
By: **Senators Hoffman, Kelley, Lawlah, and Ruben**
Introduced and read first time: January 29, 2002
Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Estate Tax - Effect of Act of Congress Repealing or Reducing**
3 **Federal Credit**

4 FOR the purpose of altering the effect on the Maryland estate tax of an Act of
5 Congress that repeals or reduces a certain credit allowed against the federal
6 estate tax; providing for the application of this Act; and generally relating to the
7 Maryland estate tax.

8 BY repealing and reenacting, with amendments,
9 Article - Tax - General
10 Section 7-304 and 7-309
11 Annotated Code of Maryland
12 (1997 Replacement Volume and 2001 Supplement)

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

15 **Article - Tax - General**

16 7-304.

17 (a) [In] SUBJECT TO § 7-309 OF THIS SUBTITLE, IN this section, "federal
18 credit" means the maximum credit for death taxes paid to any state that is allowable
19 under § 2011 of the Internal Revenue Code against the federal estate tax of a decedent
20 as reduced by the proportion that the amount of the estate not included in the
21 Maryland estate bears to the amount of the entire estate of the decedent.

22 (b) (1) Except as otherwise provided in this subsection, the Maryland estate
23 tax is the amount, if any, by which the federal credit exceeds the total of death taxes
24 other than the Maryland estate tax that:

25 (i) are imposed by a state on property included in the Maryland
26 estate;

27 (ii) are allowable in computing the federal credit; and

1 (iii) except as provided in § 13-906 of this article, have actually been
2 paid out of the Maryland estate and received by the appropriate unit of this State.

3 (2) [The] SUBJECT TO § 7-309 OF THIS SUBTITLE, THE Maryland estate
4 tax may not exceed the amount whose timely payment in accordance with federal law
5 would reduce the amount of the federal estate tax payable out of the Maryland estate
6 had this subtitle not been enacted.

7 (c) The Maryland estate tax is not affected by a failure to take or preserve the
8 federal credit.

9 7-309.

10 (A) [If Congress passes an act] NOTWITHSTANDING AN ACT OF CONGRESS
11 that repeals OR REDUCES the federal credit under § 2011 of the Internal Revenue
12 Code, [and does not enact a similar statute as a substitute:

13 (1)] the provisions of this subtitle [that are] in effect before the passage
14 of the Act of Congress shall apply with respect to a decedent who [died before the end
15 of the period covered by a budget bill that the General Assembly passed before the
16 effective date of the Act of Congress; and

17 (2) this subtitle is void with respect to a decedent who dies after the
18 effective date of the Act of Congress] DIES AFTER THE EFFECTIVE DATE OF THE ACT
19 OF CONGRESS SO AS TO CONTINUE THE MARYLAND ESTATE TAX IN FORCE WITHOUT
20 REDUCTION IN THE SAME MANNER AS IF THE FEDERAL CREDIT HAD NOT BEEN
21 REPEALED OR REDUCED.

22 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
23 AFTER THE EFFECTIVE DATE OF AN ACT OF CONGRESS DESCRIBED IN SUBSECTION
24 (A) OF THIS SECTION, THE MARYLAND ESTATE TAX SHALL BE DETERMINED USING:

25 (I) THE FEDERAL CREDIT ALLOWABLE BY § 2011 OF THE INTERNAL
26 REVENUE CODE AS IN EFFECT BEFORE THE REDUCTION OR REPEAL OF THE
27 FEDERAL CREDIT PURSUANT TO THE ACT OF CONGRESS; AND

28 (II) OTHER PROVISIONS OF FEDERAL ESTATE TAX LAW, INCLUDING
29 THE APPLICABLE UNIFIED CREDIT ALLOWED AGAINST THE FEDERAL ESTATE TAX,
30 AS IN EFFECT ON THE DATE OF THE DECEDENT'S DEATH.

31 (2) IF THE FEDERAL ESTATE TAX IS NOT IN EFFECT ON THE DATE OF
32 THE DECEDENT'S DEATH, THE MARYLAND ESTATE TAX SHALL BE DETERMINED
33 USING:

34 (I) THE FEDERAL CREDIT ALLOWABLE BY § 2011 OF THE INTERNAL
35 REVENUE CODE AS IN EFFECT BEFORE THE REDUCTION OR REPEAL OF THE
36 FEDERAL CREDIT PURSUANT TO THE ACT OF CONGRESS; AND

37 (II) OTHER PROVISIONS OF FEDERAL ESTATE TAX LAW, INCLUDING
38 THE APPLICABLE UNIFIED CREDIT ALLOWED AGAINST THE FEDERAL ESTATE TAX,

1 AS IN EFFECT ON THE DATE IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF
2 THE REPEAL OF THE FEDERAL ESTATE TAX.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 July 1, 2002 and shall be applicable to any Act of Congress enacted on or after
5 January 1, 2001; provided, however, that this Act does not apply to decedents dying
6 before July 1, 2002.