

SENATE BILL 165

Q7

8lr0481

By: **Senator Haines**

Introduced and read first time: January 18, 2008

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Estate Tax - Exclusion for Family Farm or Family-Owned**
3 **Business**

4 FOR the purpose of altering the determination of the Maryland estate tax under
5 certain circumstances to exclude from the value of the gross estate a certain
6 amount of the value of certain property for agricultural use or for the use of
7 certain family-owned businesses; requiring the Comptroller to adopt
8 regulations to provide for the recapture of certain tax savings under certain
9 circumstances; providing for the application of this Act; and generally relating
10 to the Maryland estate tax.

11 BY repealing and reenacting, with amendments,
12 Article - Tax - General
13 Section 7-309(b)(1) and (2)
14 Annotated Code of Maryland
15 (2004 Replacement Volume and 2007 Supplement)

16 BY adding to
17 Article - Tax - General
18 Section 7-309(c)
19 Annotated Code of Maryland
20 (2004 Replacement Volume and 2007 Supplement)

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

23 **Article - Tax - General**

24 7-309.

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 **AND SUBSECTION (C) OF THIS SECTION**, after the effective date of an Act of
3 Congress described in subsection (a) of this section, the Maryland estate tax shall be
4 determined using:

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

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

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

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

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

18 (c) (1) (i) **IN THIS SUBSECTION, SUBJECT TO SUBPARAGRAPH (ii)**
19 **OF THIS PARAGRAPH, "QUALIFIED REAL PROPERTY" MEANS QUALIFIED REAL**
20 **PROPERTY AS DEFINED UNDER § 2032A OF THE INTERNAL REVENUE CODE.**

21 (ii) **FOR PURPOSES OF DETERMINING WHETHER PROPERTY**
22 **IS QUALIFIED REAL PROPERTY UNDER THIS SUBSECTION, THE TERM "MEMBER**
23 **OF THE FAMILY" INCLUDES, IN ADDITION TO ANY INDIVIDUAL INCLUDED UNDER**
24 **§ 2032A(E)(2) OF THE INTERNAL REVENUE CODE, ANY INDIVIDUAL DESCRIBED**
25 **IN § 7-203(B)(2)(I) THROUGH (VI) OF THIS TITLE.**

26 (2) **SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE**
27 **MARYLAND ESTATE TAX SHALL BE DETERMINED BY EXCLUDING FROM THE**
28 **VALUE OF THE GROSS ESTATE UP TO \$1,000,000 OF THE VALUE OF ANY**
29 **QUALIFIED REAL PROPERTY REMAINING IN THE GROSS ESTATE FOR FEDERAL**
30 **ESTATE TAX PURPOSES AFTER THE APPLICATION OF § 2032A OF THE INTERNAL**
31 **REVENUE CODE.**

32 (3) **THE COMPTROLLER SHALL PROVIDE BY REGULATION FOR**
33 **THE IMPOSITION OF ADDITIONAL ESTATE TAX TO RECAPTURE THE TAX SAVINGS**
34 **PROVIDED UNDER THIS SUBSECTION IF ANY INTEREST IN QUALIFIED REAL**
35 **PROPERTY IS DISPOSED OF AFTER THE DECEDENT'S DEATH UNDER**
36 **CIRCUMSTANCES THAT WOULD RESULT IN ADDITIONAL FEDERAL ESTATE TAX**
37 **UNDER § 2032A(C) OF THE INTERNAL REVENUE CODE.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 July 1, 2008, and shall be applicable to all decedents dying after December 31, 2007.