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By: **Delegates Cardin, Elmore, Gilleland, Goodwin, and Smigiel**

Introduced and read first time: February 10, 2006

Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax - Credit for Income Tax Paid to Another State - Income from**  
3 **Pass-Through Entities**

4 FOR the purpose of altering the calculation of the credit against the State income tax  
5 allowed for income tax paid to another state with respect to income tax paid to  
6 another state on a resident's share of income from certain pass-through entities;  
7 allowing certain excess credit to be applied against the county income tax under  
8 certain circumstances; making a technical correction; providing for the  
9 application of this Act; and generally relating to the credit allowed against the  
10 State income tax with respect to income tax paid to another state on a resident's  
11 share of income from certain pass-through entities.

12 BY repealing and reenacting, with amendments,  
13 Article - Tax - General  
14 Section 10-703  
15 Annotated Code of Maryland  
16 (2004 Replacement Volume and 2005 Supplement)

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

19 **Article - Tax - General**

20 10-703.

21 (a) Except as provided in [subsection (b)] SUBSECTIONS (B) AND (C) of this  
22 section, a resident may claim a credit only against the State income tax for a taxable  
23 year in the amount determined under subsection (c) of this section for [State] STATE  
24 tax on income paid to another state for the year.

25 (b) A credit under subsection (a) of this section is not allowed to:

26 (1) a resident other than a fiduciary, if the laws of the other state allow  
27 the resident a credit for State income tax paid to this State;

1 (2) a resident fiduciary, if the fiduciary claims, and the other state  
2 allows, a credit for State income tax paid to this State;

3 (3) a resident for less than the full taxable year for tax on income that is  
4 paid to another state during residency in that state; or

5 (4) a nonresident.

6 (c) (1) Except as provided in [paragraph (2)] PARAGRAPHS (2) AND (3) of this  
7 subsection, the credit allowed a resident under subsection (a) of this section is the  
8 lesser of:

9 (i) the amount of allowable tax on income that the resident paid to  
10 another state; or

11 (ii) an amount that does not reduce the State income tax to an  
12 amount less than would be payable if the income subjected to tax in the other state  
13 were disregarded.

14 (2) If the credit allowed a resident under subsection (a) of this section is  
15 based on tax that an S corporation pays to another state, the credit allowable to a  
16 shareholder:

17 (i) may not exceed that shareholder's pro rata share of the tax; and

18 (ii) will be allowed for another state's income taxes or taxes based  
19 on income.

20 (3) (I) FOR STATE TAX ON INCOME PAID TO ANOTHER STATE FOR THE  
21 TAXABLE YEAR ON A RESIDENT'S SHARE OF INCOME FROM A PASS-THROUGH  
22 ENTITY, AS DEFINED IN § 10-102.1 OF THIS TITLE, THE CREDIT ALLOWED UNDER  
23 SUBSECTION (A) OF THIS SECTION IS THE LESSER OF:

24 1. THE AMOUNT OF ALLOWABLE TAX ON THAT INCOME  
25 THAT THE RESIDENT PAID TO ANOTHER STATE; OR

26 2. THE AMOUNT BY WHICH THE SUM OF THE STATE INCOME  
27 TAX AND THE COUNTY INCOME TAX OTHERWISE PAYABLE ON ALL INCOME OF THE  
28 RESIDENT EXCEEDS THE SUM OF THE STATE INCOME TAX AND THE COUNTY INCOME  
29 TAX THAT WOULD BE PAYABLE IF THE INCOME FROM THE PASS-THROUGH ENTITY  
30 SUBJECTED TO TAX IN THE OTHER STATE WERE DISREGARDED.

31 (II) IF AS A RESULT OF THE CREDITS ALLOWED UNDER  
32 SUBPARAGRAPH (I) OF THIS PARAGRAPH THE AGGREGATE CREDIT ALLOWED UNDER  
33 THIS SECTION EXCEEDS THE TOTAL STATE INCOME TAX OTHERWISE IMPOSED FOR  
34 THE TAXABLE YEAR ON ALL INCOME OF THE RESIDENT, THE RESIDENT MAY APPLY  
35 THE EXCESS AGAINST THE COUNTY INCOME TAX IMPOSED FOR THE TAXABLE YEAR.

36 (III) THE AMOUNT OF ANY EXCESS CREDIT APPLIED AGAINST THE  
37 COUNTY INCOME TAX UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH OPERATES TO

1 REDUCE THE STATE INCOME TAX REVENUE AND NOT THE INCOME TAX REVENUE  
2 FROM INDIVIDUALS ATTRIBUTABLE TO THE COUNTY INCOME TAX.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 July 1, 2006, and shall be applicable to all taxable years beginning after December 31,  
5 2005.