

SENATE BILL 55

Q7

(PRE-FILED)

3lr0809
CF 3lr1206

By: **Senator West**

Requested: November 15, 2022

Introduced and read first time: January 11, 2023

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Estate Tax – Portability – Time Period for Election**

3 FOR the purpose of altering the period of time within which a person is required to file a
4 Maryland estate tax return for the purpose of allowing a surviving spouse to take
5 into account the deceased spousal unused exclusion amount; applying this Act
6 retroactively; and generally relating to the Maryland estate tax.

7 BY repealing and reenacting, with amendments,

8 Article – Tax – General

9 Section 7–305

10 Annotated Code of Maryland

11 (2022 Replacement Volume)

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 7–305.

16 (a) If a federal estate tax return is required to be filed, the person responsible for
17 filing the federal estate tax return shall complete, under oath, and file a Maryland estate
18 tax return with the Comptroller 9 months after the date of the death of a decedent.

19 (b) If a federal estate tax return is not required to be filed but a federal estate tax
20 return would be required to be filed if the applicable exclusion amount under § 2010(c) of
21 the Internal Revenue Code were no greater than the applicable exclusion amount specified
22 under § 7–309(b) of this subtitle, the person who would be responsible for filing the federal
23 estate tax return shall complete, under oath, and file a Maryland estate tax return with
24 the Comptroller 9 months after the date of the death of the decedent.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (c) (1) If a person files a Maryland estate tax return solely for the purpose of
2 making the election under § 7–309(b) of this subtitle to allow a surviving spouse to take
3 into account the deceased spousal unused exclusion amount, the person shall file the
4 Maryland estate tax return within [2 years after the date of death of the decedent] **THE**
5 **TIME PERIOD PRESCRIBED FOR MAKING AN ELECTION ON A FEDERAL ESTATE TAX**
6 **RETURN TO ALLOW A SURVIVING SPOUSE TO TAKE INTO ACCOUNT THE DECEASED**
7 **SPOUSAL UNUSED EXCLUSION AMOUNT.**

8 (2) **THE COMPTROLLER SHALL ADOPT REGULATIONS NECESSARY TO**
9 **ENSURE THAT THE TIME PERIOD FOR MAKING THE ELECTION UNDER § 7–309(B) OF**
10 **THIS SUBTITLE ON A MARYLAND ESTATE TAX RETURN IS IDENTICAL TO THAT FOR A**
11 **SIMILARLY SITUATED FEDERAL ESTATE TAX RETURN.**

12 (d) (1) After a person files a Maryland estate tax return, the person shall file
13 an amended Maryland estate tax return with the Comptroller if the Maryland estate tax
14 liability is increased because of:

15 (i) a change in the federal gross estate, federal taxable estate,
16 federal estate tax, or other change as determined under the Internal Revenue Code;

17 (ii) after–discovered property;

18 (iii) a correction to the value of previously reported property;

19 (iv) a correction to the amount of previously claimed deductions; or

20 (v) any other correction to a previously filed return.

21 (2) (i) The amended return shall be filed within 90 days after the later
22 to occur of the date of the event that caused the increase in the Maryland estate tax liability
23 or the date on which the person required to file an amended Maryland estate tax return
24 learned or reasonably should have learned of the increase in the Maryland estate tax
25 liability.

26 (ii) On request, each register shall certify to the Comptroller the
27 amount of inheritance tax paid for each decedent for whom an amended Maryland estate
28 tax return is filed with the Comptroller.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
30 apply retroactively and shall be applied to and interpreted to affect any decedents dying on
31 or after July 1, 2018.

32 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
33 1, 2023.