

# SENATE BILL 523

Q7

8lr2442  
CF HB 668

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By: **Senators Robey, Forehand, Madaleno, Raskin, and Rosapepe**

Introduced and read first time: February 1, 2008

Assigned to: Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Inheritance Tax - Exemptions - Domestic Partners**

3 FOR the purpose of providing an exemption from the inheritance tax for certain  
4 property that passes from a decedent to or for the use of a domestic partner of a  
5 decedent or to or for the use of a domestic partner of a child of the decedent or a  
6 domestic partner of a lineal descendant of a child of the decedent under certain  
7 circumstances; providing an exemption from the inheritance tax for certain  
8 amounts received by a decedent because the decedent was a domestic partner of  
9 a Holocaust victim under certain circumstances; defining certain terms;  
10 providing for the application of this Act; and generally relating to exemptions  
11 from the inheritance tax for certain property that passes from a decedent to or  
12 for the use of a certain domestic partner of a decedent.

13 BY repealing and reenacting, with amendments,  
14 Article – Tax – General  
15 Section 7–203(b) and (k)  
16 Annotated Code of Maryland  
17 (2004 Replacement Volume and 2007 Supplement)

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

20 **Article – Tax – General**

21 7–203.

22 (b) (1) (i) In this subsection the following words have the meanings  
23 indicated.

24 (ii) “Child” includes a stepchild or former stepchild.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (III) "DOMESTIC PARTNER" MEANS AN INDIVIDUAL IN A  
2 RELATIONSHIP BETWEEN TWO INDIVIDUALS WHO:

3 1. ARE AT LEAST 18 YEARS OLD;

4 2. ARE NOT RELATED TO EACH OTHER BY BLOOD OR  
5 MARRIAGE WITHIN FOUR DEGREES OF CONSANGUINITY UNDER CIVIL LAW RULE;

6 3. ARE NOT MARRIED OR IN A CIVIL UNION OR  
7 DOMESTIC PARTNERSHIP WITH ANOTHER INDIVIDUAL;

8 4. AGREE TO BE IN A RELATIONSHIP OF MUTUAL  
9 INTERDEPENDENCE IN WHICH EACH INDIVIDUAL CONTRIBUTES TO THE  
10 MAINTENANCE AND SUPPORT OF THE OTHER INDIVIDUAL AND THE  
11 RELATIONSHIP, EVEN IF BOTH INDIVIDUALS ARE NOT REQUIRED TO  
12 CONTRIBUTE EQUALLY TO THE RELATIONSHIP; AND

13 5. SHARE A COMMON RESIDENCE WHERE BOTH  
14 INDIVIDUALS LIVE, EVEN IF:

15 A. ONE INDIVIDUAL LEAVES THE COMMON  
16 RESIDENCE ON A SHORT-TERM OR LONG-TERM BASIS, WITH THE INTENT TO  
17 RETURN TO THE COMMON RESIDENCE;

18 B. ONLY ONE OF THE INDIVIDUALS HAS THE RIGHT  
19 TO LEGAL POSSESSION OF THE COMMON RESIDENCE; OR

20 C. ONE OF THE INDIVIDUALS HAS AN ADDITIONAL  
21 RESIDENCE.

22 (IV) "EVIDENCE OF A DOMESTIC PARTNERSHIP" MEANS:

23 1. AN AFFIDAVIT SIGNED UNDER PENALTY OF  
24 PERJURY BY TWO INDIVIDUALS STATING THAT THEY HAVE ESTABLISHED A  
25 DOMESTIC PARTNERSHIP; AND

26 2. EVIDENCE OF ANY TWO OF THE FOLLOWING:

27 A. JOINT LIABILITY OF THE INDIVIDUALS FOR A  
28 MORTGAGE, LEASE, OR LOAN;

29 B. THE DESIGNATION OF ONE OF THE INDIVIDUALS  
30 AS THE PRIMARY BENEFICIARY UNDER A LIFE INSURANCE POLICY ON THE LIFE

1 OF THE OTHER INDIVIDUAL OR UNDER A RETIREMENT PLAN OF THE OTHER  
2 INDIVIDUAL;

3 C. THE DESIGNATION OF ONE OF THE INDIVIDUALS  
4 AS THE PRIMARY BENEFICIARY OF THE WILL OF THE OTHER INDIVIDUAL;

5 D. A DURABLE POWER OF ATTORNEY FOR HEALTH  
6 CARE OR FINANCIAL MANAGEMENT GRANTED BY ONE OF THE INDIVIDUALS TO  
7 THE OTHER INDIVIDUAL;

8 E. JOINT OWNERSHIP OR LEASE BY THE  
9 INDIVIDUALS OF A MOTOR VEHICLE;

10 F. A JOINT CHECKING ACCOUNT, JOINT  
11 INVESTMENTS, OR A JOINT CREDIT ACCOUNT;

12 G. A JOINT RENTER'S OR HOMEOWNER'S INSURANCE  
13 POLICY;

14 H. COVERAGE ON A HEALTH INSURANCE POLICY;

15 I. JOINT RESPONSIBILITY FOR CHILD CARE, SUCH  
16 AS GUARDIANSHIP OR SCHOOL DOCUMENTS;

17 J. A RELATIONSHIP OR COHABITATION CONTRACT;  
18 OR

19 K. DOCUMENTATION OF A MARRIAGE, CIVIL UNION,  
20 OR DOMESTIC PARTNERSHIP ENTERED INTO SUBJECT TO THE LAWS OF THE  
21 UNITED STATES, ANY STATE, OR LOCAL OR FOREIGN JURISDICTION.

22 [(iii)] (V) "Parent" includes a stepparent or former stepparent.

23 (2) The inheritance tax does not apply to the receipt of property that  
24 passes from a decedent to or for the use of:

25 (i) a grandparent of the decedent;

26 (ii) a parent of the decedent;

27 (iii) a spouse of the decedent;

28 (iv) a child of the decedent or a lineal descendant of a child of the  
29 decedent;

1 (v) a spouse of a child of the decedent or a spouse of a lineal  
2 descendant of a child of the decedent;

3 (vi) a brother or sister of the decedent; [or]

4 (vii) a corporation, partnership, or limited liability company if all  
5 of its stockholders, partners, or members consist of individuals specified in items (i)  
6 through (vi) of this paragraph;

7 **(VIII) A DOMESTIC PARTNER OF THE DECEDENT IF THE**  
8 **DOMESTIC PARTNER PROVIDES EVIDENCE OF A DOMESTIC PARTNERSHIP; OR**

9 **(IX) A DOMESTIC PARTNER OF A CHILD OF THE DECEDENT**  
10 **OR A DOMESTIC PARTNER OF A LINEAL DESCENDANT OF A CHILD OF THE**  
11 **DECEDENT IF THE DOMESTIC PARTNER PROVIDES EVIDENCE OF A DOMESTIC**  
12 **PARTNERSHIP.**

13 (k) (1) (i) In this subsection the following words have the meanings  
14 indicated.

15 **(II) “DOMESTIC PARTNER” AND “EVIDENCE OF A DOMESTIC**  
16 **PARTNERSHIP” HAVE THE MEANINGS STATED IN SUBSECTION (B) OF THIS**  
17 **SECTION.**

18 [(ii)] **(III) “Holocaust victim” means an individual who died or**  
19 **lost property as a result of discriminatory laws, policies, or actions targeted against**  
20 **discrete groups of individuals based on race, religion, ethnicity, sexual orientation, or**  
21 **national origin, whether or not the individual was actually a member of any of those**  
22 **groups, or because the individual assisted or allegedly assisted any of those groups,**  
23 **between January 1, 1929 and December 31, 1945, in the country of Nazi Germany,**  
24 **areas occupied by Nazi Germany, those European countries allied with Nazi Germany,**  
25 **areas occupied by those European countries allied with Nazi Germany, or any other**  
26 **neutral European country or area in Europe under the influence or threat of invasion**  
27 **by Nazi Germany or by any European country allied with or occupied by Nazi**  
28 **Germany.**

29 [(iii)] **(IV) “Nazi Germany” means:**

30 1. for the period from 1929 to 1933, the Republic of  
31 Germany, commonly referred to as the Weimar Republic; and

32 2. for the period from 1933 through 1945, Deutsche  
33 Reich.

34 (2) The inheritance tax does not apply to the receipt of property that  
35 is:

1 (i) tangible or intangible property or compensation for tangible  
2 or intangible property that was seized, misappropriated, or lost as a result of the  
3 actions or policies of Nazi Germany toward a Holocaust victim; or

4 (ii) amounts received by a decedent as reparations or restitution  
5 for the loss of liberty or damage to the health of the decedent because the decedent  
6 was:

7 1. a Holocaust victim; [or]

8 2. a spouse or descendant of a Holocaust victim; **OR**

9 **3. A DOMESTIC PARTNER OF A HOLOCAUST VICTIM**  
10 **IF THE DOMESTIC PARTNER OF THE DECEDENT PROVIDES EVIDENCE OF A**  
11 **DOMESTIC PARTNERSHIP.**

12 (3) The exclusion under paragraph (2) of this subsection includes  
13 interest on the proceeds receivable as insurance under policies issued by European  
14 insurance companies prior to and during World War II to a Holocaust victim.

15 (4) The exclusion under paragraph (2) of this subsection does not  
16 include:

17 (i) assets acquired with the assets described in paragraph (2) of  
18 this subsection; or

19 (ii) assets acquired with the proceeds from the sale of the assets  
20 described in paragraph (2) of this subsection.

21 (5) The subtraction under paragraph (2)(i) of this subsection shall only  
22 apply if the decedent:

23 (i) was the first recipient of the assets described in paragraph  
24 (2)(i) of this subsection after their recovery; and

25 (ii) was:

26 1. a Holocaust victim; [or]

27 2. a spouse or descendant of a Holocaust victim; **OR**

28 **3. A DOMESTIC PARTNER OF A HOLOCAUST VICTIM**  
29 **IF THE DOMESTIC PARTNER OF THE DECEDENT PROVIDES EVIDENCE OF A**  
30 **DOMESTIC PARTNERSHIP.**

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 on or after July 1, 2008.