

HOUSE BILL 539

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Q3
SB 310/98 - B&T

1999 Regular Session
9r2165
CF 9r0746

By: **Delegates Hixson and Barve**

Introduced and read first time: February 11, 1999

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 28, 1999

CHAPTER _____

1 AN ACT concerning

2 **Qualified Capital Gains - Maximum Tax**

3 FOR the purpose of allowing a credit against the Maryland individual income tax to
4 limit the amount of State and county income taxes payable for any taxable year
5 by an individual on certain capital gain income subject to a requirement that the
6 income shall be reinvested in certain areas of the State in a certain manner;
7 providing that the Department of Business and Economic Development and the
8 Comptroller shall provide certain certifications; and providing for the
9 application of this Act; and generally relating to a credit against the Maryland
10 income tax to limit the amount of State and county income taxes payable for any
11 taxable year by an individual on certain capital gain income.

12 BY repealing and reenacting, with amendments,
13 Article - Tax - General
14 Section 10-706(c)
15 Annotated Code of Maryland
16 (1997 Replacement Volume and 1998 Supplement)

17 BY adding to
18 Article - Tax - General
19 Section 10-712
20 Annotated Code of Maryland
21 (1997 Replacement Volume and 1998 Supplement)

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

Article - Tax - General

10-706.

(c) (1) A credit under § 10-704 [or], § 10-709, OR § 10-712 of this subtitle:

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

(ii) operates to reduce the county income tax.

(2) Subject to paragraph (3) of this subsection, the county income tax is based on the amount of State income tax after the State income tax is reduced by the sum of the credits allowed under §§ 10-704 [and], 10-709, AND 10-712 of this subtitle.

(3) (i) For purposes of determining the county income tax, the credit under § 10-704 [or], § 10-709, OR § 10-712 of this subtitle shall be calculated using the State income tax as modified under § 10-106(c) of this title.

(ii) If the credit allowed under § 10-704 of this subtitle for any taxable year exceeds the State income tax as modified under § 10-106(c) of this title, the county income tax is zero.

10-712.

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

(2) "QUALIFIED CAPITAL GAIN" MEANS THE NET CAPITAL GAIN, WITHIN THE MEANING OF § 1222(11) OF THE INTERNAL REVENUE CODE, THAT:

(+) (I) IS INCLUDED IN THE MARYLAND ADJUSTED GROSS INCOME OF AN INDIVIDUAL; AND

(-) (II) WOULD BE SUBTRACTED FROM FEDERAL ADJUSTED GROSS INCOME UNDER § 10-210(B) OF THIS TITLE IF THE INDIVIDUAL WERE A NONRESIDENT.

(3) "QUALIFIED DISTRESSED COUNTY" MEANS A COUNTY, INCLUDING BALTIMORE CITY, FOR WHICH:

(I) THE AVERAGE RATE OF UNEMPLOYMENT FOR THE MOST RECENT 18-MONTH PERIOD FOR WHICH DATA ARE AVAILABLE IS GREATER THAN 150% OF THE AVERAGE RATE OF UNEMPLOYMENT FOR THE ENTIRE STATE DURING THAT SAME PERIOD; OR

(II) THE AVERAGE PER CAPITA PERSONAL INCOME FOR THE MOST RECENT 24-MONTH PERIOD FOR WHICH DATA ARE AVAILABLE IS EQUAL TO OR LESS THAN 67% OF THE AVERAGE PERSONAL PER CAPITA INCOME FOR THE ENTIRE STATE DURING THAT SAME PERIOD.

(4) "QUALIFIED POSITION" MEANS A POSITION THAT:

1 (I) IS A FULL-TIME POSITION AND IS OF INDEFINITE DURATION;

2 (II) PAYS AT LEAST 150% OF THE FEDERAL MINIMUM WAGE;

3 (III) IS LOCATED IN A QUALIFIED DISTRESSED COUNTY IN
4 MARYLAND;

5 (IV) IS NEWLY CREATED, AS A RESULT OF THE ESTABLISHMENT OR
6 EXPANSION OF A BUSINESS PREMISES IN A SINGLE LOCATION IN THE QUALIFIED
7 DISTRESSED COUNTY; AND

8 (V) IS FILLED.

9 (B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, AN INDIVIDUAL MAY
10 CLAIM A CREDIT AGAINST THE STATE INCOME TAX FOR A TAXABLE YEAR IN THE
11 AMOUNT BY WHICH THE STATE INCOME TAX EXCEEDS THE SUM OF:

12 (1) \$65,000; AND

13 (2) THE STATE INCOME TAX THAT WOULD BE PAYABLE ON THE
14 INDIVIDUAL'S MARYLAND TAXABLE INCOME REDUCED BY THE AMOUNT OF THE
15 INDIVIDUAL'S QUALIFIED CAPITAL GAIN.

16 (C) (1) IN ORDER TO RECEIVE THE CREDIT UNDER THIS SECTION, ANY
17 QUALIFIED CAPITAL GAIN REALIZED BY AN INDIVIDUAL MUST BE REINVESTED IN
18 THE STATE AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION.

19 (2) THE REINVESTMENT OF GAIN SHALL BE PROVIDED BY THE
20 INDIVIDUAL THROUGH:

21 (I) ESTABLISHING OR EXPANDING A BUSINESS PREMISES IN A
22 QUALIFIED DISTRESSED COUNTY IN THE STATE;

23 (II) CONSTRUCTING OR EXPANDING BY AT LEAST 5,000 SQUARE
24 FEET A PREMISES ON WHICH BUSINESS IS CONDUCTED;

25 (III) CREATING AT LEAST 100 QUALIFIED POSITIONS AT THE NEW OR
26 EXPANDED BUSINESS PREMISES DURING ANY 24-MONTH PERIOD; AND

27 (IV) CONDUCTING ACTIVITY AT THE NEW OR EXPANDED BUSINESS
28 PREMISES IN THE QUALIFIED DISTRESSED COUNTY IN ONE OR MORE OF THE
29 FOLLOWING AREAS:

30 1. MANUFACTURING OR MINING;

31 2. TRANSPORTATION OR COMMUNICATIONS;

32 3. FILMMAKING, RESORT, AND RECREATIONAL BUSINESS;

33 4. AGRICULTURE, FORESTRY, OR FISHING;

- 1 5. RESEARCH, DEVELOPMENT, OR TESTING;
- 2 6. BIOTECHNOLOGY;
- 3 7. COMPUTER PROGRAMMING, DATA PROCESSING, OR
4 OTHER COMPUTER RELATED SERVICES;
- 5 8. CENTRAL FINANCIAL, REAL ESTATE, OR INSURANCE
6 SERVICES;
- 7 9. THE OPERATION OF CENTRAL ADMINISTRATIVE OFFICES
8 OR A COMPANY HEADQUARTERS;
- 9 10. A PUBLIC UTILITY;
- 10 11. WAREHOUSING; OR
- 11 12. BUSINESS SERVICES.

12 (3) THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT, IN
13 CONSULTATION WITH THE COMPTROLLER, SHALL CERTIFY THAT THE INDIVIDUAL IS
14 INVESTING FINANCIAL RESOURCES IN A QUALIFIED DISTRESSED COUNTY THAT IS
15 REASONABLY EQUIVALENT TO THE QUALIFIED CAPITAL GAIN WITH RESPECT TO
16 WHICH THE INDIVIDUAL IS ELIGIBLE FOR A CREDIT UNDER THIS SECTION.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 July 1, 1999 and shall be applicable to all taxable years beginning after December 31,
19 1998.