

SB0230/523227/1

BY: Senator Serafini

AMENDMENTS TO SENATE BILL 230, AS AMENDED
(First Reading File Bill)

AMENDMENT NO. 1

On page 1 of the Finance Committee Amendments (SB0230/717870/2), in line 25 of Amendment No. 1, after “date;” insert “allowing a subtraction modification under the State income tax for up to a certain amount of nonpassive income attributable to certain pass-through entities that meet certain requirements; providing that the subtraction modification applies only to the nonpassive income of a member of an eligible pass-through entity if certain conditions are met; providing that certain individuals and married couples with federal adjusted gross income in excess of certain amounts are not eligible for the subtraction modification;”.

On page 2 of the bill, after line 34, insert:

“BY adding to

Article – Tax – General

Section 10–105.1

Annotated Code of Maryland

(2016 Replacement Volume)”.

AMENDMENT NO. 2

On page 5 of the Finance Committee Amendments, in line 4 of Amendment No. 2, after “**(2)**” insert “**AN EMPLOYER THAT EMPLOYS FEWER THAN 50 EMPLOYEES IS ELIGIBLE FOR THE SUBTRACTION MODIFICATION UNDER § 10–105.1 OF THE TAX – GENERAL ARTICLE IF THE EMPLOYER:**

(I) PROVIDES ALL EMPLOYEES WITH PAID LEAVE IN AN AMOUNT AT LEAST EQUIVALENT TO THE TOTAL ANNUAL ACCRUAL AMOUNT PROVIDED FOR IN THIS SECTION; AND

(Over)

(II) ALLOWS ALL EMPLOYEES TO USE THE PAID LEAVE FOR THE PURPOSES SPECIFIED UNDER § 3-1305 OF THIS SUBTITLE.

(3)".

On page 16 of the bill, after line 11, insert:

"SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Tax – General

10-105.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "MEMBER" MEANS:

(I) A SHAREHOLDER OF AN S CORPORATION;

(II) A GENERAL OR LIMITED PARTNER OF A PARTNERSHIP, LIMITED PARTNERSHIP, OR LIMITED LIABILITY PARTNERSHIP;

(III) A MEMBER OF A LIMITED LIABILITY COMPANY;

(IV) A BENEFICIARY OF A BUSINESS TRUST OR STATUTORY TRUST; OR

(V) A SOLE PROPRIETOR.

(3) (I) “NONPASSIVE INCOME” MEANS INCOME OTHER THAN INCOME FROM PASSIVE ACTIVITY AS DETERMINED UNDER § 469 OF THE INTERNAL REVENUE CODE.

(II) “NONPASSIVE INCOME” DOES NOT INCLUDE WAGES, INTEREST, DIVIDENDS, OR CAPITAL GAINS.

(4) “PASS-THROUGH ENTITY” MEANS:

(I) AN S CORPORATION;

(II) A PARTNERSHIP;

(III) A LIMITED LIABILITY COMPANY THAT IS NOT TAXED AS A CORPORATION UNDER THIS TITLE;

(IV) A BUSINESS TRUST OR STATUTORY TRUST THAT IS NOT TAXED AS A CORPORATION UNDER THIS TITLE; OR

(V) A SOLE PROPRIETORSHIP.

(B) (1) AN INDIVIDUAL WHO IS A MEMBER OF A PASS-THROUGH ENTITY THAT MEETS THE REQUIREMENTS OF THIS SECTION AND TITLE 3, SUBTITLE 13 OF THE LABOR AND EMPLOYMENT ARTICLE MAY SUBTRACT FROM FEDERAL ADJUSTED GROSS INCOME TO DETERMINE MARYLAND ADJUSTED GROSS INCOME THE FIRST \$20,000 OF NONPASSIVE INCOME THAT IS ATTRIBUTABLE TO A PASS-THROUGH ENTITY.

(Over)

(2) THE SUBTRACTION UNDER THIS SECTION APPLIES TO NONPASSIVE INCOME ATTRIBUTABLE TO A PASS-THROUGH ENTITY IF:

(I) THE TAXPAYER MATERIALLY PARTICIPATES IN THE DAY-TO-DAY OPERATIONS OF THE TRADE OR BUSINESS;

(II) THE PASS-THROUGH ENTITY EMPLOYS AT LEAST ONE PERSON WHO IS NOT A MEMBER OF THE PASS-THROUGH ENTITY; AND

(III) AT LEAST 1,200 AGGREGATE HOURS OF WORK IN THE STATE ARE PERFORMED BY THE CLOSE OF THE TAXABLE YEAR FOR WHICH THE SUBTRACTION IS TAKEN BY EMPLOYEES WHO MEET THE REQUIREMENTS OF THIS PARAGRAPH AND WHO ARE EMPLOYED BY THE PASS-THROUGH ENTITY.

(3) IN DETERMINING WHETHER THE REQUIREMENT UNDER PARAGRAPH (2)(III) OF THIS SUBSECTION IS MET, ONLY HOURS WORKED IN A WEEK IN WHICH THE EMPLOYEE WORKS AT LEAST 30 HOURS MAY BE CONSIDERED.

(c) (1) AN INDIVIDUAL IS NOT ELIGIBLE FOR THE SUBTRACTION UNDER THIS SECTION IF THE INDIVIDUAL HAS FEDERAL ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR THAT EXCEEDS \$200,000.

(2) A MARRIED COUPLE FILING A JOINT RETURN IS NOT ELIGIBLE FOR THE SUBTRACTION UNDER THIS SECTION IF THE MARRIED COUPLE HAS FEDERAL ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR THAT EXCEEDS \$250,000.”;

in line 12 , strike “2.” and substitute “3.”; in the same line, after “That” insert “Section 1 of”; and in line 18, after “2018” insert “, and Section 2 of this Act shall be applicable to all taxable years beginning after December 31, 2017”.

On page 11 of the Finance Committee Amendments, in lines 2 and 5 of Amendment No. 6, strike “3.” and “4.”, respectively, and substitute “4.” and “5.”, respectively.