

BY: Committee on Ways and Means

AMENDMENTS TO HOUSE BILL NO. 297
(First Reading File Bill)

AMENDMENT NO. 1

On page 2, strike beginning with “FOR” in line 3 down through “MARYLAND,” in line 4; and in line 7, after “STATES,” insert “AND”.

AMENDMENT NO. 2

On page 4, in line 17, after “ESTABLISHES” insert “BY CLEAR AND CONVINCING EVIDENCE”; in line 27, after “INCURRED” insert “THE INTEREST EXPENSE OR INTANGIBLE EXPENSE”; and in line 28, strike “, THE INTEREST EXPENSE OR INTANGIBLE EXPENSE”.

AMENDMENT NO. 3

On page 4, strike beginning with “AND” in line 30 down through “NATIONS” in line 31 and substitute “, IN ANOTHER STATE OR POSSESSION OF THE UNITED STATES, OR IN A FOREIGN NATION THAT HAS ENTERED INTO A COMPREHENSIVE TAX TREATY WITH THE UNITED STATES GOVERNMENT”; strike beginning with “AND” in line 32 down through “NATIONS” in line 33 and substitute “, BY ANOTHER STATE OR POSSESSION OF THE UNITED STATES, OR BY A FOREIGN NATION THAT HAS ENTERED INTO A COMPREHENSIVE TAX TREATY WITH THE UNITED STATES GOVERNMENT”; and strike in their entirety lines 36 through 40, inclusive, and substitute:

“3. THE EFFECTIVE RATE OF TAX IMPOSED IN THE AGGREGATE ON THE AMOUNTS RECEIVED BY THE RELATED MEMBER FROM THE CORPORATION BY THIS STATE, BY OTHER STATES OR POSSESSIONS OF THE UNITED STATES, AND BY FOREIGN NATIONS THAT HAVE ENTERED INTO COMPREHENSIVE TAX TREATIES WITH THE UNITED STATES GOVERNMENT IS EQUAL TO OR GREATER THAN 4%; OR”.

(Over)

AMENDMENT NO. 4

On page 5, after line 2, insert:

“(D) FOR PURPOSES OF SUBSECTION (C)(3)(II) OF THIS SECTION, THE COMPTROLLER MAY PROVIDE BY REGULATION FOR AN ALTERNATE CALCULATION OF THE EFFECTIVE RATE OF TAX IMPOSED IN THE AGGREGATE ON THE AMOUNTS RECEIVED BY THE RELATED MEMBER IF:

(1) THE RELATED MEMBER:

(I) IS SUBJECT IN ANOTHER STATE TO A TAX THAT IS MEASURED BY GROSS RECEIPTS OR IS MEASURED BY NET CAPITAL OR NET WORTH; AND

(II) IS NOT SUBJECT IN THAT STATE TO A TAX MEASURED BY NET INCOME OR RECEIPTS; OR

(2) UNDER OTHER CIRCUMSTANCES, THE COMPTROLLER DETERMINES THAT IT IS IMPRACTICAL FOR A RELATED MEMBER THAT IS SUBJECT TO TAX IN THIS STATE OR ANOTHER STATE TO DEMONSTRATE THAT THE REQUIREMENTS OF SUBSECTION (C)(3)(II) OF THIS SECTION HAVE BEEN SATISFIED.

(E) (1) FOR PURPOSES OF DETERMINING THE EFFECTIVE RATE OF TAX IMPOSED IN THE AGGREGATE BY OTHER JURISDICTIONS UNDER SUBSECTION (C) OF THIS SECTION:

(I) THE EFFECTIVE RATE OF TAX IMPOSED BY A JURISDICTION IS THE STATUTORY RATE MULTIPLIED BY THE APPLICABLE APPORTIONMENT RATE; AND

(II) THE EFFECTIVE RATE OF TAX IMPOSED IN THE AGGREGATE IS THE SUM OF THE EFFECTIVE RATES OF TAX IMPOSED BY ALL JURISDICTIONS WHERE THE RELATED MEMBER IS SUBJECT TO TAX AND WHERE THE MEASURE OF THE TAX IMPOSED INCLUDED THE PAYMENT.

(2) EVEN IF THE PAYMENT IS NOT INCLUDED IN THE RELATED MEMBER’S INCOME FOR PURPOSES OF A COMBINED OR CONSOLIDATED RETURN

FILED IN ANOTHER JURISDICTION, THE MEASURE OF THE TAX IMPOSED BY THAT JURISDICTION INCLUDES THE INTEREST EXPENSE OR INTANGIBLE EXPENSE FOR PURPOSES OF SUBSECTION (C)(3) OF THIS SECTION IF:

(I) THE INCOME OF THE CORPORATION THAT PAID, ACCRUED, OR INCURRED THE EXPENSE IS INCLUDED IN THE COMBINED OR CONSOLIDATED RETURN THAT ALSO INCLUDES THE RELATED MEMBER; AND

(II) THE PAYMENT IS NOT DEDUCTED BY THE PAYOR CORPORATION FOR PURPOSES OF THE COMBINED OR CONSOLIDATED RETURN.”;

and in lines 3 and 13, strike “(D)” and “(E)”, respectively, and substitute “(F)” and “(G)”, respectively.

AMENDMENT NO. 5

On page 5, in line 18, strike the first “CORPORATION”; in the same line, strike the second “CORPORATION” and substitute “PERSON”; in lines 23, 25, and 36, in each instance, strike “CORPORATION”; and in line 33, after “(C)” insert “(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,”.

On page 6, in line 3, strike “CORPORATION”; and after line 5, insert:

“(2) (I) FOR ANY TAXABLE YEAR, THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT EXCEED THE STATE INCOME TAX LIABILITY OF THE PAYEE FOR THAT TAXABLE YEAR, CALCULATED BEFORE THE APPLICATION OF THE CREDIT ALLOWED UNDER THIS SECTION AND THE CREDITS ALLOWED UNDER §§ 10-701 AND 10-701.1 OF THIS SUBTITLE BUT AFTER APPLICATION OF ANY OTHER CREDITS ALLOWED UNDER THIS SUBTITLE.

(II) THE UNUSED AMOUNT OF THE CREDIT FOR ANY TAXABLE YEAR MAY NOT BE CARRIED OVER TO ANY OTHER TAXABLE YEAR.

(D) THE COMPTROLLER SHALL BY REGULATION PROVIDE FOR THE APPLICATION OF THE CREDIT UNDER THIS SECTION IN THE CASE OF A PAYEE THAT IS AN S CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR OTHER

(Over)

ENTITY TREATED AS A PARTNERSHIP FOR TAX PURPOSES.”.