

# HOUSE BILL 229

Q3  
HB 1105/10 – W&M

11r0418

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By: **Delegates Cardin, Bromwell, Carr, Ivey, Morhaim, Rosenberg, Ross, Stein, and Walker**

Introduced and read first time: January 28, 2011

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Subtraction Modification – Health Improvement and Cost**  
3 **Savings Act of 2011**

4 FOR the purpose of providing a subtraction modification under the Maryland income  
5 tax for certain health– and fitness–related expenses; limiting the amount and  
6 type of expenses that certain taxpayers may subtract from federal adjusted  
7 gross income; requiring the Comptroller in cooperation with the Department of  
8 Health and Mental Hygiene to adopt certain regulations; defining certain terms;  
9 requiring the Comptroller and the Department to report to the General  
10 Assembly on or before a certain date; providing for the application of this Act;  
11 and generally relating to a subtraction modification under the Maryland income  
12 tax for certain health– and fitness–related expenses.

13 BY repealing and reenacting, without amendments,  
14 Article – Tax – General  
15 Section 10–208(a)  
16 Annotated Code of Maryland  
17 (2010 Replacement Volume)

18 BY adding to  
19 Article – Tax – General  
20 Section 10–208(r)  
21 Annotated Code of Maryland  
22 (2010 Replacement Volume)

23 Preamble

24 WHEREAS, In 2007, 62.7% of Maryland respondents to the Centers for Disease  
25 Control and Prevention’s Behavioral Risk Factor Surveillance Survey were overweight  
26 or obese; and

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, The National Governor's Association's Report on Healthy Living,  
2 states that "One in three Maryland babies born in 2001 will develop diabetes during  
3 their lifetime, or a third of today's first graders will be tomorrow's diabetic patients";  
4 and

5 WHEREAS, Based on a study conducted by researchers and economists from  
6 Johns Hopkins University and the Centers for Disease Control and Prevention,  
7 Maryland's obesity-attributable medical expenditures were estimated at \$1.53 billion  
8 in 2004; and

9 WHEREAS, The Centers for Disease Control and Prevention estimate that  
10 health care costs directly associated with physical inactivity were \$76.6 billion in 2000;  
11 and

12 WHEREAS, The federal Medical Expenditure Panel Survey estimates that, in  
13 2003, it cost \$277 billion to treat cancer, heart disease, hypertension, mental  
14 disorders, diabetes, pulmonary conditions, and stroke in noninstitutionalized  
15 Americans; and

16 WHEREAS, The Johns Hopkins University Partnership for Solutions, in its  
17 2004 update to the study entitled "Chronic Conditions: Making the Case for Ongoing  
18 Care", found that more than half of all Americans suffer from one or more chronic  
19 diseases; and

20 WHEREAS, The New England Journal of Medicine, in the 2007 article entitled  
21 "Explaining the Decrease in Deaths from Coronary Disease", reported that disease  
22 rates have risen dramatically, threatening to cancel out health care gains made over  
23 the past decades; and

24 WHEREAS, The Milken Institute 2007 study entitled "An Unhealthy America:  
25 The Economic Burden of Chronic Disease" found Maryland to be the 23rd least  
26 healthy state, as judged by its State Chronic Disease Index; and

27 WHEREAS, The recent study entitled "Cost Effectiveness of Community-Based  
28 Physical Activity Interventions" published in the Journal of Preventive Medicine in  
29 December of 2008 found that there is clear evidence to link physical inactivity with  
30 increased risk of many chronic diseases, including coronary heart disease (CHD),  
31 ischemic stroke, type 2 diabetes, breast cancer, and colorectal cancer; and

32 WHEREAS, That same study found the negative health effects of physical  
33 inactivity are paralleled by staggering economic consequences resulting in the annual  
34 cost directly attributable to inactivity in the U.S. to be an estimated \$24 billion to \$76  
35 billion, or 2.4% to 5% of national health care expenditures; and

36 WHEREAS, The Trust for America's Health in its report entitled "Prevention  
37 for a Healthier America" found that an investment of \$10 per person per year in

1 proven community-based programs to increase physical activity, improve nutrition,  
2 and prevent smoking could save the country more than \$16 billion annually; and

3 WHEREAS, That same study found that the potential annual net savings and  
4 return on investment for Maryland with 5 years of spending \$10 per capita in disease  
5 prevention programs would yield \$332 million in savings or a return on investment of  
6 6 to 1; now, therefore,

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

9 **Article – Tax – General**

10 10–208.

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

14 **(R) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE**  
15 **THE MEANINGS INDICATED.**

16 **(II) “QUALIFIED FITNESS EXPENSE” MEANS AN EXPENSE**  
17 **FOR:**

18 **1. PARTICIPATION IN AN EVIDENCE-BASED HEALTH**  
19 **AND FITNESS PROGRAM, INCLUDING:**

20 **A. AEROBIC EXERCISE TRAINING;**

21 **B. MARTIAL ARTS;**

22 **C. PERSONAL TRAINING; OR**

23 **D. YOGA; OR**

24 **2. MEMBERSHIP IN A GYM, HEALTH CLUB, OR**  
25 **STUDIO THAT IS OPEN TO THE GENERAL PUBLIC.**

26 **(III) “QUALIFIED PHYSICAL ACTIVITY PROGRAM” MEANS AN**  
27 **EVIDENCE-BASED PROGRAM TO ENCOURAGE CHILDREN TO ENGAGE IN**  
28 **MODERATE OR VIGOROUS PHYSICAL ACTIVITY FOR AT LEAST 45 MINUTES A DAY**  
29 **AT LEAST 3 DAYS A WEEK.**

1                   (IV) “QUALIFIED TOBACCO CESSATION PROGRAM” MEANS  
2 AN EVIDENCE-BASED PROGRAM TO ASSIST PARTICIPANTS IN ENDING THE USE  
3 OF TOBACCO PRODUCTS.

4                   (V) “QUALIFIED WEIGHT LOSS PROGRAM” MEANS AN  
5 EVIDENCE BASED PROGRAM TO ASSIST PARTICIPANTS IN LOSING WEIGHT.

6                   (2) SUBJECT TO THE LIMITATIONS UNDER PARAGRAPHS (3) AND  
7 (4) OF THIS SUBSECTION, THE SUBTRACTION UNDER SUBSECTION (A) OF THIS  
8 SECTION INCLUDES THE AMOUNTS DETERMINED UNDER THIS SUBSECTION FOR  
9 EXPENSES INCURRED DURING THE TAXABLE YEAR FOR:

10                   (I) QUALIFIED FITNESS EXPENSES FOR THE TAXPAYER OR  
11 THE TAXPAYER’S SPOUSE OR ADULT DEPENDENT;

12                   (II) PARTICIPATION BY THE TAXPAYER OR THE TAXPAYER’S  
13 SPOUSE OR DEPENDENT IN A QUALIFIED TOBACCO CESSATION PROGRAM;

14                   (III) PARTICIPATION BY THE TAXPAYER OR THE TAXPAYER’S  
15 SPOUSE OR DEPENDENT IN A QUALIFIED WEIGHT LOSS PROGRAM; OR

16                   (IV) PARTICIPATION BY A CHILD DEPENDENT OF THE  
17 TAXPAYER IN A QUALIFIED PHYSICAL ACTIVITY PROGRAM.

18                   (3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, THE  
19 EXPENSES UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY NOT EXCEED:

20                   (I) FOR EACH TAXPAYER OR SPOUSE OR DEPENDENT OF  
21 THE TAXPAYER:

22                                 1. \$500 OF QUALIFIED FITNESS EXPENSES, OR \$750  
23 FOR EXPENSES INCURRED FOR EACH TAXPAYER, SPOUSE, OR DEPENDENT WHO  
24 IS AT LEAST 65 YEARS OLD ON THE LAST DAY OF THE TAXABLE YEAR;

25                                 2. \$500 OF EXPENSES FOR PARTICIPATION IN A  
26 QUALIFIED TOBACCO CESSATION PROGRAM, OR \$750 FOR EXPENSES INCURRED  
27 FOR EACH TAXPAYER, SPOUSE, OR DEPENDENT WHO IS AT LEAST 65 YEARS OLD  
28 ON THE LAST DAY OF THE TAXABLE YEAR; AND

29                                 3. \$500 OF EXPENSES FOR PARTICIPATION IN A  
30 QUALIFIED WEIGHT LOSS PROGRAM, OR \$750 FOR EXPENSES INCURRED FOR  
31 EACH TAXPAYER, SPOUSE, OR DEPENDENT WHO IS AT LEAST 65 YEARS OLD ON  
32 THE LAST DAY OF THE TAXABLE YEAR; AND

1                   **(II) FOR EACH CHILD WHO IS A DEPENDENT OF THE**  
2 **TAXPAYER, \$500 OF EXPENSES FOR PARTICIPATION IN A QUALIFIED PHYSICAL**  
3 **ACTIVITY PROGRAM.**

4                   **(4) (I) FOR AN INDIVIDUAL OTHER THAN AN INDIVIDUAL**  
5 **DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE TOTAL**  
6 **SUBTRACTION UNDER THIS SUBSECTION MAY NOT EXCEED \$1,500 FOR ANY**  
7 **TAXABLE YEAR.**

8                   **(II) FOR A MARRIED INDIVIDUAL FILING A SEPARATE**  
9 **RETURN, THE TOTAL SUBTRACTION UNDER THIS SUBSECTION MAY NOT EXCEED**  
10 **\$750 FOR ANY TAXABLE YEAR.**

11                   **(5) THE COMPTROLLER IN COOPERATION WITH THE**  
12 **DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL:**

13                   **(I) ADMINISTER THE SUBTRACTION UNDER THIS**  
14 **SUBSECTION; AND**

15                   **(II) ADOPT REGULATIONS THAT SPECIFY THE EXPENSES**  
16 **ELIGIBLE FOR THE SUBTRACTION UNDER THIS SUBSECTION.**

17                   SECTION 2. AND BE IT FURTHER ENACTED, That the Comptroller, in  
18 consultation with the Secretary of Health and Mental Hygiene, shall adopt regulations  
19 to establish evidence-based criteria for programs and expenses that must be met in  
20 order to be deemed qualified under the provisions of this Act.

21                   SECTION 3. AND BE IT FURTHER ENACTED, That, on or before September  
22 1, 2011, the Comptroller and the Department of Health and Mental Hygiene shall  
23 report to the General Assembly, in accordance with § 2-1246 of the State Government  
24 Article, on the implementation of this Act.

25                   SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 July 1, 2011, and shall be applicable to all taxable years beginning after December 31,  
27 2011.