

HOUSE BILL 201

Q3

11r0625

(PRE-FILED)

By: **Delegate Palakovich Carr**

Requested: September 22, 2020

Introduced and read first time: January 13, 2021

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax Rates – Capital Gains Income**

3 FOR the purpose of providing for an additional State individual income tax rate on the net
4 capital gains of individuals, subject to certain exceptions; providing for the
5 application of this Act; and generally relating to the State income tax and capital
6 gains income.

7 BY repealing and reenacting, with amendments,

8 Article – Tax – General

9 Section 10–105(a)

10 Annotated Code of Maryland

11 (2016 Replacement Volume and 2020 Supplement)

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

14 **Article – Tax – General**

15 10–105.

16 (a) (1) For an individual other than an individual described in paragraph (2)
17 of this subsection, the State income tax rate is:

18 (i) 2% of Maryland taxable income of \$1 through \$1,000;

19 (ii) 3% of Maryland taxable income of \$1,001 through \$2,000;

20 (iii) 4% of Maryland taxable income of \$2,001 through \$3,000;

21 (iv) 4.75% of Maryland taxable income of \$3,001 through \$100,000;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (v) 5% of Maryland taxable income of \$100,001 through \$125,000;
- 2 (vi) 5.25% of Maryland taxable income of \$125,001 through \$150,000;
- 3 (vii) 5.5% of Maryland taxable income of \$150,001 through \$250,000;
- 4 and
- 5 (viii) 5.75% of Maryland taxable income in excess of \$250,000.

6 (2) For spouses filing a joint return or for a surviving spouse or head of
7 household as defined in § 2 of the Internal Revenue Code, the State income tax rate is:

- 8 (i) 2% of Maryland taxable income of \$1 through \$1,000;
- 9 (ii) 3% of Maryland taxable income of \$1,001 through \$2,000;
- 10 (iii) 4% of Maryland taxable income of \$2,001 through \$3,000;
- 11 (iv) 4.75% of Maryland taxable income of \$3,001 through \$150,000;
- 12 (v) 5% of Maryland taxable income of \$150,001 through \$175,000;
- 13 (vi) 5.25% of Maryland taxable income of \$175,001 through \$225,000;
- 14 (vii) 5.5% of Maryland taxable income of \$225,001 through \$300,000;
- 15 and
- 16 (viii) 5.75% of Maryland taxable income in excess of \$300,000.

17 (3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
18 PARAGRAPH, IF THE MARYLAND TAXABLE INCOME OF AN INDIVIDUAL DESCRIBED
19 IN PARAGRAPH (1) OR (2) OF THIS SUBSECTION INCLUDES ANY AMOUNT OF NET
20 CAPITAL GAIN, AS DEFINED AND DETERMINED UNDER THE INTERNAL REVENUE
21 CODE, THE STATE INCOME TAX FOR THE INDIVIDUAL IS THE SUM OF:

22 1. THE RATES SPECIFIED IN PARAGRAPH (1) OR (2) OF
23 THIS SUBSECTION APPLIED TO MARYLAND TAXABLE INCOME; AND

24 2. AN ADDITIONAL 1% OF THE AMOUNT OF NET CAPITAL
25 GAIN INCLUDED IN THE INDIVIDUAL'S MARYLAND TAXABLE INCOME.

26 (II) TO THE EXTENT INCLUDED IN CALCULATING NET CAPITAL
27 GAIN FOR FEDERAL INCOME TAX PURPOSES, ANY AMOUNT OF CAPITAL GAIN FROM
28 THE SALE OR EXCHANGE OF THE FOLLOWING ASSETS IS NOT SUBJECT TO THE
29 ADDITIONAL 1% TAX RATE SPECIFIED IN SUBPARAGRAPH (I)2 OF THIS PARAGRAPH:

1 1. ANY RESIDENTIAL DWELLING SOLD FOR LESS THAN
2 **\$1,000,000** THAT IS THE INDIVIDUAL'S PRIMARY RESIDENCE, INCLUDING THE LAND
3 ON WHICH THE DWELLING IS LOCATED AND ANY ACCESSORY DWELLING UNIT
4 ASSOCIATED WITH THE RESIDENCE, IF THE DWELLING IS A SINGLE-FAMILY HOME, A
5 TOWN HOUSE, A ROW HOME, A RESIDENTIAL CONDOMINIUM UNIT, OR A
6 RESIDENTIAL COOPERATIVE UNIT;

7 2. ASSETS HELD IN:

8 A. A CASH OR DEFERRED ARRANGEMENT PLAN UNDER §
9 **401(K)** OF THE INTERNAL REVENUE CODE;

10 B. A TAX-SHELTERED ANNUITY OR CUSTODIAL ACCOUNT
11 UNDER § **403(B)** OF THE INTERNAL REVENUE CODE;

12 C. A DEFERRED COMPENSATION PLAN UNDER § **457(B)**
13 OF THE INTERNAL REVENUE CODE;

14 D. AN INDIVIDUAL RETIREMENT ACCOUNT OR
15 INDIVIDUAL RETIREMENT ANNUITY UNDER § **408** OF THE INTERNAL REVENUE
16 CODE;

17 E. A ROTH INDIVIDUAL RETIREMENT ACCOUNT UNDER §
18 **408A** OF THE INTERNAL REVENUE CODE; OR

19 F. A DEFINED CONTRIBUTION PLAN, A DEFINED BENEFIT
20 PLAN, OR A SIMILAR RETIREMENT SAVINGS PLAN;

21 3. CATTLE, HORSES, OR BREEDING LIVESTOCK HELD
22 FOR MORE THAN 12 MONTHS IF, FOR THE TAXABLE YEAR OF THE SALE OR
23 EXCHANGE, MORE THAN 50% OF THE INDIVIDUAL'S GROSS INCOME FOR THE
24 TAXABLE YEAR, INCLUDING INCOME FROM THE SALE OR EXCHANGE OF CAPITAL
25 ASSETS, IS FROM FARMING OR RANCHING;

26 4. LAND THAT IS SUBJECT TO A CONSERVATION,
27 AGRICULTURAL, OR FOREST PRESERVATION EASEMENT OR THAT WILL BE SUBJECT
28 TO A CONSERVATION, AGRICULTURAL, OR FOREST PRESERVATION EASEMENT ON
29 THE SALE OR EXCHANGE OF THE LAND;

30 5. PROPERTY USED IN A TRADE OR BUSINESS, THE COST
31 OF WHICH IS DEDUCTIBLE UNDER § **179** OF THE INTERNAL REVENUE CODE; OR

