

HOUSE BILL 312

Q7
HB 157/09 – W&M

0lr0865

By: **Delegates Krebs, Aumann, Bates, Beitzel, Boteler, Costa, Dwyer, Eckardt, Elliott, Elmore, Frank, George, Haddaway, James, Jenkins, Jennings, Kach, McComas, McConkey, McDonough, Miller, Minnick, Norman, Riley, Robinson, Schuh, Serafini, Shank, Shewell, Smigiel, Sossi, Stocksdale, Weir, and Wood**

Introduced and read first time: January 27, 2010

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Death Taxes – Family Property Protection Act**

3 FOR the purpose of repealing a certain limit on the unified credit used for determining
4 the Maryland estate tax; repealing a requirement that the Maryland estate tax
5 shall be in effect even if the federal estate tax is not in effect on the date of the
6 decedent's death; repealing a requirement that the Maryland estate tax be
7 determined without regard to a certain deduction allowed under the federal
8 estate tax; providing for the application of this Act; and generally relating to the
9 Maryland estate tax.

10 BY repealing and reenacting, without amendments,
11 Article – Tax – General
12 Section 7–309(a)
13 Annotated Code of Maryland
14 (2004 Replacement Volume and 2009 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Tax – General
17 Section 7–309(b)(1), (2), and (3)
18 Annotated Code of Maryland
19 (2004 Replacement Volume and 2009 Supplement)

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

22 **Article – Tax – General**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 7-309.

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7 not been repealed or reduced.

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

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

14 (ii) other provisions of federal estate tax law, **INCLUDING THE**
15 **APPLICABLE UNIFIED CREDIT ALLOWED AGAINST THE FEDERAL ESTATE TAX**, as
16 in effect on the date of the decedent's death.

17 (2) [Except as provided in paragraphs (3) through (7) of this
18 subsection, if] **IF** the federal estate tax is not in effect on the date of the decedent's
19 death, the Maryland estate tax [shall be determined using:

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

23 (ii) other provisions of federal estate tax law as in effect on the
24 date immediately preceding the effective date of the repeal of the federal estate tax] **IS**
25 **NOT IMPOSED ON THE TRANSFER OF THE ESTATE OF THE DECEDENT.**

26 (3) [(i) Notwithstanding any increase in the unified credit allowed
27 against the federal estate tax for decedents dying after 2003, the unified credit used
28 for determining the Maryland estate tax may not exceed the applicable credit amount
29 corresponding to an applicable exclusion amount of \$1,000,000 within the meaning of §
30 2010(c) of the Internal Revenue Code.

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

34 (iii) Unless the federal credit allowable by § 2011 of the Internal
35 Revenue Code is in effect on the date of the decedent's death, the federal credit used to
36 determine the Maryland estate tax may not exceed 16% of the amount by which the
37 decedent's taxable estate, as defined in § 2051 of the Internal Revenue Code, exceeds

1 **[\$1,000,000] THE APPLICABLE EXCLUSION AMOUNT CORRESPONDING TO THE**
2 **APPLICABLE UNIFIED CREDIT UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 July 1, 2010, and shall be applicable to decedents dying after December 31, 2009.