
By: The President (Administration) and Senators Baker, Amoss, Lawlah, Jimeno, Astle, Bromwell, Collins, Stone, and Hollinger ~~Hollinger, McFadden, Kasemeyer, Neall, and Munson~~

Introduced and read first time: January 17, 1997

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 28, 1997

CHAPTER _____

1 AN ACT concerning

2 ~~Income Tax Reduction~~
3 1997 Tax Reduction Act

4 FOR the purpose of altering a certain tax rate under the Maryland income tax on
5 individuals; altering the amount that an individual may deduct for certain
6 exemptions to determine Maryland taxable income for purposes of the State income
7 tax; altering the maximum amount of a certain subtraction modification for
8 two-income married couples filing joint returns; requiring the Comptroller to
9 design the returns and other forms under the income tax in a certain manner;
10 altering the calculation of a certain required distribution of income tax revenues to
11 certain special taxing districts and municipal corporations; altering the calculation
12 of the county income tax; altering the rate of a certain tax imposed on certain
13 entities; altering certain requirements for withholding from certain payments;
14 providing a credit against the sales and use tax for certain sales and use tax paid on
15 certain tangible personal property; altering certain definitions under the sales and
16 use tax; altering an exemption under the sales and use tax for certain property used
17 in a production activity; providing for the effective dates of this Act; providing for
18 the termination of part of this Act; providing for the application of this Act; and
19 generally relating to State and county ~~income~~ taxes.

20 BY repealing and reenacting, with amendments,

21 Article - Tax - General

22 Section 2-607, 10-102.1(d)(1), 10-103(a), 10-105(a), 10-106(a)(1), 10-207(r),

23 10-211, 10-604, 10-706(c), ~~and~~ 10-908(d) and (e), 11-101(d), (f)(3)(ii), and

24 (l)(3)(ii), and 11-210(b)(1)

25 Annotated Code of Maryland

2

1 (1988 Volume and 1996 Supplement)

2 BY adding to

3 Article - Tax - General

4 Section 2-104(d), 10-106(d), and 11-107

5 Annotated Code of Maryland

6 (1988 Volume and 1996 Supplement)

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

9 **Article - Tax - General**

10 2-104.

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

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

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

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

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

24 2-607.

25 (a) After making the distributions required under §§ 2-604 through 2-606 of this
26 subtitle, from the remaining income tax revenue from individuals, the Comptroller shall
27 distribute to each special taxing district that received an income tax revenue distribution
28 in fiscal year 1977 and to each municipal corporation an amount that, based on the
29 certification of the Comptroller as to State income tax liability and county income tax
30 liability of the residents of the district or municipal corporation, equals the greater of:

31 (1) 18.5% of the State income tax liability of those residents;

32 (2) 17% of the county
33 income tax liability of those residents; or

34 [(3)] (2) 0.37% of the Maryland taxable income of those residents,
35 DETERMINED AS PROVIDED UNDER § 10-106(D) OF THIS ARTICLE.

36 (B) IF THE COUNTY INCOME TAX RATE FOR A COUNTY IS LESS THAN 50%,
37 THE AMOUNT DETERMINED UNDER SUBSECTION (A)(1) OF THIS SECTION SHALL BE
38 MULTIPLIED BY A FRACTION:

3

1 (1) THE NUMERATOR OF WHICH IS 50%; AND

2 (2) THE DENOMINATOR OF WHICH IS THE COUNTY INCOME TAX RATE
3 FOR THE COUNTY.

4 [(b)] (C) The Comptroller shall adjust the amount distributed under subsection
5 (a) of this section to a municipal corporation or special taxing district to allow for a
6 proportionate part of refund and interest payments for a prior calendar year made after
7 a distribution is made to the municipal corporation or district for that year.

8 10-102.1.

9 (d) (1) Except as provided in paragraph (2) of this subsection, the tax imposed
10 under subsection (b) of this section is [5% of] THE TOP MARGINAL STATE TAX RATE
11 FOR INDIVIDUALS UNDER § 10-105(A) OF THIS SUBTITLE APPLIED TO:

12 (i) the sum of each nonresident partner's distributive share of a
13 partnership's nonresident taxable income;

14 (ii) the sum of each nonresident shareholder's pro rata share of an S
15 corporation's nonresident taxable income; or

16 (iii) the sum of each nonresident member's distributive share of a
17 limited liability company's nonresident taxable income.

18 10-103.

19 (a) Each county shall have a county income tax measured by the State income tax,
20 MODIFIED AS PROVIDED UNDER § 10-106(D) OF THIS SUBTITLE, of:

21 (1) each resident, other than a fiduciary, who on the last day of the taxable
22 year:

23 (i) is domiciled in the county; or

24 (ii) maintains a principal residence or a place of abode in the county;

25 (2) each personal representative of an estate if the decedent was domiciled
26 in the county on the date of the decedent's death;

27 (3) each resident fiduciary of:

28 (i) a trust that is principally administered in the county; or

29 (ii) a trust that is otherwise principally connected to the county and is
30 not principally administered in the State; and

31 (4) except as provided in § 10-806(c) of this title, a nonresident who derives
32 income from salary, wages, or other compensation for personal services for employment
33 in the county.

34 10-105.

35 (a) The State income tax rate for an individual is:

36 (1) 2% of Maryland taxable income of \$1 through \$1,000;

4

1 (2) 3% of Maryland taxable income of \$1,001 through \$2,000;

2 (3) 4% of Maryland taxable income of \$2,001 through \$3,000; and

3 (4) [5% of] FOR Maryland taxable income in excess of \$3,000:

4 (I) ~~4.9%~~ 4.95% FOR A TAXABLE YEAR BEGINNING AFTER
5 DECEMBER 31, 1997 BUT BEFORE JANUARY 1, 1999;

6 (II) ~~4.75%~~ 4.9% FOR A TAXABLE YEAR BEGINNING AFTER
7 DECEMBER 31, 1998 BUT BEFORE JANUARY 1, 2000; ~~AND~~

8 (III) 4.85% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
9 1999 BUT BEFORE JANUARY 1, 2001;

10 (IV) 4.8% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
11 2000 BUT BEFORE JANUARY 1, 2002; AND

12 ~~(III)~~ (V) 4.5% ~~4.75%~~ FOR A TAXABLE YEAR BEGINNING AFTER
13 DECEMBER 31, ~~1999~~ 2001.

14 10-106.

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

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

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

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

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

29 10-207.

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

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

36 (i) \$1,200; or

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

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

5 (I) \$1,182 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
6 1997 BUT BEFORE JANUARY 1, 1999;

7 (II) \$1,163 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
8 1998 BUT BEFORE JANUARY 1, 2000;

9 (III) \$1,144 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
10 1999 BUT BEFORE JANUARY 1, 2001;

11 (IV) \$1,125 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
12 2000 BUT BEFORE JANUARY 1, 2002; AND

13 (V) \$1,105 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
14 2001.

15 10-211.

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

18 (1) [\$1,200] for each exemption that the individual may deduct in the
19 taxable year to determine federal taxable income under § 151 of the Internal Revenue
20 Code:

21 (I) \$1,400 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
22 1997 BUT BEFORE JANUARY 1, 1999;

23 (II) \$1,600 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
24 1998 BUT BEFORE JANUARY 1, 2000;

25 (III) \$1,850 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
26 1999 BUT BEFORE JANUARY 1, 2001;

27 (IV) \$2,100 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
28 2000 BUT BEFORE JANUARY 1, 2002; AND

29 (V) \$2,400 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
30 2001;

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

34 (I) \$1,400 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
35 1997 BUT BEFORE JANUARY 1, 1999;

36 (II) \$1,600 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
37 1998 BUT BEFORE JANUARY 1, 2000;

1 (III) \$1,850 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
2 1999 BUT BEFORE JANUARY 1, 2001;

3 (IV) \$2,100 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
4 2000 BUT BEFORE JANUARY 1, 2002; AND

5 (V) \$2,400 FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
6 2001;

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

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

11 10-604.

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

17 10-706.

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

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

20 (ii) operates to reduce the county income tax.

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

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

26 10-908.

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

29 (1) if the payee is a resident, [7.5% of] A RATE EQUAL TO THE SUM OF
30 2.5% AND THE TOP MARGINAL STATE INCOME TAX RATE FOR INDIVIDUALS UNDER
31 § 10-105(A) OF THIS TITLE, APPLIED TO the payment; and

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

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

7

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

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

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

6 Article - Tax - General

7 11-107.

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

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

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

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

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

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

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

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

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

30 (2) TWO-THIRDS OF THE SALES AND USE TAX THAT THE PERSON PAYS
31 ON OR AFTER JULY 1, 1999 ON THE PURCHASE OF TANGIBLE PERSONAL PROPERTY
32 USED IN A MANUFACTURING PROCESS.

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

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

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

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

9 **Article - Tax - General**

10 11-101.

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

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

14 (ii) generating electricity;

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

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

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

21 (VI) PROVIDING FOR THE SAFETY OF EMPLOYEES; OR

22 (VII) PROVIDING FOR QUALITY CONTROL.

23 (2) "Production activity" does not include:

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

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

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

29 (IV) STORING THE FINISHED PRODUCT.

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

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

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

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

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

9 [4.] 3. transfer the tangible personal property as a part of a
10 taxable service transaction; or

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

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

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

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

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

24 [4.] 3. transfer the tangible personal property as part of a
25 taxable service transaction; or

26 11-210.

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

28 (1) [machinery or equipment, a replacement part of machinery or
29 equipment, or a service for the assembly or fabrication of machinery or equipment or
30 replacement part that:

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

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

36 (iii) except for a foundation to support other machinery or equipment
37 or for an item required to conform to an air or water pollution law and normally
38 considered part of real property, is not installed so that it becomes real property]
39 TANGIBLE PERSONAL PROPERTY USED DIRECTLY AND PREDOMINANTLY IN A
40 PRODUCTION ACTIVITY AT ANY STAGE OF OPERATION ON THE PRODUCTION

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1 ACTIVITY SITE FROM THE HANDLING OF RAW MATERIAL OR COMPONENTS TO THE
2 MOVEMENT OF THE FINISHED PRODUCT; or

3 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act
4 shall take effect July 1, 1997 and shall be applicable to all taxable years beginning after
5 December 31, 1997.

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

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