

BY: Committee on Ways and Means

AMENDMENTS TO HOUSE BILL NO. 753

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike line 2 in its entirety and substitute “Taxes and Revenues”; strike beginning with “repealing” in line 3 down through “surcharges;” in line 4; strike beginning with “requiring” in line 20 down through “time;” in line 26 and substitute “requiring that certain instruments of writing include a description of the total payment for the property in the recitals or the acknowledgment of the instrument or in a certain affidavit; providing that certain instruments of writing may not be recorded unless a certain part of the total payment is paid to the clerk of the circuit court or the Department of Assessments and Taxation; requiring the clerks and the Department of Assessments and Taxation to collect the amounts and pay over those amounts to the Comptroller; providing that amounts collected and paid over are deemed paid to the Comptroller on behalf of the transferor;”; and in line 32, after “permit;” insert “altering the circumstances under which a tax collector is required to assess certain interest and penalty for failure to pay certain estimated taxes;”.

On page 2, in lines 6 and 7, strike “or use of certain information contained in” and substitute “to certain persons of certain information”; in line 8, strike “promptly”; in line 11, after “lien;” insert “authorizing a financial institution to assess a certain fee against certain accounts or obligors under certain circumstances; providing that a financial institution may not be held liable for certain actions under certain circumstances; requiring the Comptroller to send a certain notice to certain obligors under certain circumstances; authorizing certain persons to challenge certain actions of the Comptroller in a certain manner under certain circumstances;”; in line 15, after “services;” insert “imposing the insurance premiums tax on health maintenance organizations and managed care organizations; providing that premiums to be taxed include certain amounts paid to a health maintenance organization and a managed care organization; altering certain fees assessed for the filing of certain documents and certain annual reports; imposing certain fees for the filing of certain documents and certain annual reports; repealing certain fees imposed for the indexing of names; providing that a certain part of certain fees imposed shall be credited to a certain fund; authorizing the Comptroller to distribute, apportion, or allocate certain tax attributes between and among two or”.

(Over)

more organizations, trades, or businesses under certain circumstances; requiring that certain interest expenses and certain intangible expenses be added to the federal taxable income of a corporation to determine Maryland modified income under certain circumstances; providing that to the extent allowed under the Constitution of the United States, under certain circumstances certain income of certain corporations that is not apportionable under the Constitution of the United States shall be allocated to the State for income tax purposes; requiring that certain sales of tangible personal property be included in the numerator of the sales factor used for apportioning a corporation's income to the State under certain circumstances; requiring certain corporations under certain circumstances to include with an income tax return or otherwise file with the Comptroller a certain statement regarding certain dealings and transactions with related corporations; imposing recordation and transfer taxes on the transfer of a controlling interest in certain entities owning certain interests in real property in Maryland; requiring the filing of a certain report; providing for a filing fee; establishing the rate of taxation and the method of calculation of tax liability; exempting certain transfers; providing for interest and a penalty for certain filings; requiring the Comptroller to assess interest and penalty under certain circumstances; requiring the Comptroller to conduct a certain study;”; in line 16, after “Comptroller” insert “and the Department of Assessments and Taxation”; and in lines 18 and 19, strike “tax administration and compliance” and substitute “taxes and revenues”.

AMENDMENT NO. 2

On page 2, strike in their entirety lines 20 through 24, inclusive.

On pages 2 and 3, strike in their entirety the lines beginning with line 40 on page 2 through line 4 on page 3, inclusive.

On page 3, strike in their entirety lines 20 through 34, inclusive.

On page 4, in line 1, after “1-205,” insert “10-109, 10-306.1,”; and in line 6, strike “9-315” and substitute “10-402(c), 10-804(e)(3)”.

On pages 4 and 5, strike in their entirety the lines beginning with line 15 on page 4 through line 1 on page 5, inclusive, and substitute:

“BY adding to

Article - Health - General

Section 15-102.7
Annotated Code of Maryland
(2000 Replacement Volume and 2002 Supplement)

BY repealing and reenacting, with amendments,
Article - Health - General
Section 19-727
Annotated Code of Maryland
(2000 Replacement Volume and 2002 Supplement)

BY repealing and reenacting, with amendments,
Article - Insurance
Section 6-101, 6-102(b), 6-103, 6-104(a), and 6-107(a)
Annotated Code of Maryland
(1997 Volume and 2002 Supplement)

BY repealing and reenacting, without amendments,
Article - Tax - General
Section 10-104
Annotated Code of Maryland
(1997 Replacement Volume and 2002 Supplement)

BY repealing and reenacting, with amendments,
Article - Commercial Law
Section 9-525
Annotated Code of Maryland
(2002 Replacement Volume and 2002 Supplement)

BY repealing and reenacting, with amendments,
Article - Corporations and Associations
Section 1-203, 1-406(e), and 8-403
Annotated Code of Maryland
(1999 Replacement Volume and 2002 Supplement)

BY repealing and reenacting, with amendments,

Article - Tax - Property

Section 12-110(d) and 13-209(a)

Annotated Code of Maryland

(2001 Replacement Volume and 2002 Supplement)

BY adding to

Article - Tax - Property

Section 12-116 and 13-103

Annotated Code of Maryland

(2001 Replacement Volume and 2002 Supplement)”.

AMENDMENT NO. 3

On page 5, strike in their entirety lines 4 through 21, inclusive.

On pages 6 and 7, strike in their entirety the lines beginning with line 29 on page 6 through line 28 on page 7, inclusive.

On pages 10 and 11, strike in their entirety the lines beginning with line 29 on page 10 through line 20 on page 11, inclusive.

On pages 11 and 12, strike in their entirety the lines beginning with line 34 on page 11 through line 24 on page 12, inclusive.

On pages 26 through 29, strike in their entirety the lines beginning with line 24 on page 26 through line 33 on page 29, inclusive.

AMENDMENT NO. 4

On page 8, in line 31, strike “INSTITUTION, EXCEPT THE BALANCE OF THE DEPOSIT,” and substitute “INSTITUTION”.

On page 20, strike in their entirety lines 32 through 34, inclusive, and substitute:

“(2) (I) “ACCOUNT” MEANS:

1. ANY FUNDS FROM A DEMAND DEPOSIT ACCOUNT, CHECKING ACCOUNT, NEGOTIABLE ORDER OF WITHDRAWAL ACCOUNT, SAVINGS ACCOUNT, TIME DEPOSIT ACCOUNT, MONEY MARKET MUTUAL FUND ACCOUNT, OR CERTIFICATE OF DEPOSIT ACCOUNT;

2. ANY FUNDS PAID TOWARDS THE PURCHASE OF SHARES OR OTHER INTEREST IN A FINANCIAL INSTITUTION, AS DEFINED IN PARAGRAPH (4)(II) AND (III) OF THIS SUBSECTION; AND

3. ANY FUNDS OR PROPERTY HELD BY A FINANCIAL INSTITUTION, AS DEFINED IN PARAGRAPH (4)(IV) OF THIS SUBSECTION.

(II) "ACCOUNT" DOES NOT INCLUDE:

1. AN ACCOUNT OR PORTION OF AN ACCOUNT TO WHICH AN OBLIGOR DOES NOT HAVE ACCESS DUE TO THE PLEDGE OF THE FUNDS AS SECURITY FOR A LOAN OR OTHER OBLIGATION;

2. FUNDS OR PROPERTY DEPOSITED TO AN ACCOUNT AFTER THE TIME THAT THE FINANCIAL INSTITUTION INITIALLY ATTACHES THE ACCOUNT;

3. AN ACCOUNT OR PORTION OF AN ACCOUNT TO WHICH THE FINANCIAL INSTITUTION HAS A PRESENT RIGHT TO EXERCISE A RIGHT OF SETOFF;

4. AN ACCOUNT OR PORTION OF AN ACCOUNT THAT HAS AN ACCOUNT HOLDER OF INTEREST NAMED AS AN OWNER ON THE ACCOUNT;
OR

5. AN ACCOUNT OR PORTION OF AN ACCOUNT TO WHICH THE OBLIGOR DOES NOT HAVE AN UNCONDITIONAL RIGHT OF ACCESS.

(3) “ACCOUNT HOLDER OF INTEREST” MEANS ANY PERSON, OTHER THAN THE OBLIGOR, WHO ASSERTS AN OWNERSHIP INTEREST IN AN ACCOUNT.

(4) “FINANCIAL INSTITUTION” MEANS:

(I) A DEPOSITORY INSTITUTION, AS DEFINED IN THE FEDERAL DEPOSIT INSURANCE ACT AT 12 U.S.C. § 1813(C);

(II) A FEDERAL CREDIT UNION OR STATE CREDIT UNION, AS DEFINED IN THE FEDERAL CREDIT UNION ACT AT 12 U.S.C. § 1752;

(III) A STATE CREDIT UNION REGULATED UNDER TITLE 6 OF THE FINANCIAL INSTITUTIONS ARTICLE; OR

(IV) A BENEFIT ASSOCIATION, INSURANCE COMPANY, SAFE DEPOSIT COMPANY, MONEY-MARKET MUTUAL FUND, OR SIMILAR ENTITY DOING BUSINESS IN THE STATE THAT HOLDS PROPERTY OR MAINTAINS ACCOUNTS REFLECTING PROPERTY BELONGING TO OTHERS.”;

and in line 35, strike “(3)” and substitute “(5)”.

AMENDMENT NO. 5

On page 14, after line 31, insert:

“(3) “RESIDENT CORPORATION” MEANS A CORPORATION THAT:

(I) IS INCORPORATED IN THE STATE; OR

(II) IS INCORPORATED IN ANOTHER STATE AND IS QUALIFIED BY THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION TO DO BUSINESS IN THE STATE.”;

and in line 32, strike “(3)” and substitute “(4)”; after line 35, insert:

“(B) IN EVERY DEED OR OTHER INSTRUMENT OF WRITING WHICH EFFECTS A

CHANGE OF OWNERSHIP ON THE ASSESSMENT BOOKS UNDER THE TAX - PROPERTY ARTICLE, THE TOTAL PAYMENT SHALL BE DESCRIBED IN:

(1) THE RECITALS OR THE ACKNOWLEDGMENT OF THE DEED OR OTHER INSTRUMENT; OR

(2) AN AFFIDAVIT UNDER OATH THAT ACCOMPANIES THE DEED OR OTHER INSTRUMENT AND THAT IS SIGNED BY THE TRANSFEROR OF THE PROPERTY OR BY AN AGENT OF THE TRANSFEROR.”.

On page 15, strike in their entirety lines 1 through 14, inclusive, and substitute:

“(C) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IN A SALE OR EXCHANGE OF REAL PROPERTY AND ASSOCIATED TANGIBLE PERSONAL PROPERTY OWNED BY A NONRESIDENT OR NONRESIDENT CORPORATION, THE DEED OR OTHER INSTRUMENT OF WRITING WHICH EFFECTS A CHANGE OF OWNERSHIP ON THE ASSESSMENT BOOKS UNDER THE TAX - PROPERTY ARTICLE MAY NOT BE RECORDED WITH THE CLERK OF THE CIRCUIT COURT FOR A COUNTY OR FILED WITH THE DEPARTMENT OF ASSESSMENTS AND TAXATION UNLESS AN AMOUNT EQUAL TO 3% OF THE TOTAL PAYMENT IS PAID TO THE CLERK OF THE CIRCUIT COURT FOR A COUNTY OR THE DEPARTMENT OF ASSESSMENTS AND TAXATION.

(D) SUBSECTION (C) OF THIS SECTION DOES NOT APPLY WHEN:

(1) A CERTIFICATION UNDER PENALTIES OF PERJURY SATISFACTORY IN FORM AND SUBSTANCE TO THE CLERK THAT THE TRANSFEROR IS A RESIDENT OF THE STATE OR IS A RESIDENT CORPORATION IS PROVIDED BY EACH TRANSFEROR IN:

(I) THE RECITALS OR THE ACKNOWLEDGMENT OF THE DEED OR OTHER INSTRUMENT OF WRITING TRANSFERRING THE PROPERTY TO THE TRANSFEREE; OR

(II) AN AFFIDAVIT SIGNED BY THE TRANSFEROR OR BY AN

(Over)

AGENT OF THE TRANSFEROR THAT ACCOMPANIES AND IS RECORDED WITH THE DEED OR OTHER INSTRUMENT OF WRITING TRANSFERRING THE PROPERTY; OR

(2) THE TRANSFEROR PRESENTS TO THE CLERK OF THE CIRCUIT COURT FOR A COUNTY OR THE DEPARTMENT OF ASSESSMENTS AND TAXATION A CERTIFICATE ISSUED BY THE COMPTROLLER STATING THAT:

(I) NO TAX IS DUE FROM THAT TRANSFEROR IN CONNECTION WITH THAT SALE OR EXCHANGE OF PROPERTY;

(II) A REDUCED AMOUNT OF TAX IS DUE FROM THAT TRANSFEROR IN CONNECTION WITH THAT SALE OR EXCHANGE OF PROPERTY AND STATING THE REDUCED AMOUNT THAT SHOULD BE COLLECTED BY THE CLERK OF THE CIRCUIT COURT FOR A COUNTY OR THE DEPARTMENT OF ASSESSMENTS AND TAXATION BEFORE RECORDATION OR FILING; OR

(III) THE TRANSFEROR HAS SATISFIED THE TRANSFEROR'S TAX LIABILITY DESCRIBED IN SUBSECTION (C) OF THIS SECTION OR HAS PROVIDED ADEQUATE SECURITY TO COVER SUCH LIABILITY; OR

(3) THE PROPERTY IS TRANSFERRED PURSUANT TO FORECLOSURE OF A MORTGAGE OR DEED OF TRUST OR PURSUANT TO A DEED IN LIEU OF FORECLOSURE.

(E) (1) EXCEPT AS PROVIDED IN THIS SECTION, THE AMOUNTS DESCRIBED IN SUBSECTION (C) OF THIS SECTION SHALL BE COLLECTED BY THE CLERK OF THE CIRCUIT COURT FOR A COUNTY OR THE DEPARTMENT OF ASSESSMENTS AND TAXATION WHEN THE DEED OR OTHER INSTRUMENT OF WRITING IS PRESENTED FOR RECORDATION OR FILING.

(2) WITHIN 3 BUSINESS DAYS AFTER THE DATE THE AMOUNT PAYABLE UNDER SUBSECTION (C) OF THIS SECTION IS PAID, THE CLERK OF THE CIRCUIT COURT FOR THE COUNTY OR THE DEPARTMENT OF ASSESSMENTS AND TAXATION SHALL PAY OVER TO THE COMPTROLLER THE AMOUNT COLLECTED UNDER SUBSECTION (C) OF THIS SECTION AS PRESCRIBED BY THE COMPTROLLER.”;

in line 15, strike “(E)” and substitute “(F)”; in the same line, strike “DEDUCTED AND WITHHELD” and substitute “COLLECTED”; in the same line, strike “(B)” and substitute “(C)”; in line 16, strike the first “SUBSECTION” and substitute “SECTION”; in line 22, strike “(F)” and substitute “(G)”; in the same line, after “THE” insert “TRANSFeree,”; in line 24, strike “DEDUCTED, WITHHELD,” and substitute “COLLECTED”; and strike in their entirety lines 26 through 29, inclusive.

AMENDMENT NO. 6

On page 21, in line 33, after “NUMBER” insert “AND BALANCE”.

On page 22, strike beginning with “(1)” in line 16 down through “(3)” in line 30.

On page 24, strike beginning with “§ 10-108.2” in line 14 down through “ARTICLE” in line 15 and substitute “§ 13-804 OF THIS SUBTITLE”; in line 18, strike “PROMPTLY SHALL GIVE” and substitute “MAY SEND”; in line 23, strike “CERTIFIED MAIL, RETURN RECEIPT REQUESTED” and substitute “FIRST-CLASS MAIL”; in line 24, strike “SERVICE;” and substitute “SERVICE, AT THE ADDRESS DESIGNATED FOR THIS PURPOSE BY THE FINANCIAL INSTITUTION OR, IF NO ADDRESS HAS BEEN DESIGNATED, TO THE PRINCIPAL OFFICE OF THE FINANCIAL INSTITUTION;”; in line 25, after “FORMAT” insert “AGREED UPON BY THE COMPTROLLER AND THE FINANCIAL INSTITUTION”; strike beginning with “DETERMINED” in line 26 down through “COMPTROLLER” in line 27 and substitute “AGREED UPON BY THE COMPTROLLER AND THE FINANCIAL INSTITUTION”; in line 33, after “NUMBER” insert “OR FEDERAL EMPLOYER IDENTIFICATION NUMBER”; in line 34, strike “ALL” and substitute “FROM ONE OR MORE”; and in line 35, after “OBLIGOR” insert “AN AGGREGATE AMOUNT EQUAL TO THE LESSER OF THE AMOUNTS IN ALL ACCOUNTS OR THE AMOUNT OF THE TAX LIEN”.

On page 25, strike in their entirety lines 9 through 16, inclusive, and substitute:

“(2) WITHIN 30 DAYS AFTER THE FINANCIAL INSTITUTION RECEIVES THE NOTICE DIRECTING IT TO SEIZE AND ATTACH ACCOUNTS OF THE OBLIGOR, THE FINANCIAL INSTITUTION SHALL SEND NOTICE TO THE COMPTROLLER, IN THE

(Over)

MANNER SPECIFIED IN SUBSECTION (B) OF THIS SECTION, SPECIFYING THE AGGREGATE AMOUNT HELD UNDER THIS SUBSECTION.

(3) (I) THE FINANCIAL INSTITUTION MAY ASSESS A FEE AGAINST THE ACCOUNTS OR THE OBLIGOR, IN ADDITION TO THE AMOUNT IDENTIFIED IN THE NOTICE UNDER SUBSECTION (B) OF THIS SECTION.

(II) IN THE CASE OF INSUFFICIENT FUNDS TO COVER BOTH THE FEE AND THE AMOUNT IDENTIFIED IN THE NOTICE UNDER SUBSECTION (B) OF THIS SECTION, THE FINANCIAL INSTITUTION MAY FIRST DEDUCT AND RETAIN THE FEE FROM THE AMOUNT SEIZED AND ATTACHED AS PROVIDED IN THIS SECTION.

(4) THE FINANCIAL INSTITUTION MAY NOT BE HELD LIABLE TO ANY PERSON, INCLUDING THE COMPTROLLER, THE OBLIGOR, OR ANY ACCOUNT HOLDER OF INTEREST, FOR WRONGFUL DISHONOR OR FOR ANY OTHER CLAIM RELATING TO THE SEIZURE AND ATTACHMENT OF AN ACCOUNT OR OTHER ACTIONS TAKEN IN COMPLIANCE WITH THIS SECTION.

(D) (1) WITHIN 10 BUSINESS DAYS AFTER THE COMPTROLLER HAS RECEIVED NOTICE FROM THE FINANCIAL INSTITUTION UNDER SUBSECTION (C)(2) OF THIS SECTION, THE COMPTROLLER SHALL SEND A NOTICE TO THE OBLIGOR, BY REGULAR MAIL, TO THE OBLIGOR'S LAST KNOWN ADDRESS.

(2) THE NOTICE SHALL CONTAIN THE FOLLOWING INFORMATION, TO THE EXTENT KNOWN BY THE COMPTROLLER:

(I) THE ADDRESS OF THE COMPTROLLER;

(II) THE TELEPHONE NUMBER, ADDRESS, AND NAME OF A CONTACT PERSON AT THE COMPTROLLER;

(III) THE NAME AND SOCIAL SECURITY NUMBER, FEDERAL EMPLOYER IDENTIFICATION NUMBER, OR OTHER TAXPAYER IDENTIFICATION NUMBER OF THE OBLIGOR;

(IV) THE ADDRESS OF THE OBLIGOR;

(V) FOR EACH ACCOUNT OF THE OBLIGOR, THE NAME OF THE FINANCIAL INSTITUTION THAT HAS SEIZED AND ATTACHED AMOUNTS AS REQUIRED BY THIS SECTION;

(VI) THE TOTAL AMOUNT OF THE TAX LIEN OWED BY THE OBLIGOR;

(VII) THE DATE THE NOTICE IS BEING SENT;

(VIII) A STATEMENT INFORMING THE OBLIGOR THAT THE COMPTROLLER HAS DIRECTED THE FINANCIAL INSTITUTION TO SEIZE AND ATTACH THE AMOUNT OF THE TAX LIEN OWED BY THE OBLIGOR FROM ONE OR MORE OF THE ACCOUNTS OF THE OBLIGOR AND, UPON SUBSEQUENT NOTICE BY THE COMPTROLLER, TO FORWARD THE AMOUNT TO THE COMPTROLLER; AND

(IX) A STATEMENT INFORMING THE OBLIGOR THAT, UNLESS A TIMELY CHALLENGE IS MADE BY THE OBLIGOR OR AN ACCOUNT HOLDER OF INTEREST UNDER SUBSECTION (G) OF THIS SECTION, THE COMPTROLLER SHALL NOTIFY THE FINANCIAL INSTITUTION TO FORWARD THE AMOUNT SEIZED AND ATTACHED BY THE FINANCIAL INSTITUTION TO THE COMPTROLLER.

(3) THE COMPTROLLER SHALL NOT BE OBLIGATED TO SEND THE NOTICE DESCRIBED IN PARAGRAPHS (1) AND (2) OF THIS SUBSECTION IF, PRIOR TO THE TIME THAT THE NOTICE MUST BE SENT, THE COMPTROLLER AND THE OBLIGOR AGREE TO AN ARRANGEMENT UNDER WHICH THE OBLIGOR WILL PAY AMOUNTS OWED UNDER THE TAX LIEN.

(E) (1) IF A TIMELY CHALLENGE IS NOT MADE BY THE OBLIGOR OR AN ACCOUNT HOLDER OF INTEREST UNDER SUBSECTION (G) OF THIS SECTION, THE COMPTROLLER SHALL SEND A NOTICE TO THE FINANCIAL INSTITUTION, IN THE MANNER SPECIFIED IN SUBSECTION (B) OF THIS SECTION, DIRECTING THE INSTITUTION TO:

(Over)

(I) FORWARD THE AMOUNT SEIZED AND ATTACHED BY THE FINANCIAL INSTITUTION TO THE COMPTROLLER;

(II) REDUCE THE AMOUNT SEIZED AND ATTACHED BY THE FINANCIAL INSTITUTION TO A REVISED AMOUNT AS STATED, FORWARD THE REVISED AMOUNT TO THE COMPTROLLER, AND RELEASE THE EXCESS AMOUNT; OR

(III) RELEASE THE AMOUNT SEIZED AND ATTACHED BY THE FINANCIAL INSTITUTION.

(2) THE COMPTROLLER MAY SEND THE NOTICE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION BEFORE THE TIME FOR FILING A TIMELY CHALLENGE UNDER SUBSECTION (G) OF THIS SECTION UPON AGREEMENT AMONG THE COMPTROLLER, THE OBLIGOR, AND, IF THE COMPTROLLER IS AWARE OF AN ACCOUNT HOLDER OF INTEREST, THE ACCOUNT HOLDER OF INTEREST.

(F) THE COMPTROLLER SHALL APPLY THE AMOUNT SEIZED AND FORWARDED BY THE FINANCIAL INSTITUTION TO THE OBLIGOR'S TAX LIEN OBLIGATION.

(G) (1) AN OBLIGOR OR AN ACCOUNT HOLDER OF INTEREST MAY CHALLENGE THE ACTIONS OF THE COMPTROLLER UNDER THIS SECTION BY FILING A MOTION WITH THE CIRCUIT COURT WITHIN 10 DAYS OF THE DATE OF THE NOTICE SENT UNDER PARAGRAPH (D)(1) OF THIS SECTION.

(2) AN OBLIGOR OR AN ACCOUNT HOLDER OF INTEREST MAY CHALLENGE THE ACTIONS OF THE COMPTROLLER BASED ON:

(I) A MISTAKE IN THE IDENTITY OF THE OBLIGOR;

(II) A MISTAKE IN THE OWNERSHIP OF THE ACCOUNT;

(III) A MISTAKE IN THE CONTENTS OF THE ACCOUNT;

(IV) INVALIDITY OF THE COMPTROLLER'S ACTIONS UNDER

§ 11-603 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE;

(V) A MISTAKE IN THE AMOUNT OF THE LIEN OBLIGATION
DUE; OR

(VI) ANY OTHER GOOD CAUSE.

(3) AN OBLIGOR OR AN ACCOUNT HOLDER OF INTEREST MAY NOT
CHALLENGE THE ACTIONS OF THE COMPTROLLER BASED ON A MISTAKE OR ERROR
IN THE ORIGINAL TAX ASSESSMENT UNDERLYING THE TAX LIEN AGAINST THE
OBLIGOR.

(H) (1) THE COMPTROLLER MAY WITHDRAW THE NOTICE TO SEIZE AND
ATTACH ACCOUNTS BY SENDING NOTICE TO THE FINANCIAL INSTITUTION, IN THE
MANNER SPECIFIED IN SUBSECTION (B) OF THIS SECTION, DIRECTING THE
FINANCIAL INSTITUTION TO RELEASE THE ATTACHMENT ON THE ACCOUNTS.

(2) IF A DETERMINATION IS MADE BY THE COMPTROLLER OR BY THE
CIRCUIT COURT THAT THE ACCOUNT OR ACCOUNTS OF THE OBLIGOR SHOULD NOT
HAVE BEEN HELD, THE COMPTROLLER SHALL NOTIFY THE FINANCIAL INSTITUTION,
IN THE MANNER SPECIFIED IN SUBSECTION (B) OF THIS SECTION, TO RELEASE THE
AMOUNT SEIZED AND ATTACHED BY THE FINANCIAL INSTITUTION.

(3) IF A DETERMINATION IS MADE BY THE COMPTROLLER OR BY THE
CIRCUIT COURT, PURSUANT TO A CHALLENGE UNDER SUBSECTION (G) OF THIS
SECTION, TO REDUCE THE AMOUNT SEIZED AND ATTACHED BY THE FINANCIAL
INSTITUTION, THE COMPTROLLER SHALL NOTIFY THE FINANCIAL INSTITUTION, IN
THE MANNER SPECIFIED IN SUBSECTION (B) OF THIS SECTION, TO REVISE THE
AMOUNT AS STATED, FORWARD THE REVISED AMOUNT TO THE COMPTROLLER,
AND RELEASE THE EXCESS AMOUNT SEIZED AND ATTACHED BY THE FINANCIAL
INSTITUTION.

(4) IF A CHALLENGE MADE UNDER SUBSECTION (G) OF THIS SECTION

(Over)

IS DENIED BY THE CIRCUIT COURT, THE COMPTROLLER SHALL NOTIFY THE FINANCIAL INSTITUTION, IN THE MANNER SPECIFIED IN SUBSECTION (B) OF THIS SECTION, TO FORWARD THE AMOUNT SEIZED AND ATTACHED BY THE FINANCIAL INSTITUTION TO THE COMPTROLLER.”;

in line 17, strike “(D)” and substitute “(I)”; and after line 26, insert:

“(J) A FINANCIAL INSTITUTION HAS NO OBLIGATION TO REIMBURSE FEES ASSESSED AS A RESULT OF THE COMPTROLLER INSTITUTING AN ACTION UNDER THIS SECTION OR AS OTHERWISE PERMITTED BY LAW OR AUTHORIZED BY CONTRACT.”.

On pages 25 and 26, strike in their entirety the lines beginning with line 27 on page 25 through line 2 on page 26, inclusive.

On page 26, in line 3, strike “(F)” and substitute “(K)”.

AMENDMENT NO. 7

On page 29, after line 33, insert:

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

Article - Health - General

15-102.7.

THE PREMIUM TAX IMPOSED UNDER TITLE 6, SUBTITLE 8 OF THE INSURANCE ARTICLE APPLIES TO MANAGED CARE ORGANIZATIONS IN THE SAME MANNER AS IT APPLIES TO HEALTH MAINTENANCE ORGANIZATIONS.

19-727.

[(a) Except as provided in subsection (b) of this section, a] A health maintenance organization is not exempted from any State, county, or local taxes solely because of this subtitle.

[(b) (1) Each health maintenance organization that is authorized to operate under this subtitle is exempted from paying the premium tax imposed under Title 6, Subtitle 1 of the Insurance Article.

(2) Premiums received by an insurer under policies that provide health maintenance organization benefits are not subject to the premium tax imposed under Title 6, Subtitle 1 of the Insurance Article to the extent:

(i) Of the amounts actually paid by the insurer to a nonprofit health maintenance organization that operates only as a health maintenance organization; or

(ii) The premiums have been paid by that nonprofit health maintenance organization.]

Article - Insurance

6-101.

(a) The following persons are subject to taxation under this subtitle:

(1) a person engaged as principal in the business of writing insurance contracts, surety contracts, guaranty contracts, or annuity contracts;

(2) A HEALTH MAINTENANCE ORGANIZATION AUTHORIZED BY TITLE 19, SUBTITLE 7 OF THE HEALTH - GENERAL ARTICLE;

(3) A MANAGED CARE ORGANIZATION AUTHORIZED BY TITLE 15, SUBTITLE 1 OF THE HEALTH - GENERAL ARTICLE;

[(2)] (4) an attorney in fact for a reciprocal insurer;

[(3)] (5) the Maryland Automobile Insurance Fund; and

(Over)

~~[(4)]~~ ~~(6)~~ a credit indemnity company.

(b) The following persons are not subject to taxation under this subtitle:

(1) a nonprofit health service plan corporation that meets the requirements established under §§ 14-106 and 14-107 of this article;

(2) a fraternal benefit society;

(3) [a health maintenance organization authorized by Title 19, Subtitle 7 of the Health - General Article;

(4)] a surplus lines broker, who is subject to taxation in accordance with Title 3, Subtitle 3 of this article;

[(5)] (4) an unauthorized insurer, who is subject to taxation in accordance with Title 4, Subtitle 2 of this article; [or] AND

[(6)] (5) the Short-Term Prescription Drug Subsidy Plan created under Title 15, Subtitle 6 of the Health - General Article.

6-102.

(b) Premiums to be taxed include:

(1) the consideration for a surety contract, guaranty contract, or annuity contract;

(2) SUBSCRIPTION CHARGES OR OTHER AMOUNTS PAID TO A HEALTH MAINTENANCE ORGANIZATION ON A PREDETERMINED PERIODIC RATE BASIS BY A PERSON OTHER THAN A PERSON SUBJECT TO THE TAX UNDER THIS SUBTITLE AS COMPENSATION FOR PROVIDING HEALTH CARE SERVICES TO MEMBERS;

(3) GROSS RECEIPTS RECEIVED AS A RESULT OF CAPITATION

PAYMENTS, INCLUDING SUPPLEMENTAL OR BONUS PAYMENTS, MADE TO A MANAGED CARE ORGANIZATION FOR PROVIDER SERVICES TO AN INDIVIDUAL WHO IS ENROLLED IN A MANAGED CARE ORGANIZATION;

[(2)] (4) dividends on life insurance policies that have been applied to buy additional insurance or to shorten the period during which a premium is payable; and

[(3)] (5) the part of the gross receipts of a title insurer that is derived from insurance business or guaranty business.

6-103.

The tax rate is:

(1) 0% for premiums for annuities; and

(2) 2% for all other premiums; INCLUDING:

(I) SUBSCRIPTION CHARGES OR OTHER AMOUNTS PAID TO A HEALTH MAINTENANCE ORGANIZATION; AND

(II) GROSS RECEIPTS RECEIVED AS A RESULT OF CAPITATION PAYMENTS, INCLUDING SUPPLEMENTAL OR BONUS PAYMENTS, MADE TO A MANAGED CARE ORGANIZATION.

6-104.

(a) Subject to subsection (b) of this section, in computing the tax under this section, the following deductions from gross direct premiums allocable to the State are allowed:

(1) returned premiums, not including surrender values;

(2) dividends that are:

(Over)

- (i) paid or credited to policyholders; or
- (ii) applied to buy additional insurance or to shorten the period during which premiums are payable; AND
- (3) returns or refunds made or credited to policyholders because of retrospective ratings or safe driver rewards[; and
- (4) premiums received by a person subject to taxation under this subtitle under policies providing health maintenance organization benefits to the extent:
 - (i) of the amounts actually paid by the person to a nonprofit health maintenance organization authorized by Title 19, Subtitle 7 of the Health - General Article that operates only as a health maintenance organization that is exempt from taxes under § 19-727(b) of the Health - General Article; or
 - (ii) that the premiums have been paid by a health maintenance organization that is exempt from taxes under § 19-727(b) of the Health - General Article].

6-107.

- (a) On or before March 15 of each year, each person subject to taxation under this subtitle shall:
 - (1) file with the Commissioner:
 - (i) a report of the new and renewal gross direct premiums less returned premiums written by the person during the preceding calendar year; [and]
 - (II) A REPORT OF THE GROSS RECEIPTS RECEIVED AS A RESULT OF CAPITATION PAYMENTS, INCLUDING SUPPLEMENTAL OR BONUS PAYMENTS, MADE TO A MANAGED CARE ORGANIZATION DURING THE PRECEDING CALENDAR YEAR; AND
 - [(ii)] (III) if the person issues perpetual policies of fire insurance, a report

of the average amount of deposits held by the person during the preceding calendar year in connection with perpetual policies of fire insurance issued on property in the State and in force during any part of that year; and

(2) pay to the Commissioner the total amount of taxes imposed by this subtitle, as shown on the face of the report, after crediting the amount of taxes paid with the declaration of estimated tax and each quarterly report filed under § 6-106 of this subtitle.

Article - Tax - General

10-104.

The income tax does not apply to the income of:

- Article;
- (1) a common trust fund, as defined in § 3-501(b) of the Financial Institutions
 - (2) except as provided in §§ 10-101(c-1)(3) and 10-304(2) of this title, an organization that is exempt from taxation under § 408(e)(1) or § 501 of the Internal Revenue Code;
 - (3) a financial institution that is subject to the financial institution franchise tax;
 - (4) a person subject to taxation under Title 6 of the Insurance Article;
 - (5) except as provided in § 10-102.1 of this subtitle, a partnership, as defined in § 761 of the Internal Revenue Code;
 - (6) except as provided in § 10-102.1 of this subtitle and § 10-304(3) of this title, an S corporation;
 - (7) except as provided in § 10-304(4) of this title, an investment conduit or a special exempt entity; or
 - (8) except as provided in § 10-102.1 of this subtitle, a limited liability company as

(Over)

defined under Title 4A of the Corporations and Associations Article to the extent that the company is taxable as a partnership, as defined in § 761 of the Internal Revenue Code.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Commercial Law

9-525.

(a) Except as otherwise provided in subsection (c), the fee for filing and indexing a record under this part, other than an initial financing statement of the kind described in § 9-502(c), is:

(1) [\$20] \$25 if the record is communicated in writing and consists of eight or fewer pages;

(2) \$75 if the record is communicated in writing and consists of more than eight pages; and

(3) [\$20] \$25 if the record is communicated by another medium authorized by filing-office rule.

(b) The number of names required to be indexed does not affect the amount of the fee in subsection (a).

(c) This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under § 9-502(c). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

Article - Corporations and Associations

1-203.

(A) In addition to any organization and capitalization fee required under § 1-204 of this article, the Department shall collect the following fees:

(B) (1) For each of the following documents, the recording fee is [\$20 and the filing or special fee is as indicated] \$100:

<u>Document</u>	<u>[Filing or Special Fee]</u>
<u>Articles of incorporation</u>	<u>[none]</u>
<u>Articles of amendment</u>	<u>[none]</u>
<u>Articles of extension</u>	<u>[none]</u>
<u>Articles of restatement of charter</u>	<u>[none]</u>
<u>Articles of amendment and restatement</u>	<u>[none]</u>
<u>Articles supplementary</u>	<u>[none]</u>
<u>Articles of share exchange</u>	<u>[none]</u>
<u>Articles of consolidation, merger, or transfer</u>	<u>[\$4 for each certificate]</u>
<u>Articles of dissolution</u>	<u>[\$30</u> <u>(which includes the cost of</u> <u>publication of the notice by</u> <u>the Department)]</u>
<u>Articles of revival for stock corporation</u>	<u>[\$30]</u>
<u>Articles of revival for nonstock corporation</u>	<u>[\$10]</u>

(2) For each of the following documents, the recording fee is [\$10] \$25:

- (i) Notice of change of address of principal office;
- (ii) Notice of change of name or address of resident agent;
- (iii) Certificate of correction; and
- (iv) Any other documents.

(3) For each of the following documents which are filed but not recorded, the filing fee is as indicated:

(Over)

<u>Reservation of a corporate, limited partnership, limited liability partnership or limited liability company name</u>	<u>[\$7] \$25</u>
<u>Original registration of name of a foreign corporation to end of calendar year</u>	<u>[\$50] \$100</u>
<u>Renewal of registration of name of a foreign corporation for one calendar year</u>	<u>[\$50] \$100</u>
<u>Documents in connection with the qualification of a foreign corporation to do intrastate business in this State</u>	<u>[\$50] \$100</u>
<u>Application for registration of a foreign limited partnership, a foreign limited liability partnership, or a foreign limited liability company</u>	<u>[\$50] \$100</u>
<u>[Annual report of a Maryland corporation, except a charitable or benevolent institution, nonstock corporation, savings and loan corporation, credit union, and banking institution</u>	<u>\$100</u>
<u>Annual report of a foreign corporation subject to the jurisdiction of this State, except an insurance company which pays an annual filing fee of \$25 to the Insurance Commissioner, national banking association, savings and loan association, credit union, nonstock corporation, and charitable and benevolent institution</u>	<u>\$100</u>
<u>Annual report of a Maryland savings and loan association, banking institution, or credit union or of a foreign savings and loan association, national banking association, or credit union that is subject to the jurisdiction of this State</u>	<u>\$100]</u>
<u>Annual report of a real estate investment trust doing business in this State</u>	<u>[\$25] \$10,000</u>
<u>Other documents</u>	<u>\$6</u>

(4) For each of the following documents recorded or filed the fee is [\$50] \$100:

(i) Certificate of limited partnership, certificate of limited liability partnership, articles of organization of a limited liability company, certificate of trust of a business trust, including certificates of amendment and certificates of cancellation, certificates of reinstatement, and articles of reinstatement; and

(ii) Any statement filed by a partnership under Title 9 of this article.

(5) For issuing each of the following certificates, the fee is as indicated:

<u>Type of Instrument</u>	<u>Special Fee</u>
<u>Certificate of status of a corporation, partnership, limited partnership, limited liability partnership, or limited liability company of this State or of a foreign corporation, foreign partnership, foreign</u>	

<u>limited partnership, foreign limited liability partnership, or foreign limited liability company</u>	<u>[\$6]</u>
<u>\$20</u>	
<u>Certified list of the charter papers of a corporation of this State or any certificates of a limited partnership, limited liability partnership, or a limited liability company of this State recorded or filed with the Department</u>	<u>[\$6] \$20</u>
<u>Certificate of compliance by a foreign corporation, foreign limited partnership, foreign limited liability partnership, or foreign limited liability company with requirements of law in respect of qualification or registration</u>	<u>[\$6] \$20</u>
<u>Certificate of withdrawal of registration or qualification</u>	<u>[\$6] \$20</u>
<u>Certificate of any paper recorded or filed in the Department's office</u>	<u>[\$6] \$20</u>

(6) For a duplicate of a certificate mentioned in subsection (5) of this section which is issued at the same time as the original, the fee is \$1, and for a copy of any other paper recorded or filed with the Department, the fee is \$1 per page.

(7) (i) For acceptance of service of process or notice on the Department, the Department shall charge a fee of [\$15] \$50.

(ii) Each county and Baltimore City is exempt from the fee under paragraph (7)(i) of this section.

(8) For processing each of the following documents on an expedited basis, the additional fee is as indicated:

<u>Recording any document, including financing statements</u>	<u>\$50</u>
<u>Certificate of status of a corporation, partnership, limited partnership, limited liability partnership, or limited liability company, or a name reservation</u>	<u>[\$9] \$20</u>
<u>A copy of any document recorded or filed with the Department, or a corporate abstract</u>	<u>\$20</u>

(9) (I) THE FOLLOWING BUSINESS ENTITIES FORMED IN, QUALIFIED, OR REGISTERED TO DO BUSINESS IN THIS STATE SHALL FILE AN ANNUAL REPORT WITH THE DEPARTMENT AND, EXCEPT FOR A NONSTOCK CORPORATION, PAY THE FEE REQUIRED BY THIS SUBSECTION:

1. A BANK, INCLUDING A NATIONAL BANK;
2. A BUSINESS TRUST;
3. A CORPORATION;
4. A CREDIT UNION;
5. AN INSURANCE COMPANY;
6. A LIMITED LIABILITY COMPANY OR LIMITED LIABILITY PARTNERSHIP;
7. A LIMITED PARTNERSHIP OR LIMITED LIABILITY LIMITED PARTNERSHIP;
8. A PROFESSIONAL CORPORATION; AND
9. A SAVINGS AND LOAN ASSOCIATION.

(II) THE FEE PAID WITH THE ANNUAL REPORT IS BASED ON THE NUMBER OF EMPLOYEES OF THE ENTITY AS OF DECEMBER 31ST OF THE YEAR PRECEDING THE ANNUAL REPORT:

<u>EMPLOYEES</u>	<u>FEE</u>
<u>0-20</u>	<u>\$400</u>
<u>21-49</u>	<u>\$750</u>
<u>50-99</u>	<u>\$2,000</u>
<u>100-499</u>	<u>\$10,000</u>
<u>500 AND OVER</u>	<u>\$20,000</u>

(III) FROM EACH FEE PAID WITH AN ANNUAL REPORT UNDER THIS PARAGRAPH, \$2 SHALL BE CREDITED TO THE FUND ESTABLISHED UNDER § 1-203.3 OF THIS SUBTITLE FOR THE PURPOSE OF REVIEWING, PROCESSING, AND AUDITING ANNUAL REPORTS.

1-406.

(e) The Department of Assessments and Taxation shall charge and receive a fee of:

(1) [~~\$10~~] \$25 for recording the certificates under this section; AND

(2) [~~\$1~~] for each name to be indexed; and

(3) [~~\$12~~] \$25 for each amendment, cancellation, or renewal of a certificate.

8-403.

(a) [(1) Except for annual report filing fees, a] A real estate investment trust shall pay the fees required under §§ 1-203 and 1-204 of this article.

[(2)] (B) To compute fees under this section, a real estate investment trust shall treat certificates of beneficial interest as if they were shares of stock in a corporation.

[(b) A real estate investment trust shall pay an annual report filing fee of \$25.]

SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Tax - General

10-109.

(Over)

(A) THE COMPTROLLER MAY DISTRIBUTE, APPORTION, OR ALLOCATE GROSS INCOME, DEDUCTIONS, CREDITS, OR ALLOWANCES BETWEEN AND AMONG TWO OR MORE ORGANIZATIONS, TRADES, OR BUSINESSES, WHETHER OR NOT INCORPORATED, WHETHER OR NOT ORGANIZED IN THE UNITED STATES, AND WHETHER OR NOT AFFILIATED, IF:

(1) THE ORGANIZATIONS, TRADES, OR BUSINESSES ARE OWNED OR CONTROLLED DIRECTLY OR INDIRECTLY BY THE SAME INTERESTS; AND

(2) THE COMPTROLLER DETERMINES THAT THE DISTRIBUTION, APPORTIONMENT, OR ALLOCATION IS NECESSARY IN ORDER TO REFLECT AN ARM'S LENGTH STANDARD, WITHIN THE MEANING OF § 1.482-1 OF THE REGULATIONS OF THE INTERNAL REVENUE SERVICE OF THE U.S. TREASURY AND TO CLEARLY REFLECT THE INCOME OF THOSE ORGANIZATIONS, TRADES, OR BUSINESSES.

(B) THE COMPTROLLER SHALL APPLY THE ADMINISTRATIVE AND JUDICIAL INTERPRETATIONS OF § 482 OF THE INTERNAL REVENUE CODE IN ADMINISTERING THIS SECTION.

(C) THIS SECTION DOES NOT APPLY TO INCOME DERIVED FROM PASSIVE INVESTMENTS HELD BY AN OUT-OF-STATE SUBSIDIARY OR AFFILIATE OF THE FOLLOWING:

(1) A BANK HOLDING COMPANY AS DEFINED IN THE FEDERAL BANK HOLDING COMPANY ACT OF 1956, AS AMENDED; OR

(2) A BANK, TRUST COMPANY, SAVINGS BANK, OR SAVINGS AND LOAN ASSOCIATION INCORPORATED OR CHARTERED UNDER THE LAWS OF THIS STATE, ANOTHER STATE, OR THE UNITED STATES.

10-306.1.

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

(2) “INTANGIBLE EXPENSE” MEANS:

(I) AN EXPENSE, LOSS, OR COST FOR, RELATED TO, OR IN CONNECTION DIRECTLY OR INDIRECTLY WITH, THE DIRECT OR INDIRECT ACQUISITION, USE, MAINTENANCE, MANAGEMENT, OWNERSHIP, SALE, EXCHANGE, OR ANY OTHER DISPOSITION OF INTANGIBLE PROPERTY, TO THE EXTENT THE EXPENSE, LOSS, OR COST IS ALLOWED AS A DEDUCTION OR COST IN DETERMINING TAXABLE INCOME FOR THE TAXABLE YEAR UNDER THE INTERNAL REVENUE CODE;

(II) A LOSS RELATED TO OR INCURRED IN CONNECTION DIRECTLY OR INDIRECTLY WITH FACTORING TRANSACTIONS OR DISCOUNTING TRANSACTIONS;

(III) A ROYALTY, PATENT, TECHNICAL, OR COPYRIGHT FEE;

(IV) A LICENSING FEE; AND

(V) ANY OTHER SIMILAR EXPENSE OR COST.

(3) “INTANGIBLE PROPERTY” MEANS PATENTS, PATENT APPLICATIONS, TRADE NAMES, TRADEMARKS, SERVICE MARKS, COPYRIGHTS, AND SIMILAR TYPES OF INTANGIBLE ASSETS.

(4) “INTEREST EXPENSE” MEANS AN AMOUNT DIRECTLY OR INDIRECTLY ALLOWED AS A DEDUCTION UNDER § 163 OF THE INTERNAL REVENUE CODE FOR PURPOSES OF DETERMINING TAXABLE INCOME UNDER THE INTERNAL REVENUE CODE.

(5) “RELATED MEMBER” MEANS A PERSON THAT, WITH RESPECT TO THE TAXPAYER DURING ALL OR ANY PORTION OF THE TAXABLE YEAR, IS:

(I) A RELATED ENTITY;

(II) A COMPONENT MEMBER, AS DEFINED IN § 1563(B) OF THE INTERNAL REVENUE CODE; OR

(III) A PERSON TO OR FROM WHOM THERE IS ATTRIBUTION OF STOCK OWNERSHIP IN ACCORDANCE WITH § 1563(E) OF THE INTERNAL REVENUE CODE.

(6) “RELATED ENTITY” MEANS A PERSON THAT, APPLYING THE ATTRIBUTION RULES OF § 318 OF THE INTERNAL REVENUE CODE, IS:

(I) A STOCKHOLDER WHO IS AN INDIVIDUAL, OR A MEMBER OF THE STOCKHOLDER’S FAMILY ENUMERATED IN § 318 OF THE INTERNAL REVENUE CODE, IF THE STOCKHOLDER AND THE MEMBERS OF THE STOCKHOLDER’S FAMILY OWN, DIRECTLY, INDIRECTLY, BENEFICIALLY, OR CONSTRUCTIVELY, IN THE AGGREGATE, AT LEAST 50% OF THE VALUE OF THE TAXPAYER’S OUTSTANDING STOCK;

(II) A STOCKHOLDER, OR A STOCKHOLDER’S PARTNERSHIP, LIMITED LIABILITY COMPANY, ESTATE, TRUST, OR CORPORATION, IF THE STOCKHOLDER AND THE STOCKHOLDER’S PARTNERSHIPS, LIMITED LIABILITY COMPANIES, ESTATES, TRUSTS, AND CORPORATIONS OWN DIRECTLY, INDIRECTLY, BENEFICIALLY, OR CONSTRUCTIVELY, IN THE AGGREGATE, AT LEAST 50% OF THE VALUE OF THE TAXPAYER’S OUTSTANDING STOCK; OR

(III) A CORPORATION, OR A PARTY RELATED TO THE CORPORATION IN A MANNER THAT WOULD REQUIRE AN ATTRIBUTION OF STOCK FROM THE CORPORATION TO THE PARTY OR FROM THE PARTY TO THE CORPORATION UNDER THE ATTRIBUTION RULES OF § 318 OF THE INTERNAL REVENUE CODE, IF THE TAXPAYER OWNS, DIRECTLY, INDIRECTLY, BENEFICIALLY, OR CONSTRUCTIVELY, AT LEAST 50% OF THE VALUE OF THE CORPORATION'S OUTSTANDING STOCK.

(B) (1) IN ADDITION TO THE MODIFICATIONS UNDER §§ 10-305 AND 10-306 OF THIS SUBTITLE, EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE AMOUNTS UNDER PARAGRAPH (2) OF THIS SUBSECTION ARE ADDED TO THE

FEDERAL TAXABLE INCOME OF A CORPORATION TO DETERMINE MARYLAND MODIFIED INCOME.

(2) THE ADDITION UNDER THIS SUBSECTION INCLUDES ANY OTHERWISE DEDUCTIBLE INTEREST EXPENSE OR INTANGIBLE EXPENSE, IF THE INTEREST EXPENSE OR INTANGIBLE EXPENSE IS DIRECTLY OR INDIRECTLY PAID, ACCRUED, OR INCURRED TO, OR IN CONNECTION DIRECTLY OR INDIRECTLY WITH ONE OR MORE DIRECT OR INDIRECT TRANSACTIONS WITH, ONE OR MORE RELATED MEMBERS.

(C) THE ADDITION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION DOES NOT APPLY TO ANY PORTION OF AN INTEREST EXPENSE OR INTANGIBLE EXPENSE TO THE EXTENT THAT THE CORPORATION ESTABLISHES BY CLEAR AND CONVINCING EVIDENCE, AS DETERMINED BY THE COMPTROLLER, THAT:

(1) THE TRANSACTION GIVING RISE TO THE PAYMENT OF THE INTEREST EXPENSE OR THE INTANGIBLE EXPENSE BETWEEN THE CORPORATION AND THE RELATED MEMBER DID NOT HAVE AS A PRINCIPAL PURPOSE THE AVOIDANCE OF ANY PORTION OF THE TAX DUE UNDER THIS TITLE;

(2) THE INTEREST EXPENSE OR THE INTANGIBLE EXPENSE WAS PAID PURSUANT TO ARM'S LENGTH CONTRACTS AT AN ARM'S LENGTH RATE OF INTEREST OR PRICE; AND

(3) (I) DURING THE SAME TAXABLE YEAR, THE RELATED MEMBER DIRECTLY OR INDIRECTLY PAID, ACCRUED, OR INCURRED THE INTEREST EXPENSE OR THE INTANGIBLE EXPENSE TO A PERSON WHO IS NOT A RELATED MEMBER; OR

(II) 1. THE RELATED MEMBER WAS SUBJECT TO A TAX ON ITS NET INCOME OR RECEIPTS IN THIS STATE OR OTHER STATES OR POSSESSIONS OF THE UNITED STATES OR IN FOREIGN NATIONS;

(Over)

2. A MEASURE OF THE TAX IMPOSED BY THIS STATE AND OTHER STATES OR POSSESSIONS OF THE UNITED STATES OR FOREIGN NATIONS INCLUDED THE INTEREST EXPENSE OR THE INTANGIBLE EXPENSE RECEIVED BY THE RELATED MEMBER FROM THE CORPORATION; AND

3. THE EFFECTIVE RATE OF TAX PAID BY THE RELATED MEMBER TO THIS STATE AND OTHER STATES OR POSSESSIONS OF THE UNITED STATES OR FOREIGN NATIONS IN THE AGGREGATE ON THE AMOUNTS RECEIVED BY THE RELATED MEMBER FROM THE CORPORATION IS EQUAL TO OR GREATER THAN 4%.

(D) THIS SECTION MAY NOT BE CONSTRUED:

(1) TO REQUIRE A CORPORATION TO ADD TO ITS NET INCOME MORE THAN ONCE ANY AMOUNT OF INTEREST EXPENSE OR INTANGIBLE EXPENSE THAT THE CORPORATION PAYS, ACCRUES, OR INCURS TO A RELATED MEMBER; OR

(2) TO LIMIT OR NEGATE ANY OTHER AUTHORITY PROVIDED TO THE COMPTROLLER UNDER THIS ARTICLE, INCLUDING:

(I) THE AUTHORITY TO MAKE ADJUSTMENTS UNDER § 10-109 OR § 10-402(D) OF THIS TITLE; OR

(II) THE AUTHORITY TO OTHERWISE ENTER INTO AGREEMENTS AND COMPROMISES OTHERWISE ALLOWED BY LAW.

(E) THE COMPTROLLER SHALL ADOPT ANY REGULATIONS THAT ARE NECESSARY OR APPROPRIATE TO CARRY OUT THIS SECTION.

10-402.

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

(II) “NONOPERATIONAL INCOME” MEANS ALL INCOME OTHER THAN OPERATIONAL INCOME.

(III) “OPERATIONAL INCOME” MEANS ALL INCOME THAT IS APPORTIONABLE UNDER THE CONSTITUTION OF THE UNITED STATES.

(2) (I) IF THE TRADE OR BUSINESS IS A UNITARY BUSINESS, THE PART OF THE CORPORATION’S MARYLAND MODIFIED INCOME DERIVED FROM OR REASONABLY ATTRIBUTABLE TO TRADE OR BUSINESS CARRIED ON IN THE STATE SHALL BE DETERMINED BY ADDING:

1. THE CORPORATION’S NONOPERATIONAL INCOME THAT IS ALLOCATED TO THE STATE UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH; AND

2. THE PART OF THE CORPORATION’S OPERATIONAL INCOME DERIVED FROM OR REASONABLY ATTRIBUTABLE TO TRADE OR BUSINESS CARRIED ON IN THE STATE AS DETERMINED UNDER PARAGRAPH (3) OR (4) OF THIS SUBSECTION.

(II) TO THE EXTENT ALLOWED UNDER THE CONSTITUTION OF THE UNITED STATES, IF THE PRINCIPAL PLACE FROM WHICH THE TRADE OR BUSINESS OF A CORPORATION IS DIRECTED OR MANAGED IS IN THE STATE, ALL OF THE CORPORATION’S MARYLAND MODIFIED INCOME THAT IS NONOPERATIONAL INCOME SHALL BE ALLOCATED TO THE STATE.

[(1)] (3) Except as provided in paragraph [(2)] (4) of this subsection, if the trade or business is a unitary business, the part of the corporation’s Maryland modified income THAT IS OPERATIONAL INCOME derived from or reasonably attributable to trade or business carried on in the State shall be determined using a 3-factor apportionment fraction:

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

(ii) the denominator of which is 4.

[~~(2)~~] (4) (i) In this paragraph:

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

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

(ii) If a manufacturing corporation carries on its trade or business in and out of the State and the trade or business is a unitary business, the part of the corporation’s Maryland modified income THAT IS OPERATIONAL INCOME derived from or reasonably attributable to trade or business carried on in the State shall be determined using a single sales factor apportionment formula, by multiplying its Maryland modified income by 100% of the sales factor.

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

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

(v) The Comptroller, in consultation with the Department of Business and Economic Development, shall adopt regulations necessary to carry out the provisions of this subsection.

(vi) As part of its tax return for a taxable year beginning after December 31, 2000 but before January 1, 2003, each manufacturing corporation that has more than 25 employees and apportions its income under this paragraph shall submit a report, in the form that the

Comptroller requires by regulation, that describes for each taxable year as of the last day of the taxable year the following:

1. the difference in tax owed as a result of using single sales factor apportionment method under this paragraph as compared to the tax owed using the 3-factor double weighted sales factor apportionment method in effect for the last taxable year beginning on or before December 31, 2000;

2. volume of sales in the State and worldwide;

3. taxable income in the State and worldwide; and

4. book value of plant, land, and equipment in the State and worldwide.

(vii) On or before October 1, 2003 and October 1, 2004, and notwithstanding any confidentiality requirements, the Comptroller shall prepare and submit to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly, a comprehensive report on the use of single sales factor apportionment by manufacturing corporations that provides, at a minimum:

1. the number of corporations filing tax returns for the taxable year that ended during the preceding calendar year that use single sales factor apportionment and the number of such corporations having a Maryland income tax liability for that taxable year;

2. the number of corporations paying less in Maryland income tax for that taxable year as a result of using single sales factor apportionment and the aggregate amount of Maryland income tax savings for all such corporations for that taxable year as a result of using single sales factor apportionment; and

3. the number of corporations paying more in Maryland income tax for the taxable year as a result of using single sales factor apportionment and the aggregate

(Over)

amount of additional Maryland income tax owed by those corporations for the taxable year as a result of using single sales factor apportionment.

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

- (i) rented and owned real property; and
- (ii) tangible personal property located in the State and used in the trade or business.

(6) (I) SALES OF TANGIBLE PERSONAL PROPERTY SHALL BE INCLUDED IN THE NUMERATOR OF THE SALES FACTOR UNDER PARAGRAPH (3) OR PARAGRAPH (4) OF THIS SUBSECTION IF:

1. THE PROPERTY IS DELIVERED OR SHIPPED TO A PURCHASER WITHIN THE STATE, REGARDLESS OF THE F.O.B. POINT OR OTHER CONDITIONS OF THE SALE; OR

2. THE PROPERTY IS SHIPPED FROM AN OFFICE, STORE, WAREHOUSE, FACTORY, OR OTHER PLACE OF STORAGE IN THIS STATE AND THE CORPORATION IS NOT TAXABLE IN THE STATE OF THE PURCHASER.

(II) FOR PURPOSES OF SUBPARAGRAPH (I) OF THIS PARAGRAPH, A CORPORATION IS TAXABLE IN A STATE IF:

1. IN THAT STATE THE CORPORATION IS SUBJECT TO A NET INCOME TAX, A FRANCHISE TAX MEASURED BY NET INCOME, A FRANCHISE TAX FOR THE PRIVILEGE OF DOING BUSINESS, OR A CORPORATE STOCK TAX; OR

2. THAT STATE HAS JURISDICTION TO SUBJECT THE TAXPAYER TO A NET INCOME TAX, REGARDLESS OF WHETHER, IN FACT, THE STATE IMPOSES A TAX.

(e) Each person required under this subtitle to file an income tax return or estimated income tax declaration or return shall:

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

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

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

2. the amount of payments made and the income tax withheld;
[and]

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

1. for a corporation; and

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

(III) IF THE COMPTROLLER REQUESTS, FOR A CORPORATION THAT IS A MEMBER OF AN AFFILIATED GROUP OR A CONTROLLED GROUP UNDER § 1504 OR § 1563 OF THE INTERNAL REVENUE CODE, A STATEMENT OF ALL INTER-MEMBER COSTS OR EXPENSES AND ALL INTER-MEMBER SALES, EXCHANGES, OR OTHER TRANSACTIONS INVOLVING TANGIBLE OR INTANGIBLE PROPERTY FOR THE TAXABLE YEAR.

SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Tax - Property

(Over)

12-110.

(d) (1) THE DEPARTMENT SHALL DEDUCT THE COST OF ADMINISTERING THE RECORDATION TAX FROM THE TAXES COLLECTED UNDER THIS TITLE AND CREDIT THOSE REVENUES TO THE FUND ESTABLISHED UNDER § 1-203.3 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.

(2) [The] AFTER DEDUCTING THE REVENUE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE recordation tax collected under [§ 12-103(d)] §§ 12-103(D) AND 12-116 of this title shall be paid to the Comptroller. [After deduction of the cost to the Department of collecting the tax, the] THE Comptroller shall distribute the revenue to the counties in the ratio that the recordation tax collected in the prior fiscal year in each county bears to the total recordation tax collected in all counties in that year.

12-116.

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

(2) “CONTROLLING INTEREST” MEANS:

(I) MORE THAN 80% OF THE TOTAL VALUE OF ALL CLASSES OF STOCK OF A CORPORATION;

(II) MORE THAN 80% OF THE TOTAL INTEREST IN CAPITAL AND PROFITS OF A PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPANY, OR OTHER UNINCORPORATED FORM OF DOING BUSINESS; OR

(III) MORE THAN 80% OF THE BENEFICIAL INTEREST IN A TRUST.

(3) “FINAL TRANSFER” MEANS THAT TRANSFER OF ANY PORTION OF A CONTROLLING INTEREST WHICH COMPLETES THE TRANSFER OF A CONTROLLING INTEREST IN A REAL PROPERTY ENTITY.

(4) (I) “PLAN OF TRANSFER” MEANS AN INTENTIONAL PLAN OR PROGRAM TO TRANSFER THE CONTROLLING INTEREST IN A REAL PROPERTY ENTITY.

(II) “PLAN OF TRANSFER” DOES NOT INCLUDE A SERIES OF SALES OF SHARES OF A PUBLICLY TRADED ENTITY.

(5) (I) “REAL PROPERTY” MEANS REAL PROPERTY LOCATED IN THE STATE.

(II) “REAL PROPERTY” DOES NOT INCLUDE:

1. A LEASEHOLD, UNLESS CREATED BY A LEASE THAT IS REQUIRED TO BE RECORDED UNDER § 3-101(A) OF THE REAL PROPERTY ARTICLE; OR

2. ANY MORTGAGE, DEED OF TRUST, OR OTHER LIEN UPON OR SECURITY INTEREST IN REAL PROPERTY THAT SECURES AN INDEBTEDNESS.

(6) (I) “REAL PROPERTY ENTITY” MEANS A CORPORATION, PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP, OTHER UNINCORPORATED FORM OF DOING BUSINESS, OR TRUST THAT DIRECTLY OR BENEFICIALLY OWNS REAL PROPERTY THAT:

1. CONSTITUTES AT LEAST 80% OF THE VALUE OF ITS ASSETS; AND

2. HAS AN AGGREGATE VALUE OF AT LEAST \$1,000,000.

(II) FOR THE PURPOSES OF THIS PARAGRAPH, THE VALUE OF REAL PROPERTY SHALL BE DETERMINED WITHOUT REDUCTION FOR ANY MORTGAGE, DEED OF TRUST, OR OTHER LIEN UPON OR SECURITY INTEREST IN THE REAL PROPERTY.

(III) “REAL PROPERTY ENTITY” DOES NOT INCLUDE AN ENTITY WITH LAND HOLDINGS THAT, OTHER THAN HOMESITES OR AREAS OF COMMERCIAL ACTIVITY RELATED TO AGRICULTURAL PRODUCTION, ARE ENTIRELY SUBJECT TO AN AGRICULTURAL USE ASSESSMENT UNDER § 8-209 OF THIS ARTICLE.

(B) (1) THE RECORDATION TAX IS IMPOSED ON THE TRANSFER OF A CONTROLLING INTEREST IN A REAL PROPERTY ENTITY AS IF THE REAL PROPERTY DIRECTLY OR BENEFICIALLY OWNED BY THE REAL PROPERTY ENTITY WERE CONVEYED BY AN INSTRUMENT OF WRITING THAT IS RECORDED WITH THE CLERK OF THE CIRCUIT COURT FOR A COUNTY OR FILED WITH THE DEPARTMENT UNDER § 12-102 OF THIS SUBTITLE.

(2) (I) THE RECORDATION TAX IS IMPOSED ON THE CONSIDERATION PAYABLE FOR THE TRANSFER OF THE CONTROLLING INTEREST IN THE REAL PROPERTY ENTITY.

(II) THE CONSIDERATION TO WHICH THE RECORDATION TAX APPLIES INCLUDES THE AMOUNT OF:

1. ANY MORTGAGE, DEED OF TRUST, OR OTHER LIEN UPON OR SECURITY INTEREST IN THE REAL PROPERTY DIRECTLY OR BENEFICIALLY OWNED BY THE REAL PROPERTY ENTITY; AND

2. ANY OTHER DEBT OR ENCUMBRANCE OF THE REAL PROPERTY ENTITY.

(III) THE CONSIDERATION TO WHICH THE RECORDATION TAX APPLIES IS REDUCED BY THE AMOUNT ALLOCABLE TO THE ASSETS OF THE REAL PROPERTY ENTITY OTHER THAN REAL PROPERTY.

(IV) THE REAL PROPERTY ENTITY HAS THE BURDEN OF ESTABLISHING TO THE SATISFACTION OF THE DEPARTMENT THE CONSIDERATION REFERRED TO IN SUBPARAGRAPH (I) OF THIS PARAGRAPH AND THE AMOUNT OF

ANY CONSIDERATION ALLOCABLE TO ASSETS OTHER THAN REAL PROPERTY REFERRED TO IN SUBPARAGRAPH (III) OF THIS PARAGRAPH.

(V) IF THE REAL PROPERTY ENTITY FAILS TO ESTABLISH THE AMOUNT OF CONSIDERATION REFERRED TO IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE RECORDATION TAX IS IMPOSED ON THE VALUE OF THE REAL PROPERTY DIRECTLY OR BENEFICIALLY OWNED BY THE REAL PROPERTY ENTITY DETERMINED BY THE DEPARTMENT AT THE DATE OF FINALITY IMMEDIATELY BEFORE THE DATE OF THE FINAL TRANSFER.

(3) EXCEPT AS OTHERWISE PROVIDED IN § 12-103(D) OF THIS SUBTITLE, THE RECORDATION TAX IS APPLIED AT THE RATE SET UNDER § 12-103(B) OF THIS SUBTITLE BY THE COUNTY WHERE THE REAL PROPERTY IS LOCATED.

(C) (1) THE TRANSFER OF A CONTROLLING INTEREST IN A REAL PROPERTY ENTITY IS NOT SUBJECT TO THE RECORDATION TAX IF THE TRANSFER OF THE REAL PROPERTY BY AN INSTRUMENT OF WRITING BETWEEN THE SAME PARTIES AND UNDER THE SAME CIRCUMSTANCES WOULD HAVE BEEN EXEMPT UNDER § 12-108 OF THIS SUBTITLE.

(2) THE RECORDATION TAX IS NOT IMPOSED ON THE TRANSFER OF A CONTROLLING INTEREST IN A REAL PROPERTY ENTITY EFFECTED IN MORE THAN ONE TRANSACTION IF:

(I) THE TRANSFER IS COMPLETED OVER A PERIOD OF MORE THAN 12 MONTHS; OR

(II) THE TRANSFER IS NOT MADE IN ACCORDANCE WITH A PLAN OF TRANSFER.

(3) THE RECORDATION TAX IS NOT IMPOSED ON THE TRANSFER OF A CONTROLLING INTEREST IN A REAL PROPERTY ENTITY TO ANOTHER BUSINESS IF THE OWNERSHIP INTERESTS IN THE TRANSFEREE BUSINESS ENTITY ARE HELD BY

(Over)

THE SAME PERSONS AND IN THE SAME PROPORTION AS IN THE REAL PROPERTY ENTITY THE CONTROLLING INTEREST OF WHICH WAS TRANSFERRED.

(4) THE RECORDATION TAX IS NOT IMPOSED ON THE TRANSFER OF A CONTROLLING INTEREST IN A REAL PROPERTY ENTITY IF EACH TRANSFEROR, EACH TRANSFEREE, AND EACH REAL PROPERTY ENTITY IS:

(I) A SUBSIDIARY CORPORATION, ALL OF THE STOCK OF WHICH IS OWNED, DIRECTLY OR INDIRECTLY, BY A COMMON PARENT CORPORATION;

(II) A PARTNERSHIP, ALL OF THE INTERESTS IN WHICH ARE OWNED, DIRECTLY OR INDIRECTLY, BY ONE OR MORE SUBSIDIARIES OR THE COMMON PARENT CORPORATION; OR

(III) THE COMMON PARENT CORPORATION.

(5) THE RECORDATION TAX IS NOT IMPOSED ON THE TRANSFER OF A CONTROLLING INTEREST IN A REAL PROPERTY ENTITY IF THE TRANSFEREE OF THE CONTROLLING INTEREST IN THE REAL PROPERTY ENTITY IS:

(I) A NONSTOCK CORPORATION ORGANIZED UNDER TITLE 5, SUBTITLE 2 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE; AND

(II) REGISTERED WITH THE DEPARTMENT OF AGING AS A CONTINUING CARE RETIREMENT COMMUNITY UNDER ARTICLE 70B, § 9 OF THE CODE.

(6) THE REAL PROPERTY ENTITY HAS THE BURDEN OF ESTABLISHING TO THE SATISFACTION OF THE DEPARTMENT THE APPLICABILITY OF ANY EXEMPTION REFERRED TO IN PARAGRAPHS (1) THROUGH (5) OF THIS SUBSECTION.

(D) (1) THE REAL PROPERTY ENTITY SHALL FILE WITH THE DEPARTMENT A REPORT OF ANY TRANSFER OF A CONTROLLING INTEREST IN THE

REAL PROPERTY ENTITY THAT IS COMPLETED WITHIN A PERIOD OF 12 MONTHS OR LESS WITHIN 30 DAYS FOLLOWING THE DATE OF THE FINAL TRANSFER.

(2) THE REPORT SHALL INCLUDE ALL INFORMATION TO ESTABLISH TO THE SATISFACTION OF THE DEPARTMENT:

(I) THE CONSIDERATION REFERRED TO IN SUBSECTION (B)(2)(I) OF THIS SECTION;

(II) THE AMOUNT OF ASSETS OTHER THAN REAL ESTATE REFERRED TO IN SUBSECTION (B)(2)(II) OF THIS SECTION; AND

(III) ANY EXEMPTION PROVIDED FOR IN SUBSECTION (C) OF THIS SECTION.

(3) THE REPORT SHALL BE ACCOMPANIED BY PAYMENT OF:

(I) A \$20 FILING FEE; AND

(II) ANY TAX, INTEREST, AND PENALTY THAT IS DUE.

(E) (1) IF ANY TAX DUE UNDER THIS SECTION REMAINS UNPAID FOR 30 DAYS AFTER THE DATE OF THE FINAL TRANSFER, THEN:

(I) INTEREST ON THE UNPAID AMOUNT SHALL ACCRUE THEREAFTER AT THE RATE OF 1% PER MONTH; AND

(II) A PENALTY OF 10% OF THE UNPAID AMOUNT SHALL BE DUE.

(2) ANY TAX, INTEREST, AND PENALTY DUE UNDER THIS SECTION IS AN OBLIGATION OF THE REAL PROPERTY ENTITY.

(Over)

(3) FOR REASONABLE CAUSE, THE DEPARTMENT MAY WAIVE THE IMPOSITION OF INTEREST OR PENALTY.

(F) THIS SECTION DOES NOT APPLY TO:

(1) A PLEDGE OF STOCK OR OTHER INTEREST IN A REAL PROPERTY ENTITY AS SECURITY FOR A LOAN; OR

(2) THE ADMISSION TO THE REAL PROPERTY ENTITY OF ADDITIONAL SHAREHOLDERS, PARTNERS, BENEFICIAL OWNERS, OR OTHER MEMBERS INCIDENT TO THE RAISING OF ADDITIONAL CAPITAL THROUGH A PUBLIC OR PRIVATE OFFERING OF STOCK OR OTHER INTERESTS IN THE REAL PROPERTY ENTITY IF:

(I) THE EFFECTIVE MANAGEMENT OF THE REAL PROPERTY ENTITY IS NOT SUBSTANTIALLY CHANGED; AND

(II) UNDER THE TERMS OF THE OFFERING, NONE OF THE NEW MEMBERS IS EXPECTED TO PARTICIPATE IN THE DAY-TO-DAY MANAGEMENT OF THE REAL PROPERTY ENTITY.

(G) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO ADMINISTER THIS SECTION.

(2) THE REGULATIONS SHALL INCLUDE ANY ADDITIONAL STANDARDS AND EXEMPTIONS TO ASSURE THAT:

(I) A TAX IS IMPOSED WHEN A TRANSACTION IS STRUCTURED INVOLVING A CONTROLLING INTEREST IN A REAL PROPERTY ENTITY TO AVOID PAYMENT OF THE RECORDATION TAX;

(II) EXEMPTIONS PROVIDED BY LAW WHEN REAL PROPERTY IS TRANSFERRED BY AN INSTRUMENT OF WRITING ARE APPLICABLE; AND

(III) THERE IS NO DOUBLE TAXATION OF A SINGLE TRANSACTION.

13-103.

(A) IN THIS SECTION, “CONTROLLING INTEREST”, “REAL PROPERTY”, AND “REAL PROPERTY ENTITY” HAVE THE MEANINGS STATED IN § 12-116 OF THIS ARTICLE.

(B) (1) THE TAXES UNDER THIS TITLE ARE IMPOSED ON THE TRANSFER OF A CONTROLLING INTEREST IN A REAL PROPERTY ENTITY AS IF THE REAL PROPERTY DIRECTLY OR BENEFICIALLY OWNED BY THE REAL PROPERTY ENTITY WERE CONVEYED BY AN INSTRUMENT OF WRITING THAT IS RECORDED WITH THE CLERK OF THE CIRCUIT COURT FOR A COUNTY OR FILED WITH THE DEPARTMENT UNDER § 13-202 OF THIS TITLE.

(2) THE TAXES UNDER THIS SECTION ARE IMPOSED ON THE CONSIDERATION PAYABLE FOR THE TRANSFER OF THE CONTROLLING INTEREST IN THE REAL PROPERTY ENTITY OR ON THE VALUE OF THE REAL PROPERTY DIRECTLY OR BENEFICIALLY OWNED BY THE REAL PROPERTY ENTITY, AS PROVIDED IN § 12-116(B)(2) OF THIS ARTICLE.

(3) (I) EXCEPT FOR THE COUNTY TRANSFER TAX, THE TAXES UNDER THIS SECTION SHALL BE APPLIED AT THE RATES ESTABLISHED IN THIS TITLE.

(II) THE COUNTY TRANSFER TAX SHALL BE APPLIED AT THE RATE IMPOSED BY THE COUNTY WHERE THE REAL PROPERTY IS LOCATED.

(C) THE TAXES UNDER THIS TITLE ARE NOT IMPOSED ON THE TRANSFER OF A CONTROLLING INTEREST IN A REAL PROPERTY ENTITY IN ANY OF THE CIRCUMSTANCES DESCRIBED:

(1) IN § 13-207 OF THIS TITLE THAT EXEMPTS AN INSTRUMENT OF WRITING FROM THE TRANSFER TAX; OR

(Over)

(2) IN § 12-116(C) OF THIS ARTICLE THAT EXEMPTS THE TRANSFER OF A CONTROLLING INTEREST IN A REAL PROPERTY ENTITY FROM THE RECORDATION TAX.

(D) IN EACH INSTANCE IN WHICH A CONTROLLING INTEREST IN A REAL PROPERTY ENTITY IS TRANSFERRED, THE PROVISIONS OF § 12-116(D) AND (E) OF THIS ARTICLE ARE APPLICABLE.

(E) THIS SECTION DOES NOT APPLY IN THE CIRCUMSTANCES DESCRIBED IN § 12-116(F) OF THIS ARTICLE.

(F) THE DEPARTMENT SHALL ADOPT REGULATIONS TO ADMINISTER THIS SECTION IN THE SAME MANNER AS IN § 12-116(G) OF THIS ARTICLE.

13-209.

(a) (1) THE DEPARTMENT SHALL DEDUCT THE COST OF ADMINISTERING THE TRANSFER TAX FROM THE TAXES COLLECTED UNDER THIS TITLE AND CREDIT THOSE REVENUES TO THE FUND ESTABLISHED UNDER § 1-203.3 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.

(2) [The] AFTER DEDUCTING THE REVENUES REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE revenue from transfer tax is payable to the Comptroller for deposit in a special fund.

SECTION 6. AND BE IT FURTHER ENACTED, That, for a taxable year beginning after December 31, 2002 but before January 1, 2004, notwithstanding §§ 13-602 and 13-702 of the Tax - General Article, the Comptroller shall assess interest and penalty under § 13-602 and 13-702 of the Tax - General Article if a corporation pays estimated income tax for the taxable year in an amount less than 90% of the tax required to be shown on the corporation's income tax return for the taxable year.

SECTION 7. AND BE IT FURTHER ENACTED, That the Comptroller, in conjunction with the business community, shall study and report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly by December 1, 2003 on the following:

- (a) the issues related to combined reporting under the corporate income tax by business entities;
- (b) any necessary statutory and regulatory changes needed to implement combined reporting;
- (c) the anticipated annual State revenue impact and the impact on Maryland businesses of combined reporting; and
- (d) any other issues related to combined reporting that should be addressed.”.

AMENDMENT NO. 8

On page 29, in line 34, strike “4.” and substitute “8.”.

On page 30, in line 4, strike “5.” and substitute “9.”; strike in their entirety lines 7 through 11, inclusive; after line 11, insert:

“SECTION 10. AND BE IT FURTHER ENACTED, That the changes to §§ 13-803 and 13-812 of the Tax - General Article under Section 1 of this Act shall take effect October 1, 2003.

SECTION 11. AND BE IT FURTHER ENACTED, That:

(a) Notwithstanding any other provision of law, and except as otherwise provided in this section, Section 2 of this Act is applicable to:

(1) capitation payments, including supplemental or bonus payments, made to managed care organizations on or after July 1, 2003; and

(2) premiums written for all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after July 1, 2003.

(b) Section 2 of this Act does not apply to:

(Over)

(1) capitation payments, supplemental payments, or bonus payments made to managed care organizations on or before July 1, 2003;

(2) premiums written for all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or before July 1, 2003.

(c) Any health benefit plan in effect before July 1, 2003, shall comply with the provisions of Section 2 of this Act no later than July 1, 2004.

SECTION 12. AND BE IT FURTHER ENACTED, That for taxable years beginning after December 31, 2003, the exemption under § 10-104 of the Tax - General Article is applicable to health maintenance organizations and managed care organizations that are subject to the insurance premium tax under Title 6 of the Insurance Article.

SECTION 13. AND BE IT FURTHER ENACTED, That the fee required to be paid with an annual report under § 1-203(b)(9) of the Corporations and Associations Article as enacted under Section 3 of this Act shall be applicable to all annual reports filed after December 31, 2003.

SECTION 14. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall be applicable to all taxable years beginning after December 31, 2002.

SECTION 15. AND BE IT FURTHER ENACTED, That Section 5 of this Act shall take effect January 1, 2004.”;

in line 12, strike “7.” and substitute “16.”; and in line 13, strike “5 and 6” and substitute “9 through 15”.