

# SENATE BILL 733

Q3

EMERGENCY BILL

8lr0165  
CF HB 875

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By: **The President (By Request – Administration) and Senators Bates, Brochin, Cassilly, Eckardt, Edwards, Hershey, Hough, Jennings, Klausmeier, Mathias, Norman, Ready, Reilly, Salling, Serafini, Simonaire, and Waugh**  
Introduced and read first time: February 5, 2018  
Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Protecting Maryland Taxpayers Act of 2018**

3 FOR the purpose of repealing a requirement that a certain amendment to the Internal  
4 Revenue Code be enacted during a certain year in order for the amendment not to  
5 impact the determination of Maryland taxable income; allowing an individual to  
6 itemize deductions to compute Maryland taxable income whether or not the  
7 individual itemizes deductions on the individual's federal income tax return;  
8 providing that Maryland itemized deductions shall be determined in a certain  
9 manner for an individual who does not itemize deductions on the individual's federal  
10 income tax return; requiring the Comptroller to publish certain tax forms and  
11 instructions by a certain date; providing for the application of this Act; making this  
12 Act an emergency measure; and generally relating to the impact of amendments of  
13 the Internal Revenue Code on the determination of Maryland taxable income.

14 BY repealing and reenacting, with amendments,  
15 Article – Tax – General  
16 Section 10–108, 10–217(a), and 10–218  
17 Annotated Code of Maryland  
18 (2016 Replacement Volume and 2017 Supplement)

19 **Preamble**

20 WHEREAS, The federal Tax Cuts and Jobs Act of 2017 eliminated or limited certain  
21 deductions and exemptions that significantly benefited Marylanders on their federal and  
22 state income tax returns; and

23 WHEREAS, Marylanders are now projected to pay more in state and local income  
24 tax as a result of these changes to federal tax law; and

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, Marylanders already bear among the highest state and local tax  
2 burdens in the country; and

3 WHEREAS, In order to protect Marylanders from the negative effects of the federal  
4 tax law, the General Assembly and the Governor must work collaboratively and take  
5 immediate and meaningful action; now, therefore,

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

8 **Article – Tax – General**

9 10–108.

10 (a) Except as provided in subsection (c) of this section [and unless expressly  
11 provided otherwise by law], an amendment of the Internal Revenue Code **THAT TAKES**  
12 **EFFECT ON OR AFTER DECEMBER 21, 2017, AND** that[, for a taxable year that begins  
13 in the calendar year in which the amendment is enacted,] affects the determination of  
14 federal adjusted gross income or federal taxable income[,] does not affect the determination  
15 of Maryland taxable income under this title [for any taxable year that begins in the  
16 calendar year in which the amendment is enacted].

17 (b) Within 60 days after an amendment of the Internal Revenue Code is enacted,  
18 the Comptroller shall prepare and submit to the Governor and, subject to § 2–1246 of the  
19 State Government Article, the President of the Senate and the Speaker of the House a  
20 report that outlines:

21 (1) the changes in the Internal Revenue Code; and

22 (2) the impact of those changes on State revenue and on various classes  
23 and types of taxpayers.

24 (c) Subsection (a) of this section does not apply to an amendment of the Internal  
25 Revenue Code if the Comptroller determines that the impact of the amendment [on] **WILL**  
26 **RESULT IN A DECREASE IN** State income tax revenue [for the fiscal year that begins  
27 during the calendar year in which the amendment is enacted will be less than \$5,000,000].

28 10–217.

29 (a) (1) (i) Except as otherwise provided in this subsection, an individual  
30 may elect to use the standard deduction to compute Maryland taxable income whether or  
31 not the individual itemizes deductions on the individual's federal income tax return in  
32 determining federal taxable income.

33 (ii) If an individual elects to use the standard deduction on the  
34 [federal] **MARYLAND** income tax return, the individual may not take any itemized

1 deduction in § 10–218 of this subtitle.

2 10–218.

3 (a) [Only an individual who itemizes deductions on the individual’s federal  
4 income tax return] **AN INDIVIDUAL** may elect to itemize deductions [on the individual’s  
5 income tax return] **TO COMPUTE MARYLAND TAXABLE INCOME WHETHER OR NOT THE**  
6 **INDIVIDUAL ITEMIZES DEDUCTIONS ON THE INDIVIDUAL’S FEDERAL INCOME TAX**  
7 **RETURN IN DETERMINING FEDERAL TAXABLE INCOME.**

8 (b) [An] **SUBJECT TO SUBSECTION (C) OF THIS SECTION**, AN individual who  
9 elects to itemize deductions is allowed as a deduction the sum of the individual’s federal  
10 itemized deductions:

11 (1) limited and reduced as required under the Internal Revenue Code;

12 (2) further reduced by any amount deducted under § 170 of the Internal  
13 Revenue Code for contributions of a preservation or conservation easement for which a  
14 credit is claimed under § 10–723 of this title; and

15 (3) further reduced by the amount claimed as taxes on income paid to a  
16 state or political subdivision of a state, after subtracting a pro rata portion of the reduction  
17 to itemized deductions required under § 68 of the Internal Revenue Code.

18 **(C) FOR AN INDIVIDUAL WHO DOES NOT ITEMIZE DEDUCTIONS ON THE**  
19 **INDIVIDUAL’S FEDERAL INCOME TAX RETURN BUT ELECTS TO ITEMIZE DEDUCTIONS**  
20 **TO COMPUTE MARYLAND TAXABLE INCOME, THE DEDUCTION ALLOWED UNDER**  
21 **SUBSECTION (B) OF THIS SECTION SHALL BE DETERMINED AS IF THE INDIVIDUAL**  
22 **ITEMIZED DEDUCTIONS ON THE INDIVIDUAL’S FEDERAL INCOME TAX RETURN.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That, within 60 days after  
24 submission of the report required under § 10–108(b) of the Tax – General Article, as enacted  
25 by Section 1 of this Act, the Comptroller shall publish updated tax forms and instructions  
26 for all tax filers affected by this Act.

27 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be  
28 construed to apply only to taxable years beginning after December 31, 2017, and may not  
29 be applied or interpreted to have any effect on taxable years beginning on or before  
30 December 31, 2017.

31 SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall not  
32 apply where Maryland law expressly provides a new federal law, an amendment to existing  
33 federal law, or a repeal of existing federal law does not affect Maryland law.

34 SECTION 5. AND BE IT FURTHER ENACTED, That this Act is an emergency  
35 measure, is necessary for the immediate preservation of the public health or safety, has

1 been passed by a yea or nay vote supported by three-fifths of all the members elected to  
2 each of the two Houses of the General Assembly, and shall take effect from the date it is  
3 enacted.