
By: **Delegates Gordon and Patterson**

Introduced and read first time: February 11, 2005

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax - Effect of Amendment of Internal Revenue Code**

3 FOR the purpose of adopting the Internal Revenue Code as in effect on a certain date
4 for purposes of the Maryland income tax; providing that unless expressly
5 provided otherwise by law, an amendment of the Internal Revenue Code enacted
6 after a certain date does not affect determinations under the Maryland income
7 tax; requiring the Comptroller each year to submit to the General Assembly
8 certain proposed legislation and certain information regarding certain
9 amendments to the Internal Revenue Code; stating the intent of the General
10 Assembly that certain legislation be enacted at each regular legislative session;
11 requiring an addition modification under the Maryland income tax on
12 individuals and corporations for the amount of a certain deduction allowed for
13 federal income tax purposes relating to certain production activities income;
14 providing for the application of this Act; and generally relating to the effect on
15 the Maryland income tax of certain amendments to the Internal Revenue Code.

16 BY repealing and reenacting, with amendments,
17 Article - Tax - General
18 Section 10-108 and 10-305(d)
19 Annotated Code of Maryland
20 (2004 Replacement Volume)

21 BY repealing and reenacting, without amendments,
22 Article - Tax - General
23 Section 10-204(a) and 10-305(a)
24 Annotated Code of Maryland
25 (2004 Replacement Volume)

26 BY adding to
27 Article - Tax - General
28 Section 10-204(i)
29 Annotated Code of Maryland
30 (2004 Replacement Volume)

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

3 **Article - Tax - General**

4 10-108.

5 (A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, FOR
6 PURPOSES OF THIS TITLE AND THE PROVISIONS OF TITLE 13 OF THIS ARTICLE
7 RELATING TO THIS TITLE, "INTERNAL REVENUE CODE" MEANS THE INTERNAL
8 REVENUE CODE OF 1986 OF THE UNITED STATES, AS AMENDED, AND IN EFFECT ON
9 JANUARY 1, 2005.

10 [(a)] (B) [Except as provided in subsection (c) of this section and unless]
11 UNLESS expressly provided otherwise by law, an amendment of the Internal Revenue
12 Code [that, for a taxable year that begins in the calendar year in which the
13 amendment is enacted, affects the determination of federal adjusted gross income or
14 federal taxable income,] THAT IS ENACTED AFTER JANUARY 1, 2005, does not affect
15 the determination of Maryland taxable income OR ANY OTHER DETERMINATION
16 under this title [for any taxable year that begins in the calendar year in which the
17 amendment is enacted].

18 [(b)] (C) Within 60 days after an amendment of the Internal Revenue Code is
19 enacted, the Comptroller shall prepare and submit to the Governor and, subject to §
20 2-1246 of the State Government Article, the President of the Senate and the Speaker
21 of the House a report that outlines:

22 (1) the changes in the Internal Revenue Code; and

23 (2) the impact [of] THAT those changes WOULD HAVE on State revenue
24 and on various classes and types of taxpayers IF ADOPTED BY THE STATE.

25 [(c)] Subsection (a) of this section does not apply to an amendment of the
26 Internal Revenue Code if the Comptroller determines that the impact of the
27 amendment on State income tax revenue for the fiscal year that begins during the
28 calendar year in which the amendment is enacted will be less than \$5,000,000.]

29 (D) (1) ON OR BEFORE JANUARY 15 OF EACH YEAR, THE COMPTROLLER
30 SHALL SUBMIT TO THE GENERAL ASSEMBLY PROPOSED LEGISLATION TO AMEND
31 THIS SECTION AND OTHER SECTIONS OF THIS TITLE AS MAY BE NECESSARY TO
32 ADOPT THE INTERNAL REVENUE CODE AS IT EXISTED ON THE PRECEDING
33 DECEMBER 31.

34 (2) IN SUBMITTING THE LEGISLATION, THE COMPTROLLER MAY
35 PROVIDE THAT CERTAIN AMENDMENTS TO THE INTERNAL REVENUE CODE BY
36 CONGRESS DURING THE PRECEDING CALENDAR YEAR WILL NOT BE OPERATIVE IN
37 THIS STATE OR WILL BE LIMITED IN THEIR OPERATION.

38 (3) THE COMPTROLLER SHALL:

1 (I) PREPARE A DIGEST AND EXPLANATION OF THE AMENDED
2 PROVISIONS OF THE INTERNAL REVENUE CODE RECOMMENDED FOR ADOPTION AS
3 WELL AS THOSE THAT WILL BE LIMITED IN THEIR OPERATION OR ARE NOT
4 RECOMMENDED FOR ADOPTION; AND

5 (II) SUBMIT THE DIGEST, EXPLANATION, AND A STATEMENT OF
6 THE REVENUE IMPACT OF ADOPTION OF THE LEGISLATION TOGETHER WITH THE
7 PROPOSED LEGISLATION.

8 (4) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT AT EACH
9 REGULAR LEGISLATIVE SESSION, LEGISLATION SHALL BE ENACTED TO ADOPT OR
10 REJECT AMENDMENTS TO THE INTERNAL REVENUE CODE MADE BY CONGRESS
11 DURING THE PRECEDING CALENDAR YEAR.

12 10-204.

13 (a) To the extent excluded from federal adjusted gross income, the amounts
14 under this section are added to the federal adjusted gross income of a resident to
15 determine Maryland adjusted gross income.

16 (I) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE
17 AMOUNT DEDUCTED UNDER § 199 OF THE INTERNAL REVENUE CODE FOR THE
18 QUALIFIED PRODUCTION ACTIVITIES INCOME OF THE TAXPAYER FOR THE TAXABLE
19 YEAR.

20 10-305.

21 (a) To the extent excluded from federal taxable income, the amounts under
22 this section are added to the federal taxable income of a corporation to determine
23 Maryland modified income.

24 (d) The addition under subsection (a) of this section includes the additions
25 required for an individual under:

26 (1) § 10-204(b) of this title (Dividends and interest from another state or
27 local obligation);

28 (2) § 10-204(c)(2) of this title (Federal tax exempt income); [and]

29 (3) § 10-204(e) of this title (Oil percentage depletion allowance); AND

30 (4) § 10-204(I) OF THIS TITLE (DEDUCTION FOR QUALIFIED PRODUCTION
31 ACTIVITIES INCOME).

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 July 1, 2005, and shall be applicable to all taxable years beginning after December 31,
34 2004.