
By: **Senator Neall**

Introduced and read first time: February 1, 2002

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax - Retirement Income and Charitable Contributions**

3 FOR the purpose of altering the computation of a certain subtraction modification
4 allowed under the Maryland income tax for certain retirement income of
5 individuals who are at least a certain age or who are disabled or whose spouse is
6 disabled; providing an individual a credit against the State income tax in a
7 certain amount for certain charitable contributions made to certain tax-exempt
8 organizations, subject to a certain limitation; providing for a certain reduction of
9 itemized deductions for Maryland income tax purposes if a certain credit is
10 claimed under certain circumstances; defining certain terms; providing for the
11 application of this Act; providing for a delayed effective date; and generally
12 relating to reductions in the Maryland income tax relating to retirement income
13 and charitable contributions.

14 BY repealing and reenacting, with amendments,
15 Article - Tax - General
16 Section 10-209 and 10-218
17 Annotated Code of Maryland
18 (1997 Replacement Volume and 2001 Supplement)

19 BY adding to
20 Article - Tax - General
21 Section 10-724
22 Annotated Code of Maryland
23 (1997 Replacement Volume and 2001 Supplement)

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

26 **Article - Tax - General**

27 10-209.

28 (a) In this section:

1 (1) "employee retirement system" means a plan:
2 (i) established and maintained by an employer for the benefit of its
3 employees; and
4 (ii) qualified under § 401(a), § 403, or § 457(b) of the Internal
5 Revenue Code; and

6 (2) "employee retirement system" does not include:
7 (i) an individual retirement account or annuity under § 408 of the
8 Internal Revenue Code;
9 (ii) a Roth individual retirement account under § 408A of the
10 Internal Revenue Code;
11 (iii) a rollover individual retirement account;
12 (iv) a simplified employee pension under Internal Revenue Code §
13 408(k); or
14 (v) an ineligible deferred compensation plan under § 457(f) of the
15 Internal Revenue Code.

16 (b) To determine Maryland adjusted gross income, if, on the last day of the
17 taxable year, a resident is at least 65 years old or is totally disabled or the resident's
18 spouse is totally disabled, an amount is subtracted from federal adjusted gross
19 income equal to the lesser of:

20 (1) the cumulative or total annuity, pension, or endowment income from
21 an employee retirement system included in federal adjusted gross income; or

22 (2) the maximum annual benefit under the Social Security Act computed
23 under subsection (c) of this section, less [any payment received as old age, survivors,
24 or disability benefits under the Social Security Act, the Railroad Retirement Act, or
25 both] THE FOLLOWING PERCENTAGE OF ANY PAYMENT RECEIVED AS OLD AGE,
26 SURVIVORS, OR DISABILITY BENEFITS UNDER THE SOCIAL SECURITY ACT, THE
27 RAILROAD RETIREMENT ACT, OR BOTH:

28 (I) 75% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
29 2003 BUT BEFORE JANUARY 1, 2005;

30 (II) 50% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
31 2004 BUT BEFORE JANUARY 1, 2006;

32 (III) 25% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
33 2005 BUT BEFORE JANUARY 1, 2007; AND

34 (IV) 0% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
35 2006.

1 (c) For purposes of subsection (b)(2) of this section, the Comptroller:

2 (1) shall determine the maximum annual benefit under the Social
3 Security Act allowed for an individual who retired at age 65 for the prior calendar
4 year; and

5 (2) may allow the subtraction to the nearest \$100.

6 10-218.

7 (a) Only an individual who itemizes deductions on the individual's federal
8 income tax return may elect to itemize deductions on the individual's income tax
9 return.

10 (b) An individual who elects to itemize deductions is allowed as a deduction
11 the sum of the individual's federal itemized deductions:

12 (1) limited and reduced as required under the Internal Revenue Code;

13 (2) further reduced by any amount deducted under § 170 of the Internal
14 Revenue Code for contributions of a preservation or conservation easement for which
15 a credit is claimed under § 10-723 of this title; [and]

16 (3) FURTHER REDUCED BY ANY AMOUNT DEDUCTED UNDER § 170 OF
17 THE INTERNAL REVENUE CODE FOR CONTRIBUTIONS TO A COMMUNITY
18 FOUNDATION'S ENDOWMENT FOR WHICH A CREDIT IS CLAIMED UNDER § 10-724 OF
19 THIS TITLE; AND

20 (4) further reduced by the amount claimed as taxes on income paid to a
21 state or political subdivision of a state, after subtracting a pro rata portion of the
22 reduction to itemized deductions required under § 68 of the Internal Revenue Code.

23 10-724.

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

26 (2) "COMMUNITY FOUNDATION" MEANS AN ORGANIZATION LOCATED IN
27 THE STATE THAT:

28 (I) IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE
29 INTERNAL REVENUE CODE;

30 (II) IS COMMONLY KNOWN AS A COMMUNITY TRUST, FUND, OR
31 FOUNDATION OR BY ANOTHER SIMILAR NAME;

32 (III) MAINTAINS A CAPITAL OR PERMANENT ENDOWMENT FUND TO
33 SUPPORT CHARITABLE ACTIVITIES IN THE COMMUNITY OR AREA THAT IT SERVES;
34 AND

1 (IV) SATISFIES THE PUBLIC SUPPORT TEST OF § 170(B)(1)(A)(VI) OF
2 THE INTERNAL REVENUE CODE AND REGULATIONS ADOPTED UNDER THAT
3 SECTION.

4 (3) "QUALIFIED CAPITAL GAIN" MEANS THE NET CAPITAL GAIN, WITHIN
5 THE MEANING OF § 1222(11) OF THE INTERNAL REVENUE CODE, THAT IS INCLUDED IN
6 THE MARYLAND ADJUSTED GROSS INCOME OF AN INDIVIDUAL.

7 (4) "UNRESTRICTED CHARITABLE CONTRIBUTION" MEANS A
8 CHARITABLE CONTRIBUTION TO A COMMUNITY FOUNDATION THAT IS
9 UNRESTRICTED, WITHIN THE MEANING OF § 170(B)(1)(A)(VI) OF THE INTERNAL
10 REVENUE CODE AND REGULATIONS ADOPTED UNDER THAT SECTION, WITH RESPECT
11 TO ITS AVAILABILITY FOR DISTRIBUTION BY THE GOVERNING BODY OF THE
12 COMMUNITY FOUNDATION.

13 (B) (1) SUBJECT TO THE LIMITATION UNDER PARAGRAPH (2) OF THIS
14 SUBSECTION, AN INDIVIDUAL MAY CLAIM A CREDIT AGAINST THE STATE INCOME
15 TAX IN AN AMOUNT EQUAL TO 100% OF THE AMOUNT OF ANY UNRESTRICTED
16 CHARITABLE CONTRIBUTION MADE BY THE INDIVIDUAL TO A COMMUNITY
17 FOUNDATION'S ENDOWMENT DURING THE TAXABLE YEAR.

18 (2) FOR ANY TAXABLE YEAR, THE CREDIT ALLOWED UNDER THIS
19 SECTION MAY NOT EXCEED THE DIFFERENCE BETWEEN:

20 (I) THE STATE INCOME TAX FOR THE TAXABLE YEAR ON THE
21 INDIVIDUAL'S MARYLAND TAXABLE INCOME; AND

22 (II) THE STATE INCOME TAX THAT WOULD BE PAYABLE FOR THE
23 TAXABLE YEAR ON THE INDIVIDUAL'S MARYLAND TAXABLE INCOME REDUCED BY
24 THE AMOUNT OF THE INDIVIDUAL'S QUALIFIED CAPITAL GAIN.

25 (3) THE CREDIT MAY ONLY BE ALLOWED IF THE INDIVIDUAL'S
26 QUALIFIED CAPITAL GAIN FOR THE TAXABLE YEAR FOR WHICH THE CREDIT IS
27 RECEIVED IS AT LEAST \$10,000,000.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 July 1, 2003 and shall be applicable to all taxable years beginning after December 31,
30 2003.