENCY WITHIN THE MEANING OF § 457(D)(1)(III) OF THE INTERNAL REVENUE
33 CODE AND REGULATIONS ADOPTED THEREUNDER, A WITHDRAWAL OR
34 DISTRIBUTION MAY ONLY BE MADE FROM A HIGHER EDUCATION TUITION SAVINGS
35 ACCOUNT TO BE USED FOR ELIGIBLE EDUCATIONAL PURPOSES.

36 (F) IF A WITHDRAWAL OR DISTRIBUTION IS MADE IN VIOLATION OF
37 SUBSECTION (E) OF THIS SECTION OR IF AN INDIVIDUAL OR THE INDIVIDUAL'S
38 SPOUSE OR DEPENDENT ENGAGES IN A PROHIBITED TRANSACTION, WITHIN THE
39 MEANING OF § 4975 OF THE INTERNAL REVENUE CODE, WITH RESPECT TO A HIGHER
40 EDUCATION TUITION SAVINGS ACCOUNT ESTABLISHED BY THE INDIVIDUAL:

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1 (1) THE ACCOUNT SHALL CEASE TO BE A HIGHER EDUCATION TUITION
2 SAVINGS ACCOUNT FOR PURPOSES OF THIS SUBTITLE AS OF THE FIRST DAY OF THE
3 TAXABLE YEAR IN WHICH THE PROHIBITED WITHDRAWAL OR DISTRIBUTION OR
4 THE PROHIBITED TRANSACTION OCCURS; AND

5 (2) AN AMOUNT EQUAL TO THE FULL FAIR MARKET VALUE OF ALL THE
6 ASSETS IN THE ACCOUNT SHALL BE DEEMED TO HAVE BEEN DISTRIBUTED OUT OF
7 THE ACCOUNT ON THE FIRST DAY OF THE TAXABLE YEAR IN WHICH THE
8 PROHIBITED WITHDRAWAL OR DISTRIBUTION OR THE PROHIBITED TRANSACTION
9 OCCURS.

10 (G) IF ANY PART OF A HIGHER EDUCATION TUITION SAVINGS ACCOUNT IS
11 USED AS SECURITY FOR A LOAN, AN AMOUNT EQUAL TO THE LESSER OF THE
12 AMOUNT OF THE LOAN OR THE FULL FAIR MARKET VALUE OF THE ASSETS IN THE
13 ACCOUNT SHALL BE DEEMED TO HAVE BEEN DISTRIBUTED OUT OF THE ACCOUNT
14 ON THE DATE OF THE LOAN.

15 (H) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, FOR ANY
16 TAXABLE YEAR, ANY AMOUNT PAID OR DISTRIBUTED OUT OF A HIGHER
17 EDUCATION TUITION SAVINGS ACCOUNT IN EXCESS OF THE AMOUNT USED FOR
18 ELIGIBLE EDUCATIONAL PURPOSES FOR THE TAXABLE YEAR IS A NONQUALIFYING
19 DISTRIBUTION SUBJECT TO THE ADDITION MODIFICATION UNDER § 10-205(H) OF
20 THIS SUBTITLE.

21 (I) FOR PURPOSES OF THIS SUBTITLE, AN INDIVIDUAL MAY ELECT TO TREAT
22 ANY OR ALL CONTRIBUTIONS TO OR DISTRIBUTIONS OUT OF A HIGHER EDUCATION
23 TUITION SAVINGS ACCOUNT THAT ARE MADE ON OR BEFORE THE DATE REQUIRED
24 BY LAW FOR FILING THE RETURN FOR A TAXABLE YEAR, NOT INCLUDING
25 EXTENSIONS, AS HAVING BEEN MADE ON THE LAST DAY OF THAT TAXABLE YEAR.

26 (J) (1) EACH YEAR THE TRUSTEE OF A HIGHER EDUCATION TUITION
27 SAVINGS ACCOUNT SHALL SUBMIT A REPORT TO THE COMPTROLLER AND THE
28 INDIVIDUAL REGARDING THE ACCOUNT CONCERNING CONTRIBUTIONS, INCOME
29 EARNED DURING THE TAXABLE YEAR, DISTRIBUTIONS, AND ANY OTHER
30 INFORMATION THAT THE COMPTROLLER MAY REQUIRE BY REGULATION.

31 (2) THE REPORT SHALL BE:

32 (I) FILED WITH THE COMPTROLLER AT THE TIME AND IN THE
33 MANNER REQUIRED BY THE COMPTROLLER; AND

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

37 (K) ON THE DEATH OF AN INDIVIDUAL, AFTER TAKING INTO ACCOUNT
38 QUALIFYING DISTRIBUTIONS MADE ON OR BEFORE THE DATE REQUIRED FOR
39 FILING THE INDIVIDUAL'S LAST INCOME TAX RETURN, THE TRUSTEE OF THE
40 ACCOUNT SHALL DISTRIBUTE ANY AMOUNT REMAINING IN A HIGHER EDUCATION
41 TUITION SAVINGS ACCOUNT TO THE INDIVIDUAL'S ESTATE.

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.