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**By: Senators Hoffman, Amoss, and Miller**

Introduced and read first time: March 3, 1997

Assigned to: Rules

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A BILL ENTITLED

1 AN ACT concerning

2 **County Income Tax**

3 FOR the purpose of authorizing, rather than requiring, the counties including Baltimore  
4 City to have a county income tax on residents domiciled or maintaining a principal  
5 residence or place of abode in the county; excluding a county income tax from the  
6 definition of "income tax" under certain tax laws of the State; altering certain  
7 provisions relating to collection, administration, and distribution of the county  
8 income tax by the Comptroller; providing that the county income tax shall be  
9 collected and administered by the appropriate local official as designated by law by  
10 the governing body of a county; authorizing the governing body of a county to  
11 provide by law for the collection and administration of the tax; altering the  
12 calculation of the county income tax; altering the application of the earned income  
13 credit to the county income tax; repealing the minimum rate applicable to the  
14 county income tax; providing for the application of this Act; and generally relating  
15 to State and county income taxes.

16 BY repealing and reenacting, with amendments,

17 Article - Tax - General  
18 Section 1-101(i), 2-605 through 2-607, 2-609, 10-103, 10-106, 10-604, 10-704,  
19 10-706, and 10-908(e)  
20 Annotated Code of Maryland  
21 (1988 Volume and 1996 Supplement)

22 BY repealing

23 Article - Tax - General  
24 Section 2-608 and 2-610  
25 Annotated Code of Maryland  
26 (1988 Volume and 1996 Supplement)

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

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1 **Article - Tax - General**

2 1-101.

3 (i) (1) "Income tax" means the STATE tax imposed under Title 10 of this  
4 article.

5 (2) "Income tax" [includes] DOES NOT INCLUDE the [State income tax  
6 and] county income tax AUTHORIZED UNDER § 10-103 OF THIS ARTICLE.

7 2-605.

8 [(a)] After making the distribution required under § 2-604 of this subtitle, from the  
9 remaining income tax revenue from individuals, the Comptroller shall distribute the cost  
10 of administering the income tax laws to an administrative cost account.

11 [(b)] The Comptroller shall include within the distribution required under this  
12 section the amount necessary for the counties' share of the cost of administering the  
13 income tax laws.

14 (c) The share of administrative costs for each county is the amount equal to the  
15 product of multiplying the cost of administering the income tax laws by a fraction:

16 (1) the numerator of which is the amount of county income tax from  
17 individuals collected and attributable to residents of the county; and

18 (2) the denominator of which is the total amount of income tax collected  
19 from individuals and corporations.]

20 2-606.

21 [(a)] After making the distributions required under §§ 2-604 and 2-605 of this  
22 subtitle, from the remaining income tax revenue from individuals, the Comptroller shall  
23 distribute to an unallocated individual revenue account the income tax revenue:

24 (1) with respect to which an income tax return is not filed; and

25 (2) that is attributable to:

26 (i) income tax withheld from salary, wages, or other compensation for  
27 personal services under Title 10 of this article; or

28 (ii) estimated income tax payments by individuals.

29 [(b) (1) In June of each year, from current collections, the Comptroller shall  
30 distribute to each county, municipal corporation, and special taxing district a pro rata  
31 share of unallocated individual income tax revenue:

32 (i) with respect to which an income tax return was not filed within 3  
33 years after the date the income tax return was due to be filed; and

34 (ii) that was received during the calendar year ending 42 months  
35 before the distribution date.

36 (2) The Comptroller shall adjust the amount distributed under paragraph  
37 (1) of this subsection to a county, municipal corporation, or special taxing district to allow

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1 for the proportionate part of tax claim payments for a prior calendar year made after a  
 2 distribution is made to the county, municipal corporation, or special taxing district for  
 3 that year.

4 (c) (1) To compute the pro rata share for a county, the Comptroller shall:

5 (i) compute the amount equal to the product of multiplying the  
 6 unallocated individual income tax revenue by a fraction:

7 1. the numerator of which is the income tax for the county  
 8 collected for a calendar year; and

9 2. the denominator of which is the total income tax from  
 10 individuals collected for that year; and

11 (ii) reduce the amount computed under item (i) of this paragraph by  
 12 the pro rata share computed under paragraph (2) of this subsection for municipal  
 13 corporations and special taxing districts that are located in the county.

14 (2) To compute the pro rata share for a municipal corporation or special  
 15 taxing district, the Comptroller shall compute the amount equal to the product of  
 16 multiplying the pro rata share for a calendar year for the county where the municipal  
 17 corporation or district is located by a fraction:

18 (i) the numerator of which is the amount distributed under § 2-607 of  
 19 this subtitle to that municipal corporation or special taxing district for that year; and

20 (ii) the denominator of which is the total income tax for that county  
 21 collected for that year.]

22 2-607.

23 (a) [After making the distributions required under §§ 2-604 through 2-606 of this  
 24 subtitle, from the remaining income tax revenue from individuals, the Comptroller] A  
 25 COUNTY THAT IMPOSES THE TAX AUTHORIZED UNDER § 10-103 OF THIS ARTICLE  
 26 shall distribute to each special taxing district IN THE COUNTY that received an income tax  
 27 revenue distribution in fiscal year 1977 and to each municipal corporation IN THE  
 28 COUNTY an amount that[, based on the certification of the Comptroller as to State  
 29 income tax liability and county income tax liability of the residents of the district or  
 30 municipal corporation,] equals the greater of:

31 (1) [8.5% of the State income tax liability of those residents;

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

33 [(3)] (2) 0.37% of the Maryland taxable income of those residents.

34 (b) [The Comptroller] A COUNTY shall adjust the amount distributed under  
 35 subsection (a) of this section to a municipal corporation or special taxing district to allow  
 36 for a proportionate part of refund and interest payments for a prior calendar year made  
 37 after a distribution is made to the municipal corporation or district for that year.

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1 [2-608.

2 (a) After making the distributions required under §§ 2-604 through 2-607 of this  
3 subtitle, the Comptroller shall distribute to each county the remaining income tax revenue  
4 from individuals attributable to the county income tax for that county.

5 (b) The Comptroller shall adjust the amount distributed under subsection (a) of  
6 this section to a county to allow for a proportionate part of refund and interest payments  
7 made for a prior calendar year after a distribution is made to the county for that year.]

8 2-609.

9 After making the distributions required under §§ 2-604 through [2-608.1 ] 2-606 of  
10 this subtitle, the Comptroller shall distribute the remaining income tax revenue from  
11 individuals to the General Fund of the State.

12 [2-610.

13 (a) The Comptroller shall make the distributions of income tax revenue from  
14 individuals attributable to county income tax periodically to a county, municipal  
15 corporation, or special taxing district.

16 (b) The periodic distributions of the estimated amount to which each county,  
17 municipal corporation, and special taxing district is entitled from withholdings and  
18 estimated income taxes paid shall be made:

19 (1) for the 1st 3 quarters of the State's fiscal year, as often as practicable but  
20 at least each quarter; and

21 (2) for the 4th quarter of that year:

22 (i) before the last day of that year, for the months of April and May;  
23 and

24 (ii) before August 31, for the month of June.

25 (d) The Comptroller shall make a payment of the additional amounts provided  
26 under § 2-608.1 of this subtitle on or about December 31 of the fiscal year for which the  
27 payment is made.]

28 10-103.

29 (a) Each county [shall] MAY have a county income tax [measured by the State  
30 income tax] ON THE MARYLAND TAXABLE INCOME of:

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

33 (i) is domiciled in the county; or

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

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

37 (3) each resident fiduciary of:

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

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

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

7 (b) Except for the county income tax, a county, municipal corporation, special  
8 taxing district, or other political subdivision may not impose a general local income,  
9 earnings, or payroll tax, a general occupational license tax, or a general license or permit  
10 tax based on income, earnings, or gross receipts.

11 (C) THE COUNTY INCOME TAX SHALL BE COLLECTED AND ADMINISTERED  
12 BY THE APPROPRIATE LOCAL OFFICIAL AS DESIGNATED BY LAW BY THE  
13 GOVERNING BODY OF A COUNTY.

14 (D) THE GOVERNING BODY OF A COUNTY MAY PROVIDE, BY LAW, FOR:

15 (1) WITHHOLDING OF COUNTY INCOME TAX FROM WAGES AND THE  
16 FILING OF PERIODIC REPORTS BY EMPLOYERS REQUIRED TO WITHHOLD THE TAX  
17 FROM WAGES;

18 (2) THE FILING OF ANNUAL RETURNS BY EMPLOYERS AND BY  
19 INDIVIDUALS SUBJECT TO THE COUNTY INCOME TAX;

20 (3) PAYMENT OF ESTIMATED COUNTY INCOME TAX QUARTERLY BY  
21 INDIVIDUALS WHOSE INCOME IS NOT SUBJECT TO WITHHOLDING;

22 (4) INTEREST ON OVERDUE COUNTY INCOME TAX, AT A RATE NOT TO  
23 EXCEED THE RATE SET BY THE COMPTROLLER FOR INTEREST ON OVERDUE STATE  
24 TAXES;

25 (5) PENALTIES FOR LATE PAYMENT AND UNDERPAYMENT OF COUNTY  
26 INCOME TAX, NOT TO EXCEED 5% OF THE UNPAID TAX; AND

27 (6) ANY OTHER PROVISION NECESSARY TO ADMINISTER THE COUNTY  
28 INCOME TAX.

29 10-106.

30 (a) (1) Each county [shall] MAY set, by ordinance or resolution, a TOP  
31 MARGINAL county income tax RATE equal to at least [20%] 1% but not more than  
32 [60%, to be applied to the State income tax for an individual] 3% OF MARYLAND  
33 TAXABLE INCOME.

34 (2) A TOP MARGINAL county income tax rate continues until the county  
35 changes the rate by ordinance or resolution.

36 (3) (i) A county may not increase its county income tax rate above [50%]  
37 2.5% until after the county has held a public hearing on the proposed act, ordinance, or  
38 resolution to increase the rate.

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1 (ii) The county shall publish at least once each week for 2 successive  
2 weeks in a newspaper of general circulation in the county:

3 1. notice of the public hearing; and

4 2. a fair summary of the proposed act, ordinance, or resolution  
5 to increase the county income tax rate above [50%] 2.5%.

6 (4) Notwithstanding paragraph (1) or (2) of this subsection, in Howard  
7 County, the county income tax rate may be changed only by ordinance and not by  
8 resolution.

9 (B) THE COUNTY INCOME TAX RATE IS:

10 (1) 40% OF THE TOP MARGINAL COUNTY INCOME TAX RATE FOR  
11 MARYLAND TAXABLE INCOME OF \$1 THROUGH \$1,000;

12 (2) 60% OF THE TOP MARGINAL COUNTY INCOME TAX RATE FOR  
13 MARYLAND TAXABLE INCOME OF \$1,001 THROUGH \$2,000;

14 (3) 80% OF THE TOP MARGINAL COUNTY INCOME TAX RATE FOR  
15 MARYLAND TAXABLE INCOME OF \$2,001 THROUGH \$3,000; AND

16 (4) THE TOP MARGINAL COUNTY INCOME TAX RATE FOR MARYLAND  
17 TAXABLE INCOME IN EXCESS OF \$3,000.

18 [(b)] (C) Except as provided in subsection [(c)] (D) of this section, if a county  
19 changes its TOP MARGINAL county income tax rate, the county shall:

20 (1) increase or decrease the rate in increments of [5 percentage points]  
21 ONE-QUARTER OF A PERCENTAGE POINT, effective on January 1 of the year that the  
22 county designates; and

23 (2) give the Comptroller notice of the rate change and the effective date of  
24 the rate change on or before July 1 prior to its effective date.

25 [(c)] (D) A county income tax rate in excess of [50%] 2.5% at the option of the  
26 county may be a multiple of [2 percentage points] ONE-TENTH OF A PERCENTAGE  
27 POINT above [50%] 2.5% instead of a multiple of [5 percentage points above 50%]  
28 ONE-QUARTER OF A PERCENTAGE POINT ABOVE 2.5%.

29 10-604.

30 [An] EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AN individual shall  
31 compute the county income tax by applying the county tax rate [to the State income tax  
32 computed under § 10-601 or § 10-602 of this subtitle, as modified by the credits allowed  
33 under Subtitle 7 of this title against the county income tax] IN § 10-106 OF THIS TITLE TO  
34 MARYLAND TAXABLE INCOME.

35 10-704.

36 (a) (1) An individual may claim a credit against the STATE income tax for a  
37 taxable year in the amount determined under [subsection (b)] SUBSECTION (B)(1) of this  
38 section for earned income.

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1 (2) AN INDIVIDUAL MAY CLAIM A CREDIT AGAINST THE COUNTY  
2 INCOME TAX FOR A TAXABLE YEAR IN THE AMOUNT DETERMINED UNDER  
3 SUBSECTION (B)(2) OF THIS SECTION FOR EARNED INCOME.

4 (b) (1) Except as provided in paragraph [(2)] (3) of this subsection, the credit  
5 allowed AGAINST THE STATE INCOME TAX under [subsection (a)] SUBSECTION (A)(1)  
6 of this section is the lesser of:

7 (i) 50% of the earned income credit allowable for the taxable year  
8 under § 32 of the Internal Revenue Code; or

9 (ii) the State income tax for the taxable year.

10 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE  
11 CREDIT ALLOWED AGAINST THE COUNTY INCOME TAX UNDER SUBSECTION (A)(2)  
12 OF THIS SECTION IS THE LESSER OF:

13 (I) 25% OF THE EARNED INCOME CREDIT ALLOWABLE FOR THE  
14 TAXABLE YEAR UNDER § 32 OF THE INTERNAL REVENUE CODE; OR

15 (II) THE COUNTY INCOME TAX FOR THE TAXABLE YEAR.

16 [(2)] (3) An individual who files an income tax return for a period of less  
17 than 1 year is allowed from the amount under [paragraph (1) of] this subsection, a  
18 fraction:

19 (i) the numerator of which is the number of months that the return  
20 covers; and

21 (ii) the denominator of which is 12.

22 10-706.

23 (a) Except as otherwise provided in this section[:

24 (1)], a credit allowed under this subtitle is allowed against the State income  
25 tax only [; and

26 (2) the county income tax is based on the State income tax before the State  
27 income tax is reduced by the credit].

28 (b) [(1)] A credit under § 10-701 of this subtitle is allowed against the total  
29 county and State income taxes.

30 [(2) The county income tax is based on the amount of State income tax  
31 before the State income tax is reduced by the credit.]

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

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

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

35 (2) The county income tax is based on the amount of State income tax after  
36 the State income tax is reduced by the credit.]

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1 (C) (1) A CREDIT UNDER § 10-704(A)(1) OF THIS SUBTITLE IS ALLOWED  
2 AGAINST THE STATE INCOME TAX ONLY.

3 (2) A CREDIT UNDER § 10-704(A)(2) OF THIS SUBTITLE IS ALLOWED  
4 AGAINST THE COUNTY INCOME TAX ONLY.

5 10-908.

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

8 (1)] 5% of the payment [; and

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

10 SECTION 2. AND BE IT FURTHER ENACTED, That for calendar year 1998, the  
11 top marginal county income tax rate in each county, including Baltimore City, shall be 5%  
12 multiplied times the county income tax rate of at least 20% but not more than 60% as set  
13 by the county in accordance with § 10-106 of the Tax - General Article in effect before  
14 the effective date of this Act.

15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 1997 and shall be applicable to all taxable years beginning after December 31,  
17 1997.