

SENATE BILL 409

Q3
SB 498/18 – B&T

9lr0805

By: **Senators Guzzone, Eckardt, Edwards, Feldman, Ferguson, Jennings, King, Nathan–Pulliam, Peters, Rosapepe, Serafini, Simonaire, Smith, Young, and Zucker**

Introduced and read first time: February 1, 2019
Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Subtraction Modification – Employee–Owned Businesses**

3 FOR the purpose of allowing a subtraction modification under the State income tax for
4 income from a qualified transfer of stock or membership interest of a Maryland
5 corporation or limited liability company to certain employee ownership entities;
6 limiting the amount of the subtraction to a certain amount if the transfer is to a
7 direct share ownership plan; defining certain terms; providing for the application of
8 this Act; and generally relating to a Maryland income tax subtraction modification
9 for income from certain qualified transfers of ownership interests.

10 BY repealing and reenacting, without amendments,
11 Article – Tax – General
12 Section 10–207(a) and 10–307(a)
13 Annotated Code of Maryland
14 (2016 Replacement Volume and 2018 Supplement)

15 BY adding to
16 Article – Tax – General
17 Section 10–207(gg)
18 Annotated Code of Maryland
19 (2016 Replacement Volume and 2018 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article – Tax – General
22 Section 10–307(g)
23 Annotated Code of Maryland
24 (2016 Replacement Volume and 2018 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 That the Laws of Maryland read as follows:

2 **Article – Tax – General**

3 10–207.

4 (a) To the extent included in federal adjusted gross income, the amounts under
5 this section are subtracted from the federal adjusted gross income of a resident to determine
6 Maryland adjusted gross income.

7 **(GG) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE**
8 **MEANINGS INDICATED.**

9 **(II) “DIRECT SHARE OWNERSHIP PLAN” MEANS AN**
10 **ARRANGEMENT IN WHICH A PORTION OF THE HIGHEST CLASS OF VOTING STOCK OR**
11 **VOTING MEMBERSHIP INTEREST OF A CORPORATION OR LIMITED LIABILITY**
12 **COMPANY IS HELD DIRECTLY BY ALL TENURED EMPLOYEES.**

13 **(III) 1. “EMPLOYEE OWNERSHIP TRUST” MEANS:**

14 **A. A TRUST, INCLUDING A FOREIGN TRUST, THAT HOLDS**
15 **THE HIGHEST CLASS OF VOTING STOCK OR VOTING MEMBERSHIP INTEREST OF A**
16 **CORPORATION OR LIMITED LIABILITY COMPANY;**

17 **B. A TRUST WITH THE EXCLUSIVE PURPOSE OF**
18 **CREATING EMPLOYEE OWNERSHIP BY OBTAINING AND HOLDING STOCK OR**
19 **MEMBERSHIP INTEREST OF AN EMPLOYER AND PROMOTING THE FINANCIAL AND**
20 **NONFINANCIAL INTERESTS OF ALL TENURED EMPLOYEES; OR**

21 **C. A TRUST THAT DISTRIBUTES OR ALLOCATES**
22 **PRINCIPAL AND INCOME PROPORTIONALLY TO ALL TENURED EMPLOYEES ON THE**
23 **BASIS OF HOURS WORKED, SALARY, OR SENIORITY, OR TO ONE OR MORE**
24 **CHARITABLE ORGANIZATIONS.**

25 **2. “EMPLOYEE OWNERSHIP TRUST” INCLUDES A**
26 **NONCHARITABLE PURPOSE TRUST AUTHORIZED UNDER § 14.5–408 OF THE ESTATES**
27 **AND TRUSTS ARTICLE AND A PERPETUAL TRUST.**

28 **(IV) “EMPLOYEE STOCK OWNERSHIP PLAN” HAS THE MEANING**
29 **STATED IN § 4975(E)(7) OF THE INTERNAL REVENUE CODE.**

30 **(V) “EMPLOYER” INCLUDES TWO OR MORE PERSONS TREATED**
31 **AS A SINGLE EMPLOYER UNDER § 414(B), (C), (M), OR (O) OF THE INTERNAL**
32 **REVENUE CODE.**

1 (VI) "QUALIFIED TRANSFER" MEANS THE TRANSFER OF ANY
2 AMOUNT OF STOCK OR MEMBERSHIP INTEREST OF A CORPORATION OR LIMITED
3 LIABILITY COMPANY TO AN EMPLOYEE STOCK OWNERSHIP PLAN, AN EMPLOYEE
4 OWNERSHIP TRUST, OR A DIRECT SHARE OWNERSHIP PLAN, IF:

5 1. THE STOCK OR MEMBERSHIP INTEREST HAS VOTING
6 POWER EQUAL TO OR IN EXCESS OF THAT OF THE CLASS OF STOCK OR MEMBERSHIP
7 INTEREST OF THE EMPLOYER HAVING THE GREATEST VOTING POWER;

8 2. THE STOCK OR MEMBERSHIP INTEREST HAS
9 DIVIDEND RIGHTS EQUAL TO OR IN EXCESS OF THAT OF THE CLASS OF STOCK OR
10 MEMBERSHIP INTEREST OF THE EMPLOYER HAVING THE GREATEST DIVIDEND
11 RIGHTS; AND

12 3. IN THE CASE OF A TRANSFER TO A DIRECT SHARE
13 OWNERSHIP PLAN, THE LARGEST AMOUNT OF STOCK OR MEMBERSHIP INTEREST
14 TRANSFERRED TO ANY EMPLOYEE DOES NOT EXCEED 10 TIMES THE SMALLEST
15 AMOUNT OF STOCK OR MEMBERSHIP INTEREST TRANSFERRED TO ANY TENURED
16 EMPLOYEE.

17 (VII) "TENURED EMPLOYEE" MEANS AN EMPLOYEE OR
18 INDEPENDENT CONTRACTOR WHO HAS PROVIDED:

19 1. AT LEAST 1,000 HOURS OF SERVICES TO THE
20 EMPLOYER WITHIN THE PRECEDING 12 MONTHS; OR

21 2. THE NUMBER OF HOURS ESTABLISHED IN THE TERMS
22 OF AN EMPLOYEE STOCK OWNERSHIP PLAN, AN EMPLOYEE OWNERSHIP TRUST, OR
23 A DIRECT SHARE OWNERSHIP PLAN IF THE EMPLOYEE STOCK OWNERSHIP PLAN,
24 EMPLOYEE OWNERSHIP TRUST, OR DIRECT SHARE OWNERSHIP PLAN ESTABLISHES
25 A NUMBER OF HOURS OF SERVICE THAT IS LESS THAN THE NUMBER REQUIRED
26 UNDER ITEM 1 OF THIS SUBPARAGRAPH.

27 (2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE
28 SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES ANY INCOME
29 FROM A QUALIFIED TRANSFER OF THE STOCK OR MEMBERSHIP INTEREST OF A
30 MARYLAND CORPORATION OR LIMITED LIABILITY COMPANY.

31 (3) IF THE QUALIFIED TRANSFER IS TO A DIRECT SHARE OWNERSHIP
32 PLAN, THE SUBTRACTION IS LIMITED TO THE LOWEST AMOUNT OF STOCK OR
33 MEMBERSHIP INTEREST TRANSFERRED TO ANY TENURED EMPLOYEE DURING THE
34 TAXABLE YEAR MULTIPLIED BY THE NUMBER OF ALL TENURED EMPLOYEES.

1 10-307.

2 (a) To the extent included in federal taxable income, the amounts under this
3 section are subtracted from the federal taxable income of a corporation to determine
4 Maryland modified income.

5 (g) The subtraction under subsection (a) of this section includes the amounts
6 allowed to be subtracted for an individual under:

7 (1) § 10-207(i) of this title (Profits on sale or exchange of State or local
8 bonds);

9 (2) § 10-207(k) of this title (Relocation and assistance payments);

10 (3) § 10-207(m) of this title (State or local income tax refunds); [or]

11 (4) § 10-207(c-1) of this title (State tax-exempt interest from mutual
12 funds); OR

13 **(5) § 10-207(GG) OF THIS TITLE (INCOME FROM THE TRANSFER OF**
14 **AN ENTITY TO CERTAIN EMPLOYEE OWNERSHIP ENTITIES).**

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
16 1, 2019, and shall be applicable to all taxable years beginning after December 31, 2018.