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**By: Senator Hogan**

Introduced and read first time: January 31, 1997

Assigned to: Budget and Taxation

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Committee Report: Favorable

Senate action: Adopted

Read second time: April 5, 1997

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CHAPTER \_\_\_\_

1 AN ACT concerning

2 **Limited Liability Company Tax Reform Act of 1997**

3 FOR the purpose of exempting certain limited liability companies from the requirement  
4 to file a State income tax return; clarifying the obligations of other limited liability  
5 companies to file partnership or corporate income tax returns; requiring the profit  
6 or loss of certain limited liability companies to be reflected on the return of its  
7 member; exempting from certain motor vehicle excise taxes certain transfers to and  
8 from limited liability companies; providing for the application of this Act; and  
9 generally relating to limited liability companies and State taxes.

10 BY repealing and reenacting, with amendments,  
11 Article - Tax - General  
12 Section 10-819  
13 Annotated Code of Maryland  
14 (1988 Volume and 1996 Supplement)

15 BY repealing and reenacting, with amendments,  
16 Article - Transportation  
17 Section 13-810(c)  
18 Annotated Code of Maryland  
19 (1992 Replacement Volume and 1996 Supplement)

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

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1                   **Article - Tax - General**

2 10-819.

3                   (a) Each limited liability company as defined under Title 4A of the Corporations  
4 and Associations Article shall file an income tax return UNLESS IT HAS ONLY ONE  
5 MEMBER AND IT IS DISREGARDED AS AN ENTITY SEPARATE FROM ITS MEMBER FOR  
6 FEDERAL INCOME TAX PURPOSES.

7                   (b) (1) If the limited liability company is [taxable] CLASSIFIED as a  
8 partnership, as defined in § 761 of the Internal Revenue Code, it shall file a partnership  
9 tax return.

10                   (2) If the limited liability company is [taxable] CLASSIFIED as a  
11 corporation under Chapter 1, Subchapter C OR SUBCHAPTER S of the Internal Revenue  
12 Code, it shall file [a] THE APPROPRIATE corporate tax return.

13                   (C) IF THE LIMITED LIABILITY COMPANY HAS ONLY ONE MEMBER AND IT IS  
14 DISREGARDED AS AN ENTITY SEPARATE FROM ITS MEMBER FOR FEDERAL INCOME  
15 TAX PURPOSES, THE PROFIT OR LOSS OF THE LIMITED LIABILITY COMPANY SHALL  
16 BE REFLECTED ON THE INCOME TAX RETURN FILED BY THE MEMBER OF THE  
17 LIMITED LIABILITY COMPANY.

18                   **Article - Transportation**

19 13-810.

20                   (c) On transfer of a vehicle titled in this State and issuance of a subsequent  
21 certificate of title, the vehicle is exempt from the excise tax imposed by this part, if it is:

22                   (1) A vehicle transferred to a spouse, son, daughter, grandchild, parent,  
23 sister, brother, grandparent, father-in-law, mother-in-law, son-in-law, or  
24 daughter-in-law of the transferor, and no money or other valuable consideration is  
25 involved in the transfer;

26                   (2) A vehicle repossessed under a security agreement, unless the sale of the  
27 vehicle is required under the agreement;

28                   (3) A vehicle transferred from an individual to a partnership, LIMITED  
29 LIABILITY COMPANY, or corporation or from a partnership, LIMITED LIABILITY  
30 COMPANY, or corporation to a subpartnership, SUBSIDIARY LIMITED LIABILITY  
31 COMPANY, or subsidiary corporation, if the individual, [partner] PARTNERSHIP,  
32 LIMITED LIABILITY COMPANY, or corporation is a partner, MEMBER, or principal  
33 stockholder of the newly formed partnership, subpartnership, LIMITED LIABILITY  
34 COMPANY, SUBSIDIARY LIMITED LIABILITY COMPANY, corporation, or subsidiary  
35 corporation, as the case may be;

36                   (4) A vehicle transferred to a legal heir, legatee, or distributee;

37                   (5) A vehicle involuntarily transferred as a result of divorce or separation  
38 proceedings;

39                   (6) A vehicle that is jointly owned and transferred to the name of one of the  
40 owners, if the transferee can establish to the satisfaction of the Administration that the

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1 transferor did not pay any part of the original purchase price of the vehicle or any  
2 applicable taxes or fees for the vehicle;

3 (7) A vehicle transferred by a corporation to its stockholder or stockholders  
4 OR BY A LIMITED LIABILITY COMPANY TO ITS MEMBER OR MEMBERS as a liquidating  
5 distribution of tangible personal property where the vehicle or vehicles transferred are  
6 not a principal or substantial asset of the corporation OR LIMITED LIABILITY COMPANY  
7 as determined by the Administration; or

8 (8) A vehicle transferred as a result of a reorganization within the meaning  
9 of § 368(a) of the Internal Revenue Code.

10 SECTION 2. AND BE IT FURTHER ENACTED, That the changes made to §  
11 10-819 of the Tax - General Article by this Act shall be applicable to all taxable years  
12 beginning after December 31, 1996.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 July 1, 1997.