

# HOUSE BILL 308

Q7  
HB 463/17 – W&M

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CF SB 646

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By: Delegates Tarlau, Ali, Anderson, Angel, Atterbeary, Barkley, B. Barnes, D. Barnes, Barron, Barve, Beidle, Branch, Bromwell, Brooks, Busch, Carey, Carr, Chang, Clippinger, Conaway, Cullison, Davis, Ebersole, Fennell, Fraser-Hidalgo, Frick, Frush, Gaines, Gibson, Gilchrist, Glenn, Gutierrez, Hayes, Haynes, Healey, Hettleman, Hill, Hixson, Holmes, C. Howard, Jackson, Jalisi, Jameson, Jones, Kaiser, Kelly, Knotts, Korman, Kramer, Krimm, Lafferty, Lam, J. Lewis, R. Lewis, Lierman, Lisanti, Luedtke, McCray, McIntosh, A. Miller, Moon, Morales, Morhaim, Mosby, Patterson, Pena-Melnyk, Pendergrass, Platt, Proctor, Queen, Reznik, Robinson, Rosenberg, Sample-Hughes, Sanchez, Sophocleus, Stein, Sydnor, Turner, Valderrama, Valentino-Smith, Vallario, Waldstreicher, Walker, A. Washington, M. Washington, Wilkins, Wilson, K. Young, and P. Young

Introduced and read first time: January 22, 2018

Assigned to: Ways and Means

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 7, 2018

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Maryland Estate Tax – Unified Credit**

3 FOR the purpose of altering a certain limit on the unified credit used for determining the  
4 Maryland estate tax for decedents dying on or after a certain date; altering a certain  
5 limitation on the amount of the Maryland estate tax for decedents dying on or after  
6 a certain date; providing that, for the calculation of the Maryland estate tax in the  
7 case of a certain decedent spouse, the applicable exclusion amount includes the sum  
8 of a certain exclusion amount and a certain deceased spousal unused exclusion  
9 amount; providing that a certain deceased spousal unused exclusion amount may  
10 not be taken into account except under certain circumstances; defining a certain  
11 term; making a conforming change; and generally relating to the Maryland estate  
12 tax.

13 BY repealing and reenacting, without amendments,

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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 Article – Tax – General  
 2 Section 7–309(a)  
 3 Annotated Code of Maryland  
 4 (2016 Replacement Volume and 2017 Supplement)

5 BY repealing and reenacting, with amendments,  
 6 Article – Tax – General  
 7 Section 7–309(b)(1), (2), and (3)  
 8 Annotated Code of Maryland  
 9 (2016 Replacement Volume and 2017 Supplement)

10 BY adding to  
 11 Article – Tax – General  
 12 Section 7–309(b)(9)  
 13 Annotated Code of Maryland  
 14 (2016 Replacement Volume and 2017 Supplement)

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

17 **Article – Tax – General**

18 7–309.

19 (a) Notwithstanding an Act of Congress that repeals or reduces the federal credit  
 20 under § 2011 of the Internal Revenue Code, the provisions of this subtitle in effect before  
 21 the passage of the Act of Congress shall apply with respect to a decedent who dies after the  
 22 effective date of the Act of Congress so as to continue the Maryland estate tax in force  
 23 without reduction in the same manner as if the federal credit had not been repealed or  
 24 reduced.

25 (b) (1) Except as provided in paragraphs (2) through ~~(8)~~ **(9)** of this subsection  
 26 and subsection (c) of this section, after the effective date of an Act of Congress described in  
 27 subsection (a) of this section, the Maryland estate tax shall be determined using:

28 (i) the federal credit allowable by § 2011 of the Internal Revenue  
 29 Code as in effect before the reduction or repeal of the federal credit pursuant to the Act of  
 30 Congress; and

31 (ii) other provisions of federal estate tax law[, including the  
 32 applicable unified credit allowed against the federal estate tax,] as in effect on the date of  
 33 the decedent's death.

34 (2) Except as provided in paragraphs (3) through ~~(8)~~ **(9)** of this subsection  
 35 and subsection (c) of this section, if the federal estate tax is not in effect on the date of the  
 36 decedent's death, the Maryland estate tax shall be determined using:

1 (i) the federal credit allowable by § 2011 of the Internal Revenue  
2 Code as in effect before the reduction or repeal of the federal credit pursuant to the Act of  
3 Congress; and

4 (ii) other provisions of federal estate tax law[, including the  
5 applicable unified credit allowed against the federal estate tax,] as in effect on the date  
6 immediately preceding the effective date of the repeal of the federal estate tax.

7 (3) (i) Notwithstanding any increase in the unified credit allowed  
8 against the federal estate tax for decedents dying after 2003, the unified credit used for  
9 determining the Maryland estate tax for a decedent [dying before January 1, 2019,] may  
10 not exceed the applicable credit amount corresponding to an applicable exclusion amount,  
11 within the meaning of § 2010(c) of the Internal Revenue Code, of:

12 1. \$1,000,000 for a decedent dying before January 1, 2015;

13 2. \$1,500,000 for a decedent dying on or after January 1,  
14 2015, but before January 1, 2016;

15 3. \$2,000,000 for a decedent dying on or after January 1,  
16 2016, but before January 1, 2017;

17 4. \$3,000,000 for a decedent dying on or after January 1,  
18 2017, but before January 1, 2018; [and]

19 5. \$4,000,000 for a decedent dying on or after January 1,  
20 2018, but before January 1, 2019; AND

21 **6. \$5,000,000 FOR A DECEDENT DYING ON OR AFTER**  
22 **JANUARY 1, 2019, PLUS ANY DECEASED SPOUSAL UNUSED EXCLUSION AMOUNT**  
23 **CALCULATED IN ACCORDANCE WITH PARAGRAPH (9) OF THIS SUBSECTION.**

24 (ii) The Maryland estate tax shall be determined without regard to  
25 any deduction for State death taxes allowed under § 2058 of the Internal Revenue Code.

26 (iii) Unless the federal credit allowable by § 2011 of the Internal  
27 Revenue Code is in effect on the date of the decedent's death, the federal credit used to  
28 determine the Maryland estate tax may not exceed 16% of the amount by which the  
29 decedent's taxable estate, as defined in § 2051 of the Internal Revenue Code, exceeds:

30 1. \$1,000,000 for a decedent dying before January 1, 2015;

31 2. \$1,500,000 for a decedent dying on or after January 1,  
32 2015, but before January 1, 2016;

1 3. \$2,000,000 for a decedent dying on or after January 1,  
2 2016, but before January 1, 2017;

3 4. \$3,000,000 for a decedent dying on or after January 1,  
4 2017, but before January 1, 2018; ~~AND~~

5 5. \$4,000,000 for a decedent dying on or after January 1,  
6 2018, but before January 1, 2019; and

7 6. [the applicable exclusion amount corresponding to the  
8 applicable unified credit under paragraph (1) or (2) of this subsection] **\$5,000,000** for a  
9 decedent dying on or after January 1, 2019, PLUS ANY DECEASED SPOUSAL UNUSED  
10 EXCLUSION AMOUNT CALCULATED IN ACCORDANCE WITH PARAGRAPH (9) OF THIS  
11 SUBSECTION.

12 (9) (I) IN THIS PARAGRAPH, "DECEASED SPOUSAL UNUSED  
13 EXCLUSION AMOUNT" MEANS THE APPLICABLE EXCLUSION AMOUNT IN EFFECT AT  
14 THE TIME OF THE DEATH OF THE LAST PREDECEASED SPOUSE OF THE DECEDENT  
15 UNDER PARAGRAPH (3) OF THIS SUBSECTION REDUCED BY THE TAXABLE ESTATE OF  
16 THE LAST PREDECEASED SPOUSE:

17 1. AS REPORTED ON A MARYLAND ESTATE TAX RETURN  
18 FILED WITH THE COMPTROLLER; OR

19 2. AS REPORTED ON A FEDERAL ESTATE TAX RETURN, IF  
20 THE LAST PREDECEASED SPOUSE WAS NOT A MARYLAND RESIDENT AND NO  
21 PROPERTY WITH A MARYLAND ESTATE TAX SITUS WAS INCLUDIBLE IN THE GROSS  
22 ESTATE OF THE LAST PREDECEASED SPOUSE.

23 (II) THE DECEASED SPOUSAL UNUSED EXCLUSION AMOUNT  
24 MAY NOT BE TAKEN INTO ACCOUNT UNDER PARAGRAPH (3) OF THIS SUBSECTION  
25 UNLESS:

26 1. IF THE LAST PREDECEASED SPOUSE DIED ON OR  
27 AFTER JANUARY 1, 2019, A MARYLAND ESTATE TAX RETURN IS TIMELY FILED FOR  
28 THE LAST PREDECEASED SPOUSE, ON WHICH THE DECEASED SPOUSAL UNUSED  
29 EXCLUSION AMOUNT IS CALCULATED AND AN IRREVOCABLE ELECTION IS MADE  
30 THAT THE DECEASED SPOUSAL UNUSED EXCLUSION AMOUNT MAY BE TAKEN INTO  
31 ACCOUNT; OR

32 2. IF THE LAST PREDECEASED SPOUSE DIED BEFORE  
33 JANUARY 1, 2019, OR WAS NOT A MARYLAND RESIDENT AND NO PROPERTY WITH A  
34 MARYLAND ESTATE TAX SITUS WAS INCLUDIBLE IN THE GROSS ESTATE OF THE LAST  
35 PREDECEASED SPOUSE, AN ELECTION WAS MADE UNDER § 2010(C) OF THE

1 INTERNAL REVENUE CODE ON THE FEDERAL ESTATE TAX RETURN OF THE LAST  
2 PREDECEASED SPOUSE.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
4 1, 2018.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.