

SENATE BILL 761

Q3, F1

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CF HB 1066

By: **Senator Lam**

Introduced and read first time: February 3, 2020

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – 529 College Investment Plans – Elementary and Secondary**
3 **Education Expenses**

4 FOR the purpose of requiring an addition modification for certain distributions made under
5 certain accounts that are used for certain elementary and secondary education
6 expenses; requiring certain account holders to report certain information to the
7 Comptroller in a certain manner; excluding from a subtraction modification certain
8 contributions to and distributions from certain investment plans that are used for
9 certain elementary and secondary education expenses; requiring certain entities to
10 prepare and submit a certain statement to an account holder and the Comptroller on
11 or before a certain date; requiring the Comptroller to establish a certain form and
12 submission process; authorizing the Comptroller to adopt certain regulations;
13 providing for the application of this Act; and generally relating to income tax
14 modifications for elementary and secondary education expenses.

15 BY repealing and reenacting, without amendments,
16 Article – Tax – General
17 Section 10–205(a), 10–207(a), and 10–208(a)
18 Annotated Code of Maryland
19 (2016 Replacement Volume and 2019 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article – Tax – General
22 Section 10–205(h), 10–207(s), and 10–208(o)
23 Annotated Code of Maryland
24 (2016 Replacement Volume and 2019 Supplement)

25 BY adding to
26 Article – Tax – General
27 Section 10–205(m) and 10–914
28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2016 Replacement Volume and 2019 Supplement)

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

Article – Tax – General

10–205.

(a) In addition to the modification under § 10–204 of this subtitle, the amounts under this section are added to the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(h) (1) (i) In this subsection the following words have the meanings indicated.

(ii) “Account holder” means an account holder as defined in § 18–1901, § 18–19A–01, or § 18–19B–01 of the Education Article.

(iii) “Qualified beneficiary” has the meaning stated in § 18–1901 of the Education Article.

(iv) “Qualified designated beneficiary” means a qualified designated beneficiary as defined in § 18–19A–01 or § 18–19B–01 of the Education Article.

(v) “Qualified higher education expenses” has the meaning stated in § 529 of the Internal Revenue Code.

(2) The addition under subsection (a) of this section includes the amount of:

(i) any refund received in the taxable year by an account holder under a prepaid contract in accordance with the Maryland Senator Edward J. Kasemeyer Prepaid College Trust; [or]

(ii) any distribution received in the taxable year by an account holder under a prepaid contract in accordance with the Maryland Senator Edward J. Kasemeyer Prepaid College Trust or under an investment account in accordance with the Maryland Senator Edward J. Kasemeyer College Investment Plan or the Maryland Broker–Dealer College Investment Plan that is not used on behalf of the qualified beneficiary or qualified designated beneficiary for qualified higher education expenses; **OR**

(III) ANY DISTRIBUTION RECEIVED IN THE TAXABLE YEAR BY AN ACCOUNT HOLDER UNDER AN INVESTMENT ACCOUNT IN ACCORDANCE WITH THE MARYLAND SENATOR EDWARD J. KASEMEYER COLLEGE INVESTMENT PLAN OR THE MARYLAND BROKER–DEALER COLLEGE INVESTMENT PLAN THAT IS USED FOR

**ELEMENTARY OR SECONDARY EDUCATION EXPENSES AS DESCRIBED IN § 529(C)(7)
OF THE INTERNAL REVENUE CODE.**

(3) The amount of the addition required under this subsection shall be reduced by any amount included in the individual's federal adjusted gross income as a result of the refund or distribution.

(4) The cumulative amount of the addition under this subsection for the taxable year and all prior taxable years may not exceed the cumulative amount allowed as a subtraction:

(i) under § 10-208(n) of this subtitle for the taxable year and all prior taxable years for the account holder's payments to the prepaid contract under which the refund or distribution is received; or

(ii) under § 10-208(o) of this subtitle for the taxable year and all prior taxable years for contributions made by an account holder to an investment account under which the distribution is received.

(5) FOR ANY TAXABLE YEAR IN WHICH AN ACCOUNT HOLDER RECEIVES A DISTRIBUTION FROM A MARYLAND SENATOR EDWARD J. KASEMEYER COLLEGE INVESTMENT PLAN OR THE MARYLAND BROKER-DEALER COLLEGE INVESTMENT PLAN, THE ACCOUNT HOLDER SHALL REPORT, IN THE MANNER DESIGNATED BY THE COMPTROLLER, WHETHER THE DISTRIBUTION WAS USED FOR ELEMENTARY OR SECONDARY EDUCATION EXPENSES.

(M) (1) THIS SUBSECTION DOES NOT APPLY TO A DISTRIBUTION FROM THE MARYLAND SENATOR EDWARD J. KASEMEYER COLLEGE INVESTMENT PLAN OR THE MARYLAND BROKER-DEALER COLLEGE INVESTMENT PLAN.

(2) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE AMOUNT OF ANY DISTRIBUTION FROM AN INVESTMENT PLAN ESTABLISHED UNDER § 529 OF THE INTERNAL REVENUE CODE THAT IS USED FOR ELEMENTARY OR SECONDARY EDUCATION EXPENSES AS DESCRIBED IN § 529(C)(7) OF THE INTERNAL REVENUE CODE.

(3) FOR ANY TAXABLE YEAR IN WHICH AN ACCOUNT HOLDER RECEIVES A DISTRIBUTION FROM AN INVESTMENT PLAN ESTABLISHED UNDER § 529 OF THE INTERNAL REVENUE CODE, THE ACCOUNT HOLDER SHALL REPORT, IN THE MANNER DESIGNATED BY THE COMPTROLLER, WHETHER THE DISTRIBUTION WAS USED FOR ELEMENTARY OR SECONDARY EDUCATION EXPENSES.

10-207.

(a) To the extent included in federal adjusted gross income, the amounts under

1 this section are subtracted from the federal adjusted gross income of a resident to determine
2 Maryland adjusted gross income.

3 (s) (1) (i) In this subsection the following words have the meanings
4 indicated.

5 (ii) “Qualified beneficiary” has the meaning stated in § 18–1901 of
6 the Education Article.

7 (iii) “Qualified designated beneficiary” means a qualified designated
8 beneficiary as defined in § 18–19A–01 or § 18–19B–01 of the Education Article.

9 (iv) “Qualified higher education expenses” has the meaning stated in
10 § 529 of the Internal Revenue Code.

11 (2) Except as provided in paragraph (3) of this subsection, the subtraction
12 under subsection (a) of this section includes any amount included in federal adjusted gross
13 income as a result of a distribution to:

14 (i) a qualified beneficiary pursuant to a prepaid contract under the
15 Maryland Senator Edward J. Kasemeyer Prepaid College Trust;

16 (ii) a qualified designated beneficiary from an investment account
17 under the Maryland Senator Edward J. Kasemeyer College Investment Plan; or

18 (iii) a qualified designated beneficiary from an investment account
19 under the Maryland Broker–Dealer College Investment Plan.

20 (3) The subtraction under paragraph (2) of this subsection does not apply
21 to:

22 (i) a refund under the Maryland Senator Edward J. Kasemeyer
23 Prepaid College Trust; [or]

24 (ii) a distribution that is not used by the qualified beneficiary or
25 qualified designated beneficiary for qualified higher education expenses; OR

26 **(III) A DISTRIBUTION THAT IS USED FOR ELEMENTARY OR**
27 **SECONDARY EDUCATION EXPENSES AS DESCRIBED IN § 529(C)(7) OF THE INTERNAL**
28 **REVENUE CODE.**

29 10–208.

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

(o) (1) (i) In this subsection the following words have the meanings indicated.

(ii) “Account holder” means an account holder as defined in § 18–19A–01 or § 18–19B–01 of the Education Article.

(iii) “Contributor” means an individual who contributes funds to a Maryland Senator Edward J. Kasemeyer College Investment Plan or Broker–Dealer College Investment Plan account under Title 18, Subtitle 19A or Subtitle 19B of the Education Article.

(iv) “Investment account” means an investment account as defined in § 18–19A–01 or § 18–19B–01 of the Education Article.

(v) “Qualified designated beneficiary” means a qualified designated beneficiary as defined in § 18–19A–01 or § 18–19B–01 of the Education Article.

(2) (i) Except as provided in subparagraph (ii) of this paragraph and subject to the limitation under paragraph (3) of this subsection, the subtraction under subsection (a) of this section includes the amount contributed by an account holder or a contributor during the taxable year to an investment account.

(ii) The subtraction under subparagraph (i) of this paragraph may not be taken if:

1. the account holder received a State contribution under § 18–19A–04.1 of the Education Article during the taxable year; OR

2. THE FUNDS CONTRIBUTED TO A COLLEGE INVESTMENT PLAN ESTABLISHED UNDER § 529 OF THE INTERNAL REVENUE CODE ARE USED FOR ELEMENTARY OR SECONDARY EDUCATION EXPENSES AS DESCRIBED IN § 529(C)(7) OF THE INTERNAL REVENUE CODE.

(3) (i) Subject to paragraph (4) of this subsection, for each account holder or contributor for all investment accounts maintained in the Maryland Senator Edward J. Kasemeyer College Investment Plan and the Maryland Broker–Dealer College Investment Plan for the same qualified designated beneficiary, the subtraction under paragraph (2) of this subsection may not exceed \$2,500 for any taxable year per qualified designated beneficiary.

(ii) For purposes of the limitation under this paragraph, each spouse on a joint return shall be treated separately.

(4) Subject to the \$2,500 annual limitation for each account holder or contributor for each qualified designated beneficiary, the amount disallowed as a subtraction under this subsection for any taxable year as a result of the limitation under

paragraph (3) of this subsection may be carried over until used to the next 10 succeeding taxable years as a subtraction.

10-914.

(A) (1) AN ENTITY THAT MAKES A DISTRIBUTION UNDER THE MARYLAND SENATOR EDWARD J. KASEMEYER COLLEGE INVESTMENT PLAN OR THE MARYLAND BROKER-DEALER COLLEGE INVESTMENT PLAN SHALL PREPARE A STATEMENT FOR THE PREVIOUS CALENDAR YEAR THAT SHOWS:

(I) THE NAME OF THE ACCOUNT HOLDER;

(II) THE NAME OF THE QUALIFIED DESIGNATED BENEFICIARY AS DEFINED IN § 529 OF THE INTERNAL REVENUE CODE;

(III) THE DATE OF EACH DISTRIBUTION;

(IV) THE AMOUNT OF EACH DISTRIBUTION; AND

(V) ANY OTHER INFORMATION THAT THE COMPTROLLER REQUIRES BY REGULATION.

(2) THE COMPTROLLER SHALL ESTABLISH THE FORM OF THE STATEMENT.

(B) (1) ON OR BEFORE JANUARY 31 EACH YEAR, AN ENTITY REQUIRED TO PREPARE A STATEMENT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL SUBMIT THE STATEMENT TO THE ACCOUNT HOLDER AND THE COMPTROLLER.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, AN ENTITY SHALL SUBMIT STATEMENTS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION IN AN ELECTRONIC FORMAT THAT THE COMPTROLLER REQUIRES BY REGULATION.

(3) THE COMPTROLLER:

(I) SHALL ADOPT REGULATIONS TO PROVIDE A PROCESS FOR AN ENTITY THAT IS REQUIRED TO SUBMIT STATEMENTS IN AN ELECTRONIC FORMAT UNDER PARAGRAPH (2) OF THIS SUBSECTION TO REQUEST A WAIVER FROM THE REQUIREMENT; AND

(II) MAY WAIVE THE REQUIREMENT THAT AN ENTITY SUBMIT STATEMENTS IN AN ELECTRONIC FORMAT UNDER PARAGRAPH (2) OF THIS

1 SUBSECTION IF THE COMPTROLLER DETERMINES THAT THE REQUIREMENT WILL
2 RESULT IN UNDUE HARDSHIP TO THE ENTITY.

3 (C) THE COMPTROLLER MAY ADOPT REGULATIONS TO CARRY OUT THE
4 PROVISIONS OF THIS SECTION.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
6 1, 2020, and shall be applicable to all taxable years beginning after December 31, 2019.