
By: **Delegate Shriver**

Introduced and read first time: February 13, 1998

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Individual Development Accounts**

3 FOR the purpose of authorizing individuals to establish individual development
4 accounts eligible for certain tax benefits to be used for certain educational and
5 entrepreneurial purposes; providing a subtraction modification under the
6 Maryland income tax for certain amounts contributed to an individual
7 development account and for certain income of an individual development
8 account; defining certain terms; providing an addition modification for certain
9 amounts distributed from an individual development account; requiring a
10 trustee of an individual development account to submit certain reports to
11 certain persons; providing for the application of this Act; and generally relating
12 to the Maryland income taxation of individual 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 (1997 Replacement Volume)

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
21 "Part IV. Deductions; Miscellaneous"
22 Annotated Code of Maryland
23 (1997 Replacement Volume)

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

1 **Article - Tax - General**

2 10-205.

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

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

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

15 10-208.

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

19 (G-1) (1) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION
20 INCLUDES:

21 (I) SUBJECT TO THE LIMITATION UNDER PARAGRAPH (2) OF THIS
22 SUBSECTION, THE AMOUNT THE INDIVIDUAL CONTRIBUTED FOR THE TAXABLE YEAR
23 TO AN INDIVIDUAL DEVELOPMENT ACCOUNT UNDER § 10-224 OF THIS SUBTITLE;
24 AND

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

28 (2) THE SUBTRACTION ALLOWED UNDER PARAGRAPH (1)(I) OF THIS
29 SUBSECTION:

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

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

33 (III) DOES NOT INCLUDE ANY TRANSFER CONTRIBUTIONS FROM
34 ANOTHER INDIVIDUAL DEVELOPMENT ACCOUNT.

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

2 10-224.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

5 (2) "ELIGIBLE EDUCATIONAL OR ENTREPRENEURIAL PURPOSE" MEANS:

6 (I) TUITION, FEES, AND OTHER EXPENSES INCURRED FOR THE
7 INDIVIDUAL OR OF THE INDIVIDUAL'S SPOUSE OR DEPENDENTS, WITHIN THE
8 MEANING OF § 152 OF THE INTERNAL REVENUE CODE, TO ATTEND AN INSTITUTION
9 OF HIGHER EDUCATION; OR

10 (II) THE PURPOSE OF ESTABLISHING A BUSINESS, INCLUDING
11 WITHOUT LIMITATION THE PURCHASE OF ASSETS FOR USE IN A BUSINESS,
12 ENTREPRENEURIAL TRAINING, BUSINESS COUNSELING, AND TECHNICAL
13 ASSISTANCE.

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

17 (I) EXCEPT FOR TRANSFER CONTRIBUTIONS FROM ANOTHER
18 INDIVIDUAL DEVELOPMENT ACCOUNT:

19 1. ONLY CASH CONTRIBUTIONS MAY BE ACCEPTED; AND

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

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

26 (III) THE TRUST FUNDS MAY NOT BE INVESTED IN LIFE INSURANCE
27 CONTRACTS;

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

30 (V) THE ASSETS OF THE TRUST MAY NOT BE COMMINGLED WITH
31 OTHER PROPERTY EXCEPT IN A COMMON TRUST FUND OR A COMMON INVESTMENT
32 FUND.

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

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

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

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

6 (2) AS PROVIDED UNDER § 10-208(G-1) OF THIS SUBTITLE,
7 CONTRIBUTIONS TO AN INDIVIDUAL DEVELOPMENT ACCOUNT UNDER SUBSECTION
8 (C) OF THIS SECTION MAY BE SUBTRACTED FROM FEDERAL ADJUSTED GROSS
9 INCOME OF AN INDIVIDUAL AND THE INCOME OF AN INDIVIDUAL DEVELOPMENT
10 ACCOUNT MAY NOT BE CONSIDERED INCOME TO THE EMPLOYEE UNTIL WITHDRAWN
11 FROM THE ACCOUNT.

12 (E) EXCEPT WHEN THE INDIVIDUAL IS FACED WITH AN UNFORESEEABLE
13 EMERGENCY WITHIN THE MEANING OF § 457(D)(1)(III) OF THE INTERNAL REVENUE
14 CODE AND REGULATIONS ADOPTED THEREUNDER, A WITHDRAWAL OR
15 DISTRIBUTION MAY ONLY BE MADE FROM AN INDIVIDUAL DEVELOPMENT ACCOUNT
16 TO BE USED FOR ELIGIBLE EDUCATIONAL OR ENTREPRENEURIAL PURPOSES.

17 (F) IF A WITHDRAWAL OR DISTRIBUTION IS MADE IN VIOLATION OF
18 SUBSECTION (E) OF THIS SECTION OR IF AN INDIVIDUAL OR THE INDIVIDUAL'S
19 SPOUSE OR DEPENDENT ENGAGES IN A PROHIBITED TRANSACTION, WITHIN THE
20 MEANING OF § 4975 OF THE INTERNAL REVENUE CODE, WITH RESPECT TO AN
21 INDIVIDUAL DEVELOPMENT ACCOUNT ESTABLISHED BY THE INDIVIDUAL:

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

26 (2) AN AMOUNT EQUAL TO THE FULL FAIR MARKET VALUE OF ALL THE
27 ASSETS IN THE ACCOUNT SHALL BE DEEMED TO HAVE BEEN DISTRIBUTED OUT OF
28 THE ACCOUNT ON THE FIRST DAY OF THE TAXABLE YEAR IN WHICH THE
29 PROHIBITED WITHDRAWAL OR DISTRIBUTION OR THE PROHIBITED TRANSACTION
30 OCCURS.

31 (G) IF ANY PART OF AN INDIVIDUAL DEVELOPMENT ACCOUNT IS USED AS
32 SECURITY FOR A LOAN, AN AMOUNT EQUAL TO THE LESSER OF THE AMOUNT OF THE
33 LOAN OR THE FULL FAIR MARKET VALUE OF THE ASSETS IN THE ACCOUNT SHALL BE
34 DEEMED TO HAVE BEEN DISTRIBUTED OUT OF THE ACCOUNT ON THE DATE OF THE
35 LOAN.

36 (H) (1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2) OF THIS
37 SUBSECTION, FOR ANY TAXABLE YEAR, ANY AMOUNT PAID OR DISTRIBUTED OUT OF
38 AN INDIVIDUAL DEVELOPMENT ACCOUNT IN EXCESS OF THE AMOUNT USED FOR
39 ELIGIBLE EDUCATIONAL OR ENTREPRENEURIAL PURPOSES FOR THE TAXABLE YEAR
40 IS A NONQUALIFYING DISTRIBUTION SUBJECT TO THE ADDITION MODIFICATION
41 UNDER § 10-205(H) OF THIS SUBTITLE.

1 (2) THE AMOUNT PAID OR DISTRIBUTED OUT OF AN INDIVIDUAL
2 DEVELOPMENT ACCOUNT DOES NOT INCLUDE AMOUNTS TRANSFERRED DIRECTLY
3 FROM ONE INDIVIDUAL DEVELOPMENT ACCOUNT OF AN INDIVIDUAL TO ANOTHER
4 INDIVIDUAL DEVELOPMENT ACCOUNT OF THE SAME INDIVIDUAL.

5 (I) FOR PURPOSES OF THIS SUBTITLE, AN INDIVIDUAL MAY ELECT TO TREAT
6 ANY OR ALL CONTRIBUTIONS TO OR DISTRIBUTIONS OUT OF AN INDIVIDUAL
7 DEVELOPMENT ACCOUNT THAT ARE MADE ON OR BEFORE THE DATE REQUIRED BY
8 LAW FOR FILING THE RETURN FOR A TAXABLE YEAR, NOT INCLUDING EXTENSIONS,
9 AS HAVING BEEN MADE ON THE LAST DAY OF THAT TAXABLE YEAR.

10 (J) (1) EACH YEAR THE TRUSTEE OF AN INDIVIDUAL DEVELOPMENT
11 ACCOUNT SHALL SUBMIT A REPORT TO THE COMPTROLLER AND THE INDIVIDUAL
12 REGARDING THE ACCOUNT CONCERNING CONTRIBUTIONS, INCOME EARNED
13 DURING THE TAXABLE YEAR, DISTRIBUTIONS, AND ANY OTHER INFORMATION THAT
14 THE COMPTROLLER MAY REQUIRE BY REGULATION.

15 (2) THE REPORT SHALL BE:

16 (I) FILED WITH THE COMPTROLLER AT THE TIME AND IN THE
17 MANNER REQUIRED BY THE COMPTROLLER; AND

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

21 (K) ON THE DEATH OF AN INDIVIDUAL, AFTER TAKING INTO ACCOUNT
22 QUALIFYING DISTRIBUTIONS MADE ON OR BEFORE THE DATE REQUIRED FOR FILING
23 THE INDIVIDUAL'S LAST INCOME TAX RETURN, THE TRUSTEE OF THE ACCOUNT
24 SHALL DISTRIBUTE ANY AMOUNT REMAINING IN AN INDIVIDUAL DEVELOPMENT
25 ACCOUNT TO THE INDIVIDUAL'S ESTATE.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 July 1, 1998 and shall be applicable to all taxable years beginning after December 31,
28 1997.