

SB0840/195660/1

BY: Committee on Ways and Means

AMENDMENTS TO SENATE BILL 840
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, strike line 2 in its entirety and substitute “Income Tax Reform and Relief Act of 2016”; strike beginning with “altering” in line 7 down through “years;” in line 8; in line 12, strike “an” and substitute “certain”; in line 13, strike “individual” and substitute “individuals 21 years of age and older”; in the same line, strike “without regard to a certain age limitation”; in line 14, after “year;” insert “providing a subtraction modification under the Maryland income tax under certain circumstances for certain retirement income attributable to a resident’s employment as a law enforcement officer or the individual’s service as fire, rescue, or emergency services personnel; altering the formula used to apportion certain income to the State for corporations that carry on a trade or business in and out of the State; repealing obsolete provisions;”; strike beginning with “declaring” in line 14 down through “Assembly;” in line 15; in line 15, after “of” insert “certain provisions of”; strike beginning with the second “providing” in line 15 down through “Act;” in line 16; and in line 17, after “individual” insert “and corporate”.

On page 2, in line 8, strike “10-211(a)(1)” and substitute “10-209, 10-402”; and strike in their entirety lines 17 through 34, inclusive.

AMENDMENT NO. 2

On page 3, in lines 8, 10, 12, 14, 24, 26, and 28, in each instance, strike the brackets; and in the same lines, strike “4.975%”, “5.20%”, “5.45%”, “5.725%”, “4.975%”, “5.20%”, and “5.45%”, respectively.

On page 4, in line 1, strike the brackets; and in the same line, strike “5.725%”.

(Over)

**SB0840/195660/1 Committee on Ways and Means
Amendments to SB 840
Page 2 of 11**

AMENDMENT NO. 3

On page 4, strike in their entirety lines 3 through 22, inclusive.

AMENDMENT NO. 4

On page 5, in line 19, strike “**THE**” and substitute “**FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2016, THE**”; and strike beginning with “**A.**” in line 22 down through “**2016,**” in line 27.

On page 6, in line 8, strike “**2016**” and substitute “**2017**”; and in lines 23 and 24, strike “**WITHOUT REGARD TO**” and substitute “**BY SUBSTITUTING AGE 21 FOR**”.

AMENDMENT NO. 5

On page 7, after line 21, insert:

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

Article – Tax – General

10–209.

(a) In this section:

(1) “employee retirement system” means a plan:

(i) established and maintained by an employer for the benefit of its employees; and

(ii) qualified under § 401(a), § 403, or § 457(b) of the Internal Revenue Code; and

(2) “employee retirement system” does not include:

SB0840/195660/1 Committee on Ways and Means
Amendments to SB 840
Page 3 of 11

(i) an individual retirement account or annuity under § 408 of the Internal Revenue Code;

(ii) a Roth individual retirement account under § 408A of the Internal Revenue Code;

(iii) a rollover individual retirement account;

(iv) a simplified employee pension under Internal Revenue Code § 408(k); or

(v) an ineligible deferred compensation plan under § 457(f) of the Internal Revenue Code.

(b) Subject to [subsection (d)] **SUBSECTIONS (D) AND (E)** of this section, to determine Maryland adjusted gross income, if, on the last day of the taxable year, a resident is at least 65 years old or is totally disabled or the resident's spouse is totally disabled, **OR THE RESIDENT IS AT LEAST 55 YEARS OLD AND IS A RETIRED LAW ENFORCEMENT OFFICER OR FIRE, RESCUE, OR EMERGENCY SERVICES PERSONNEL OF THE UNITED STATES, THE STATE, OR A POLITICAL SUBDIVISION OF THE STATE,** an amount is subtracted from federal adjusted gross income equal to the lesser of:

(1) the cumulative or total annuity, pension, or endowment income from an employee retirement system included in federal adjusted gross income; or

(2) the maximum annual benefit under the Social Security Act computed under subsection (c) of this section, less any payment received as old age, survivors, or disability benefits under the Social Security Act, the Railroad Retirement Act, or both.

(Over)

**SB0840/195660/1 Committee on Ways and Means
Amendments to SB 840
Page 4 of 11**

(c) For purposes of subsection (b)(2) of this section, the Comptroller:

(1) shall determine the maximum annual benefit under the Social Security Act allowed for an individual who retired at age 65 for the prior calendar year; and

(2) may allow the subtraction to the nearest \$100.

(d) Military retirement income that is included in the subtraction under § 10–207(q) of this subtitle may not be taken into account for purposes of the subtraction under this section.

(E) IN THE CASE OF A RETIRED LAW ENFORCEMENT OFFICER OR FIRE, RESCUE, OR EMERGENCY SERVICES PERSONNEL OF THE UNITED STATES, THE STATE, OR A POLITICAL SUBDIVISION OF THE STATE, THE AMOUNT INCLUDED UNDER SUBSECTION (B)(1) OF THIS SECTION IS LIMITED TO THE FIRST \$15,000 OF RETIREMENT INCOME THAT IS ATTRIBUTABLE TO THE RESIDENT’S EMPLOYMENT AS A LAW ENFORCEMENT OFFICER OR FIRE, RESCUE, OR EMERGENCY SERVICES PERSONNEL OF THE UNITED STATES, THE STATE, OR A POLITICAL SUBDIVISION OF THE STATE UNLESS:

(1) THE RESIDENT IS AT LEAST 65 YEARS OLD OR IS TOTALLY DISABLED; OR

(2) THE RESIDENT’S SPOUSE IS TOTALLY DISABLED.”;

and in line 22, strike “2.” and substitute “3.”.

AMENDMENT NO. 6

On page 7, strike beginning with “but” in line 26 down through the second comma in line 27.

**SB0840/195660/1 Committee on Ways and Means
Amendments to SB 840
Page 5 of 11**

On page 7 in line 32 and on page 8 in line 16, strike "4.75%" and substitute "4.65%".

On page 8, strike in their entirety lines 1 through 8, inclusive, and substitute:

"(v) 5% of Maryland taxable income of \$100,001 through \$125,000;

(vi) 5.25% of Maryland taxable income of \$125,001 through \$150,000;

(vii) 5.5% of Maryland taxable income of \$150,001 through \$250,000; and

(viii) 5.75% of Maryland taxable income in excess of \$250,000.";

strike beginning with "but" in line 9 down through the second comma in line 10; and strike in their entirety lines 17 through 24, inclusive, and substitute:

"(v) 5% of Maryland taxable income of \$150,001 through \$175,000;

(vi) 5.25% of Maryland taxable income of \$175,001 through \$225,000;

(vii) 5.5% of Maryland taxable income of \$225,001 through \$300,000; and

(viii) 5.75% of Maryland taxable income in excess of \$300,000."

AMENDMENT NO. 7

(Over)

**SB0840/195660/1 Committee on Ways and Means
Amendments to SB 840
Page 6 of 11**

On page 8, after line 24, insert:

“SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Tax – General

10–402.

(a) In computing Maryland taxable income, a corporation shall allocate Maryland modified income derived from or reasonably attributable to its trade or business in this State in the following manner:

(1) if a corporation carries on its trade or business wholly within the State, the corporation shall allocate to the State all of the Maryland modified income of the corporation; and

(2) if a corporation carries on its trade or business in and out of the State, the corporation shall allocate to the State the part of the corporation’s Maryland modified income that is derived from or reasonably attributable to the part of its trade or business carried on in the State, in the manner required in subsection (b), (c), or (d) of this section.

(b) (1) Except as provided in subsection (c) or (d) of this section, the part of the corporation’s Maryland modified income derived from or reasonably attributable to trade or business carried on in the State may be determined by separate accounting if practicable.

(2) If in any taxable year a corporation is permitted or required to use the separate accounting method in determining all or a portion of its Maryland taxable income, the portion that is separately accounted for to Maryland shall be taxable

SB0840/195660/1 Committee on Ways and Means
Amendments to SB 840
Page 7 of 11

whether or not the Maryland modified income of the corporation for the taxable year is zero or less.

(c) [(1) Except as provided in paragraph (2) of this subsection, if the trade or business is a unitary business, the part of the corporation's Maryland modified income derived from or reasonably attributable to trade or business carried on in the State shall be determined using a 3-factor apportionment fraction:

(i) the numerator of which is the sum of the property factor, the payroll factor, and twice the sales factor; and

(ii) the denominator of which is 4.

(2) (i) In this paragraph:

1. "manufacturing corporation" means a domestic or foreign corporation which is primarily engaged in activities that, in accordance with the North American Industrial Classification System (NAICS), United States Manual, United States Office of Management and Budget, 1997 Edition, would be included in Sector 11, 31, 32, or 33; and

2. "manufacturing corporation" does not include a refiner, as defined in § 10-101 of the Business Regulation Article.

(ii) If a manufacturing corporation carries on its trade or business in and out of the State and the trade or business is a unitary business, the part of the corporation's Maryland modified income derived from or reasonably attributable to trade or business carried on in the State shall be determined using a single sales factor apportionment formula, by multiplying its Maryland modified income by 100% of the sales factor.]

(Over)

(1) IF THE TRADE OR BUSINESS IS A UNITARY BUSINESS, THE PART OF THE CORPORATION'S MARYLAND MODIFIED INCOME DERIVED FROM OR REASONABLY ATTRIBUTABLE TO TRADE OR BUSINESS CARRIED ON IN THE STATE SHALL BE DETERMINED USING A SINGLE SALES FACTOR APPORTIONMENT FORMULA, BY MULTIPLYING ITS MARYLAND MODIFIED INCOME BY 100% OF THE SALES FACTOR.

[(iii) In filing its tax return for each year, a manufacturing corporation shall certify that the NAICS Code reported on its Maryland return is consistent with that reported to other government agencies.]

[(iv) If the Comptroller determines that a corporation has submitted information that incorrectly classifies the corporation as a manufacturing corporation under subparagraph (i) of this paragraph, the Comptroller shall reclassify the corporation in an appropriate manner.]

[(v)] (2) The Comptroller, in consultation with the Department of Economic Competitiveness and Commerce, shall adopt regulations necessary to carry out the provisions of this subsection.

[(vi) As part of its tax return for a taxable year beginning after December 31, 2005, but before January 1, 2011, each manufacturing corporation that has more than 25 employees and apportions its income under this paragraph shall submit a report, in the form that the Comptroller requires by regulation, that describes for each taxable year as of the last day of the taxable year the following:

1. the difference in tax owed as a result of using the single sales factor apportionment method under this paragraph as compared to the tax owed using the 3-factor double weighted sales factor apportionment method in effect for the last taxable year beginning on or before December 31, 2000;

SB0840/195660/1 Committee on Ways and Means
Amendments to SB 840
Page 9 of 11

2. volume of sales in the State and worldwide;
3. taxable income in the State and worldwide; and
4. book value of plant, land, and equipment in the State and worldwide.

(vii) On or before March 1, 2009, and March 1 of each year thereafter until March 1, 2013, and notwithstanding any confidentiality requirements, the Comptroller shall prepare and submit to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly, a comprehensive report on the use of single sales factor apportionment by manufacturing corporations that provides, at a minimum:

1. the number of corporations filing tax returns for the taxable year that ended during the second preceding calendar year that use single sales factor apportionment and the number of such corporations having a Maryland income tax liability for that taxable year;

2. the number of corporations paying less in Maryland income tax for that taxable year as a result of using single sales factor apportionment and the aggregate amount of Maryland income tax savings for all such corporations for that taxable year as a result of using single sales factor apportionment; and

3. the number of corporations paying more in Maryland income tax for the taxable year as a result of using single sales factor apportionment and the aggregate amount of additional Maryland income tax owed by those corporations for the taxable year as a result of using single sales factor apportionment.

(3) The property factor under paragraph (1) of this subsection shall include:

(Over)

SB0840/195660/1 Committee on Ways and Means
Amendments to SB 840
Page 10 of 11

(i) rented and owned real property; and

(ii) tangible personal property located in the State and used in the trade or business.]

(d) To reflect clearly the income allocable to Maryland, the Comptroller may alter, if circumstances warrant, the methods under subsections (b) and (c) of this section, including:

- (1) the use of the separate accounting method;
- (2) [the use of the 3-factor double weighted sales factor formula method or the single sales factor formula method;
- (3) the weight of any factor in the 3-factor formula;
- (4) the valuation of rented property included in the property factor; and
- ~~(5)~~ (3) the determination of the extent to which tangible personal property is located in the State.”.

AMENDMENT NO. 8

On pages 8 through 12, strike beginning with line 25 on page 8 through line 22 on page 12, inclusive.

AMENDMENT NO. 9

On page 12, after line 22, insert:

“SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall be applicable to all taxable years beginning after December 31, 2015.

**SB0840/195660/1 Committee on Ways and Means
Amendments to SB 840
Page 11 of 11**

SECTION 6. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall be applicable to all taxable years beginning after December 31, 2016.”;

and strike in their entirety lines 23 through 31, inclusive.

On page 13, in line 1, strike “11.” and substitute “7.”; and in lines 1 and 2, strike “, except as provided in Sections 7, 8, 9, and 10 of this Act.”.