

SENATE BILL 56

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(PRE-FILED)

By: **Chairman, Budget and Taxation Committee (Departmental -
Assessments and Taxation)**

Requested: October 5, 1999
Introduced and read first time: January 12, 2000
Assigned to: Budget and Taxation

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 27, 2000

CHAPTER _____

1 AN ACT concerning

2 **Financial Institution Franchise Tax – Termination Institutions - Taxation**

3 FOR the purpose of terminating the financial institution franchise tax and the
4 savings and loan association franchise tax; providing that financial institutions
5 are subject to the income tax after a certain date; providing that, for income tax
6 purposes, interest received by certain financial institutions from one of its
7 subsidiary corporations shall be allocated to this State only to a certain extent;
8 altering the personal property tax exemption for certain financial institutions;
9 repealing obsolete or redundant provisions; consolidating certain provisions;
10 repealing the property tax exemption for certain personal property of savings
11 and loan associations; providing that the Department of Assessments and
12 Taxation ~~retains~~ and the Comptroller retain certain enforcement powers;
13 requiring the ~~State~~ Comptroller, under certain circumstances, to assess interest
14 and penalty for a certain fiscal year; providing for the effective date and
15 application of this Act; and generally relating to the ~~termination of the financial~~
16 ~~institution franchise tax~~ taxation of financial institutions.

17 BY repealing and reenacting, without amendments,
18 Article - Tax - General
19 Section 8-101(c)
20 Annotated Code of Maryland
21 (1997 Replacement Volume and 1999 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article - Tax - General

1 Section 8-202(a) and 8-301
2 Annotated Code of Maryland
3 (1997 Replacement Volume and 1999 Supplement)

4 BY adding to
5 Article - Tax - General
6 Section 10-403
7 Annotated Code of Maryland
8 (1997 Replacement Volume and 1999 Supplement)

9 BY repealing and reenacting, with amendments,
10 Article - Tax - Property
11 Section 7-221 and 7-221.1
12 Annotated Code of Maryland
13 (1994 Replacement Volume and 1999 Supplement)

14 BY repealing
15 Article - Tax - Property
16 Section 7-228
17 Annotated Code of Maryland
18 (1994 Replacement Volume and 1999 Supplement)

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

21 **Article - Tax - General**

22 8-101.

- 23 (c) (1) "Financial institution" means:
- 24 (i) a credit company;
 - 25 (ii) except as provided in paragraph (2)(i) of this subsection, a
26 finance company;
 - 27 (iii) an international banking facility;
 - 28 (iv) a loan company;
 - 29 (v) a mortgage company;
 - 30 (vi) a safe-deposit company; and
 - 31 (vii) a savings and loan association.
- 32 (2) "Financial institution" does not include:

1 (i) a finance company that makes loans only to farmers for
2 agricultural purposes;

3 (ii) a company licensed under the federal Small Business
4 Investment Act of 1958;

5 (iii) a corporation that elects to be taxed as a small business
6 corporation under Subchapter S of the Internal Revenue Code;

7 (iv) an entity that is a real estate mortgage investment conduit as
8 defined in the Internal Revenue Code;

9 (v) a limited liability company; or

10 (vi) a commercial bank, savings bank, trust company, or company
11 that substantially competes with national banks in the State.

12 8-202.

13 (a) (1) [A] FOR ALL TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 2001,
14 A franchise tax, measured by taxable net earnings, is imposed annually on each
15 financial institution existing or doing business in the State during any part of the
16 fiscal year of the financial institution.

17 (2) FOR ALL TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2000,
18 THE FINANCIAL INSTITUTION FRANCHISE TAX IS TERMINATED, AND MARYLAND
19 TAXABLE INCOME OF FINANCIAL INSTITUTIONS SHALL BE SUBJECT TO TAXATION
20 UNDER TITLE 10 OF THIS ARTICLE.

21 8-301.

22 (A) [A] FOR ALL TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 2001, A
23 franchise tax, measured by deposits held in the State, is imposed, for each calendar
24 year, on each savings and loan association.

25 (B) FOR ALL TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2000, THE
26 SAVINGS AND LOAN ASSOCIATION FRANCHISE TAX IS TERMINATED.

27 10-403.

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

30 (2) (I) "FINANCIAL INSTITUTION" MEANS:

31 1. A CREDIT COMPANY;

32 2. EXCEPT AS PROVIDED IN SUBPARAGRAPH (II)1 OF THIS
33 PARAGRAPH, A FINANCE COMPANY;

34 3. AN INTERNATIONAL BANKING FACILITY;

- 1 4. A LOAN COMPANY;
2 5. A MORTGAGE COMPANY;
3 6. A SAFE-DEPOSIT COMPANY; AND
4 7. A SAVINGS AND LOAN ASSOCIATION.

5 (II) "FINANCIAL INSTITUTION" DOES NOT INCLUDE:

6 1. A FINANCE COMPANY THAT MAKES LOANS ONLY TO
7 FARMERS FOR AGRICULTURAL PURPOSES;

8 2. A COMPANY LICENSED UNDER THE FEDERAL SMALL
9 BUSINESS INVESTMENT ACT OF 1958;

10 3. A CORPORATION THAT ELECTS TO BE TAXED AS A SMALL
11 BUSINESS CORPORATION UNDER SUBCHAPTER S OF THE INTERNAL REVENUE CODE;

12 4. AN ENTITY THAT IS A REAL ESTATE MORTGAGE
13 INVESTMENT CONDUIT AS DEFINED IN THE INTERNAL REVENUE CODE;

14 5. A LIMITED LIABILITY COMPANY; OR

15 6. A COMMERCIAL BANK, SAVINGS BANK, TRUST COMPANY,
16 OR COMPANY THAT SUBSTANTIALLY COMPETES WITH NATIONAL BANKS IN THE
17 STATE.

18 (3) "FINANCIAL INSTITUTION HOLDING COMPANY" MEANS A FINANCIAL
19 INSTITUTION WHOSE ONLY ACTIVITIES ARE:

20 (I) THE MAINTENANCE AND MANAGEMENT OF INTANGIBLE
21 INVESTMENTS; AND

22 (II) THE COLLECTION AND DISTRIBUTION OF INCOME FROM
23 INTANGIBLE INVESTMENTS.

24 (B) NOTWITHSTANDING § 10-402 OF THIS SUBTITLE, INTEREST RECEIVED BY A
25 FINANCIAL INSTITUTION HOLDING COMPANY FROM ONE OF ITS SUBSIDIARY
26 CORPORATIONS THAT IS A FINANCIAL INSTITUTION SHALL BE ALLOCATED TO THIS
27 STATE ONLY TO THE EXTENT THAT THE INTEREST IS DERIVED FROM THE TRADE OR
28 BUSINESS OF THE SUBSIDIARY CORPORATION WITHIN THIS STATE.

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

1 **Article - Tax - Property**

2 7-221.

3 (a) Personal property is not subject to valuation or to property tax, if the
4 personal property is owned by [an institution that is subject to the]:

5 (1) A financial institution AS DEFINED IN § 8-101(C) [franchise tax under
6 Title 8, Subtitle 2] of the Tax - General Article OTHER THAN A SAVINGS AND LOAN
7 ASSOCIATION AS DEFINED IN § 7-221.1 OF THIS SUBTITLE; OR

8 (2) A FEDERAL OR STATE CHARTERED CREDIT UNION ORGANIZED FOR
9 RECEIVING DEPOSITS OF MONEY AND PAYING INTEREST OR DIVIDENDS ON THE
10 MONEY, IF THE CREDIT UNION DOES NOT HAVE CAPITAL STOCK.

11 (b) This exemption does not include any personal property that is leased,
12 loaned, or made available by the institution for the use of a person whose business is
13 not that of the institution.

14 [(c) For any taxable year beginning after June 30, 1998, the exemption under
15 this section does not apply to a commercial bank, savings bank, trust company, or
16 company that substantially competes with national banks in the State.

17 (d) Notwithstanding subsection (a) of this section, except as provided in §
18 7-221.1 of this subtitle, for a commercial bank, savings bank, trust company, or
19 company that substantially competes with national banks in the State, the personal
20 property described in subsection (a) of this section is subject to property tax:

21 (1) on 50% of its assessment for the taxable year beginning on July 1,
22 1996; and

23 (2) on 75% of its assessment for the taxable year beginning on July 1,
24 1997.]

25 7-221.1.

26 (a) (1) In this section[, "bank] THE FOLLOWING WORDS HAVE THE
27 MEANINGS INDICATED.

28 (2) "BANK or trust company" means:

29 [(1)] (I) a commercial bank;

30 [(2)] (II) a savings bank;

31 [(3)] (III) a trust company; or

32 [(4)] (IV) a company that substantially competes with national banks in
33 the State.

1 (b) "SAVINGS AND LOAN ASSOCIATION" MEANS A SAVINGS AND LOAN
2 ASSOCIATION THAT:

3 (1) IS ORGANIZED UNDER THE LAWS OF THE STATE;

4 (2) IS ORGANIZED UNDER THE LAWS OF ANOTHER STATE AND IS
5 ADMITTED TO DO BUSINESS IN THIS STATE; OR

6 (3) IS ORGANIZED UNDER THE LAWS OF THE UNITED STATES AND HAS
7 AN OFFICE IN THIS STATE.

8 (C) Except as provided in subsection (c) of this section, personal property is not
9 subject to valuation or to property tax, if the personal property:

10 (1) is owned by a bank or trust company OR A SAVINGS AND LOAN
11 ASSOCIATION and is used in connection with the processing of deposits or loans of the
12 bank or trust company OR SAVINGS AND LOAN ASSOCIATION;

13 (2) is a computer program, as defined in § 11-225(a) of the Tax - General
14 Article, or computer hardware; and

15 (3) is not used in connection with word processing.

16 [(c)] (D) The exemption under this section does not apply to any personal
17 property that is leased, loaned, or made available by a bank or trust company OR A
18 SAVINGS AND LOAN ASSOCIATION for the use of a person that is not a bank or trust
19 company OR SAVINGS AND LOAN ASSOCIATION.

20 [7-228.

21 Personal property is not subject to valuation or property tax, if the property is
22 owned by:

23 (1) an institution that is subject to the financial institution franchise tax
24 under Title 8, Subtitle 2 of the Tax - General Article; or

25 (2) a credit union organized for receiving deposits of money and paying
26 interest or dividends on the money, if the credit union does not have capital stock.]

27 SECTION 3. AND BE IT FURTHER ENACTED, That notwithstanding the
28 termination of the financial institution franchise tax as provided in Section 1 of this
29 Act, the Department of Assessments and Taxation shall retain full authority to audit,
30 administer, and enforce the tax for taxable years beginning before January 1, 2001.

31 SECTION 4. AND BE IT FURTHER ENACTED, That notwithstanding the
32 termination of the savings and loan association franchise tax as provided in Section 1
33 of this Act, the Comptroller shall retain full authority to audit, administer, and
34 enforce the tax for taxable years beginning before January 1, 2001.

1 SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That for a taxable year
2 beginning after December 31, 2000, but before January 1, ~~2001~~ 2002,
3 notwithstanding §§ 13-602 and 13-702 of the Tax - General Article:

4 (a) Except as provided in subsection (b) of this section, the Comptroller shall
5 assess interest and penalty under §§ 13-602 and 13-702 of the Tax - General Article
6 if a financial institution pays estimated income tax for the taxable year in an amount
7 less than 90% of the tax required to be shown on the financial institution's income tax
8 return for the taxable year.

9 (b) Subsection (a) of this section does not apply if the financial institution pays
10 estimated financial institution franchise tax for the taxable year in an amount that
11 when added to the estimated income tax paid by the financial institution for the
12 taxable year is at least equal to the financial institution franchise tax paid by the
13 financial institution for the prior taxable year.

14 SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That Section 2 of this Act
15 shall take effect January 1, 2001 and be applicable to all taxable years beginning
16 after June 30, 2001.

17 SECTION ~~6~~ 7. AND BE IT FURTHER ENACTED, That, except as provided in
18 Section ~~5~~ 6 of this Act, this Act shall take effect October 1, 2000.