
By: Delegates Hammen and Elliott, Elliott, Benson, Boutin, Donoghue, Goldwater, Hubbard, Hurson, Kach, Mandel, Morhaim, Murray, Nathan-Pulliam, Oaks, Pendergrass, Rosenberg, and V. Turner

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Committee Report: Favorable with amendments
House action: Adopted
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CHAPTER _____

1 AN ACT concerning

2 **Income Tax –~~Exemptions and Deductions~~ - Health Care Coverage Required**
3 **- Study**

4 ~~FOR the purpose of prohibiting an individual whose income exceeds a certain~~
5 ~~percentage of a certain poverty income level from deducting a certain exemption~~
6 ~~and using certain deductions unless certain individuals had certain health care~~
7 ~~coverage for a certain part of the taxable year; authorizing individuals who meet~~
8 ~~certain requirements to satisfy the health care coverage requirement by having~~
9 ~~a certain health benefit plan or individual health benefit plan; defining certain~~
10 ~~terms; providing for the application of this Act; and generally relating to~~
11 ~~prohibiting certain income tax exemptions and deductions under the income tax~~
12 ~~unless an individual has health care coverage.~~

13 ~~BY repealing and reenacting, with amendments,~~
14 ~~Article – Tax – General~~
15 ~~Section 10-101, 10-211, 10-217, and 10-218~~
16 ~~Annotated Code of Maryland~~
17 ~~(1997 Replacement Volume and 2003 Supplement)~~

18 FOR the purpose of requiring the Maryland Health Care Commission, in consultation
19 with the Maryland Insurance Administration and the Comptroller, to study and
20 make recommendations on the use of income tax incentives and penalties to
21 increase the number of individuals who purchase health care coverage;
22 specifying that the study shall include certain items; requiring the Commission
23 to report on its findings and recommendations in a certain manner on or before
24 a certain date; and generally relating to a study of income tax incentives and

1 penalties as a means of increasing health care coverage.

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

4 **~~Article—Tax—General~~**

5 ~~10-101.~~

6 (a) ~~In this title the following words have the meanings indicated.~~

7 (a-1) ~~"Applicable tax base" means the portion of the income of an investment
8 conduit or a special exempt entity on which a tax is imposed under:~~

9 (1) ~~§ 11, § 527(b), § 528(b), § 852(b)(1), § 857(b)(1) or (4)(a), or §
10 860G(e)(1) of the Internal Revenue Code; or~~

11 (2) ~~any other section of the Internal Revenue Code that the Comptroller
12 determines by regulation to impose an entity level income tax on an entity that the
13 Comptroller determines to be:~~

14 (i) ~~an investment conduit under subsection (c-1)(2) of this section;
15 or~~

16 (ii) ~~a special exempt entity under subsection (h-1)(2) of this section.~~

17 (A-2) ~~"APPLICABLE POVERTY INCOME LEVEL" MEANS THE AMOUNT SPECIFIED
18 IN THE POVERTY INCOME STANDARD THAT CORRESPONDS TO THE NUMBER OF
19 EXEMPTIONS THAT THE INDIVIDUAL MAY DEDUCT IN THE TAXABLE YEAR TO
20 DETERMINE FEDERAL TAXABLE INCOME UNDER § 151 OF THE INTERNAL REVENUE
21 CODE.~~

22 (b) ~~"Corporation" includes an association or joint stock company.~~

23 (c) ~~"County income tax" means the county tax on income authorized in §
24 10-103 of this subtitle.~~

25 (c-1) ~~"Federal adjusted gross income" means:~~

26 (1) ~~for an individual other than a fiduciary, the individual's adjusted
27 gross income as determined under the Internal Revenue Code;~~

28 (2) ~~for a fiduciary other than one described in item (3) of this subsection,
29 the fiduciary's taxable income, as determined under the Internal Revenue Code,
30 increased by the amount allowed to the fiduciary as a deduction for a personal
31 exemption under § 642(b) of the Internal Revenue Code; or~~

32 (3) ~~for a fiduciary exempt from taxation under § 408(e)(1) or § 501 of the
33 Internal Revenue Code, the fiduciary's unrelated business taxable income as defined
34 under § 512 of the Internal Revenue Code.~~

1 (d) (1) "Fiduciary" means a person holding the legal title to property for the
2 use and benefit of another person.

3 (2) "Fiduciary" does not include:

4 (i) an agent holding custody or possession of property that the
5 principal of the agent owns; or

6 (ii) a guardian, as defined in § 13-101 of the Estates and Trusts
7 Article.

8 (D-1) ~~"HEALTH CARE COVERAGE" MEANS HEALTH CARE COVERAGE OF AN~~
9 ~~INDIVIDUAL UNDER:~~

10 (1) ~~AN EMPLOYER SPONSORED PLAN;~~

11 (2) ~~A HEALTH BENEFIT PLAN OR AN INDIVIDUAL HEALTH BENEFIT~~
12 ~~PLAN, AS DEFINED IN § 15-1301 OF THE INSURANCE ARTICLE;~~

13 (3) ~~PART A OR PART B OF TITLE XVIII OF THE SOCIAL SECURITY ACT;~~

14 (4) ~~TITLE XIX OR TITLE XXI OF THE SOCIAL SECURITY ACT, OTHER THAN~~
15 ~~COVERAGE CONSISTING SOLELY OF BENEFITS UNDER § 1928 OF THAT ACT;~~

16 (5) ~~CHAPTER 55 OF TITLE 10 OF THE UNITED STATES CODE;~~

17 (6) ~~A MEDICAL CARE PROGRAM OF THE INDIAN HEALTH SERVICE OR OF~~
18 ~~A TRIBAL ORGANIZATION;~~

19 (7) ~~A STATE HEALTH BENEFITS RISK POOL;~~

20 (8) ~~A HEALTH PLAN OFFERED UNDER THE FEDERAL EMPLOYEES~~
21 ~~HEALTH BENEFITS PROGRAM, TITLE 5, CHAPTER 89 OF THE UNITED STATES CODE;~~

22 (9) ~~A PUBLIC HEALTH PLAN AS DEFINED BY FEDERAL REGULATIONS~~
23 ~~AUTHORIZED BY THE PUBLIC HEALTH SERVICE ACT, § 2701(C)(1)(I), AS AMENDED BY~~
24 ~~P.L. 104-191; OR~~

25 (10) ~~A HEALTH BENEFIT PLAN UNDER § 5(E) OF THE PEACE CORPS ACT, 22~~
26 ~~U.S.C. 2504(E).~~

27 (e) "Individual" means, unless expressly provided otherwise, a natural person
28 or a fiduciary.

29 (e-1) "Investment conduit" means:

30 (1) any of the following entities described in the Internal Revenue Code:

31 (i) a regulated investment company;

32 (ii) a real estate investment trust; or

1 (iii) a real estate mortgage investment conduit; or

2 (2) any other entity that the Comptroller determines by regulation to
3 enjoy a status under the Internal Revenue Code pursuant to which the entity is not
4 generally subject to income tax at the entity level so long as substantially all of its
5 profits are distributed to the holders of equity interests in the entity.

6 (f) ~~"Maryland taxable income" means:~~

7 (1) ~~for an individual, Maryland adjusted gross income, less the~~
8 ~~exemptions and deductions allowed under this title; and~~

9 (2) ~~for a corporation, Maryland modified income as allocated under this~~
10 ~~title.~~

11 (g) ~~"Nonresident" means an individual who is not a resident.~~

12 (G-1) ~~"POVERTY INCOME STANDARD" MEANS THE MOST RECENT POVERTY~~
13 ~~INCOME GUIDELINE PUBLISHED BY THE UNITED STATES DEPARTMENT OF HEALTH~~
14 ~~AND HUMAN SERVICES, AVAILABLE AS OF JULY 1 OF THE TAXABLE YEAR.~~

15 (h) (1) ~~"Resident" means:~~

16 (i) ~~an individual, other than a fiduciary, who:~~

17 1. ~~is domiciled in this State on the last day of the taxable~~
18 ~~year; or~~

19 2. ~~for more than 6 months of the taxable year, maintained a~~
20 ~~place of abode in this State, whether domiciled in this State or not;~~

21 (ii) ~~a personal representative of an estate if the decedent was~~
22 ~~domiciled in this State on the date of the decedent's death; or~~

23 (iii) ~~a fiduciary, other than a personal representative, of a trust if:~~

24 1. ~~the trust was created, or consists of property transferred,~~
25 ~~by the will of a decedent who was domiciled in the State on the date of the decedent's~~
26 ~~death;~~

27 2. ~~the creator or grantor of the trust is a current resident of~~
28 ~~the State; or~~

29 3. ~~the trust is principally administered in the State.~~

30 (2) ~~"Resident" includes, for the part of the taxable year that an~~
31 ~~individual resides in this State, an individual who:~~

32 (i) ~~moves to this State with the intent to be domiciled in this State;~~
33 ~~or~~

1 (ii) is domiciled in this State and moves outside this State before
2 the last day of the taxable year with the bona fide intention to remain permanently
3 outside of this State.

4 (3) If an individual under paragraph (2)(ii) of this subsection again
5 resides in this State within 6 months after having moved outside this State, there is
6 a rebuttable presumption that the individual did not have a bona fide intention to
7 remain permanently outside this State.

8 (h-1) "Special exempt entity" means:

9 (1) any of the following entities described in the Internal Revenue Code:

10 (i) a farmers' cooperative;

11 (ii) a political organization; or

12 (iii) a homeowners association; or

13 (2) any other entity not described in § 10-104(2) of this title that the
14 Comptroller determines by regulation to be exempt from federal income tax on all or
15 some part of its income.

16 (i) "S corporation" means a corporation that elects to be taxed as a small
17 business corporation under Subchapter S of the Internal Revenue Code.

18 (j) "State income tax" means the State tax on income imposed under this title.

19 (k) (1) "Taxable year" means:

20 (i) the period for which Maryland taxable income is computed
21 under this title; and

22 (ii) the annual accounting period defined in § 441 of the Internal
23 Revenue Code.

24 (2) "Taxable year" includes:

25 (i) a calendar year ending on December 31, as defined in § 441 of
26 the Internal Revenue Code;

27 (ii) a fiscal year ending on the last day of a month other than
28 December, as defined in § 441 of the Internal Revenue Code;

29 (iii) if a return is made for a period of less than 1 year, the period for
30 which the return is made; or

31 (iv) if an election is made under § 441(f) of the Internal Revenue
32 Code, the period for which a return is made.

1 40-211.

2 (A) Whether or not a federal return is filed, to determine Maryland taxable
3 income, an individual other than a fiduciary may deduct as an exemption:

4 (1) ~~EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,~~ for each
5 exemption that the individual may deduct in the taxable year to determine federal
6 taxable income under § 151 of the Internal Revenue Code:

7 (i) \$1,750 for a taxable year beginning after December 31, 1997 but
8 before January 1, 1999;

9 (ii) \$1,850 for a taxable year beginning after December 31, 1998 but
10 before January 1, 2000;

11 (iii) \$1,850 for a taxable year beginning after December 31, 1999 but
12 before January 1, 2001;

13 (iv) \$2,100 for a taxable year beginning after December 31, 2000 but
14 before January 1, 2002; and

15 (v) \$2,400 for a taxable year beginning after December 31, 2001;

16 (2) for each dependent, as defined in § 152 of the Internal Revenue Code,
17 who is at least 65 years old on the last day of the taxable year, an additional:

18 (i) \$1,750 for a taxable year beginning after December 31, 1997 but
19 before January 1, 1999;

20 (ii) \$1,850 for a taxable year beginning after December 31, 1998 but
21 before January 1, 2000;

22 (iii) \$1,850 for a taxable year beginning after December 31, 1999 but
23 before January 1, 2001;

24 (iv) \$2,100 for a taxable year beginning after December 31, 2000 but
25 before January 1, 2002; and

26 (v) \$2,400 for a taxable year beginning after December 31, 2001;

27 (3) an additional \$1,000 if the individual, on the last day of the taxable
28 year, is at least 65 years old; and

29 (4) an additional \$1,000 if the individual, on the last day of the taxable
30 year, is a blind individual, as described in § 10-208(c) of this subtitle.

31 (B) (1) ~~IF AN INDIVIDUAL HAS FEDERAL ADJUSTED GROSS INCOME FOR THE~~
32 ~~TAXABLE YEAR GREATER THAN 300% OF THE APPLICABLE POVERTY INCOME LEVEL,~~
33 ~~THE INDIVIDUAL MAY NOT DEDUCT AN EXEMPTION UNDER SUBSECTION (A) OF THIS~~
34 ~~SECTION UNLESS THE INDIVIDUAL FOR WHOM THE EXEMPTION IS CLAIMED HAD~~
35 ~~HEALTH CARE COVERAGE FOR AT LEAST 6 MONTHS OF THE TAXABLE YEAR.~~

1 (2) ~~IF AN INDIVIDUAL HAS FEDERAL ADJUSTED GROSS INCOME FOR THE~~
2 ~~TAXABLE YEAR GREATER THAN 300% OF THE APPLICABLE POVERTY INCOME LEVEL~~
3 ~~AND HAS NOT HAD HEALTH CARE COVERAGE FOR 12 CONSECUTIVE MONTHS~~
4 ~~IMMEDIATELY PRIOR TO OBTAINING HEALTH CARE COVERAGE, AN INDIVIDUAL MAY~~
5 ~~SATISFY THE REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION BY HAVING A~~
6 ~~HEALTH BENEFIT PLAN OR AN INDIVIDUAL HEALTH BENEFIT PLAN THAT MEETS AT~~
7 ~~LEAST THE REQUIREMENTS OF § 15-1207 OF THE INSURANCE ARTICLE.~~

8 10-217.

9 (a) (1) (i) ~~Except as otherwise provided in this subsection, an individual~~
10 ~~may elect to use the standard deduction to compute Maryland taxable income~~
11 ~~whether or not the individual itemizes deductions on the individual's federal income~~
12 ~~tax return in determining federal taxable income.~~

13 (ii) ~~If an individual elects to use the standard deduction on the~~
14 ~~federal income tax return, the individual may not take any itemized deduction in §~~
15 ~~10-218 of this subtitle.~~

16 (2) ~~A fiduciary may not use the standard deduction.~~

17 (3) (1) ~~IF AN INDIVIDUAL HAS FEDERAL ADJUSTED GROSS INCOME~~
18 ~~FOR THE TAXABLE YEAR GREATER THAN 300% OF THE APPLICABLE POVERTY~~
19 ~~INCOME LEVEL, THE INDIVIDUAL MAY NOT USE THE STANDARD DEDUCTION UNLESS~~
20 ~~THE INDIVIDUAL HAD HEALTH CARE COVERAGE FOR AT LEAST 6 MONTHS OF THE~~
21 ~~TAXABLE YEAR.~~

22 (ii) ~~IF AN INDIVIDUAL HAS FEDERAL ADJUSTED GROSS INCOME~~
23 ~~FOR THE TAXABLE YEAR GREATER THAN 300% OF THE APPLICABLE POVERTY~~
24 ~~INCOME LEVEL AND HAS NOT HAD HEALTH CARE COVERAGE FOR 12 CONSECUTIVE~~
25 ~~MONTHS IMMEDIATELY PRIOR TO OBTAINING HEALTH CARE COVERAGE, AN~~
26 ~~INDIVIDUAL MAY SATISFY THE REQUIREMENTS OF SUBPARAGRAPH (I) OF THIS~~
27 ~~PARAGRAPH BY HAVING A HEALTH BENEFIT PLAN OR AN INDIVIDUAL HEALTH~~
28 ~~BENEFIT PLAN THAT MEETS AT LEAST THE REQUIREMENTS OF § 15-1207 OF THE~~
29 ~~INSURANCE ARTICLE.~~

30 (b) ~~Subject to the limitation in subsection (c) of this section, the standard~~
31 ~~deduction for an individual is an amount equal to 15% of the individual's Maryland~~
32 ~~adjusted gross income.~~

33 (e) (1) ~~For an individual other than one described in paragraphs (2) and (3)~~
34 ~~of this subsection, the standard deduction:~~

35 (i) ~~may not be less than \$1,500; and~~

36 (ii) ~~may not exceed \$2,000.~~

37 (2) ~~For an individual described in § 2 of the Internal Revenue Code as a~~
38 ~~head of household or as a surviving spouse, the standard deduction:~~

1 (i) may not be less than \$3,000; and

2 (ii) may not exceed \$4,000.

3 (3) For spouses on a joint return, the standard deduction:

4 (i) may not be less than \$3,000; and

5 (ii) may not exceed \$4,000.

6 40-218.

7 (a) ~~[Only] SUBJECT TO SUBSECTION (C) OF THIS SECTION, ONLY an~~
 8 ~~individual who itemizes deductions on the individual's federal income tax return may~~
 9 ~~elect to itemize deductions on the individual's income tax 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 the amount claimed as taxes on income paid to a~~
 17 ~~state or political subdivision of a state, after subtracting a pro rata portion of the~~
 18 ~~reduction to itemized deductions required under § 68 of the Internal Revenue Code.~~

19 (C) (1) ~~EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF AN~~
 20 ~~INDIVIDUAL HAS FEDERAL ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR~~
 21 ~~GREATER THAN 300% OF THE APPLICABLE POVERTY INCOME LEVEL, THE~~
 22 ~~INDIVIDUAL MAY NOT ITEMIZE DEDUCTIONS UNLESS THE INDIVIDUAL HAD HEALTH~~
 23 ~~CARE COVERAGE FOR AT LEAST 6 MONTHS OF THE TAXABLE YEAR.~~

24 (2) ~~IF AN INDIVIDUAL HAS FEDERAL ADJUSTED GROSS INCOME FOR THE~~
 25 ~~TAXABLE YEAR GREATER THAN 300% OF THE APPLICABLE POVERTY INCOME LEVEL~~
 26 ~~AND HAS NOT HAD HEALTH CARE COVERAGE FOR 12 CONSECUTIVE MONTHS~~
 27 ~~IMMEDIATELY PRIOR TO OBTAINING HEALTH CARE COVERAGE, AN INDIVIDUAL MAY~~
 28 ~~SATISFY THE REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION BY HAVING A~~
 29 ~~HEALTH BENEFIT PLAN OR AN INDIVIDUAL HEALTH BENEFIT PLAN THAT MEETS AT~~
 30 ~~LEAST THE REQUIREMENTS OF § 15-1207 OF THE INSURANCE ARTICLE.~~

31 (a) The Maryland Health Care Commission, in consultation with the
 32 Maryland Insurance Administration and the Comptroller, shall study and make
 33 recommendations on the use of income tax incentives and penalties as a means of
 34 increasing the number of individuals who purchase health care coverage.

35 (b) The study shall include:

- 1 (1) the types of tax incentives and penalties that could be used to
2 encourage the purchase of health care coverage;
- 3 (2) the costs, including administrative costs, and benefits of various
4 types of incentives and penalties;
- 5 (3) the cost of various types of health care coverage;
- 6 (4) the feasibility and desirability of requiring individuals above a
7 certain income level to have some minimal level of health care coverage in order to
8 take income tax deductions and exemptions;
- 9 (5) the issue of the potential loss of employment-based coverage during
10 the tax year and its implications for tax penalties;
- 11 (6) whether incentives and penalties should target coverage for
12 individual taxpayers or entire families; and
- 13 (7) any other related issues the Commission may deem appropriate.
- 14 (c) The Commission shall report on its findings and recommendations to the
15 Governor and, in accordance with § 2-1246 of the State Government Article, to the
16 General Assembly, on or before January 1, 2005.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 ~~July 1, 2004, and shall be applicable to all taxable years beginning after December 31,~~
19 ~~2004.~~ June 1, 2004.