

SENATE BILL 753

F5, Q3
HB 644/18 – W&M

9lr0712
CF HB 525

By: **Senators Lam and Young**

Introduced and read first time: February 4, 2019

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **State Income Tax – Subtraction Modification – Elementary and Secondary**
3 **Education Expenses**

4 FOR the purpose of excluding from a subtraction modification certain contributions to and
5 distributions from a certain investment plan that is used for certain elementary and
6 secondary education expenses; requiring the Comptroller to assess a penalty for
7 using the distributions for certain purposes; providing for the application of this Act;
8 and generally relating to income tax subtraction modifications for elementary and
9 secondary education expenses.

10 BY repealing and reenacting, without amendments,
11 Article – Tax – General
12 Section 10–207(a) and 10–208(a)
13 Annotated Code of Maryland
14 (2016 Replacement Volume and 2018 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Tax – General
17 Section 10–207(s) and 10–208(o)
18 Annotated Code of Maryland
19 (2016 Replacement Volume and 2018 Supplement)

20 BY adding to
21 Article – Tax – General
22 Section 13–718
23 Annotated Code of Maryland
24 (2016 Replacement Volume and 2018 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Tax – General**

2 10–207.

3 (a) To the extent included in federal adjusted gross income, the amounts under
4 this section are subtracted from the federal adjusted gross income of a resident to determine
5 Maryland adjusted gross income.

6 (s) (1) (i) In this subsection the following words have the meanings
7 indicated.

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

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

12 (iv) “Qualified higher education expenses” has the meaning stated in
13 § 529 of the Internal Revenue Code.

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

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

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

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

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

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

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

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

32 10–208.

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

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

6 (ii) “Account holder” means an account holder as defined in §
7 18–19A–01 or § 18–19B–01 of the Education Article.

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

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

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

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

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

22 1. the account holder received a State contribution under §
23 18–19A–04.1 of the Education Article during the taxable year; **OR**

24 2. **THE FUNDS CONTRIBUTED TO A MARYLAND SENATOR**
25 **EDWARD J. KASEMEYER COLLEGE INVESTMENT PLAN ARE USED FOR ELEMENTARY**
26 **OR SECONDARY EDUCATION EXPENSES AS DESCRIBED IN § 529(C)(7) OF THE**
27 **INTERNAL REVENUE CODE.**

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

34 (ii) For purposes of the limitation under this paragraph, each spouse

1 on a joint return shall be treated separately.

2 (4) Subject to the \$2,500 annual limitation for each account holder or
3 contributor for each qualified designated beneficiary, the amount disallowed as a
4 subtraction under this subsection for any taxable year as a result of the limitation under
5 paragraph (3) of this subsection may be carried over until used to the next 10 succeeding
6 taxable years as a subtraction.

7 **13-718.**

8 (A) IF A PERSON USES A DISTRIBUTION FROM THE MARYLAND SENATOR
9 EDWARD J. KASEMEYER PREPAID COLLEGE TRUST OR AN INVESTMENT PLAN
10 UNDER THE MARYLAND 529 PROGRAM FOR ELEMENTARY OR SECONDARY
11 EDUCATION EXPENSES AS DEFINED IN § 529 OF THE INTERNAL REVENUE CODE, THE
12 COMPTROLLER SHALL ASSESS A PENALTY OF 10% OF THE AMOUNT OF THE
13 DISTRIBUTION.

14 (B) IF A PERSON USES A DISTRIBUTION FROM THE MARYLAND SENATOR
15 EDWARD J. KASEMEYER PREPAID COLLEGE TRUST OR AN INVESTMENT PLAN
16 UNDER THE MARYLAND 529 PROGRAM FOR AN EXPENSE THAT IS NOT A QUALIFIED
17 HIGHER EDUCATION EXPENSE AS DEFINED IN § 529 OF THE INTERNAL REVENUE
18 CODE, THE COMPTROLLER SHALL ASSESS A PENALTY OF 2.5% OF THE AMOUNT OF
19 THE DISTRIBUTION.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
21 1, 2019, and shall be applicable to all taxable years beginning after December 31, 2018.