

HOUSE BILL 230

Q3

7lr1330

By: **Delegates Morales, Angel, D. Barnes, Ebersole, Fennell, Hill, C. Howard, Korman, Luedtke, Queen, Tarlau, Turner, A. Washington, and M. Washington**

Introduced and read first time: January 20, 2017

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Subtraction Modification – First-Time Homebuyer Savings**
3 **Accounts**

4 FOR the purpose of allowing a subtraction modification under the Maryland income tax for
5 a certain amount contributed to a certain first-time homebuyer savings account and
6 certain earnings on the account; providing that the account holder may claim the
7 subtraction modification under certain circumstances; providing that certain
8 transfers of money to or from the account are subject to certain requirements and
9 limitations; providing that a certain person who transfers money to the account is
10 not entitled to the subtraction modification; authorizing the account holder to
11 withdraw and deposit certain money in certain accounts under certain
12 circumstances; requiring the account holder to use the funds in the account for
13 certain eligible costs within a certain time period; providing that certain funds
14 remaining in the account on a certain date shall be subject to taxation as ordinary
15 income; providing that a certain financial institution may not be held responsible for
16 certain actions; authorizing a certain financial institution to use certain funds for a
17 certain purpose; providing that, except under certain circumstances, certain funds
18 withdrawn from the account for certain purposes shall be taxed as ordinary income
19 and subject to a certain penalty; requiring a certain account holder claiming the
20 subtraction modification to submit certain documentation under certain
21 circumstances; requiring the Comptroller to adopt certain regulations; defining
22 certain terms; providing for the application of this Act; and generally relating to a
23 Maryland income tax subtraction modification for certain amounts paid into and
24 earned on certain first-time homebuyer savings accounts.

25 BY repealing and reenacting, without amendments,
26 Article – Tax – General
27 Section 10-208(a)
28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2016 Replacement Volume)

BY adding to

Article – Tax – General

Section 10–208(w)

Annotated Code of Maryland

(2016 Replacement Volume)

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

Article – Tax – General

10–208.

(a) In addition to the modification under § 10–207 of this subtitle, the amounts under this section are subtracted from the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(W) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) “ACCOUNT HOLDER” MEANS AN INDIVIDUAL WHO ESTABLISHES, INDIVIDUALLY OR JOINTLY WITH ONE OR MORE OTHER INDIVIDUALS, A FIRST–TIME HOMEBUYER SAVINGS ACCOUNT.

(III) “ALLOWABLE CLOSING COSTS” MEANS A DISBURSEMENT LISTED ON A SETTLEMENT STATEMENT FOR THE PURCHASE OF A HOME IN THE STATE BY A QUALIFIED BENEFICIARY.

(IV) “ELIGIBLE COSTS” MEANS THE DOWN PAYMENT AND ALLOWABLE CLOSING COSTS FOR THE PURCHASE OF A HOME IN THE STATE BY A QUALIFIED BENEFICIARY.

(V) “FINANCIAL INSTITUTION” HAS THE MEANING STATED IN § 1–101 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(VI) “FIRST–TIME HOMEBUYER SAVINGS ACCOUNT” OR “ACCOUNT” MEANS AN ACCOUNT WITH A FINANCIAL INSTITUTION THAT AN ACCOUNT HOLDER DESIGNATES AS A FIRST–TIME HOMEBUYER SAVINGS ACCOUNT ON THE ACCOUNT HOLDER’S MARYLAND TAX RETURN FOR TAX YEAR 2017 OR ANY FOLLOWING TAXABLE YEAR AND THAT IS ESTABLISHED FOR THE SOLE PURPOSE OF PAYING OR REIMBURSING ELIGIBLE COSTS FOR THE PURCHASE OF A HOME IN THE STATE BY A QUALIFIED BENEFICIARY.

(VII) "HOME" MEANS A SINGLE-FAMILY RESIDENTIAL REAL PROPERTY, INCLUDING A MOBILE HOME AS DEFINED IN § 8A-101(C) OF THE REAL PROPERTY ARTICLE.

(VIII) "QUALIFIED BENEFICIARY" MEANS AN INDIVIDUAL, INCLUDING AN ACCOUNT HOLDER, WHO PURCHASES A HOME AS A PRINCIPAL RESIDENCE IN THE STATE WHO:

1. HAS NOT OWNED OR PURCHASED, EITHER INDIVIDUALLY OR JOINTLY, A HOME IN THE STATE IN THE LAST 7 YEARS; AND

2. IS DESIGNATED AS THE BENEFICIARY OF AN ACCOUNT DESIGNATED BY THE ACCOUNT HOLDER AS A FIRST-TIME HOMEBUYER SAVINGS ACCOUNT.

(IX) "SETTLEMENT STATEMENT" MEANS THE STATEMENT OF RECEIPTS AND DISBURSEMENTS FOR A TRANSACTION RELATED TO REAL ESTATE, INCLUDING A STATEMENT PRESCRIBED UNDER THE REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974, 12 U.S.C. § 2601 ET SEQ., AS AMENDED, AND ASSOCIATED REGULATIONS.

(2) (I) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION AND SUBJECT TO THE LIMITATIONS UNDER THIS PARAGRAPH, THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES:

1. UP TO \$5,000 OF THE AMOUNT CONTRIBUTED BY AN ACCOUNT HOLDER TO A FIRST-TIME HOMEBUYER SAVINGS ACCOUNT DURING THE TAXABLE YEAR; AND

2. THE EARNINGS, INCLUDING INTEREST AND OTHER INCOME ON THE PRINCIPAL, FROM THE ACCOUNT DURING THE TAXABLE YEAR.

(II) AN ACCOUNT HOLDER MAY CLAIM A SUBTRACTION UNDER THIS SUBSECTION:

1. FOR A PERIOD NOT TO EXCEED 10 YEARS;

2. FOR TOTAL EARNINGS NOT TO EXCEED \$50,000 DURING THAT 10-YEAR PERIOD; AND

3. EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION, ONLY IF THE PRINCIPAL AND EARNINGS OF THE ACCOUNT REMAIN IN

1 THE ACCOUNT UNTIL A WITHDRAWAL IS MADE FOR ELIGIBLE COSTS RELATED TO
2 THE PURCHASE OF A HOME BY A QUALIFIED BENEFICIARY.

3 (3) A TRANSFER OF MONEY INTO OR FROM THE ACCOUNT BY A
4 PERSON OTHER THAN THE ACCOUNT HOLDER TO THE ACCOUNT IS SUBJECT TO THE
5 REQUIREMENTS AND LIMITATIONS PROVIDED UNDER THIS SUBSECTION.

6 (4) A PERSON OTHER THAN AN ACCOUNT HOLDER WHO TRANSFERS
7 MONEY TO THE ACCOUNT IS NOT ENTITLED TO THE SUBTRACTION UNDER THIS
8 SUBSECTION.

9 (5) AN ACCOUNT HOLDER MAY WITHDRAW MONEY FROM THE
10 ACCOUNT AND DEPOSIT THE MONEY IN A NEW FIRST-TIME HOMEBUYER SAVINGS
11 ACCOUNT HELD BY A DIFFERENT FINANCIAL INSTITUTION OR THE SAME FINANCIAL
12 INSTITUTION.

13 (6) (I) THE ACCOUNT HOLDER SHALL USE THE FUNDS IN THE
14 ACCOUNT FOR ELIGIBLE COSTS RELATED TO THE PURCHASE OF A HOME WITHIN 15
15 YEARS FOLLOWING THE DATE ON WHICH THE ACCOUNT WAS ESTABLISHED.

16 (II) 1. THIS SUBPARAGRAPH DOES NOT APPLY TO ANY
17 FUNDS IN THE ACCOUNT FOR WHICH A SUBTRACTION HAS NOT BEEN CLAIMED
18 UNDER THIS SUBSECTION.

19 2. ANY FUNDS IN THE ACCOUNT NOT EXPENDED ON
20 ELIGIBLE COSTS BY DECEMBER 31 OF THE LAST YEAR OF THE 15-YEAR PERIOD
21 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE SUBJECT TO TAXATION
22 AS ORDINARY INCOME.

23 (7) THE FINANCIAL INSTITUTION HOLDING THE FIRST-TIME
24 HOMEBUYER SAVINGS ACCOUNT:

25 (I) MAY NOT BE HELD RESPONSIBLE FOR THE USE OR
26 APPLICATION OF FUNDS DEPOSITED IN OR WITHDRAWN FROM THE ACCOUNT; AND

27 (II) MAY USE FUNDS HELD IN THE ACCOUNT FOR PAYING THE
28 EXPENSES OF ADMINISTERING THE ACCOUNT.

29 (8) (I) EXCEPT AS AUTHORIZED UNDER PARAGRAPH (5) OF THIS
30 SUBSECTION OR AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF THE
31 ACCOUNT HOLDER WITHDRAWS ANY FUNDS FROM THE ACCOUNT FOR A PURPOSE
32 OTHER THAN ELIGIBLE COSTS FOR THE PURCHASE OF A HOME:

1 1. THOSE FUNDS SHALL BE TAXED AS ORDINARY INCOME
2 OF THE ACCOUNT HOLDER; AND

3 2. THE ACCOUNT HOLDER SHALL PAY A PENALTY TO THE
4 STATE EQUAL TO 10% OF THE AMOUNT WITHDRAWN.

5 (II) A DISBURSEMENT OF ANY ASSETS OF A FIRST-TIME
6 HOMEBUYER SAVINGS ACCOUNT UNDER A FILING BY AN ACCOUNT HOLDER FOR
7 PROTECTION UNDER THE UNITED STATES BANKRUPTCY CODE, 11 U.S.C. §§ 101
8 THROUGH 1330, MAY NOT SUBJECT THE ACCOUNT HOLDER TO TAX LIABILITY.

9 (9) AN ACCOUNT HOLDER CLAIMING A SUBTRACTION UNDER THIS
10 SUBSECTION SHALL:

11 (I) SUBMIT TO THE COMPTROLLER DETAILED INFORMATION
12 REGARDING THE FIRST-TIME HOMEBUYER SAVINGS ACCOUNT WITH THE ACCOUNT
13 HOLDER'S TAX RETURN, INCLUDING A LIST OF TRANSACTIONS FOR THE ACCOUNT
14 DURING THE TAXABLE YEAR; AND

15 (II) ON A WITHDRAWAL OF FUNDS FROM THE ACCOUNT, SUBMIT
16 TO THE COMPTROLLER A DETAILED ACCOUNT OF THE ELIGIBLE COSTS TOWARD
17 WHICH THE ACCOUNT FUNDS WERE APPLIED AND A STATEMENT OF THE AMOUNT OF
18 FUNDS REMAINING IN THE ACCOUNT, IF ANY.

19 (10) THE COMPTROLLER SHALL ADOPT REGULATIONS TO CARRY OUT
20 THE PROVISIONS OF THIS SUBSECTION.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
22 1, 2017, and shall be applicable to all taxable years beginning after December 31, 2016.