

SENATE BILL 523

Q3

(0lr1093)

ENROLLED BILL

— Budget and Taxation / Ways and Means —

Introduced by **Senators Guzzone, Hester, Beidle, Carozza, Edwards, Elfreth, Feldman, Griffith, Kagan, ~~King~~, Kramer, Peters, Serafini, West, and ~~Zucker~~ Zucker, Eckardt, McCray, Miller, and Salling**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Income Tax – Pass-Through Entities – ~~Imposition of Tax~~ and Corporations**

3 FOR the purpose of altering the State income tax imposed on certain pass-through entities;
4 requiring each pass-through entity to pay the tax imposed with respect to certain
5 shares of certain nonresident and nonresident entity members of the pass-through
6 entity; ~~authorizing a pass-through entity to pay the tax imposed with respect to~~
7 ~~certain shares of all members of the pass-through entity;~~ authorizing a
8 pass-through entity to elect to pay the tax imposed with respect to certain shares of
9 all resident members of the pass-through entity; providing for the calculation of the
10 tax; prohibiting the tax required to be paid for any taxable year from exceeding a
11 certain amount; ~~requiring each pass-through entity that elects to pay the tax~~
12 ~~imposed with respect to certain shares of resident members of the pass-through~~
13 ~~entity to report certain information to the Comptroller in a certain manner; requiring~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



~~the Comptroller, subject to certain provisions of law, to distribute to each county certain income tax revenues; altering the number of employees that certain worldwide headquartered companies must employ at a certain location in the State in order to elect to use a certain formula to apportion certain income to the State; expanding a certain income tax credit to allow members of all pass-through entities, rather than only shareholders of S corporations, who are residents of the State to claim the credit under certain circumstances; allowing each member to claim a credit against the State income tax and county income tax for the member's proportionate share of the tax paid by the pass-through entity; providing a subtraction modification under the Maryland corporate income tax for certain changes to a certain corporation's deferred tax assets or liabilities that are the result of certain acts of the General Assembly; providing for the calculation of the amount of the subtraction modification; providing that the subtraction modification may be claimed only for certain taxable years; prohibiting the subtraction from being reduced as a result of an event that occurs after the calculation of the subtraction; providing, under certain circumstances, for the carryforward of the subtraction; requiring a corporation that intends to claim the subtraction to file a certain statement with the Comptroller on or before a certain date; authorizing the Comptroller to review and alter the amount of the subtraction specified in the statement or claimed on certain tax returns; defining certain terms; making certain stylistic and conforming changes; providing for the application of certain provisions of this Act; and generally relating to the State income tax and pass-through entities and corporations.~~

BY repealing and reenacting, with amendments,

Article – Tax – General

~~Section 10-102.1, 10-402, 10-701.1, 10-703, and 10-706~~ Section 10-102.1, 10-402, 10-701.1, and 10-703

Annotated Code of Maryland

(2016 Replacement Volume and 2019 Supplement)

~~BY adding to~~

~~Article – Tax – General~~

~~Section 10-311~~

~~Annotated Code of Maryland~~

~~(2016 Replacement Volume and 2019 Supplement)~~

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

That the Laws of Maryland read as follows:

Article – Tax – General

10-102.1.

(a) (1) In this section the following words have the meanings indicated.

(2) “Distributable cash flow” means taxable income reportable by a pass-through entity on its federal income tax return for the taxable year:

1 (i) adjusted, in the case of an entity using the accrual method of
2 accounting to report federal taxable income, to reflect the amount of taxable income that
3 would have been reported under the cash method of accounting;

4 (ii) increased by the sum of:

5 1. cash receipts for the taxable year that are not includable
6 in the gross income of the entity, including capital contributions and loan proceeds;

7 2. amounts allowable to the entity for the taxable year as
8 deductions for depreciation, amortization, and depletion; and

9 3. the decrease, if any, in the entity's liability reserve as of
10 the end of the taxable year; and

11 (iii) decreased by the sum of:

12 1. cash expenditures for the taxable year that are not
13 deductible in computing the taxable income of the entity, not including distributions to
14 shareholders, partners, or members; and

15 2. the increase, if any, in the entity's liability reserve as of
16 the end of the taxable year.

17 (3) "Liability reserve" means accrued unpaid liabilities that are not
18 deductible in computing taxable income.

19 (4) "Member" means:

20 (i) a shareholder of an S corporation;

21 (ii) a general or limited partner of a partnership, limited
22 partnership, or limited liability partnership;

23 (iii) a member of a limited liability company; or

24 (iv) a beneficiary of a business trust or statutory trust.

25 (5) "Nonresident entity" means an entity that is not formed under the laws
26 of the State and is not qualified by or registered with the Department of Assessments and
27 Taxation to do business in the State.

28 (6) "Nonresident taxable income" means any income described in §
29 10-210(b)(1) through (4) of this title.

30 (7) "Pass-through entity" means:

- 1 (i) an S corporation;
- 2 (ii) a partnership;
- 3 (iii) a limited liability company that is not taxed as a corporation
4 under this title; or
- 5 (iv) a business trust or statutory trust that is not taxed as a
6 corporation under this title.

7 **(8) “PASS-THROUGH ENTITY’S TAXABLE INCOME” MEANS THE**
8 **PORTION OF A PASS-THROUGH ENTITY’S INCOME UNDER THE FEDERAL INTERNAL**
9 **REVENUE CODE THAT IS DERIVED FROM OR REASONABLY ATTRIBUTABLE TO THE**
10 **TRADE OR BUSINESS OF THE PASS-THROUGH ENTITY IN THIS STATE.**

11 (b) **(1) [In] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN** addition
12 to any other tax imposed under this title, a tax is imposed on each pass-through entity
13 [that has:

- 14 (1) any member who is a nonresident of the State or is a nonresident entity;
15 and
- 16 (2) any nonresident taxable income for the taxable year].

17 **(2) EACH PASS-THROUGH ENTITY:**

18 **(I) SHALL PAY THE TAX IMPOSED UNDER PARAGRAPH (1) OF**
19 **THIS SUBSECTION WITH RESPECT TO THE DISTRIBUTIVE SHARES OR PRO RATA**
20 **SHARES OF THE NONRESIDENT AND NONRESIDENT ENTITY MEMBERS OF THE**
21 **PASS-THROUGH ENTITY; OR**

22 **(II) MAY ELECT TO PAY THE TAX IMPOSED UNDER PARAGRAPH**
23 **(1) OF THIS SUBSECTION WITH RESPECT TO THE DISTRIBUTIVE SHARES OR PRO**
24 **RATA SHARES OF RESIDENT MEMBERS OF THE PASS-THROUGH ENTITY.**

25 (c) (1) [The] **WITH RESPECT TO A PASS-THROUGH ENTITY THAT PAYS**
26 **THE TAX IMPOSED UNDER SUBSECTION (B)(1) OF THIS SECTION IN ACCORDANCE**
27 **WITH SUBSECTION (B)(2)(I) OF THIS SECTION, THE tax [imposed under subsection (b)**
28 **of this section] shall be treated as a tax imposed on the nonresident or nonresident entity**
29 **members that is paid on behalf of the nonresidents or nonresident entities by the**
30 **pass-through entity.**

31 (2) The Comptroller shall provide by regulation for the treatment of the tax
32 imposed under subsection (b) of this section that is paid on behalf of a nonresident entity

1 member that is itself a pass-through entity.

2 (d) (1) [Except as provided in paragraph (2) of this subsection, the] **WITH**
3 **RESPECT TO A PASS-THROUGH ENTITY THAT PAYS THE TAX IMPOSED UNDER**
4 **SUBSECTION (B)(1) OF THIS SECTION IN ACCORDANCE WITH SUBSECTION (B)(2)(I)**
5 **OF THIS SECTION, THE** tax imposed [under subsection (b) of this section] is the sum of:

6 (i) a rate equal to the sum of the rate of the tax imposed under §
7 10-106.1 of this subtitle and the top marginal State tax rate for individuals under §
8 10-105(a) of this subtitle applied to the sum of each nonresident individual member's
9 distributive share or [pro-rata] **PRO RATA** share of [a] **THE** pass-through entity's
10 nonresident taxable income; and

11 (ii) the rate of the tax for a corporation under § 10-105(b) of this
12 subtitle applied to the sum of each nonresident entity member's distributive share or
13 [pro-rata] **PRO RATA** share of [a] **THE** pass-through entity's nonresident taxable income.

14 **(2) WITH RESPECT TO A PASS-THROUGH ENTITY THAT PAYS THE TAX**
15 **IMPOSED UNDER SUBSECTION (B)(1) OF THIS SECTION IN ACCORDANCE WITH**
16 **SUBSECTION (B)(2)(II) OF THIS SECTION, THE TAX IMPOSED IS THE SUM OF:**

17 **(I) A RATE EQUAL TO THE SUM OF THE RATE OF THE TAX**
18 **IMPOSED UNDER § 10-106.1 OF THIS SUBTITLE AND THE TOP MARGINAL STATE TAX**
19 **RATE FOR INDIVIDUALS UNDER § 10-105(A) OF THIS SUBTITLE APPLIED TO THE SUM**
20 **OF EACH INDIVIDUAL MEMBER'S DISTRIBUTIVE SHARE OR PRO RATA SHARE OF THE**
21 **PASS-THROUGH ENTITY'S TAXABLE INCOME; AND**

22 **(II) THE RATE OF THE TAX FOR A CORPORATION UNDER §**
23 **10-105(B) OF THIS SUBTITLE APPLIED TO THE SUM OF EACH ENTITY MEMBER'S**
24 **DISTRIBUTIVE SHARE OR PRO RATA SHARE OF THE PASS-THROUGH ENTITY'S**
25 **TAXABLE INCOME.**

26 **[(2)] (3)** The tax required to be paid for any taxable year [on behalf of
27 nonresident or nonresident entity members] by a pass-through entity may not exceed:

28 **(I) WITH RESPECT TO A PASS-THROUGH ENTITY THAT PAYS**
29 **THE TAX IMPOSED UNDER SUBSECTION (B)(1) OF THIS SECTION IN ACCORDANCE**
30 **WITH SUBSECTION (B)(2)(I) OF THIS SECTION, the sum of all of the nonresident and**
31 **nonresident entity members' shares of the pass-through entity's distributable cash flow;**
32 **AND**

33 **(II) WITH RESPECT TO A PASS-THROUGH ENTITY THAT PAYS**
34 **THE TAX IMPOSED UNDER SUBSECTION (B)(1) OF THIS SECTION IN ACCORDANCE**
35 **WITH SUBSECTION (B)(2)(II) OF THIS SECTION, THE SUM OF ALL OF THE MEMBERS'**

1 **SHARES OF THE PASS-THROUGH ENTITY'S DISTRIBUTABLE CASH FLOW.**

2 **(E) IN ACCORDANCE WITH § 10-701.1 OF THIS TITLE, EACH MEMBER MAY**
3 **CLAIM A CREDIT AGAINST THE TAX IMPOSED ON THE MEMBER FOR THE MEMBER'S**
4 **PROPORTIONATE SHARE OF THE TAX PAID BY THE PASS-THROUGH ENTITY UNDER**
5 **SUBSECTION (B) OF THIS SECTION.**

6 **[(e)] (F) (1) (i)** The tax imposed under subsection (b) of this section does
7 not apply with respect to the distributive share or **[pro-rata] PRO RATA** share of a member
8 that is itself a pass-through entity formed under the laws of the State or qualified by or
9 registered with the Department of Assessments and Taxation to do business in the State.

10 (ii) A member of a pass-through entity that is itself a pass-through
11 entity as described in subparagraph (i) of this paragraph shall **ITSELF** comply with the
12 provisions of this section **[with respect to any of its members that are nonresidents or**
13 **nonresident entities]**.

14 (2) The tax imposed under subsection (b) of this section does not apply with
15 respect to the direct or indirect distributive share or pro rata share of a member that is:

16 **(I) a real estate investment trust as defined by § 856 of the Internal**
17 **Revenue Code; OR**

18 **(II) AN ENTITY THAT IS EXEMPT FROM TAXATION UNDER § 501**
19 **OF THE INTERNAL REVENUE CODE.**

20 **[(f)] (G)** The Comptroller may provide by regulation for:

21 (1) the filing of composite returns by a pass-through entity on behalf of its
22 nonresident and nonresident entity members; and

23 (2) application of or exemption from the tax imposed under subsection (b)
24 of this section for a pass-through entity:

25 (i) that files a composite return on behalf of nonresident and
26 nonresident entity members; or

27 (ii) the **[nonresident or nonresident]** entity members of which are
28 tax exempt.

29 **[(g)] (H) (1)** Subject to paragraph (2) of this subsection, if a partnership fails
30 to pay the tax when due the tax may be collected from the partners under the law applicable
31 to debts of the partnership, with the partnership and partners having rights of contribution
32 against any **[nonresident]** partner on whose behalf the tax is paid.

1 (2) Unless it is established by the Comptroller that the partner
2 participated in a pattern of distributions to one or more partners with the intention of
3 defeating the partnership liability for the tax imposed under subsection (b) of this section,
4 any partner otherwise liable under paragraph (1) of this subsection shall be liable for the
5 tax imposed on the partnership only to the extent of distributions from the partnership to
6 that partner after the tax was due to be paid by the partnership.

7 [(h) (I) Except as provided in § 10-701.1 of this title, nothing in this section
8 limits or affects in any way the liability of an individual nonresident member or a
9 nonresident entity member for the tax imposed on the individual nonresident or
10 nonresident entity under § 10-102 of this subtitle.

11 [(i) (J) The tax imposed under subsection (b) of this section does not apply to a
12 publicly traded pass-through entity that has agreed to file with the Comptroller an annual
13 information return reporting the name, address, taxpayer identification number, and other
14 information requested by the Comptroller of each nonresident or nonresident entity
15 member whose distributive share or [pro-rata] PRO RATA share of the pass-through
16 entity's nonresident taxable income for the taxable year exceeds \$500.

17 ~~[(k) (1) A PASS THROUGH ENTITY THAT ELECTS, UNDER SUBSECTION~~
18 ~~(B)(2)(H) OF THIS SECTION, TO PAY THE TAX IMPOSED UNDER SUBSECTION (B)(1)~~
19 ~~OF THIS SECTION WITH RESPECT TO THE DISTRIBUTIVE SHARES OR PRO RATA~~
20 ~~SHARES OF RESIDENT MEMBERS OF THE PASS THROUGH ENTITY SHALL REPORT TO~~
21 ~~THE COMPTROLLER, ON A QUARTERLY BASIS, A LIST OF THOSE RESIDENT MEMBERS~~
22 ~~AND THE COUNTIES IN WHICH THEY RESIDE.~~

23 ~~(2) SUBJECT TO TITLE 2, SUBTITLE 6 OF THIS ARTICLE, THE~~
24 ~~COMPTROLLER SHALL DISTRIBUTE TO EACH COUNTY THE PORTION OF INCOME TAX~~
25 ~~REVENUE ATTRIBUTABLE TO THE TAX IMPOSED UNDER SUBSECTION (B)(1) OF THIS~~
26 ~~SECTION IN ACCORDANCE WITH SUBSECTION (B)(2)(H) OF THIS SECTION BASED ON~~
27 ~~THE RATE OF TAX IMPOSED UNDER § 10-106.1 OF THIS SUBTITLE AND~~
28 ~~ATTRIBUTABLE TO EACH INDIVIDUAL MEMBER RESIDING IN THAT COUNTY.~~

29 10-402.

30 (a) In this section, "worldwide headquartered company" means a corporation
31 included in a group of corporations including a parent corporation that:

32 (1) filed a Form 10-Q with the Securities and Exchange Commission for
33 the quarterly period ending June 30, 2017;

34 (2) has its principal executive office in the State; and

35 (3) (I) employs at all times between July 1, 2017, and June 30, 2020, at
36 least 500 full-time employees at the parent corporation's principal executive office that is

1 located within the State; OR

2 (II) IF THE PARENT CORPORATION IS A FRANCHISOR, IS PART
3 OF A GROUP OF CORPORATIONS THAT EMPLOYS AT ALL TIMES BETWEEN JULY 1,
4 2017, AND JUNE 30, 2020, AT LEAST 400 FULL-TIME EMPLOYEES AT THE PARENT
5 CORPORATION'S PRINCIPAL EXECUTIVE OFFICE THAT IS LOCATED WITHIN THE
6 STATE.

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

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

13 (2) if a corporation carries on its trade or business within and outside the
14 State, the corporation shall allocate to the State the part of the corporation's Maryland
15 modified income that is derived from or reasonably attributable to the part of its trade or
16 business carried on in the State, in the manner required in subsection (c), (d), or (e) of this
17 section.

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

21 (2) If in any taxable year a corporation is permitted or required to use the
22 separate accounting method in determining all or a portion of its Maryland taxable income,
23 the portion that is separately accounted for to Maryland shall be taxable whether or not
24 the Maryland modified income of the corporation for the taxable year is zero or less.

25 (d) (1) (i) In this paragraph:

26 1. "manufacturing corporation" means a domestic or foreign
27 corporation which is primarily engaged in activities that, in accordance with the North
28 American Industrial Classification System (NAICS), United States Manual, United States
29 Office of Management and Budget, 1997 Edition, would be included in Sector 11, 31, 32, or
30 33; and

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

33 (ii) If a manufacturing corporation carries on its trade or business
34 within and outside the State and the trade or business is a unitary business, the part of the
35 corporation's Maryland modified income derived from or reasonably attributable to trade
36 or business carried on in the State shall be determined using a single sales factor

1 apportionment formula, by multiplying its Maryland modified income by 100% of the sales
2 factor.

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

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

10 (2) Except as provided in paragraphs (1) and (3) of this subsection:

11 (i) for a taxable year beginning after December 31, 2017, but before
12 January 1, 2019, if the trade or business is a unitary business, the part of the corporation's
13 Maryland modified income derived from or reasonably attributable to trade or business
14 carried on in the State shall be determined using a 3-factor apportionment fraction:

15 1. the numerator of which is the sum of the property factor,
16 the payroll factor, and 3 times the sales factor; and

17 2. the denominator of which is 5;

18 (ii) for a taxable year beginning after December 31, 2018, but before
19 January 1, 2020, if the trade or business is a unitary business, the part of the corporation's
20 Maryland modified income derived from or reasonably attributable to trade or business
21 carried on in the State shall be determined using a 3-factor apportionment fraction:

22 1. the numerator of which is the sum of the property factor,
23 the payroll factor, and 4 times the sales factor; and

24 2. the denominator of which is 6;

25 (iii) for a taxable year beginning after December 31, 2019, but before
26 January 1, 2021, if the trade or business is a unitary business, the part of the corporation's
27 Maryland modified income derived from or reasonably attributable to trade or business
28 carried on in the State shall be determined using a 3-factor apportionment fraction:

29 1. the numerator of which is the sum of the property factor,
30 the payroll factor, and 5 times the sales factor; and

31 2. the denominator of which is 7;

32 (iv) for a taxable year beginning after December 31, 2020, but before
33 January 1, 2022, if the trade or business is a unitary business, the part of the corporation's
34 Maryland modified income derived from or reasonably attributable to trade or business

1 carried on in the State shall be determined using a 3-factor apportionment fraction:

2 1. the numerator of which is the sum of the property factor,
3 the payroll factor, and 6 times the sales factor; and

4 2. the denominator of which is 8; and

5 (v) for a taxable year beginning after December 31, 2021, if the trade
6 or business is a unitary business, the part of the corporation's Maryland modified income
7 derived from or reasonably attributable to trade or business carried on in the State shall
8 be determined using a single sales factor apportionment formula, by multiplying its
9 Maryland modified income by 100% of the sales factor.

10 (3) (i) Each year a worldwide headquartered company that filed a
11 federal corporate income tax return for the taxable year may elect to calculate its Maryland
12 modified income derived from or reasonably attributable to trade or business carried on in
13 the State using a 3-factor apportionment fraction:

14 1. the numerator of which is the sum of the property factor,
15 the payroll factor, and twice the sales factor; and

16 2. the denominator of which is 4.

17 (ii) To determine under subparagraph (i) of this paragraph the
18 Maryland modified income of a corporation or group of corporations that is a worldwide
19 headquartered company that filed a federal corporate income tax return for the taxable
20 year, gross income from intangible investments, including dividends, interest, royalties,
21 and capital gains from the sale of intangible property, shall be included in the calculation
22 of the numerator based on the average of the property and payroll factors.

23 (4) The property factor under paragraphs (2) and (3) of this subsection shall
24 include:

25 (i) rented and owned real property; and

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

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

31 (1) the use of the separate accounting method;

32 (2) the use of the 3-factor double weighted sales factor formula method or
33 the single sales factor formula method;

- 1 (3) the weight of any factor in the 3-factor formula;
- 2 (4) the valuation of rented property included in the property factor; and
- 3 (5) the determination of the extent to which tangible personal property is
4 located in the State.
- 5 10-701.1.

6 An individual or a corporation may claim a credit against the State income tax ~~AND~~
7 ~~COUNTY INCOME TAX~~ for a taxable year in the amount of tax paid by a pass-through
8 entity under § 10-102.1 of this title that is attributable to the individual's or corporation's
9 share of the pass-through entity's [nonresident] taxable income, as defined in [§
10 10-102.1(a)(6)] **§ 10-102.1(A)(8)** of this title.

11 10-703.

12 (a) **IN THIS SECTION, "MEMBER" AND "PASS-THROUGH ENTITY" HAVE THE**
13 **MEANINGS STATED IN § 10-102.1 OF THIS TITLE.**

14 **(B)** Except as provided in subsection [(b)] (C) of this section, a resident may claim
15 a credit against the income tax for a taxable year in the amount determined under
16 subsection [(c)] (D) of this section for State tax on income paid to another state for the year.

17 **[(b)] (C)** A credit under subsection [(a)] (B) of this section is not allowed to:

18 (1) a resident other than a fiduciary, if the laws of the other state allow the
19 resident a credit for State income tax paid to this State;

20 (2) a resident fiduciary, if the fiduciary claims, and the other state allows,
21 a credit for State income tax paid to this State;

22 (3) a resident for less than the full taxable year for tax on income that is
23 paid to another state during residency in that state; or

24 (4) a nonresident.

25 **[(c)] (D)** (1) Except as provided in paragraph (2) of this subsection and
26 subject to subsection [(d)] (E) of this section, the credit allowed a resident under subsection
27 [(a)] (B) of this section is the lesser of:

28 (i) the amount of allowable tax on income that the resident paid to
29 another state; or

30 (ii) an amount that does not reduce the income tax to an amount less
31 than would be payable if the income subjected to tax in the other state were disregarded.

1 (A) ~~(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~
2 ~~INDICATED.~~

3 ~~(2) "NET DEFERRED TAX ASSET" MEANS THE AMOUNT BY WHICH THE~~
4 ~~DEFERRED TAX ASSETS EXCEED THE DEFERRED TAX LIABILITIES OF A TAXPAYER,~~
5 ~~COMPUTED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING~~
6 ~~PRINCIPLES.~~

7 ~~(3) "NET DEFERRED TAX LIABILITY" MEANS THE AMOUNT BY WHICH~~
8 ~~THE DEFERRED TAX LIABILITIES EXCEED THE DEFERRED TAX ASSETS OF A~~
9 ~~TAXPAYER, COMPUTED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING~~
10 ~~PRINCIPLES.~~

11 (B) ~~THIS SECTION APPLIES ONLY TO A CORPORATION THAT ON OR BEFORE~~
12 ~~APRIL 24, 2018, THE DATE OF ENACTMENT OF THE PROVISIONS OF § 10-402 OF THIS~~
13 ~~TITLE BY CHAPTERS 341 AND 342 OF THE ACTS OF THE GENERAL ASSEMBLY OF~~
14 ~~2018, WAS:~~

15 ~~(1) PUBLICLY TRADED; OR~~

16 ~~(2) AFFILIATED WITH A CORPORATION THAT WAS PUBLICLY TRADED,~~
17 ~~AND PARTICIPATED IN THE FILING OF THE PUBLICLY TRADED CORPORATION'S~~
18 ~~FINANCIAL STATEMENTS PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED~~
19 ~~ACCOUNTING PRINCIPLES.~~

20 (C) ~~(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN ADDITION~~
21 ~~TO THE MODIFICATIONS UNDER §§ 10-307 AND 10-308 OF THIS SUBTITLE, THE~~
22 ~~AMOUNTS DETERMINED UNDER SUBSECTION (D) OF THIS SECTION ARE~~
23 ~~SUBTRACTED FROM THE FEDERAL TAXABLE INCOME OF A CORPORATION TO~~
24 ~~DETERMINE MARYLAND MODIFIED INCOME OF THE CORPORATION IF, AS OF APRIL~~
25 ~~24, 2018, THE DATE OF ENACTMENT OF THE PROVISIONS OF § 10-402 OF THIS TITLE~~
26 ~~BY CHAPTERS 341 AND 342 OF THE ACTS OF THE GENERAL ASSEMBLY OF 2018, THE~~
27 ~~ENACTMENT RESULTED IN AN AGGREGATE:~~

28 ~~(I) INCREASE TO THE CORPORATION'S NET DEFERRED TAX~~
29 ~~LIABILITY;~~

30 ~~(II) DECREASE TO THE CORPORATION'S NET DEFERRED TAX~~
31 ~~ASSET; OR~~

32 ~~(III) CHANGE FROM A NET DEFERRED TAX ASSET TO A NET~~
33 ~~DEFERRED TAX LIABILITY.~~

34 ~~(2) THE AMOUNT OF ANY INCREASE, DECREASE, OR CHANGE SHALL~~

~~BE DETERMINED WITHOUT REGARD TO THE SUBTRACTION AUTHORIZED UNDER THIS SECTION.~~

~~(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE SUBTRACTION AUTHORIZED UNDER THIS SECTION IS EQUAL TO ONE TENTH OF THE AMOUNT NECESSARY TO OFFSET THE AGGREGATE:~~

~~(I) INCREASE TO THE CORPORATION'S NET DEFERRED TAX LIABILITY;~~

~~(II) DECREASE TO THE CORPORATION'S NET DEFERRED TAX ASSET; OR~~

~~(III) CHANGE FROM A NET DEFERRED TAX ASSET TO A NET DEFERRED TAX LIABILITY.~~

~~(2) THE SUBTRACTION AUTHORIZED UNDER THIS SECTION MAY BE USED TO REDUCE THE CORPORATION'S MARYLAND MODIFIED INCOME FOR 10 CONSECUTIVE TAXABLE YEARS BEGINNING WITH THE FIRST TAXABLE YEAR THAT BEGINS AFTER DECEMBER 31, 2029.~~

~~(3) THE SUBTRACTION CALCULATED UNDER THIS SECTION MAY NOT BE REDUCED AS A RESULT OF ANY EVENT THAT OCCURS AFTER THE CALCULATION, INCLUDING THE DISPOSITION OR ABANDONMENT OF ANY ASSET.~~

~~(4) THE SUBTRACTION AUTHORIZED UNDER THIS SECTION:~~

~~(I) SHALL BE CALCULATED WITHOUT REGARD TO THE FEDERAL TAX EFFECT; AND~~

~~(II) MAY NOT ALTER THE TAX BASIS OF ANY ASSET.~~

~~(5) IF THE SUBTRACTION DETERMINED UNDER THIS SECTION RESULTS IN A SUBTRACTION THAT EXCEEDS MARYLAND MODIFIED INCOME COMPUTED WITHOUT REGARD TO THE SUBTRACTION UNDER THIS SECTION, THE AMOUNT OF THE EXCESS MAY BE CARRIED FORWARD TO SUCCEEDING TAXABLE YEARS AND USED TO REDUCE MARYLAND MODIFIED INCOME IN EACH SUCCEEDING TAXABLE YEAR UNTIL THE EXCESS IS FULLY USED.~~

~~(E) (1) ON OR BEFORE JULY 1, 2021, A CORPORATION THAT INTENDS TO CLAIM A SUBTRACTION UNDER THIS SECTION SHALL FILE WITH THE COMPTROLLER A STATEMENT THAT SPECIFIES THE TOTAL AMOUNT OF THE SUBTRACTION THAT THE CORPORATION INTENDS TO CLAIM.~~

1 ~~(2) THE STATEMENT SHALL BE ON THE FORM AND CONTAIN THE~~
2 ~~INFORMATION THE COMPTROLLER REQUIRES.~~

3 ~~(3) THE COMPTROLLER MAY REVIEW AND ALTER THE AMOUNT OF:~~

4 ~~(I) THE SUBTRACTION SPECIFIED IN THE STATEMENT~~
5 ~~REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION; OR~~

6 ~~(II) THE SUBTRACTION CLAIMED ON A TAX RETURN FOR ANY~~
7 ~~TAXABLE YEAR.~~

8 ~~SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be~~
9 ~~applicable to all taxable years beginning after December 31, 2019.~~

10 ~~SECTION 2. 4. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
11 ~~July 1, 2020, and shall be applicable to all taxable years beginning after December 31, 2019.~~

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.