
By: **Senators Haines, Ferguson, Hafer, Harris, Hooper, Jacobs, Kittleman,
Roesser, and Schrader**

Introduced and read first time: January 25, 2002

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax - Capital Gains**

3 FOR the purpose of allowing a subtraction modification for Maryland individual and
4 corporate income tax purposes for a certain portion of certain capital gain
5 income; including the amount of the subtracted capital gain income in items of
6 tax preference for purposes of the individual income tax; providing for the
7 application of this Act; and generally relating to a subtraction modification
8 under the Maryland income tax for a certain portion of certain capital gain
9 income.

10 BY adding to

11 Article - Tax - General
12 Section 10-207(w)
13 Annotated Code of Maryland
14 (1997 Replacement Volume and 2001 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article - Tax - General
17 Section 10-222(a) and 10-307(g)
18 Annotated Code of Maryland
19 (1997 Replacement Volume and 2001 Supplement)

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

22 **Article - Tax - General**

23 10-207.

24 (W) (1) IN THIS SUBSECTION, "NET CAPITAL GAIN" MEANS NET CAPITAL
25 GAIN, AS DEFINED AND DETERMINED UNDER THE INTERNAL REVENUE CODE,
26 BEFORE ANY EXCLUSION FOR FEDERAL INCOME TAX PURPOSES.

1 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE
2 SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES AN AMOUNT
3 EQUAL TO 50% OF THE FIRST \$50,000 OF NET CAPITAL GAIN.

4 (3) THE AMOUNT DETERMINED UNDER PARAGRAPH (2) OF THIS
5 SUBSECTION SHALL BE REDUCED, BUT NOT BELOW ZERO, BY THE AMOUNT OF ANY
6 PORTION OF NET CAPITAL GAIN EXCLUDED FROM FEDERAL ADJUSTED GROSS
7 INCOME FOR FEDERAL INCOME TAX PURPOSES.

8 10-222.

9 (a) In this section, "tax preference items" mean the items that:

10 (1) total more than \$10,000 for an individual return or \$20,000 for a joint
11 return;

12 (2) are defined under § 57 of the Internal Revenue Code;

13 (3) are modified and apportioned under § 59 of the Internal Revenue
14 Code; [and]

15 (4) are further modified by excluding:

16 (i) the oil percentage depletion allowance claimed under § 613 or §
17 613A of the Internal Revenue Code; and

18 (ii) interest described in § 57(a)(5) of the Internal Revenue Code, if
19 the interest is attributable to obligations of:

20 1. the State of Maryland;

21 2. a political subdivision or authority of the State; or

22 3. any other entity authorized under Maryland law to issue
23 obligations the interest on which is excluded from gross income under § 103 of the
24 Internal Revenue Code; AND

25 (5) ARE FURTHER MODIFIED BY ADDING THE AMOUNT ALLOWED TO BE
26 SUBTRACTED AS AN ADJUSTMENT FOR NET CAPITAL GAIN UNDER § 10-207(W) OF
27 THIS SUBTITLE.

28 10-307.

29 (g) The subtraction under subsection (a) of this section includes the amounts
30 allowed to be subtracted for an individual under:

31 (1) § 10-207(i) of this title (Profits on sale or exchange of State or local
32 bonds);

33 (2) § 10-207(k) of this title (Relocation and assistance payments);

- 1 (3) § 10-207(m) of this title (State or local income tax refunds);
- 2 (4) § 10-207(c-1) of this title (State tax exempt interest from mutual
3 funds); [or]
- 4 (5) § 10-207(u) of this title (Amounts received by Stadium Authority
5 affiliate in consideration of transfer of certified rehabilitation credit); OR
- 6 (6) § 10-207(W) OF THIS TITLE (NET CAPITAL GAIN).

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 July 1, 2002 and shall be applicable to all taxable years beginning after December 31,
9 2001.