

HOUSE BILL 204

Q3
HB 876/18 – W&M

9lr0922

By: **Delegates Luedtke, Hornberger, Brooks, Buckel, Cardin, Chang, Fennell, Hettleman, Hill, Ivey, Kelly, Krebs, R. Lewis, Patterson, Pendergrass, Stewart, and K. Young**

Introduced and read first time: January 23, 2019

Assigned to: Ways and Means

A BILL ENTITLED

AN ACT concerning

Income Tax – Subtraction Modification – Employee–Owned Businesses

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

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

BY adding to
Article – Tax – General
Section 10–207(hh)
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

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

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.



That the Laws of Maryland read as follows:

Article – Tax – General

10–207.

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

(HH) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10-307.

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

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

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

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

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

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

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

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