

SB1090/175661/1

BY: Committee on Ways and Means

AMENDMENTS TO SENATE BILL 1090, AS AMENDED
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1 of the Committee on Ways and Means Amendments (SB1090/795360/1), in line 9 of Amendment No. 2, strike “**(D)** **(1)**” and substitute:

“(c) ~~(D)~~ (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] **WITHIN AND OUTSIDE** the State and the trade or business is a unitary

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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) The Comptroller, in consultation with the Department of 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;

2. volume of sales in the State and worldwide;

3. taxable income in the State and worldwide; and

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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.]

(2)”;

and in the same line, strike “PARAGRAPH (2)” and substitute “PARAGRAPHS (1) AND (3)”.

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On page 3 of the Committee on Ways and Means Amendments, in line 20 of Amendment No. 2, strike “**(2)**” and substitute “**(3)**”.

AMENDMENT NO. 3

On page 4 of the bill, strike in their entirety lines 18 through 20, inclusive, and substitute:

“1. THE NUMERATOR OF WHICH IS THE SUM OF THE PROPERTY FACTOR, THE PAYROLL FACTOR, AND TWICE THE SALES FACTOR; AND

2. THE DENOMINATOR OF WHICH IS 4.”

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On pages 4 through 6 of the bill, strike in their entirety the lines beginning with line 29 on page 4 through line 12 on page 6, inclusive.

AMENDMENT NO. 5

On page 6 of the bill, in line 13, strike “(3)” and substitute “**(4)**”.

AMENDMENT NO. 6

On page 4 of the Committee on Ways and Means Amendments, in line 6 of Amendment No. 2, strike “**(1) AND (2)**” and substitute “**(2) AND (3)**”.