

# HOUSE BILL 1168

Q7

71r2978

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By: **Delegate Doory**

Introduced and read first time: February 19, 2007

Assigned to: Rules and Executive Nominations

Re-referred to: Ways and Means, February 26, 2007

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2007

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Maryland Estate Tax – Returns**

3 FOR the purpose of requiring that a Maryland estate tax return be filed with the  
4 Comptroller instead of with the register of wills; altering a requirement that a  
5 register of wills certify to the Comptroller the amount of inheritance tax paid for  
6 certain decedents under certain circumstances; ~~altering the calculation of the~~  
7 ~~Maryland estate tax under certain circumstances with respect to certain~~  
8 ~~property of a nonresident decedent that passes from a decedent to a surviving~~  
9 ~~spouse or to a public, charitable, or religious use; altering the calculation of the~~  
10 ~~Maryland estate tax under certain circumstances with respect to certain~~  
11 ~~property of a decedent that passes to a surviving spouse who is not a citizen of~~  
12 ~~the United States; providing for the application of this Act; and generally~~  
13 relating to the Maryland estate tax.

14 BY repealing and reenacting, with amendments,

15 Article – Tax – General

16 Section 7-232, 7-305, and 7-306, ~~and 7-309(b)(1) and (2)~~

17 Annotated Code of Maryland

18 (2004 Replacement Volume and 2006 Supplement)

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~BY repealing and reenacting, without amendments,~~  
 2 ~~Article Tax General~~  
 3 ~~Section 7-302 and 7-309(a)~~  
 4 ~~Annotated Code of Maryland~~  
 5 ~~(2004 Replacement Volume and 2006 Supplement)~~

6 ~~BY adding to~~  
 7 ~~Article Tax General~~  
 8 ~~Section 7-309(b)(8) and (9)~~  
 9 ~~Annotated Code of Maryland~~  
 10 ~~(2004 Replacement Volume and 2006 Supplement)~~

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

13 **Article - Tax - General**

14 7-232.

15 Each register shall certify to the Comptroller the amount of inheritance tax paid  
 16 for each decedent [for whom a Maryland estate tax return is filed with the register]  
 17 **ON THE REQUEST FOR THE CERTIFICATION FROM:**

18 (1) **THE COMPTROLLER;**

19 (2) **THE PERSONAL REPRESENTATIVE OF THE DECEDENT'S**  
 20 **ESTATE; OR**

21 (3) **ANY PERSON REQUIRED TO FILE A MARYLAND ESTATE TAX**  
 22 **RETURN WITH REGARD TO PROPERTY PASSING FROM THE DECEDENT.**

23 ~~7-302.~~

24 ~~Except as provided in § 7-303 of this subtitle, a tax is imposed on the transfer of~~  
 25 ~~the Maryland estate of each decedent who, at the time of death, was:~~

26 (1) ~~a resident of this State; or~~

27 (2) ~~a nonresident of this State whose estate includes any interest in:~~

28 (i) ~~real property permanently located in this State; or~~

1                   (ii) ~~tangible personal property that has a taxable situs in this~~  
2 ~~State.~~

3 7-305.

4           (a) If a federal estate tax return is required to be filed, the person  
5 responsible for filing the federal estate tax return shall complete, under oath, and file  
6 a Maryland estate tax return with the [register] **COMPTROLLER** 9 months after the  
7 date of the death of a decedent.

8           (b) If a federal estate tax return is not required to be filed but a federal  
9 estate tax return would be required to be filed if the applicable exclusion amount  
10 under § 2010(c) of the Internal Revenue Code were no greater than \$1,000,000, the  
11 person who would be responsible for filing the federal estate tax return shall complete,  
12 under oath, and file a Maryland estate tax return with the [register] **COMPTROLLER**  
13 9 months after the date of the death of the decedent.

14           (c) (1) After a person files a Maryland estate tax return, the person shall  
15 file an amended Maryland estate tax return with the [register] **COMPTROLLER** if the  
16 Maryland estate tax liability is increased because of:

17                   (i) a change in the federal gross estate, federal taxable estate,  
18 federal estate tax, or other change as determined under the Internal Revenue Code;

19                   (ii) after-discovered property;

20                   (iii) a correction to the value of previously reported property;

21                   (iv) a correction to the amount of previously claimed deductions;

22 or

23                   (v) any other correction to a previously filed return.

24           (2) The amended return shall be filed within 90 days after the later to  
25 occur of the date of the event that caused the increase in the Maryland estate tax  
26 liability or the date on which the person required to file an amended Maryland estate  
27 tax return learned or reasonably should have learned of the increase in the Maryland  
28 estate tax liability.

29 7-306.

1 (a) Except as provided in § 7-307 of this subtitle, the person responsible for  
2 filing the Maryland estate tax return under § 7-305 of this subtitle shall pay the  
3 Maryland estate tax to the Comptroller no later than 9 months after the date of the  
4 death of the decedent.

5 (b) An extension of time to file the Maryland estate tax return granted by the  
6 Comptroller under § 7-305.1 of this subtitle does not extend the time for remitting the  
7 Maryland estate tax.

8 (c) If an amended Maryland estate tax return is filed pursuant to § 7-305(c)  
9 of this subtitle, the person responsible for filing the amended Maryland estate tax  
10 return shall pay the additional Maryland estate tax developed on the amended  
11 Maryland estate tax return to the Comptroller when the amended Maryland estate tax  
12 return is filed with the [register] **COMPTRROLLER**.

13 ~~7-309.~~

14 ~~(a) Notwithstanding an Act of Congress that repeals or reduces the federal~~  
15 ~~credit under § 2011 of the Internal Revenue Code, the provisions of this subtitle in~~  
16 ~~effect before the passage of the Act of Congress shall apply with respect to a decedent~~  
17 ~~who dies after the effective date of the Act of Congress so as to continue the Maryland~~  
18 ~~estate tax in force without reduction in the same manner as if the federal credit had~~  
19 ~~not been repealed or reduced.~~

20 ~~(b) (1) Except as OTHERWISE provided in [paragraphs (2) through (7) of]~~  
21 ~~this subsection, after the effective date of an Act of Congress described in subsection~~  
22 ~~(a) of this section, the Maryland estate tax shall be determined using:~~

23 ~~(i) the federal credit allowable by § 2011 of the Internal~~  
24 ~~Revenue Code as in effect before the reduction or repeal of the federal credit pursuant~~  
25 ~~to the Act of Congress; and~~

26 ~~(ii) other provisions of federal estate tax law as in effect on the~~  
27 ~~date of the decedent's death.~~

28 ~~(2) Except as OTHERWISE provided in [paragraphs (3) through (7) of]~~  
29 ~~this subsection, if the federal estate tax is not in effect on the date of the decedent's~~  
30 ~~death, the Maryland estate tax shall be determined using:~~

31 ~~(i) the federal credit allowable by § 2011 of the Internal~~  
32 ~~Revenue Code as in effect before the reduction or repeal of the federal credit pursuant~~  
33 ~~to the Act of Congress; and~~

1                   (ii) ~~other provisions of federal estate tax law as in effect on the~~  
2 ~~date immediately preceding the effective date of the repeal of the federal estate tax.~~

3                   **~~(8) FOR PURPOSES OF CALCULATING MARYLAND ESTATE TAX~~**  
4 **~~UNDER THIS SUBSECTION, IF THE SURVIVING SPOUSE OF THE DECEDENT IS NOT~~**  
5 **~~A CITIZEN OF THE UNITED STATES, THE MARITAL DEDUCTION UNDER § 2056(A)~~**  
6 **~~OF THE INTERNAL REVENUE CODE AND THE EXCLUSION FOR ONE HALF OF THE~~**  
7 **~~VALUE OF A QUALIFIED JOINT INTEREST UNDER § 2040(B) OF THE INTERNAL~~**  
8 **~~REVENUE CODE SHALL APPLY WITHOUT REGARD TO § 2056(D) OF THE~~**  
9 **~~INTERNAL REVENUE CODE.~~**

10                   **~~(9) FOR PURPOSES OF CALCULATING MARYLAND ESTATE TAX~~**  
11 **~~UNDER THIS SUBSECTION, THE MARYLAND ESTATE TAX DOES NOT APPLY TO~~**  
12 **~~THE TRANSFER OF PROPERTY IN AN ESTATE OF A NONRESIDENT DECEDENT TO~~**  
13 **~~THE EXTENT THAT THE PROPERTY PASSES OR HAS PASSED FROM THE~~**  
14 **~~DECEDENT TO:~~**

15                               **~~(I) THE SURVIVING SPOUSE OF THE DECEDENT UNDER §~~**  
16 **~~2056 OF THE INTERNAL REVENUE CODE; OR~~**

17                               **~~(II) A PUBLIC, CHARITABLE, OR RELIGIOUS USE UNDER §~~**  
18 **~~2055 OF THE INTERNAL REVENUE CODE.~~**

19                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 July 1, 2007, and shall be applicable to all decedents dying after December 31, 2006.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.