

Chapter 2

(Senate Bill 1302)

AN ACT concerning

State and Local Revenue and Financing Act of 2012

FOR the purpose of altering the State income tax rate on certain income of individuals; altering the amount allowed as a deduction for certain exemptions under the Maryland income tax under certain circumstances; modifying a fiduciary's adjusted gross income to add back that portion of an electing small business trust consisting of stock of one or more S corporations that is subject to special taxing rules under certain provisions of the Internal Revenue Code; altering certain tax rates for certain cigars and certain tobacco products; providing that, for purposes of the recordation tax, secured debt with respect to certain mortgages, deeds of trust, and other security interests in real property securing a guarantee of repayment of a loan for a certain amount is deemed to be incurred as debt is incurred on the guaranteed loan and, with respect to those mortgages, deeds of trust, and other security interests, the recordation tax applies in a certain manner; altering the amount of certain fees; repealing a certain exemption to the sales and use tax for certain sales in the form of a demurrage charge; repealing a certain modification for purposes of determining Maryland taxable income for certain public utilities; repealing a certain credit against the State income tax for certain public utilities; requiring the Comptroller to waive certain interest and penalties for a certain calendar year to a certain extent; authorizing the Comptroller to provide an alternative method of assessing and collecting a certain additional tax; requiring certain revenue to be remitted to the Comptroller by a certain date; repealing an obsolete provision; requiring the State Department of Assessments and Taxation to establish a certain workgroup; providing for the duties, composition, and chair of the workgroup; requiring the workgroup to submit a certain report to the Governor and the General Assembly by a certain date; defining certain terms; providing for the application of certain provisions of this Act; and generally relating to State and local revenues and finances.

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

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 10–204(a) and 10–211(a)

Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY adding to

Article – Tax – General
Section 10–204(k)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY adding to

Article – Tax – Property
Section 12–105(f)(7)
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General
Section 4–217(c)(1)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government
Section 9–1604(b)(1)(vi)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing

Article – Tax – General
Section 10–306(c), 10–708, and 11–202
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

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

Article – Tax – General

10–105.

(a) (1) [Except as provided in paragraph (3) of this subsection, for] **FOR** an individual other than an individual described in paragraph (2) of this subsection, the State income tax rate is:

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

- (ii) 3% of Maryland taxable income of \$1,001 through \$2,000;
 - (iii) 4% of Maryland taxable income of \$2,001 through \$3,000;
 - (iv) 4.75% of Maryland taxable income of \$3,001 through **[\$150,000] \$100,000**;
 - (v) 5% of Maryland taxable income of **[\$150,001] \$100,001** through **[\$300,000] \$125,000**;
 - (vi) 5.25% of Maryland taxable income of **[\$300,001] \$125,001** through **[\$500,000] \$150,000**; **[and]**
 - (vii) 5.5% of Maryland taxable income **[in excess of \$500,000] OF \$150,001 THROUGH \$250,000; AND**
- (VIII) 5.75% OF MARYLAND TAXABLE INCOME IN EXCESS OF \$250,000.**

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

- (i) 2% of Maryland taxable income of \$1 through \$1,000;
 - (ii) 3% of Maryland taxable income of \$1,001 through \$2,000;
 - (iii) 4% of Maryland taxable income of \$2,001 through \$3,000;
 - (iv) 4.75% of Maryland taxable income of \$3,001 through **[\$200,000] \$150,000**;
 - (v) 5% of Maryland taxable income of **[\$200,001] \$150,001** through **[\$350,000] \$175,000**;
 - (vi) 5.25% of Maryland taxable income of **[\$350,001] \$175,001** through **[\$500,000] \$225,000**; **[and]**
 - (vii) 5.5% of Maryland taxable income **[in excess of \$500,000] OF \$225,001 THROUGH \$300,000; AND**
- (VIII) 5.75% OF MARYLAND TAXABLE INCOME IN EXCESS OF \$300,000.**

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

- (i) for Maryland taxable income up to \$500,000, the rate specified in paragraph (1)(i) through (vi) or (2)(i) through (vi) of this subsection; and
- (ii) for Maryland taxable income in excess of \$500,000:
 - 1. 5.5% of Maryland taxable income of \$500,001 through \$1,000,000; and
 - 2. 6.25% of Maryland taxable income in excess of \$1,000,000.]

10–204.

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

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

10–211.

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

- (1) \$3,200 for each exemption that the individual may deduct in the taxable year to determine federal taxable income under § 151 of the Internal Revenue Code;
- (2) an additional \$3,200 for each dependent, as defined in § 152 of the Internal Revenue Code, who is at least 65 years old on the last day of the taxable year;
- (3) an additional \$1,000 if the individual, on the last day of the taxable year, is at least 65 years old; and

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

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

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

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

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

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

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

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

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

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

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

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

Article – Tax – General

12–105.

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

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

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

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

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

Article – Tax – Property

12–105.

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

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

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

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

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

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

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

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

Article – Health – General

4–217.

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

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

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

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

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

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

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

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

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

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

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

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

Article – State Government

9–1604.

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

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

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

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

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

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

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

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

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

SECTION 8. AND BE IT FURTHER ENACTED, That, as provided in § 12–105 of the Tax – General Article, all other tobacco products used, possessed, or held in the State on or after July 1, 2012, by any person for sale or use in the State, shall be subject to the full tax on other tobacco products, as enacted under this Act. The Comptroller may provide an alternative method of assessing and collecting the additional tax. The revenue attributable to this requirement shall be remitted to the Comptroller by October 15, 2012.

SECTION 9. AND BE IT FURTHER ENACTED, That:

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

- (1) The expected tax revenues to be collected for local governments;
- (2) The impacts of the tax, if any, on the forms, volume, and value of commercial real estate transactions in urban, suburban, and rural areas of the State and on the overall commercial real estate market in the State; and
- (3) The impacts of the tax, if any, on residential real estate transactions.

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

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

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

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

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

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

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

Approved by the Governor, May 22, 2012.