

HOUSE BILL 1088

Q3

0lr2140

By: **Delegates Palakovich Carr, Korman, Feldmark, Mosby, Smith, and Wilkins**

Introduced and read first time: February 6, 2020

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Effective Corporate Tax Rate Transparency Act of 2020**

3 FOR the purpose of requiring certain corporations to attach to their Maryland income tax
4 return a certain statement that includes certain information; requiring that the
5 statement be made under oath and signed in a certain manner, subject to audit by
6 the Comptroller, and treated as confidential taxpayer information; requiring the
7 Comptroller to collect and compile certain information and to submit a certain
8 annual report to the Governor and the General Assembly on or before a certain date;
9 defining a certain term; providing for the application of this Act; and generally
10 relating to corporate income tax returns.

11 BY repealing and reenacting, with amendments,
12 Article – Tax – General
13 Section 10–804(e)
14 Annotated Code of Maryland
15 (2016 Replacement Volume and 2019 Supplement)

16 BY adding to
17 Article – Tax – General
18 Section 10–804.2
19 Annotated Code of Maryland
20 (2016 Replacement Volume and 2019 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
22 That the Laws of Maryland read as follows:

23 **Article – Tax – General**

24 10–804.

25 (e) Each person required under this subtitle to file an income tax return or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 estimated income tax declaration or return shall:

2 (1) comply with the regulations of the Comptroller;

3 (2) keep the records that the Comptroller requires; and

4 (3) attach to an income tax return or otherwise file with the Comptroller
5 any records or statements that the Comptroller requires, including:

6 (i) for an individual who has income tax withheld from salary,
7 wages, or other compensation for personal services, or other payments, a copy of the
8 statement from the person who withholds the tax that states:

9 1. the amount of salary, wages, or other compensation for
10 personal services paid and the income tax withheld; or

11 2. the amount of payments made and the income tax
12 withheld;

13 (ii) a copy of the federal income tax return:

14 1. for a corporation; and

15 2. if the Comptroller requests, for an individual;

16 (iii) for a corporation, the statements required under § 10–804.1 of
17 this subtitle; [and]

18 **(IV) FOR A PUBLICLY TRADED CORPORATION AND ITS**
19 **SUBSIDIARIES, THE STATEMENT REQUIRED UNDER § 10–804.2 OF THIS SUBTITLE;**
20 **AND**

21 ~~[(iv)]~~ **(V)** if the Comptroller requests, for a corporation that is a
22 member of an affiliated group or controlled group under § 1504 or § 1563 of the Internal
23 Revenue Code, a statement of all intermember costs or expenses and all intermember sales,
24 exchanges, or other transactions involving tangible or intangible property for the taxable
25 year.

26 **10–804.2.**

27 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
28 **INDICATED.**

29 **(2) “EFFECTIVE TAX RATE” MEANS A PERCENTAGE THAT EQUALS THE**
30 **QUOTIENT OF:**

1 **(I) THE STATE INCOME TAX LIABILITY OF A PUBLICLY TRADED**
2 **CORPORATION; AND**

3 **(II) THE BOOK INCOME OF THE CORPORATION:**

4 **1. DETERMINED IN ACCORDANCE WITH GENERALLY**
5 **ACCEPTED ACCOUNTING PRINCIPLES; AND**

6 **2. AS ALLOCATED TO THE STATE UNDER SUBTITLE 4 OF**
7 **THIS TITLE.**

8 **(3) "PUBLICLY TRADED CORPORATION" INCLUDES ANY SUBSIDIARY**
9 **OF THE CORPORATION.**

10 **(B) A PUBLICLY TRADED CORPORATION THAT IS REQUIRED TO FILE AN**
11 **INCOME TAX RETURN UNDER THIS TITLE SHALL ATTACH TO THE INCOME TAX**
12 **RETURN A STATEMENT THAT:**

13 **(1) IDENTIFIES THE CORPORATION'S EFFECTIVE TAX RATE;**

14 **(2) PROVIDES AN ITEMIZED EXPLANATION OF HOW THE**
15 **CORPORATION'S EFFECTIVE TAX RATE WAS CALCULATED, INCLUDING THE BOOK**
16 **VALUE OF ANY CREDITS, DEDUCTIONS, SUBTRACTION MODIFICATIONS, NET**
17 **OPERATING LOSSES CARRIED FORWARD OR BACKWARD, OR OTHER ADJUSTMENTS**
18 **APPLIED TO DETERMINE THE STATE INCOME TAX LIABILITY OF THE CORPORATION;**
19 **AND**

20 **(3) INCLUDES A COMPARISON OF THE EFFECTIVE TAX RATE OF THE**
21 **CORPORATION BOTH BEFORE AND AFTER THE APPLICATION OF ANY CREDITS,**
22 **DEDUCTIONS, SUBTRACTION MODIFICATIONS, OR OTHER ADJUSTMENTS.**

23 **(C) THE STATEMENT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION:**

24 **(1) SHALL BE:**

25 **(I) MADE UNDER OATH AND SIGNED IN THE SAME MANNER AS**
26 **REQUIRED FOR INCOME TAX RETURNS UNDER § 10-804 OF THIS SUBTITLE; AND**

27 **(II) SUBJECT TO AUDIT BY THE COMPTROLLER IN THE COURSE**
28 **OF AND UNDER THE NORMAL PROCEDURES APPLICABLE TO CORPORATE INCOME**
29 **TAX RETURN AUDITS; AND**

30 **(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, SHALL BE**

1 TREATED AS CONFIDENTIAL TAXPAYER INFORMATION SUBJECT TO TITLE 13,
2 SUBTITLE 2 OF THIS ARTICLE.

3 (D) (1) THE COMPTROLLER SHALL:

4 (I) COLLECT AND COMPILE THE INFORMATION SUBMITTED
5 UNDER THIS SECTION; AND

6 (II) ON OR BEFORE MARCH 1 EACH YEAR, SUBMIT A REPORT TO
7 THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT
8 ARTICLE, THE GENERAL ASSEMBLY THAT IDENTIFIES THE AVERAGE EFFECTIVE
9 TAX RATE FOR ALL PUBLICLY TRADED CORPORATIONS REQUIRED TO FILE THE
10 STATEMENT UNDER SUBSECTION (B) OF THIS SECTION.

11 (2) THE REPORT REQUIRED UNDER PARAGRAPH (1)(II) OF THIS
12 SUBSECTION SHALL INCLUDE:

13 (I) THE AVERAGE EFFECTIVE TAX RATE OF PUBLICLY TRADED
14 CORPORATIONS, SORTED BY:

15 1. TYPES OF BUSINESS, ITEMIZED BY THE NORTH
16 AMERICAN INDUSTRIAL CLASSIFICATION SYSTEM CODE REPORTED ON EACH
17 CORPORATION'S INCOME TAX RETURN UNDER THIS TITLE;

18 2. EFFECTIVE TAX RATE; AND

19 3. VARIOUS MEASURES OF SIZE, SUCH AS INCOME,
20 PAYROLL, AND GROSS RECEIPTS; AND

21 (II) AN ANALYSIS IDENTIFYING AND COMPARING POTENTIAL
22 CAUSES FOR REDUCED EFFECTIVE TAX RATES, WHICH MAY INCLUDE FEDERAL OR
23 STATE TAX LOOPHOLES, TREATMENT OF OPERATING LOSSES, CREDITS AND
24 DEDUCTIONS, OR THE APPORTIONMENT FORMULA.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
26 1, 2020, and shall be applicable to all taxable years beginning after December 31, 2019.