

SENATE BILL 359

Q7

9lr2485

By: **Senator Serafini**

Introduced and read first time: January 31, 2019

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Estate Tax – Unified Credit**

3 FOR the purpose of repealing 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; and generally relating to the Maryland estate tax.

7 BY repealing and reenacting, without amendments,
8 Article – Tax – General
9 Section 7–309(a)
10 Annotated Code of Maryland
11 (2016 Replacement Volume and 2018 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article – Tax – General
14 Section 7–309(b)(1), (2), and (3)
15 Annotated Code of Maryland
16 (2016 Replacement Volume and 2018 Supplement)

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

19 **Article – Tax – General**

20 7–309.

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25 without reduction in the same manner as if the federal credit had not been repealed or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 reduced.

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

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

8 (ii) other provisions of federal estate tax law, **INCLUDING THE**
9 **APPLICABLE UNIFIED CREDIT ALLOWED AGAINST THE FEDERAL ESTATE TAX**, as in
10 effect on the date of the decedent's death.

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

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

17 (ii) other provisions of federal estate tax law, **INCLUDING THE**
18 **APPLICABLE UNIFIED CREDIT ALLOWED AGAINST THE FEDERAL ESTATE TAX**, as in
19 effect on the date immediately preceding the effective date of the repeal of the federal estate
20 tax.

21 (3) (i) Notwithstanding any increase in the unified credit allowed
22 against the federal estate tax for decedents dying after 2003, the unified credit used for
23 determining the Maryland estate tax for a decedent **DYING BEFORE JANUARY 1, 2019**,
24 may not exceed the applicable credit amount corresponding to an applicable exclusion
25 amount, within the meaning of § 2010(c) of the Internal Revenue Code, of:

26 1. \$1,000,000 for a decedent dying before January 1, 2015;

27 2. \$1,500,000 for a decedent dying on or after January 1,
28 2015, but before January 1, 2016;

29 3. \$2,000,000 for a decedent dying on or after January 1,
30 2016, but before January 1, 2017;

31 4. \$3,000,000 for a decedent dying on or after January 1,
32 2017, but before January 1, 2018; **AND**

33 5. \$4,000,000 for a decedent dying on or after January 1,
34 2018, but before January 1, 2019]; and

1 6. \$5,000,000 for a decedent dying on or after January 1,
2 2019, plus any deceased spousal unused exclusion amount calculated in accordance with
3 paragraph (9) of this subsection].

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

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

- 10 1. \$1,000,000 for a decedent dying before January 1, 2015;
- 11 2. \$1,500,000 for a decedent dying on or after January 1,
12 2015, but before January 1, 2016;
- 13 3. \$2,000,000 for a decedent dying on or after January 1,
14 2016, but before January 1, 2017;
- 15 4. \$3,000,000 for a decedent dying on or after January 1,
16 2017, but before January 1, 2018;
- 17 5. \$4,000,000 for a decedent dying on or after January 1,
18 2018, but before January 1, 2019; and

19 6. **[\$5,000,000] THE APPLICABLE EXCLUSION AMOUNT**
20 **CORRESPONDING TO THE APPLICABLE UNIFIED CREDIT UNDER PARAGRAPH (1) OR**
21 **(2) OF THIS SUBSECTION** for a decedent dying on or after January 1, 2019, plus any
22 deceased spousal unused exclusion amount calculated in accordance with paragraph (9) of
23 this subsection.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
25 1, 2019.