
By: **Delegates Elliott, Hammen, and Hurson**
Introduced and read first time: February 9, 2005
Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax - Surcharge for Lack of Health Care Coverage**

3 FOR the purpose of imposing a surcharge on the Maryland taxable income of certain
4 individuals with income above a certain level; providing that the surcharge does
5 not apply if certain individuals had certain health care coverage or did not
6 reside in the State; providing for certain exceptions; requiring an employer to
7 base withholding for certain employees on a certain number of exemptions in
8 certain circumstances; requiring the Comptroller to widely publicize the
9 requirements of this Act for a certain purpose; defining a certain term; providing
10 for the application of certain provisions of this Act; providing for a delayed
11 effective date; providing for the effective dates of this Act; and generally relating
12 to a surcharge on the income tax for lack of health care coverage.

13 BY repealing and reenacting, without amendments,
14 Article - Insurance
15 Section 15-1301(f)(1)
16 Annotated Code of Maryland
17 (2002 Replacement Volume and 2004 Supplement)

18 BY adding to
19 Article - Tax - General
20 Section 10-106.2
21 Annotated Code of Maryland
22 (2004 Replacement Volume)

23 BY repealing and reenacting, with amendments,
24 Article - Tax - General
25 Section 10-910(b)
26 Annotated Code of Maryland
27 (2004 Replacement Volume)

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

1

Article - Insurance

2 15-1301.

- 3 (f) (1) "Creditable coverage" means coverage of an individual under:
- 4 (i) an employer sponsored plan;
- 5 (ii) a health benefit plan;
- 6 (iii) Part A or Part B of Title XVIII of the Social Security Act;
- 7 (iv) Title XIX of the Social Security Act, other than coverage
8 consisting solely of benefits under § 1928 of that Act;
- 9 (v) Chapter 55 of Title 10 of the United States Code;
- 10 (vi) a medical care program of the Indian Health Service or of a
11 tribal organization;
- 12 (vii) a State health benefits risk pool;
- 13 (viii) a health plan offered under the Federal Employees Health
14 Benefits Program (FEHBP), Title 5, Chapter 89 of the United States Code;
- 15 (ix) a public health plan as defined by federal regulations
16 authorized by the Public Health Service Act, § 2701(c)(1)(i), as amended by P.L.
17 104-191; or
- 18 (x) a health benefit plan under § 5(e) of the Peace Corps Act, 22
19 U.S.C. 2504(e).

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Article - Tax - General

21 10-106.2.

22 (A) IN THIS SECTION, "HEALTH CARE COVERAGE" MEANS CREDITABLE
23 COVERAGE AS DEFINED IN § 15-1301 OF THE INSURANCE ARTICLE.

24 (B) SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION, IN ADDITION TO
25 THE STATE INCOME TAX UNDER § 10-105(A) OF THIS SUBTITLE:

26 (1) IF THE MARYLAND TAXABLE INCOME OF AN INDIVIDUAL EXCEEDS
27 \$55,900, THE INDIVIDUAL IS SUBJECT TO A SURCHARGE IN AN AMOUNT EQUAL TO 1%
28 OF THE INDIVIDUAL'S MARYLAND TAXABLE INCOME UNLESS THE INDIVIDUAL AND
29 EACH DEPENDENT CHILD OF THE INDIVIDUAL HAD HEALTH CARE COVERAGE:

30 (I) FOR AT LEAST 6 MONTHS OF THE TAXABLE YEAR; AND

31 (II) ON DECEMBER 31 OF THE TAXABLE YEAR.

1 (2) (I) FOR A MARRIED COUPLE FILING A JOINT RETURN, EXCEPT AS
2 PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF THE JOINT MARYLAND
3 TAXABLE INCOME OF THE MARRIED COUPLE EXCEEDS \$83,850, THE MARRIED
4 COUPLE IS SUBJECT TO A SURCHARGE IN AN AMOUNT EQUAL TO 2% OF THE
5 MARRIED COUPLE'S MARYLAND TAXABLE INCOME, UNLESS EACH SPOUSE AND EACH
6 DEPENDENT CHILD OF THE MARRIED COUPLE HAD HEALTH CARE COVERAGE:

- 7 1. FOR AT LEAST 6 MONTHS OF THE TAXABLE YEAR; AND
8 2. ON DECEMBER 31 OF THE TAXABLE YEAR.

9 (II) THE SURCHARGE FOR A MARRIED COUPLE UNDER THIS
10 PARAGRAPH IS 1% OF THE MARRIED COUPLE'S MARYLAND TAXABLE INCOME IF EACH
11 DEPENDENT CHILD OF THE MARRIED COUPLE AND EITHER THE HUSBAND OR WIFE
12 HAD HEALTH CARE COVERAGE:

- 13 1. FOR AT LEAST 6 MONTHS OF THE TAXABLE YEAR; AND
14 2. ON DECEMBER 31 OF THE TAXABLE YEAR.

15 (C) THIS SECTION DOES NOT APPLY TO A NONRESIDENT, INCLUDING A
16 NONRESIDENT SPOUSE OR A NONRESIDENT DEPENDENT.

17 (D) THE COMPTROLLER MAY PROVIDE FOR EXCEPTIONS TO SUBSECTION (B)
18 OF THIS SECTION FOR INDIVIDUALS:

- 19 (1) JUST ENTERING THE WORKFORCE;
20 (2) RECENTLY MOVING INTO THE STATE;
21 (3) WHO ARE UNEMPLOYED; OR
22 (4) WITH OTHER LEGITIMATE REASONS FOR NONCOMPLIANCE.

23 10-910.

24 (b) (1) Except as provided in [paragraph (2)] PARAGRAPHS (2) AND (3) of this
25 subsection, an employer shall base withholding for an employee:

26 (i) on the number of exemptions stated in the exemption certificate
27 that the employee files; or

28 (ii) if the employee fails to file an exemption certificate or files an
29 invalid certificate under subsection (c) of this section, on 1 exemption.

30 (2) If the Comptroller notifies an employer that an employee has an
31 unpaid tax liability, the employer shall base withholding for the employee on a
32 number of exemptions not exceeding the actual number of exemptions allowed on the
33 employee's prior year's income tax return, as specified by the Comptroller.

1 (3) (I) IN THIS PARAGRAPH, "HEALTH CARE COVERAGE" MEANS
2 CREDITABLE COVERAGE AS DEFINED IN § 15-1301 OF THE INSURANCE ARTICLE.

3 (II) AN EMPLOYER SHALL BASE WITHHOLDING FOR AN EMPLOYEE
4 ON ZERO EXEMPTIONS IF THE COMPENSATION OF THE EMPLOYEE IS EXPECTED TO
5 EXCEED \$50,000 IN ANY TAX YEAR AND THE EMPLOYEE DOES NOT HAVE HEALTH
6 CARE COVERAGE FROM THE EMPLOYER OR HAS NOT PRESENTED THE EMPLOYER
7 WITH A CERTIFICATION OF OTHER HEALTH CARE COVERAGE.

8 SECTION 2. AND BE IT FURTHER ENACTED, That the Comptroller shall
9 widely publicize the requirements of this Act to provide an adequate opportunity for
10 individuals to obtain health care coverage and avoid a surcharge.

11 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
12 take effect January 1, 2007 and shall be applicable to all taxable years beginning
13 after December 31, 2006.

14 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in
15 Section 3 of this Act, this Act shall take effect July 1, 2005.