

SENATE BILL 55

Q7

(3lr0809)

ENROLLED BILL

— Budget and Taxation / Ways and Means —

Introduced by **Senator West**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Maryland Estate Tax – Portability – Time Period for Election**

3 FOR the purpose of altering the period of time within which a person is required to file a
4 Maryland estate tax return for the purpose of allowing a surviving spouse to take
5 into account the deceased spousal unused exclusion amount; applying this Act
6 retroactively; and generally relating to the Maryland estate tax.

7 BY repealing and reenacting, with amendments,

8 Article – Tax – General

9 Section 7–305

10 Annotated Code of Maryland

11 (2022 Replacement Volume)

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

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.

Italics indicate opposite chamber / conference committee amendments.



1 **Article – Tax – General**

2 7–305.

3 (a) If a federal estate tax return is required to be filed, the person responsible for
4 filing the federal estate tax return shall complete, under oath, and file a Maryland estate
5 tax return with the Comptroller 9 months after the date of the death of a decedent.

6 (b) If a federal estate tax return is not required to be filed but a federal estate tax
7 return would be required to be filed if the applicable exclusion amount under § 2010(c) of
8 the Internal Revenue Code were no greater than the applicable exclusion amount specified
9 under § 7–309(b) of this subtitle, the person who would be responsible for filing the federal
10 estate tax return shall complete, under oath, and file a Maryland estate tax return with
11 the Comptroller 9 months after the date of the death of the decedent.

12 (c) **(1)** If a person files a Maryland estate tax return solely for the purpose of
13 making the election under § 7–309(b) of this subtitle to allow a surviving spouse to take
14 into account the deceased spousal unused exclusion amount, the person shall file the
15 Maryland estate tax return within [2 years after the date of death of the decedent] **THE**
16 **TIME PERIOD PRESCRIBED FOR MAKING AN ELECTION ON A FEDERAL ESTATE TAX**
17 **RETURN TO ALLOW A SURVIVING SPOUSE TO TAKE INTO ACCOUNT THE DECEASED**
18 **SPOUSAL UNUSED EXCLUSION AMOUNT.**

19 **(2) THE COMPTROLLER SHALL ADOPT REGULATIONS NECESSARY TO**
20 **ENSURE THAT THE TIME PERIOD FOR MAKING THE ELECTION UNDER § 7–309(B) OF**
21 **THIS SUBTITLE ON A MARYLAND ESTATE TAX RETURN IS IDENTICAL TO THAT FOR A**
22 **SIMILARLY SITUATED FEDERAL ESTATE TAX RETURN.**

23 (d) (1) After a person files a Maryland estate tax return, the person shall file
24 an amended Maryland estate tax return with the Comptroller if the Maryland estate tax
25 liability is increased because of:

26 (i) a change in the federal gross estate, federal taxable estate,
27 federal estate tax, or other change as determined under the Internal Revenue Code;

28 (ii) after–discovered property;

29 (iii) a correction to the value of previously reported property;

30 (iv) a correction to the amount of previously claimed deductions; or

31 (v) any other correction to a previously filed return.

32 (2) (i) The amended return shall be filed within 90 days after the later
33 to occur of the date of the event that caused the increase in the Maryland estate tax liability

1 or the date on which the person required to file an amended Maryland estate tax return
2 learned or reasonably should have learned of the increase in the Maryland estate tax
3 liability.

4 (ii) On request, each register shall certify to the Comptroller the
5 amount of inheritance tax paid for each decedent for whom an amended Maryland estate
6 tax return is filed with the Comptroller.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
8 apply retroactively and shall be applied to and interpreted to affect any decedents dying on
9 or after ~~July 1, 2018~~ January 1, 2019.

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
11 1, 2023.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.