

SENATE BILL 1011

Q7

4lr3034

By: **Senator Kasemeyer**

Introduced and read first time: February 12, 2014

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Estate Tax – Exclusion – Deceased Spousal Unused Exclusion**
3 **Amount**

4 FOR the purpose of providing that, for the calculation of the Maryland estate tax in
5 the case of a certain surviving spouse, the applicable exclusion amount includes
6 the sum of a certain exclusion amount and a certain deceased spousal unused
7 exclusion amount; prohibiting the surviving spouse from applying the deceased
8 spousal unused exclusion amount except under certain circumstances; providing
9 for the application of this Act; defining a certain term; and generally relating to
10 the Maryland estate tax.

11 BY repealing and reenacting, with amendments,
12 Article – Tax – General
13 Section 7–309(b)(1) and (2)
14 Annotated Code of Maryland
15 (2010 Replacement Volume and 2013 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article – Tax – General
18 Section 7–309(b)(3)
19 Annotated Code of Maryland
20 (2010 Replacement Volume and 2013 Supplement)

21 BY adding to
22 Article – Tax – General
23 Section 7–309(b)(9)
24 Annotated Code of Maryland
25 (2010 Replacement Volume and 2013 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Tax – General

1

2 7–309.

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

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

10 (ii) other provisions of federal estate tax law as in effect on the
11 date of the decedent’s death.

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

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

18 (ii) other provisions of federal estate tax law as in effect on the
19 date immediately preceding the effective date of the repeal of the federal estate tax.

20 (3) (i) Notwithstanding any increase in the unified credit allowed
21 against the federal estate tax for decedents dying after 2003, the unified credit used
22 for determining the Maryland estate tax may not exceed the applicable credit amount
23 corresponding to an applicable exclusion amount of \$1,000,000 within the meaning of §
24 2010(c) of the Internal Revenue Code.

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

28 (iii) Unless the federal credit allowable by § 2011 of the Internal
29 Revenue Code is in effect on the date of the decedent’s death, the federal credit used to
30 determine the Maryland estate tax may not exceed 16% of the amount by which the
31 decedent’s taxable estate, as defined in § 2051 of the Internal Revenue Code, exceeds
32 \$1,000,000.

33 **(9) (I) IN THIS PARAGRAPH, “DECEASED SPOUSAL UNUSED**
34 **EXCLUSION AMOUNT” MEANS THE LESSER OF:**

1 1. THE APPLICABLE EXCLUSION AMOUNT UNDER
2 PARAGRAPH (3) OF THIS SUBSECTION; OR

3 2. THE UNUSED EXCLUSION AMOUNT OF THE LAST
4 PREDECEASED SPOUSE.

5 (II) FOR PURPOSES OF CALCULATING MARYLAND ESTATE
6 TAX, IN THE CASE OF A SURVIVING SPOUSE, THE APPLICABLE EXCLUSION
7 AMOUNT IS THE SUM OF:

8 1. THE APPLICABLE EXCLUSION AMOUNT UNDER
9 PARAGRAPH (3) OF THIS SUBSECTION; AND

10 2. THE DECEASED SPOUSAL UNUSED EXCLUSION
11 AMOUNT.

12 (III) A DECEASED SPOUSAL UNUSED EXCLUSION AMOUNT
13 MAY NOT BE TAKEN INTO ACCOUNT BY A SURVIVING SPOUSE UNDER
14 SUBPARAGRAPH (II) OF THIS PARAGRAPH UNLESS THE PERSON RESPONSIBLE
15 UNDER § 7-305 OF THIS SUBTITLE FOR FILING THE MARYLAND ESTATE TAX
16 RETURN FOR THE ESTATE OF THE DECEASED SPOUSE TIMELY FILES A
17 MARYLAND ESTATE TAX RETURN ON WHICH THE AMOUNT IS CALCULATED AND
18 MAKES AN IRREVOCABLE ELECTION ON THAT RETURN THAT THE AMOUNT MAY
19 BE TAKEN INTO ACCOUNT.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 July 1, 2014, and shall be applicable to decedents dying after December 31, 2013.