

SENATE BILL 1302

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CF HB 1802

By: **The President (By Request – Administration)**

Introduced and read first time: May 14, 2012

Assigned to: Budget and Taxation

Committee Report: Favorable

Senate action: Adopted

Read second time: May 14, 2012

CHAPTER _____

1 AN ACT concerning

2 **State and Local Revenue and Financing Act of 2012**

3 FOR the purpose of altering the State income tax rate on certain income of
4 individuals; altering the amount allowed as a deduction for certain exemptions
5 under the Maryland income tax under certain circumstances; modifying a
6 fiduciary's adjusted gross income to add back that portion of an electing small
7 business trust consisting of stock of one or more S corporations that is subject to
8 special taxing rules under certain provisions of the Internal Revenue Code;
9 altering certain tax rates for certain cigars and certain tobacco products;
10 providing that, for purposes of the recordation tax, secured debt with respect to
11 certain mortgages, deeds of trust, and other security interests in real property
12 securing a guarantee of repayment of a loan for a certain amount is deemed to
13 be incurred as debt is incurred on the guaranteed loan and, with respect to
14 those mortgages, deeds of trust, and other security interests, the recordation tax
15 applies in a certain manner; altering the amount of certain fees; repealing a
16 certain exemption to the sales and use tax for certain sales in the form of a
17 demurrage charge; repealing a certain modification for purposes of determining
18 Maryland taxable income for certain public utilities; repealing a certain credit
19 against the State income tax for certain public utilities; requiring the
20 Comptroller to waive certain interest and penalties for a certain calendar year
21 to a certain extent; authorizing the Comptroller to provide an alternative
22 method of assessing and collecting a certain additional tax; requiring certain
23 revenue to be remitted to the Comptroller by a certain date; repealing an
24 obsolete provision; requiring the State Department of Assessments and
25 Taxation to establish a certain workgroup; providing for the duties, composition,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 and chair of the workgroup; requiring the workgroup to submit a certain report
2 to the Governor and the General Assembly by a certain date; defining certain
3 terms; providing for the application of certain provisions of this Act; and
4 generally relating to State and local revenues and finances.

5 BY repealing and reenacting, with amendments,
6 Article – Tax – General
7 Section 10–105(a), 10–211(b), and 12–105(b)
8 Annotated Code of Maryland
9 (2010 Replacement Volume and 2011 Supplement)

10 BY repealing and reenacting, without amendments,
11 Article – Tax – General
12 Section 10–204(a) and 10–211(a)
13 Annotated Code of Maryland
14 (2010 Replacement Volume and 2011 Supplement)

15 BY adding to
16 Article – Tax – General
17 Section 10–204(k)
18 Annotated Code of Maryland
19 (2010 Replacement Volume and 2011 Supplement)

20 BY adding to
21 Article – Tax – Property
22 Section 12–105(f)(7)
23 Annotated Code of Maryland
24 (2007 Replacement Volume and 2011 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article – Health – General
27 Section 4–217(c)(1)
28 Annotated Code of Maryland
29 (2009 Replacement Volume and 2011 Supplement)

30 BY repealing and reenacting, with amendments,
31 Article – State Government
32 Section 9–1604(b)(1)(vi)
33 Annotated Code of Maryland
34 (2009 Replacement Volume and 2011 Supplement)

35 BY repealing
36 Article – Tax – General
37 Section 10–306(c), 10–708, and 11–202
38 Annotated Code of Maryland
39 (2010 Replacement Volume and 2011 Supplement)

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

3 **Article – Tax – General**

4 10–105.

5 (a) (1) [Except as provided in paragraph (3) of this subsection, for] **FOR**
6 an individual other than an individual described in paragraph (2) of this subsection,
7 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
12 **[\$150,000] \$100,000;**

13 (v) 5% of Maryland taxable income of **[\$150,001] \$100,001**
14 **through [\$300,000] \$125,000;**

15 (vi) 5.25% of Maryland taxable income of **[\$300,001] \$125,001**
16 **through [\$500,000] \$150,000; [and]**

17 (vii) 5.5% of Maryland taxable income **[in excess of \$500,000] OF**
18 **\$150,001 THROUGH \$250,000; AND**

19 **(VIII) 5.75% OF MARYLAND TAXABLE INCOME IN EXCESS OF**
20 **\$250,000.**

21 (2) [Except as provided in paragraph (3) of this subsection, for] **FOR**
22 spouses filing a joint return or for a surviving spouse or head of household as defined
23 in § 2 of the Internal Revenue Code, the State income tax rate is:

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

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

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

27 (iv) 4.75% of Maryland taxable income of \$3,001 through
28 **[\$200,000] \$150,000;**

1 (v) 5% of Maryland taxable income of [~~\$200,001~~] **\$150,001**
 2 through [~~\$350,000~~] **\$175,000**;

3 (vi) 5.25% of Maryland taxable income of [~~\$350,001~~] **\$175,001**
 4 through [~~\$500,000~~] **\$225,000**; [and]

5 (vii) 5.5% of Maryland taxable income [in excess of \$500,000] **OF**
 6 **\$225,001 THROUGH \$300,000; AND**

7 **(VIII) 5.75% OF MARYLAND TAXABLE INCOME IN EXCESS OF**
 8 **\$300,000.**

9 [(3) For a taxable year beginning after December 31, 2007, but before
 10 January 1, 2011, the State income tax for an individual, including spouses filing a
 11 joint return or a surviving spouse or head of household as defined in § 2 of the Internal
 12 Revenue Code, is:

13 (i) for Maryland taxable income up to \$500,000, the rate
 14 specified in paragraph (1)(i) through (vi) or (2)(i) through (vi) of this subsection; and

15 (ii) for Maryland taxable income in excess of \$500,000:

16 1. 5.5% of Maryland taxable income of \$500,001 through
 17 \$1,000,000; and

18 2. 6.25% of Maryland taxable income in excess of
 19 \$1,000,000.]

20 10–204.

21 (a) To the extent excluded from federal adjusted gross income, the amounts
 22 under this section are added to the federal adjusted gross income of a resident to
 23 determine Maryland adjusted gross income.

24 **(K) FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2012, THE**
 25 **ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE AMOUNT OF**
 26 **INCOME OF AN ELECTING SMALL BUSINESS TRUST, AS DEFINED UNDER §**
 27 **1361(E)(1) OF THE INTERNAL REVENUE CODE, THAT IS SUBJECT TO THE**
 28 **SPECIAL TAXING RULES UNDER § 641(C) OF THE INTERNAL REVENUE CODE.**

29 10–211.

30 (a) Except as provided in subsection (b) of this section, whether or not a
 31 federal return is filed, to determine Maryland taxable income, an individual other
 32 than a fiduciary may deduct as an exemption:

1 (1) \$3,200 for each exemption that the individual may deduct in the
2 taxable year to determine federal taxable income under § 151 of the Internal Revenue
3 Code;

4 (2) an additional \$3,200 for each dependent, as defined in § 152 of the
5 Internal Revenue Code, who is at least 65 years old on the last day of the taxable year;

6 (3) an additional \$1,000 if the individual, on the last day of the taxable
7 year, is at least 65 years old; and

8 (4) an additional \$1,000 if the individual, on the last day of the taxable
9 year, is a blind individual, as described in § 10–208(c) of this subtitle.

10 (b) (1) If an individual other than one described in paragraph (2) of this
11 subsection has federal adjusted gross income for the taxable year greater than
12 \$100,000, the amount allowed for each exemption under subsection (a)(1) or (2) of this
13 section is limited to:

14 (i) ~~[\$2,400]~~ **\$1,600** if federal adjusted gross income for the
15 taxable year does not exceed \$125,000;

16 (ii) ~~[\$1,800]~~ **\$800** if federal adjusted gross income for the
17 taxable year is greater than \$125,000 but not greater than \$150,000; **AND**

18 (iii) ~~[\$1,200]~~ **\$0** if federal adjusted gross income for the taxable
19 year is greater than \$150,000 [but not greater than \$200,000; and

20 (iv) \$600 if federal adjusted gross income for the taxable year is
21 greater than \$200,000].

22 (2) If a married couple filing a joint return or an individual described
23 in § 2 of the Internal Revenue Code as a head of household or as a surviving spouse
24 has federal adjusted gross income for the taxable year greater than \$150,000, the
25 amount allowed for each exemption under subsection (a)(1) or (2) of this section is
26 limited to:

27 (i) ~~[\$2,400]~~ **\$1,600** if federal adjusted gross income for the
28 taxable year does not exceed \$175,000;

29 (ii) ~~[\$1,800]~~ **\$800** if federal adjusted gross income for the
30 taxable year is greater than \$175,000 but not greater than \$200,000; **AND**

31 (iii) ~~[\$1,200]~~ **\$0** if federal adjusted gross income for the taxable
32 year is greater than \$200,000 [but not greater than \$250,000; and

1 (iv) \$600 if federal adjusted gross income for the taxable year is
2 greater than \$250,000].

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

5 **Article – Tax – General**

6 12–105.

7 (b) (1) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
8 **SUBSECTION, THE tobacco tax rate for other tobacco products is [15%] 30%** of the
9 wholesale price of the tobacco products.

10 (2) (I) **IN THIS PARAGRAPH, “PREMIUM CIGARS” HAS THE**
11 **MEANING STATED IN § 16.5–101 OF THE BUSINESS REGULATION ARTICLE.**

12 (II) **EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS**
13 **PARAGRAPH, THE TOBACCO TAX RATE FOR CIGARS IS 70% OF THE WHOLESALE**
14 **PRICE OF THE CIGARS.**

15 (III) **THE TOBACCO TAX RATE FOR PREMIUM CIGARS IS 15%**
16 **OF THE WHOLESALE PRICE OF THE PREMIUM CIGARS.**

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

19 **Article – Tax – Property**

20 12–105.

21 (f) (7) (I) **IN THIS PARAGRAPH, “INDEMNITY MORTGAGE”**
22 **INCLUDES ANY MORTGAGE, DEED OF TRUST, OR OTHER SECURITY INTEREST IN**
23 **REAL PROPERTY THAT SECURES A GUARANTEE OF REPAYMENT OF A LOAN FOR**
24 **WHICH THE GUARANTOR IS NOT PRIMARILY LIABLE.**

25 (II) **EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS**
26 **PARAGRAPH:**

27 1. **SECURED DEBT WITH RESPECT TO AN INDEMNITY**
28 **MORTGAGE IS DEEMED TO BE INCURRED FOR PURPOSES OF THIS SUBSECTION**
29 **WHEN AND TO THE SAME EXTENT AS DEBT IS INCURRED ON THE GUARANTEED**
30 **LOAN; AND**

1 **2. THE RECORDATION TAX APPLIES UNDER THIS**
2 **SUBSECTION IN THE SAME MANNER AS IF THE GUARANTOR WERE PRIMARILY**
3 **LIABLE FOR THE GUARANTEED LOAN.**

4 **(III) THIS PARAGRAPH DOES NOT APPLY:**

5 **1. TO THE EXTENT THAT RECORDATION TAX IS PAID**
6 **ON ANOTHER INSTRUMENT OF WRITING THAT SECURES PAYMENT OF THE**
7 **GUARANTEED LOAN; OR**

8 **2. TO AN INDEMNITY MORTGAGE THAT SECURES A**
9 **GUARANTEE OF REPAYMENT OF A LOAN FOR LESS THAN \$1,000,000.**

10 SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland
11 read as follows:

12 **Article – Health – General**

13 4–217.

14 (c) (1) Except as otherwise provided by law:

15 (i) The Department shall collect a \$12 fee:

16 1. For each certified or abridged copy of a [death,] fetal
17 death, marriage, or divorce verification certificate;

18 2. For a report that a search of the [death,] fetal death,
19 marriage, or divorce verification certificate files was made and the requested record is
20 not on file;

21 3. For each change to a [death,] fetal death, marriage, or
22 divorce verification certificate made later than one year after the certificate has been
23 registered with the Department; or

24 4. To process an adoption, foreign adoption, or
25 legitimation; [and]

26 (ii) The Department shall collect a \$24 fee:

27 1. For each certified or abridged copy of a birth
28 certificate;

29 **2. FOR THE FIRST COPY OF A CERTIFIED OR**
30 **ABRIDGED DEATH CERTIFICATE ISSUED IN A SINGLE TRANSACTION;**

1 **3.** For a report that a search of the birth **OR DEATH**
2 certificate files was made and the requested record is not on file; or

3 **[3.] 4.** For each change to a birth **OR DEATH** certificate
4 made later than 1 year after the certificate has been registered with the Department;
5 **AND**

6 **(III) THE DEPARTMENT SHALL COLLECT A \$12 FEE FOR**
7 **EACH ADDITIONAL CERTIFIED OR ABRIDGED COPY OF A DEATH CERTIFICATE**
8 **PROVIDED CONCURRENTLY WITH AN INITIAL REQUESTED DEATH CERTIFICATE.**

9 **Article – State Government**

10 9–1604.

11 (b) (1) The Chief Administrative Law Judge may:

12 (vi) assess fees to cover administrative expenses as follows:

13 1. to file an appeal, a fee not exceeding:

14 A. **[\$125] \$150** for an appeal of a driver's license
15 suspension or revocation related to a violation of the Maryland Vehicle Law; and

16 B. \$50 for all other types of appeals; and

17 2. to process a subpoena, a fee not exceeding \$5.

18 SECTION 5. AND BE IT FURTHER ENACTED, That Section(s) 10–306(c) and
19 10–708 of Article – Tax – General of the Annotated Code of Maryland be repealed.

20 SECTION 6. AND BE IT FURTHER ENACTED, That Section(s) 11–202 of
21 Article – Tax – General of the Annotated Code of Maryland be repealed.

22 SECTION 7. AND BE IT FURTHER ENACTED, That the Comptroller shall
23 waive any interest or penalty imposed on an individual relating to payment of
24 estimated income tax for calendar year 2012 to the extent that the Comptroller
25 determines that the interest or penalty would not have been incurred but for an
26 increase in the income tax rates or reduction in the amount that may be deducted as
27 an exemption for calendar year 2012 under Section 1 of this Act.

28 SECTION 8. AND BE IT FURTHER ENACTED, That, as provided in §
29 12–105 of the Tax – General Article, all other tobacco products used, possessed, or held
30 in the State on or after July 1, 2012, by any person for sale or use in the State, shall be
31 subject to the full tax on other tobacco products, as enacted under this Act. The
32 Comptroller may provide an alternative method of assessing and collecting the

1 additional tax. The revenue attributable to this requirement shall be remitted to the
2 Comptroller by October 15, 2012.

3 SECTION 9. AND BE IT FURTHER ENACTED, That:

4 (a) The State Department of Assessments and Taxation shall establish a
5 workgroup to study the impacts of imposing the recordation tax on indemnity
6 mortgages and deeds of trust as provided under this Act, including:

7 (1) The expected tax revenues to be collected for local governments;

8 (2) The impacts of the tax, if any, on the forms, volume, and value of
9 commercial real estate transactions in urban, suburban, and rural areas of the State
10 and on the overall commercial real estate market in the State; and

11 (3) The impacts of the tax, if any, on residential real estate
12 transactions.

13 (b) The workgroup shall include representatives from various stakeholder
14 groups, including, but not limited to, representatives of State agencies, local
15 governments, commercial real estate organizations, business organizations, and the
16 Maryland Bankers Association.

17 (c) The Director of Assessments and Taxation, or the Director's designee,
18 shall chair the workgroup and facilitate the activities of the workgroup.

19 (d) The workgroup shall submit a report of its findings and recommendations
20 under this section, including a detailed description of the process used and the data
21 relied on by the workgroup, to the Governor and, subject to § 2-1246 of the State
22 Government Article, the General Assembly, on or before December 31, 2012.

23 SECTION 10. AND BE IT FURTHER ENACTED, That Section 5 of this Act
24 and §§ 10-105(a) and 10-211(b) of Article – Tax – General of the Annotated Code of
25 Maryland as enacted by Section 1 of this Act shall be applicable to all taxable years
26 beginning after December 31, 2011.

27 SECTION 11. AND BE IT FURTHER ENACTED, That Sections 2 and 6 of this
28 Act shall take effect July 1, 2012.

29 SECTION 12. AND BE IT FURTHER ENACTED, That Section 3 of this Act
30 shall take effect July 1, 2012, and shall be applicable to all instruments of writing
31 recorded on or after July 1, 2012.

32 SECTION 13. AND BE IT FURTHER ENACTED, That, except as otherwise
33 provided in this Act, this Act shall take effect June 1, 2012.