

HOUSE BILL 193

Q7
HB 73/07 – W&M

8lr0914

By: **Delegates Krebs, Aumann, Bates, Boteler, Dwyer, Eckardt, Elliott, Elmore, Frank, George, Haddaway, Impallaria, James, Jennings, Kipke, Kullen, McComas, McConkey, Murphy, Norman, O'Donnell, Schuh, Shank, Shewell, Smigiel, Sossi, Stocksdale, and Wood**

Introduced and read first time: January 21, 2008

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Estate Tax – Family Property Protection Act**

3 FOR the purpose of altering a certain limit on the unified credit used for determining
4 the Maryland estate tax; repealing a requirement that the Maryland estate tax
5 be determined without regard to a certain deduction allowed under the federal
6 estate tax; stating the intent of the General Assembly; providing for the
7 application of this Act; and generally relating to the Maryland estate tax.

8 BY repealing and reenacting, with amendments,
9 Article – Tax – General
10 Section 7–309
11 Annotated Code of Maryland
12 (2004 Replacement Volume and 2007 Supplement)

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

15 **Article – Tax – General**

16 7–309.

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22 not been repealed or reduced.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

4 (i) the federal credit allowable by § 2011 of the Internal
5 Revenue Code as in effect before the reduction or repeal of the federal credit pursuant
6 to the Act of Congress; and

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

9 (2) Except as provided in paragraphs (3) through (7) of this subsection,
10 if the federal estate tax is not in effect on the date of the decedent's death, the
11 Maryland estate tax shall be determined using:

12 (i) the federal credit allowable by § 2011 of the Internal
13 Revenue Code as in effect before the reduction or repeal of the federal credit pursuant
14 to the Act of Congress; and

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

17 (3) (i) Notwithstanding any increase in the unified credit allowed
18 against the federal estate tax [for decedents dying after 2003], the unified credit used
19 for determining the Maryland estate tax may not exceed the applicable credit amount
20 corresponding to an applicable exclusion amount of [\$1,000,000] **\$2,000,000** within
21 the meaning of § 2010(c) of the Internal Revenue Code.

22 [(ii) The Maryland estate tax shall be determined without regard
23 to any deduction for State death taxes allowed under § 2058 of the Internal Revenue
24 Code.

25 (iii) **(II)** Unless the federal credit allowable by § 2011 of the
26 Internal Revenue Code is in effect on the date of the decedent's death, the federal
27 credit used to determine the Maryland estate tax may not exceed 16% of the amount
28 by which the decedent's taxable estate, as defined in § 2051 of the Internal Revenue
29 Code, exceeds [\$1,000,000] **\$2,000,000**.

30 (4) (i) With regard to an election to value property as provided in §
31 2032 of the Internal Revenue Code, if a federal estate tax return is not required to be
32 filed:

33 1. an irrevocable election made on a timely filed
34 Maryland estate tax return shall be deemed to be an election as required by § 2032(d)
35 of the Internal Revenue Code;

1 corresponding to an applicable exclusion amount of \$2,000,000 within the meaning of
2 § 2010(c) of the Internal Revenue Code, the General Assembly will reconsider whether
3 the unified credit used to determine the Maryland estate tax should also be increased
4 to remain consistent with the unified credit allowed for federal estate tax purposes.

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 July 1, 2008, and shall be applicable to decedents dying after December 31, 2007.