
By: **Senators Neall, Currie, Hogan, Kasemeyer, Middleton, Stoltzfus, and
Van Hollen**

Introduced and read first time: February 2, 2001

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax - Single Sales Factor Apportionment for Manufacturing**
3 **Corporations**

4 FOR the purpose of altering a formula used to apportion certain income to the State
5 for certain corporations that are engaged in manufacturing and carry on a trade
6 or business in and out of the State; requiring certain corporations engaged in
7 manufacturing to certify certain facts as part of their income tax returns;
8 defining a certain term; providing for the application of this Act; and generally
9 relating to an apportionment formula under the Maryland income tax for
10 certain corporations engaged in manufacturing.

11 BY repealing and reenacting, with amendments,
12 Article - Tax - General
13 Section 10-402
14 Annotated Code of Maryland
15 (1997 Replacement Volume and 2000 Supplement)

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

18 **Article - Tax - General**

19 10-402.

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

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

26 (2) if a corporation carries on its trade or business in and out of the
27 State, the corporation shall allocate to the State the part of the corporation's

1 Maryland modified income that is derived from or reasonably attributable to the part
2 of its trade or business carried on in the State, in the manner required in subsection
3 (b), (c), or (d) of this section.

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

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

13 (c) (1) [If] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
14 IF the trade or business is a unitary business, the part of the corporation's Maryland
15 modified income derived from or reasonably attributable to trade or business carried
16 on in the State shall be determined using a 3-factor apportionment fraction:

17 (i) the numerator of which is the sum of the property factor, the
18 payroll factor, and twice the sales factor; and

19 (ii) the denominator of which is 4.

20 (2) (I) IN THIS PARAGRAPH:

21 1. "MANUFACTURING CORPORATION" MEANS A DOMESTIC
22 OR FOREIGN CORPORATION WHICH IS PRIMARILY ENGAGED IN ACTIVITIES THAT, IN
23 ACCORDANCE WITH THE NORTH AMERICAN INDUSTRIAL CLASSIFICATION SYSTEM
24 (NAICS), UNITED STATES MANUAL, UNITED STATES OFFICE OF MANAGEMENT AND
25 BUDGET, 1997 EDITION, WOULD BE INCLUDED IN SECTOR 11, 31, 32, OR 33; AND

26 2. "MANUFACTURING CORPORATION" DOES NOT INCLUDE A
27 REFINER, AS DEFINED IN § 10-101 OF THE BUSINESS REGULATION ARTICLE.

28 (II) IF A MANUFACTURING CORPORATION CARRIES ON ITS TRADE
29 OR BUSINESS IN AND OUT OF THE STATE AND THE TRADE OR BUSINESS IS A UNITARY
30 BUSINESS, THE PART OF THE CORPORATION'S MARYLAND MODIFIED INCOME
31 DERIVED FROM OR REASONABLY ATTRIBUTABLE TO TRADE OR BUSINESS CARRIED
32 ON IN THE STATE SHALL BE DETERMINED USING A SINGLE SALES FACTOR
33 APPORTIONMENT FORMULA, BY MULTIPLYING ITS MARYLAND MODIFIED INCOME BY
34 100% OF THE SALES FACTOR.

35 (III) IN FILING ITS TAX RETURN FOR EACH YEAR, A
36 MANUFACTURING CORPORATION SHALL CERTIFY THAT THE NAICS CODE REPORTED
37 ON ITS MARYLAND RETURN IS CONSISTENT WITH THAT REPORTED TO OTHER
38 GOVERNMENT AGENCIES.

1 [(2)] (3) The property factor under paragraph (1) of this subsection shall
2 include:

3 (i) rented and owned real property; and

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

6 (d) To reflect clearly the income allocable to Maryland, the Comptroller may
7 alter, if circumstances warrant, the methods under subsections (b) and (c) of this
8 section, including:

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

10 (2) the use of the 3-factor double weighted sales factor formula method
11 OR THE SINGLE SALES FACTOR FORMULA METHOD;

12 (3) the weight of any factor in the 3-factor formula;

13 (4) the valuation of rented property included in the property factor; and

14 (5) the determination of the extent to which tangible personal property is
15 located in the State.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 July 1, 2001, and shall be applicable to all taxable years beginning after December 31,
18 2000.