

HOUSE BILL 1178

Q3
HB 463/18 – W&M

1lr2244

By: **Delegate Brooks**

Introduced and read first time: February 8, 2021

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18 withdrawn from the account for certain purposes shall be taxed as ordinary income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
29 (2016 Replacement Volume and 2020 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY adding to
Article – Tax – General
Section 10–208(y)
Annotated Code of Maryland
(2016 Replacement Volume and 2020 Supplement)

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.

(Y) (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 INCOME TAX RETURN FOR TAXABLE YEAR 2021 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 OF THE REAL

1 **PROPERTY ARTICLE.**

2 (VIII) “QUALIFIED BENEFICIARY” MEANS AN INDIVIDUAL,
3 INCLUDING AN ACCOUNT HOLDER, WHO PURCHASES A HOME AS A PRINCIPAL
4 RESIDENCE IN THE STATE WHO:

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

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

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

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

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

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

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

25 1. FOR A PERIOD NOT TO EXCEED 10 YEARS;

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

28 3. EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS
29 SUBSECTION, ONLY IF THE PRINCIPAL AND EARNINGS OF THE ACCOUNT REMAIN IN
30 THE ACCOUNT UNTIL A WITHDRAWAL IS MADE FOR ELIGIBLE COSTS RELATED TO
31 THE PURCHASE OF A HOME BY A QUALIFIED BENEFICIARY.

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

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

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

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

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

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

21 **(7) THE FINANCIAL INSTITUTION HOLDING THE FIRST-TIME**
22 **HOMEBUYER SAVINGS ACCOUNT:**

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

25 **(II) MAY USE FUNDS HELD IN THE ACCOUNT FOR PAYING THE**
26 **EXPENSES OF ADMINISTERING THE ACCOUNT.**

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

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

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

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

7 **(9) AN ACCOUNT HOLDER CLAIMING A SUBTRACTION UNDER THIS**
8 **SUBSECTION SHALL:**

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

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

17 **(10) THE COMPTROLLER SHALL ADOPT REGULATIONS TO CARRY OUT**
18 **THE PROVISIONS OF THIS SUBSECTION.**

19 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July**
20 **1, 2021, and shall be applicable to all taxable years beginning after December 31, 2020.**