

Chapter 763

(House Bill 495)

AN ACT concerning

**Income Tax – Internal Revenue Code Amendments and the Federal CARES Act –
Decoupling**

FOR the purpose of prohibiting, except under certain circumstances, the retroactive application of certain amendments to the Internal Revenue Code to the determination of Maryland taxable income; ~~providing an addition modification under the Maryland income tax for certain amounts related to certain net operating loss deductions, certain excess business losses, and certain business interest expense deductions;~~ making conforming changes; providing for the application of ~~a certain provision of~~ this Act; and generally relating to the Maryland income tax.

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–108 ~~and 10–306(b)~~
Annotated Code of Maryland
(2016 Replacement Volume and 2020 Supplement)

~~BY repealing and reenacting, without amendments,
Article – Tax – General
Section 10–205(a) and 10–306(a)
Annotated Code of Maryland
(2016 Replacement Volume and 2020 Supplement)~~

~~BY adding to
Article – Tax – General
Section 10–205(m) and (n)
Annotated Code of Maryland
(2016 Replacement Volume and 2020 Supplement)~~

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

Article – Tax – General

10–108.

(a) Except as provided in subsection (c) of this section and unless expressly provided otherwise by law, an amendment of the Internal Revenue Code that[, for a taxable year that begins in the calendar year in which the amendment is enacted,] affects the

determination of federal adjusted gross income or federal taxable income, does not affect the determination of Maryland taxable income under this title for:

(1) any taxable year that begins in the calendar year in which the amendment is enacted; **OR**

(2) **ANY TAXABLE YEAR THAT PRECEDES THE CALENDAR YEAR IN WHICH THE AMENDMENT IS ENACTED.**

(b) Within 60 days after an amendment of the Internal Revenue Code is enacted, the Comptroller shall prepare and submit to the Governor and, subject to § 2-1257 of the State Government Article, the President of the Senate and the Speaker of the House a report that outlines:

(1) the changes in the Internal Revenue Code; and

(2) the impact of those changes on State revenue and on various classes and types of taxpayers.

(c) Subsection (a) of this section does not apply to an amendment of the Internal Revenue Code if the Comptroller determines that the impact of the amendment on State income tax revenue [for the fiscal year that begins during the calendar year in which the amendment is enacted will be] **IS less than \$5,000,000 FOR:**

(1) **THE FISCAL YEAR THAT BEGINS DURING THE CALENDAR YEAR IN WHICH THE AMENDMENT IS ENACTED; OR**

(2) **ANY FISCAL YEAR THAT PRECEDES THE CALENDAR YEAR IN WHICH THE AMENDMENT IS ENACTED.**

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~**Article Tax General**~~

~~10-205.~~

~~(a) In addition to the modification under § 10-204 of this subtitle, the amounts under this section are added to the federal adjusted gross income of a resident to determine Maryland adjusted gross income.~~

~~(M) **FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2020, BUT BEFORE JANUARY 1, 2022, THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES:**~~

~~(1) THE AGGREGATE OF THE AMOUNTS FOR EACH TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2013, BUT BEFORE JANUARY 1, 2021, EQUAL TO THE DIFFERENCE BETWEEN THE TAXPAYER'S NET OPERATING LOSS DEDUCTION AS DETERMINED UNDER § 172(A) OF THE INTERNAL REVENUE CODE BEFORE THE AMENDMENTS MADE BY § 2303 OF THE FEDERAL CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT AND THE TAXPAYER'S NET OPERATING LOSS DEDUCTION AS DETERMINED UNDER § 172(A) OF THE INTERNAL REVENUE CODE AFTER THE AMENDMENTS MADE BY § 2303 OF THE FEDERAL CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT;~~

~~(2) THE AGGREGATE OF THE AMOUNTS FOR EACH TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2017, BUT BEFORE JANUARY 1, 2021, EQUAL TO THE AMOUNT BY WHICH THE TAXPAYER'S EXCESS BUSINESS LOSS EXCEEDS THE EXCESS BUSINESS LOSS LIMITATION AS DETERMINED UNDER § 461(L) OF THE INTERNAL REVENUE CODE WITHOUT REGARD TO THE AMENDMENTS MADE BY § 2304 OF THE FEDERAL CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT, BUT WITH REGARD TO THE TECHNICAL AMENDMENT MADE BY § 2304(B)(2)(B) OF THE FEDERAL CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT; AND~~

~~(3) THE AGGREGATE OF THE AMOUNTS FOR EACH TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2018, BUT BEFORE JANUARY 1, 2021, EQUAL TO THE AMOUNT BY WHICH THE TAXPAYER'S INTEREST EXPENSE DEDUCTION EXCEEDS THE LIMITATION ON BUSINESS INTEREST UNDER § 163(J) OF THE INTERNAL REVENUE CODE WITHOUT REGARD TO THE AMENDMENTS MADE BY § 2306 OF THE FEDERAL CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT, AND AS CALCULATED ON A SEPARATE ENTITY BASIS.~~

~~(N) FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2020, BUT BEFORE JANUARY 1, 2026, THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE AMOUNT EQUAL TO THE TAXPAYER'S EXCESS BUSINESS LOSS AS DETERMINED UNDER § 461(L) OF THE INTERNAL REVENUE CODE WITHOUT REGARD TO THE AMENDMENTS MADE BY § 2304 OF THE FEDERAL CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT, BUT WITH REGARD TO THE TECHNICAL AMENDMENT MADE BY § 2304(B)(2)(B) OF THE FEDERAL CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT, IF THE LOSS INCLUDES EXCESS FARM LOSS AS DEFINED UNDER § 461(J) OF THE INTERNAL REVENUE CODE.~~

~~10-306.~~

~~(a) In addition to the modification under § 10-305 of this subtitle, the amounts under this section are added to the federal taxable income of a corporation to determine Maryland modified income.~~

~~(b) The addition under subsection (a) of this section includes the additions required for an individual under:~~

~~(1) § 10-205(b) of this title (Enterprise zone wage credit, employment opportunity credit, disability credit, and qualified ex-felon employee credit);~~

~~(2) § 10-205(c) of this title (Reforestation and timber stand modification);~~

~~(3) § 10-205(c) of this title (Net operating loss modification);~~

~~(4) § 10-205(g) of this title (Unlicensed child care facility operating expenses); [and]~~

~~(5) § 10-205(i) of this title (Maryland research and development tax credit);~~

~~(6) § 10-205(M) OF THIS TITLE (NET OPERATING LOSS DEDUCTION, EXCESS BUSINESS LOSS, INTEREST EXPENSE DEDUCTION); AND~~

~~(7) § 10-205(N) OF THIS TITLE (EXCESS BUSINESS LOSS).~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be applicable to all taxable years beginning after December 31, 2020.~~

SECTION ~~4~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021, and shall be applicable to all taxable years beginning after December 31, 2020.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.