

# HOUSE BILL 711

Q3, J1

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By: **Delegates Cardin, Ivey, and McIntosh**

Introduced and read first time: February 9, 2009

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Subtraction Modification – Healthy Improvement and Disease**  
3 **Prevention Act of 2009**

4 FOR the purpose of providing a subtraction modification under the Maryland income  
5 tax for certain health– and fitness–related expenses; limiting the amount and  
6 type of expenses that certain taxpayers may subtract from federal adjusted  
7 gross income; requiring the Comptroller in cooperation with the Department of  
8 Health and Mental Hygiene to adopt certain regulations; defining certain terms;  
9 requiring the Comptroller and the Department to report to the General  
10 Assembly on or before a certain date; providing for the application of this Act;  
11 and generally relating to a subtraction modification under the Maryland income  
12 tax for certain health– and fitness–related expenses.

13 BY repealing and reenacting, without amendments,  
14 Article – Tax – General  
15 Section 10–208(a)  
16 Annotated Code of Maryland  
17 (2004 Replacement Volume and 2008 Supplement)

18 BY adding to  
19 Article – Tax – General  
20 Section 10–208(q)  
21 Annotated Code of Maryland  
22 (2004 Replacement Volume and 2008 Supplement)

23 Preamble

24 WHEREAS, In 2007 62.7% of Maryland respondents to the Centers for Disease  
25 Control and Prevention’s Behavioral Risk Factor Surveillance Survey were overweight  
26 or obese; and

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, The National Governor's Association's Report on Healthy Living,  
2 states that "One in three Maryland babies born in 2001 will develop diabetes during  
3 their lifetime, or a third of today's first graders will be tomorrow's diabetes patients;"  
4 and

5 WHEREAS, Based on a study conducted by researchers and economists from  
6 Johns Hopkins University and Centers for Disease Control, Maryland's  
7 obesity-attributable medical expenditures were estimated at \$1.53 billion 2004; and

8 WHEREAS, The Centers for Disease Control and Prevention estimate that  
9 health care costs directly associated with inactivity were \$76.6 billion in 2000; and

10 WHEREAS, The federal Medical Expenditure Panel Survey estimates that in  
11 2003 it cost \$277 billion to treat cancer, heart disease, hypertension, mental disorders,  
12 diabetes, pulmonary conditions, and stroke in noninstitutionalized Americans; and

13 WHEREAS, The Johns Hopkins University Partnership for Solutions in their  
14 2004 update to the study "Chronic Conditions: Making the Case for Ongoing Care"  
15 found that more than half of all Americans suffer from one or more chronic diseases;  
16 and

17 WHEREAS, The New England Journal of Medicine in the 2007 article  
18 "Explaining the Decrease in Deaths from Coronary Disease" reported that disease  
19 rates have risen dramatically, threatening to cancel out health care gains made over  
20 the past decades; and

21 WHEREAS, The Milken Institute 2007 study entitled "An Unhealthy America:  
22 The Economic Burden of Chronic Disease" found Maryland to be the 23rd least  
23 healthy state, as judged by its State Chronic Disease Index; and

24 WHEREAS, The recent study "Cost Effectiveness of Community-Based  
25 Physical Activity Interventions" published in the Journal of Preventive Medicine in  
26 December of 2008 found that there is clear evidence to link physical inactivity with  
27 increased risk of many chronic diseases, including coronary heart disease (CHD),  
28 ischemic stroke, type 2 diabetes, breast cancer, and colorectal cancer; and

29 WHEREAS, That same study found the negative health effects of physical  
30 inactivity are paralleled by staggering economic consequences resulting in the annual  
31 cost directly attributable to inactivity in the U.S. to be an estimated \$24 billion to \$76  
32 billion, or 2.4% to 5% of national health care expenditures; and

33 WHEREAS, The Trust for America's Health in its report "Prevention for a  
34 Healthier America" found that an investment of \$10 per person per year in proven  
35 community-based programs to increase physical activity, improve nutrition, and  
36 prevent smoking could save the country more than \$16 billion annually; and

37 WHEREAS, That same study found that the potential annual net savings and  
38 return on investment for Maryland with 5 years of spending \$10 per capita in disease

1 prevention programs would yield \$332 million in savings or a return on investment of  
2 6 to 1; now, therefore,

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

5 **Article – Tax – General**

6 10–208.

7 (a) In addition to the modification under § 10–207 of this subtitle, the  
8 amounts under this section are subtracted from the federal adjusted gross income of a  
9 resident to determine Maryland adjusted gross income.

10 **(Q) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE**  
11 **THE MEANINGS INDICATED.**

12 **(II) 1. “EXERCISE EQUIPMENT” MEANS A PRODUCT**  
13 **DESIGNED FOR USE IN MODERATE OR VIGOROUS EXERCISE.**

14 **2. “EXERCISE EQUIPMENT” INCLUDES:**

15 **A. AN ELLIPTICAL TRAINER;**

16 **B. FREE WEIGHTS;**

17 **C. A HOME GYM;**

18 **D. A ROWING MACHINE;**

19 **E. A STAIR CLIMBER;**

20 **F. A TREADMILL; OR**

21 **G. AN UPRIGHT OR RECUMBENT STATIONARY**  
22 **BICYCLE.**

23 **3. “EXERCISE EQUIPMENT” DOES NOT INCLUDE**  
24 **SPORTING EQUIPMENT OR EQUIPMENT PURCHASED FOR PARTICIPATION IN A**  
25 **SPORT.**

26 **(III) “QUALIFIED FITNESS EXPENSE” MEANS AN EXPENSE**  
27 **FOR:**

1                               **1.    PARTICIPATION IN A HEALTH AND FITNESS**  
2 **PROGRAM, INCLUDING:**

3                               **A.    AEROBIC EXERCISE TRAINING;**

4                               **B.    MARTIAL ARTS;**

5                               **C.    PERSONAL TRAINING; OR**

6                               **D.    YOGA; OR**

7                               **2.    MEMBERSHIP IN A GYM, HEALTH CLUB, OR**  
8 **STUDIO THAT IS OPEN TO THE GENERAL PUBLIC.**

9                               **(IV)   “QUALIFIED PHYSICAL ACTIVITY PROGRAM” MEANS A**  
10 **PROGRAM TO ENCOURAGE CHILDREN TO ENGAGE IN MODERATE OR VIGOROUS**  
11 **PHYSICAL ACTIVITY FOR AT LEAST 45 MINUTES A DAY AT LEAST 3 DAYS A WEEK.**

12                              **(V)    “QUALIFIED TOBACCO CESSATION PROGRAM” MEANS A**  
13 **PROGRAM TO ASSIST PARTICIPANTS IN ENDING THE USE OF TOBACCO**  
14 **PRODUCTS.**

15                              **(VI)   “QUALIFIED WEIGHT LOSS PROGRAM” MEANS A**  
16 **PROGRAM TO ASSIST PARTICIPANTS IN LOSING WEIGHT.**

17                              **(2)    SUBJECT TO THE LIMITATIONS UNDER PARAGRAPHS (3) AND**  
18 **(4) OF THIS SUBSECTION, THE SUBTRACTION UNDER SUBSECTION (A) OF THIS**  
19 **SECTION INCLUDES THE AMOUNTS DETERMINED UNDER THIS SUBSECTION FOR**  
20 **EXPENSES INCURRED DURING THE TAXABLE YEAR FOR:**

21                              **(I)    THE PURCHASE OF EXERCISE EQUIPMENT FOR USE BY**  
22 **THE TAXPAYER OR THE TAXPAYER’S SPOUSE OR DEPENDENT;**

23                              **(II)   QUALIFIED FITNESS EXPENSES FOR THE TAXPAYER OR**  
24 **THE TAXPAYER’S SPOUSE OR ADULT DEPENDENT;**

25                              **(III)   PARTICIPATION BY THE TAXPAYER OR THE TAXPAYER’S**  
26 **SPOUSE OR DEPENDENT IN A QUALIFIED TOBACCO CESSATION PROGRAM;**

27                              **(IV)   PARTICIPATION BY THE TAXPAYER OR THE TAXPAYER’S**  
28 **SPOUSE OR DEPENDENT IN A QUALIFIED WEIGHT LOSS PROGRAM; OR**

29                              **(V)    PARTICIPATION BY A CHILD DEPENDENT OF THE**  
30 **TAXPAYER IN A QUALIFIED PHYSICAL ACTIVITY PROGRAM.**

1                   **(3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, THE**  
2 **EXPENSES UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY NOT EXCEED:**

3                   **(I) FOR EACH TAXPAYER OR SPOUSE OR DEPENDENT OF**  
4 **THE TAXPAYER:**

5                               **1. UP TO \$500 OF QUALIFIED FITNESS EXPENSES, OR**  
6 **UP TO \$750 FOR EXPENSES INCURRED FOR EACH TAXPAYER, SPOUSE, OR**  
7 **DEPENDENT WHO IS AT LEAST 65 YEARS OLD ON THE LAST DAY OF THE TAXABLE**  
8 **YEAR;**

9                               **2. UP TO \$500 OF EXPENSES FOR PARTICIPATION IN**  
10 **A QUALIFIED TOBACCO CESSATION PROGRAM, OR UP TO \$750 FOR EXPENSES**  
11 **INCURRED FOR EACH TAXPAYER, SPOUSE, OR DEPENDENT WHO IS AT LEAST 65**  
12 **YEARS OLD ON THE LAST DAY OF THE TAXABLE YEAR; AND**

13                               **3. UP TO \$500 OF EXPENSES FOR PARTICIPATION IN**  
14 **A QUALIFIED WEIGHT LOSS PROGRAM, OR UP TO \$750 FOR EXPENSES**  
15 **INCURRED FOR EACH TAXPAYER, SPOUSE, OR DEPENDENT WHO IS AT LEAST 65**  
16 **YEARS OLD ON THE LAST DAY OF THE TAXABLE YEAR;**

17                   **(II) FOR EACH CHILD WHO IS A DEPENDENT OF THE**  
18 **TAXPAYER, UP TO \$500 OF EXPENSES FOR PARTICIPATION IN A QUALIFIED**  
19 **PHYSICAL ACTIVITY PROGRAM; AND**

20                   **(III) UP TO \$500 FOR THE PURCHASE OF ANY PIECE OF**  
21 **EXERCISE EQUIPMENT.**

22                   **(4) (I) FOR AN INDIVIDUAL OTHER THAN AN INDIVIDUAL**  
23 **DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE TOTAL**  
24 **SUBTRACTION UNDER THIS SUBSECTION MAY NOT EXCEED \$1,500 FOR ANY**  
25 **TAXABLE YEAR.**

26                   **(II) FOR A MARRIED INDIVIDUAL FILING A SEPARATE**  
27 **RETURN, THE TOTAL SUBTRACTION UNDER THIS SUBSECTION MAY NOT EXCEED**  
28 **\$750 FOR ANY TAXABLE YEAR.**

29                   **(5) THE COMPTROLLER IN COOPERATION WITH THE**  
30 **DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL:**

31                   **(I) ADMINISTER THE SUBTRACTION UNDER THIS**  
32 **SUBSECTION; AND**

1                               **(II) ADOPT REGULATIONS THAT SPECIFY THE EXPENSES**  
2   **ELIGIBLE FOR THE SUBTRACTION UNDER THIS SUBSECTION.**

3               SECTION 2. AND BE IT FURTHER ENACTED, That, on or before September  
4   1, 2009, the Comptroller and the Department of Health and Mental Hygiene shall  
5   report to the General Assembly, in accordance with § 2-1246 of the State Government  
6   Article, on the implementation of this Act.

7               SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8   July 1, 2009, and shall be applicable to all taxable years beginning after December 31,  
9   2009.