

Article - Tax - General

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§10–101.

(a) In this title the following words have the meanings indicated.

(a–1) “Active duty” has the meaning stated in § 9–901 of the State Government Article.

(b) “Applicable tax base” means the portion of the income of an investment conduit or a special exempt entity on which a tax is imposed under:

(1) § 11, § 527(b), § 528(b), § 852(b)(1), § 857(b)(1) or (4)(a), or § 860G(c)(1) of the Internal Revenue Code; or

(2) any other section of the Internal Revenue Code that the Comptroller determines by regulation to impose an entity level income tax on an entity that the Comptroller determines to be:

(i) an investment conduit under subsection (h)(2) of this section; or

(ii) a special exempt entity under subsection (m)(2) of this section.

(c) “Corporation” includes an association or joint–stock company.

(d) “County income tax” means the county tax on income authorized in § 10–103 of this subtitle.

(e) “Federal adjusted gross income” means:

(1) for an individual other than a fiduciary, the individual’s adjusted gross income as determined under the Internal Revenue Code;

(2) for a fiduciary other than one described in item (3) of this subsection, the fiduciary’s taxable income, as determined under the Internal Revenue Code, increased by the amount allowed to the fiduciary as a deduction for a personal exemption under § 642(b) of the Internal Revenue Code; or

(3) for a fiduciary exempt from taxation under § 408(e)(1) or § 501 of the Internal Revenue Code, the fiduciary's unrelated business taxable income as defined under § 512 of the Internal Revenue Code.

(f) (1) "Fiduciary" means a person holding the legal title to property for the use and benefit of another person.

(2) "Fiduciary" does not include:

(i) an agent holding custody or possession of property that the principal of the agent owns; or

(ii) a guardian, as defined in § 13-101 of the Estates and Trusts Article.

(g) "Individual" means, unless expressly provided otherwise, a natural person or a fiduciary.

(h) "Investment conduit" means:

(1) any of the following entities described in the Internal Revenue Code:

(i) a regulated investment company;

(ii) a real estate investment trust; or

(iii) a real estate mortgage investment conduit; or

(2) any other entity that the Comptroller determines by regulation to enjoy a status under the Internal Revenue Code pursuant to which the entity is not generally subject to income tax at the entity level so long as substantially all of its profits are distributed to the holders of equity interests in the entity.

(i) "Maryland taxable income" means:

(1) for an individual, Maryland adjusted gross income, less the exemptions and deductions allowed under this title; and

(2) for a corporation, Maryland modified income as allocated under this title.

(j) "Nonresident" means an individual who is not a resident.

(k) (1) “Resident” means:

(i) an individual, other than a fiduciary, who:

1. is domiciled in this State on the last day of the taxable year; or

2. for more than 6 months of the taxable year, maintained a place of abode in this State, whether domiciled in this State or not;

(ii) a personal representative of an estate if the decedent was domiciled in this State on the date of the decedent’s death; or

(iii) a fiduciary, other than a personal representative, of a trust if:

1. the trust was created, or consists of property transferred, by the will of a decedent who was domiciled in the State on the date of the decedent’s death;

2. the creator or grantor of the trust is a current resident of the State; or

3. the trust is principally administered in the State.

(2) “Resident” includes, for the part of the taxable year that an individual resides in this State, an individual who:

(i) moves to this State with the intent to be domiciled in this State; or

(ii) is domiciled in this State and moves outside this State before the last day of the taxable year with the bona fide intention to remain permanently outside of this State.

(3) If an individual under paragraph (2)(ii) of this subsection again resides in this State within 6 months after having moved outside this State, there is a rebuttable presumption that the individual did not have a bona fide intention to remain permanently outside this State.

(l) “S corporation” means a corporation that elects to be taxed as a small business corporation under Subchapter S of the Internal Revenue Code.

(m) “Special exempt entity” means:

Code: (1) any of the following entities described in the Internal Revenue

- (i) a farmers' cooperative;
- (ii) a political organization; or
- (iii) a homeowners association; or

(2) any other entity not described in § 10–104(2) of this subtitle that the Comptroller determines by regulation to be exempt from federal income tax on all or some part of its income.

(n) “State income tax” means the State tax on income imposed under this title.

(o) (1) “Taxable year” means:

(i) the period for which Maryland taxable income is computed under this title; and

(ii) the annual accounting period defined in § 441 of the Internal Revenue Code.

(2) “Taxable year” includes:

(i) a calendar year ending on December 31, as defined in § 441 of the Internal Revenue Code;

(ii) a fiscal year ending on the last day of a month other than December, as defined in § 441 of the Internal Revenue Code;

(iii) if a return is made for a period of less than 1 year, the period for which the return is made; or

(iv) if an election is made under § 441(f) of the Internal Revenue Code, the period for which a return is made.

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