# More Taxing Times in Maryland

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To help close a state budget deficit, Governor Martin O'Malley issued Executive Order 01.01.2012.10 on May 9, 2012, calling for a special session of the General Assembly "for the purpose of passing legislation to address Maryland's fiscal year 2013 budget." In actuality, the special session was called for the purpose of raising taxes to pay for record spending, shifting certain state expenses to the counties and municipalities, and authorizing the state to issue bonds to raise funds.

On May 14, 2012, the General Assembly convened a three-day special session resulting in the passage of the State and Local Revenue and Financing Act of 2012 (Revenue Act), the Budget Reconciliation and Financing Act of 2012 (Budget Act), and the Qualified Zone Academy Bonds (Bond Act). All three bills were signed into law on May 22, 2012. This article will focus on the Revenue Act.

Under the Revenue Act, Maryland income tax rates are retroactively increased as of January 1, 2012, personal exemptions are retroactively phased out effective January 1, 2012, certain tobacco taxes are increased effective July 1, 2012, recordation taxes are imposed on certain indemnity deeds of trust effective July 1, 2012, and one sales and use tax exemption was eliminated effective July 1, 2012.

A. Individual Income Taxes.

The largest impact to most Marylanders will be the increase in individual income tax rates. Effective January 1, 2012, the individual income tax rate brackets are as follows:

Single and married filing separate:

- Maryland taxable income of $3,001 through $100,000, the rate is 4.75%
- Maryland taxable income of $100,001 through $125,000, the rate is 5%
- Maryland taxable income of $125,001 through $150,000, the rate is 5.25%
- Maryland taxable income of $150,001 through $250,000, the rate is 5.5%
- Maryland taxable income in excess of $250,000, the rate is 5.75%

Married filing jointly, surviving spouse, and head of household:

- Maryland taxable income of $3,001 through $150,000, the rate is 4.75%
- Maryland taxable income of $150,001 through $175,000, the rate is 5%
- Maryland taxable income of $175,001 through $225,000, the rate is 5.25%
- Maryland taxable income of $225,001 through $300,000, the rate is 5.5%
- Maryland taxable income in excess of $300,000, the rate is 5.75%

Effective January 1, 2012, personal exemptions will be reduced as follows:

Single and married filing separate:

- Maryland taxable income of $100,001 through $125,000, to $1,600
- Maryland taxable income of $125,001 through $150,000, to $800
- Maryland taxable income in excess of $150,000, to ZERO

Married filing jointly, surviving spouse, and head of household:

- Maryland taxable income of $150,001 through $175,000, to $1,600
- Maryland taxable income of $175,001 through $200,000, to $800
- Maryland taxable income in excess of $200,000, to ZERO

The Maryland Comptroller is authorized to waive any interest or penalty relating to the underpayment of estimated income tax for 2012 caused by the retroactive changes to income tax rates and personal exemptions.

B. Fiduciary Income Taxes

Under federal tax law, an electing small business trust excludes its small business income from its federal gross income in determining its taxable income. A separate tax is then computed on the small business income. Over concerns that this income may escape Maryland taxation, effective January 1, 2013, Maryland gross income will include small business income to the extent it was excluded from federal gross income.

C. Tobacco Taxes

Effective July 1, 2012, the tobacco tax increases on snuff and smokeless tobacco to 30% of wholesale prices, the tobacco tax on non-premium cigars increases to 70% of wholesale prices, and the tobacco tax on premium cigars increases to 15% of wholesale prices.

D. Recordation Taxes

Maryland has historically exempted from its recordation tax the recording on an indemnity deed of trust (IDOT). An IDOT is a security interest given in property by someone other than the borrower to secure the payment of a loan. A taxpayer could avoid paying recordation tax by forming a limited liability company (LLC), have the LLC serve as the borrower, and secure that loan by placing an IDOT on the property of the owners of the LLC. The exemption to recordation tax for IDOTs of $1 million or more has been eliminated for all instruments presented for recordation after June 30, 2012. However, the exemption remains for IDOTs under $1 million and IDOTs where recordation tax is paid on another instrument of writing that secures payment of the guaranteed loan.

E. Sales Tax

An exemption to Maryland sales tax has existed on propane tank exchanges and other gas cylinder exchanges where the old tank was not returned within a designated period of time. The Maryland sales tax exemption for demurrage charges on gas cylinders for failure to return within a designated period is eliminated effective July 1, 2012.