

# HOUSE BILL 1149

Q3, Q4, Q1

11r2883

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By: **Delegate Cox**

Introduced and read first time: February 8, 2021

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Small Business Tax Relief – State of Emergency Orders**

3 FOR the purpose of allowing a subtraction modification under the Maryland income tax or  
4 earned income of certain small businesses for a certain period of time under certain  
5 emergency circumstances; providing an exemption from the sales and use tax for  
6 certain small businesses for a certain period of time under certain emergency  
7 circumstances; exempting real and personal property of a small business from State  
8 and county property taxes for a certain period of time under certain emergency  
9 circumstances; requiring the State Treasurer and the governing body of a county or  
10 municipal corporation to issue certain refunds under certain circumstances; requiring  
11 the Comptroller to issue a certain refund of the sales and use tax paid by a certain  
12 small business during a certain period under certain emergency circumstances;  
13 defining a certain term; providing for the application and termination of certain  
14 provisions of this Act; providing for the effective dates of this Act; and generally  
15 relating to tax relief under the sales and use tax, Maryland income tax, and State  
16 and county property tax for small businesses under state of emergency orders.

17 BY repealing and reenacting, without amendments,  
18 Article – Tax – General  
19 Section 10–207(a) and 10–307(a)  
20 Annotated Code of Maryland  
21 (2016 Replacement Volume and 2020 Supplement)

22 BY adding to  
23 Article – Tax – General  
24 Section 10–207(jj) and 11–241  
25 Annotated Code of Maryland  
26 (2016 Replacement Volume and 2020 Supplement)

27 BY repealing and reenacting, with amendments,  
28 Article – Tax – General

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 10–307(g)  
2 Annotated Code of Maryland  
3 (2016 Replacement Volume and 2020 Supplement)

4 BY adding to  
5 Article – Tax – Property  
6 Section 7–249  
7 Annotated Code of Maryland  
8 (2019 Replacement Volume and 2020 Supplement)

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

11 **Article – Tax – General**

12 10–207.

13 (a) To the extent included in federal adjusted gross income, the amounts under  
14 this section are subtracted from the federal adjusted gross income of a resident to determine  
15 Maryland adjusted gross income.

16 **(JJ) (1) IN THIS SUBSECTION, “SMALL BUSINESS” MEANS A BUSINESS**  
17 **THAT IS CLASSIFIED AS A SMALL BUSINESS UNDER THE U.S. SMALL BUSINESS**  
18 **ADMINISTRATION SIZE STANDARDS.**

19 **(2) FOR THE TAXABLE YEAR BEGINNING JANUARY 1, 2020, AND EACH**  
20 **TAXABLE YEAR THEREAFTER, THE SUBTRACTION UNDER PARAGRAPH (1) OF THIS**  
21 **SUBSECTION INCLUDES ANY AMOUNT OF INCOME EARNED DURING THE TAXABLE**  
22 **YEAR BY A SMALL BUSINESS FOR A PERIOD DURING WHICH:**

23 **(I) THE STATE OR COUNTY IN WHICH THE SMALL BUSINESS IS**  
24 **LOCATED WAS UNDER A STATE OF EMERGENCY DECLARED BY THE GOVERNOR**  
25 **UNDER § 14–107 OF THE PUBLIC SAFETY ARTICLE; AND**

26 **(II) THE GOVERNOR’S EMERGENCY ORDER REQUIRED THE**  
27 **SMALL BUSINESS TO CLOSE OR LIMIT ITS OPERATIONS.**

28 10–307.

29 (a) To the extent included in federal taxable income, the amounts under this  
30 section are subtracted from the federal taxable income of a corporation to determine  
31 Maryland modified income.

32 (g) The subtraction under subsection (a) of this section includes the amounts  
33 allowed to be subtracted for an individual under:

1 (1) § 10–207(i) of this title (Profits on sale or exchange of State or local  
2 bonds);

3 (2) § 10–207(k) of this title (Relocation and assistance payments);

4 (3) § 10–207(m) of this title (State or local income tax refunds);

5 (4) § 10–207(c–1) of this title (State tax–exempt interest from mutual  
6 funds); [or]

7 (5) § 10–207(hh) of this title (Gain on the transfer of property within the  
8 Laurel Park site or Pimlico site or Bowie Race Course Training Center property and income  
9 realized as result of governmental expenditures); **OR**

10 **(6) § 10–207(JJ) OF THIS TITLE (SMALL BUSINESS INCOME EARNED**  
11 **DURING A STATE OF EMERGENCY).**

12 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
13 as follows:

14 **Article – Tax – General**

15 **11–241.**

16 **(A) IN THIS SECTION, “SMALL BUSINESS” MEANS A BUSINESS THAT IS**  
17 **CLASSIFIED AS A SMALL BUSINESS UNDER THE U.S. SMALL BUSINESS**  
18 **ADMINISTRATION SIZE STANDARDS.**

19 **(B) THE SALES AND USE TAX DOES NOT APPLY TO THE SALE OF TANGIBLE**  
20 **PERSONAL PROPERTY OR SERVICES TO A SMALL BUSINESS IF:**

21 **(1) THE STATE OR COUNTY IN WHICH THE SMALL BUSINESS IS**  
22 **LOCATED IS UNDER A STATE OF EMERGENCY DECLARED BY THE GOVERNOR UNDER**  
23 **§ 14–107 OF THE PUBLIC SAFETY ARTICLE;**

24 **(2) THE GOVERNOR’S EMERGENCY ORDER REQUIRED THE SMALL**  
25 **BUSINESS TO CLOSE OR LIMIT ITS OPERATIONS; AND**

26 **(3) THE SMALL BUSINESS PROVIDES THE VENDOR WITH EVIDENCE OF**  
27 **ELIGIBILITY FOR THE EXEMPTION ISSUED BY THE COMPTROLLER.**

28 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
29 as follows:

30 **Article – Tax – Property**

1 7-249.

2 (A) IN THIS SECTION, "SMALL BUSINESS" MEANS A BUSINESS THAT IS  
3 CLASSIFIED AS A SMALL BUSINESS UNDER THE U.S. SMALL BUSINESS  
4 ADMINISTRATION SIZE STANDARDS.

5 (B) FOR THE TAXABLE YEAR BEGINNING JULY 1, 2019, AND EACH TAXABLE  
6 YEAR THEREAFTER, PROPERTY THAT IS OWNED BY A SMALL BUSINESS IS NOT  
7 SUBJECT TO THE PROPERTY TAX FOR ANY PART OF THE TAXABLE YEAR DURING  
8 WHICH:

9 (1) THE COUNTY WHERE THE PROPERTY IS LOCATED IS UNDER A  
10 STATE OF EMERGENCY DECLARED BY THE GOVERNOR UNDER § 14-107 OF THE  
11 PUBLIC SAFETY ARTICLE; AND

12 (2) THE SMALL BUSINESS HAD TO CLOSE OR RESTRICT ITS  
13 OPERATIONS AS A RESULT OF THE GOVERNOR'S ORDER.

14 (C) FOR ANY PART OF A TAXABLE YEAR BEGINNING AFTER JUNE 30, 2019,  
15 BUT BEFORE JULY 1, 2021, IN WHICH A SMALL BUSINESS IS ENTITLED TO RECEIVE  
16 AN EXEMPTION UNDER THIS SECTION:

17 (1) THE STATE TREASURER SHALL ISSUE A REFUND TO THE SMALL  
18 BUSINESS FOR ANY STATE PROPERTY TAX PAID BY THE SMALL BUSINESS  
19 ATTRIBUTABLE TO THAT PART OF THE TAXABLE YEAR; AND

20 (2) THE GOVERNING BODY OF A COUNTY OR MUNICIPAL  
21 CORPORATION SHALL ISSUE A REFUND TO THE SMALL BUSINESS FOR ANY COUNTY  
22 OR MUNICIPAL CORPORATION PROPERTY TAX PAID BY THE SMALL BUSINESS  
23 ATTRIBUTABLE TO THAT PART OF THE TAXABLE YEAR.

24 SECTION 4. AND BE IT FURTHER ENACTED, That:

25 (a) A business classified as a "small business" under the U.S. Small Business  
26 Administration size standards is entitled to a refund for the amount of sales and use tax  
27 paid by the small business on or after March 5, 2020, but before July 1, 2021, if:

28 (1) the State or county in which the small business is located was under a  
29 state of emergency declared by the Governor under § 14-107 of the Public Safety Article;  
30 and

31 (2) the Governor's emergency order required the small business to close or  
32 limit its operations.

1 (b) The small business may claim the refund authorized under subsection (a) of  
2 this section by:

3 (1) filing a claim for the refund with the Comptroller on or before December  
4 31, 2021; and

5 (2) providing the Comptroller any evidence that the Comptroller may  
6 require.

7 SECTION 5. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be  
8 construed to apply retroactively and shall be applied to and interpreted to affect all taxable  
9 years beginning after December 31, 2019.

10 SECTION 6. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall be  
11 construed to apply retroactively and shall be applied to and interpreted to affect all taxable  
12 years beginning after June 30, 2019.

13 SECTION 7. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall take  
14 effect July 1, 2021. It shall remain effective for a period of 2 years and, at the end of June  
15 30, 2023, Section 4 of this Act, with no further action required by the General Assembly,  
16 shall be abrogated and of no further force and effect.

17 SECTION 8. AND BE IT FURTHER ENACTED, That Sections 1 and 2 of this Act  
18 shall take effect July 1, 2021.

19 SECTION 9. AND BE IT FURTHER ENACTED, That, except as provided in Section  
20 8 of this Act, this Act shall take effect June 1, 2021.