
By: **Delegates Hixson, Bozman, Healey, Howard, Marriott, and Patterson**
Introduced and read first time: January 24, 2005
Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax - Nonresidents - Withholding from Payments and Taxation of**
3 **Pass-Through Income**

4 FOR the purpose of altering the rate of a certain tax imposed on certain entities with
5 respect to a nonresident's share of an entity's taxable income; clarifying
6 language relating to a certain income tax imposed on certain individuals who
7 are not subject to a county income tax; altering the required rate of withholding
8 from certain payments made to a nonresident payee; altering a certain rate used
9 to calculate certain payments required before a deed or other instrument of
10 writing may be recorded under certain circumstances; providing for the
11 application of this Act; and generally relating to Maryland income taxation of
12 certain income of nonresidents.

13 BY repealing and reenacting, with amendments,
14 Article - Tax - General
15 Section 10-102.1(d), 10-106.1(b), 10-908(d), and 10-912(c)
16 Annotated Code of Maryland
17 (2004 Replacement Volume)

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

20 **Article - Tax - General**

21 10-102.1.

22 (d) (1) Except as provided in paragraph (2) of this subsection, the tax
23 imposed under subsection (b) of this section is A RATE EQUAL TO THE SUM OF THE
24 RATE OF THE TAX IMPOSED UNDER § 10-106.1 OF THIS SUBTITLE AND the top
25 marginal State tax rate for individuals under § 10-105(a)(4) of this subtitle applied to:

26 (i) the sum of each nonresident partner's distributive share of a
27 partnership's nonresident taxable income;

1 (ii) the sum of each nonresident shareholder's pro rata share of an
2 S corporation's nonresident taxable income; or

3 (iii) the sum of each nonresident member's distributive share of a
4 limited liability company's nonresident taxable income.

5 (2) The tax required to be paid for any taxable year on behalf of
6 nonresident shareholders, nonresident partners, or nonresident members by an S
7 corporation, a partnership, or a limited liability company may not exceed the sum of
8 all of the nonresident shareholders', partners', or members' shares of the entity's
9 distributable cash flow.

10 10-106.1.

11 (b) The [rate of the] tax imposed under this section [shall be equal to] IS the
12 lowest county income tax rate set by any Maryland county in accordance with §
13 10-106 of this subtitle APPLIED TO THE INDIVIDUAL'S MARYLAND TAXABLE INCOME.
14 10-908.

15 (d) A payor shall withhold from a payment subject to withholding of winnings
16 derived from wagering:

17 (1) if the payee is a resident, a rate equal to the sum of 2.5% and the top
18 marginal State income tax rate for individuals under § 10-105(a) of this title, applied
19 to the payment; and

20 (2) if the payee is a nonresident, A RATE EQUAL TO THE SUM OF THE
21 RATE OF THE TAX IMPOSED UNDER § 10-106.1 OF THIS TITLE AND the top marginal
22 State income tax rate for individuals under § 10-105(a) of this title, applied to the
23 payment.

24 10-912.

25 (c) Except as otherwise provided in this section, in a sale or exchange of real
26 property and associated tangible personal property owned by a nonresident or
27 nonresident entity, the deed or other instrument of writing that effects a change of
28 ownership on the assessment books under the Tax - Property Article may not be
29 recorded with the clerk of the circuit court for a county or filed with the Department
30 of Assessments and Taxation unless payment is made to the clerk of the circuit court
31 for a county or the Department of Assessments and Taxation in an amount equal to:

32 (1) [4.75% of] THE SUM OF THE RATE OF THE TAX IMPOSED UNDER §
33 10-106.1 OF THIS TITLE AND 4.75%, APPLIED TO the total payment to a nonresident; or

34 (2) 7% of the total payment to a nonresident entity.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
36 July 1, 2005 and shall be applicable to all taxable years beginning after December 31,
37 2004.

