
By: **Delegate Franchot**

Introduced and read first time: February 11, 2005

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Taxation of Corporations - Alternative Minimum Assessment**

3 FOR the purpose of imposing a certain tax on corporations doing business in the State
4 based on a certain alternative minimum assessment; providing that a certain
5 tax applies even if a corporation is exempt from the State income tax in
6 accordance with a certain federal law; providing for the computation of the
7 alternative minimum assessment as a certain percentage of a corporation's
8 gross receipts or gross profits, based on a certain election made by the
9 corporation; limiting the alternative minimum assessment to a certain amount
10 for any corporation and to a certain amount for certain groups of corporations;
11 providing for certain credits against the corporate income tax; providing for the
12 application of this Act; and generally relating to the imposition of an alternative
13 minimum assessment on corporations doing business in the State.

14 BY repealing and reenacting, with amendments,
15 Article - Tax - General
16 Section 1-101(i)
17 Annotated Code of Maryland
18 (2004 Replacement Volume)

19 BY adding to
20 Article - Tax - General
21 Section 10-102.2 and 10-725
22 Annotated Code of Maryland
23 (2004 Replacement Volume)

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

26 **Article - Tax - General**

27 1-101.

28 (i) (1) "Income tax" means the tax imposed under Title 10 of this article.

1 (2) "Income tax" includes the State income tax and county income tax.

2 (3) FOR A CORPORATION, "INCOME TAX" INCLUDES THE TAX IMPOSED
3 UNDER § 10-102.2 OF THIS ARTICLE.

4 10-102.2.

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

7 (2) "AFFILIATED GROUP" MEANS A GROUP OF CORPORATIONS DEFINED
8 AS AN AFFILIATED GROUP BY § 1504 OF THE INTERNAL REVENUE CODE THAT FILES A
9 FEDERAL CONSOLIDATED INCOME TAX RETURN.

10 (3) "ALTERNATIVE MINIMUM ASSESSMENT" MEANS THE ALTERNATIVE
11 MINIMUM ASSESSMENT DETERMINED UNDER THIS SECTION.

12 (4) "COST OF GOODS SOLD" MEANS THE COST OF GOODS SOLD
13 CALCULATED UNDER THE SAME METHOD USED BY THE TAXPAYER FOR PURPOSES
14 OF COMPUTING ITS FEDERAL INCOME TAX, OR OTHER INPUT OR EXPENDITURE, AS
15 DETERMINED BY THE COMPTROLLER, AS MAY BE NECESSARY TO EQUITABLY
16 MEASURE THE BUSINESS ACTIVITY OF THE TAXPAYER, MULTIPLIED BY THE
17 THREE-FACTOR DOUBLE-WEIGHTED SALES FACTOR APPORTIONMENT FRACTION
18 SPECIFIED UNDER § 10-402(C)(1) OF THIS TITLE.

19 (5) "MARYLAND GROSS PROFITS" MEANS MARYLAND GROSS RECEIPTS
20 REDUCED BY RETURNS AND ALLOWANCES ATTRIBUTABLE TO MARYLAND GROSS
21 RECEIPTS, LESS THE COST OF GOODS SOLD.

22 (6) "MARYLAND GROSS RECEIPTS" MEANS THE RECEIPTS OF THE
23 TAXPAYERS FOR THE TAXABLE YEAR, COMPUTED ON THE CASH OR ACCRUAL BASIS
24 ACCORDING TO THE METHOD OF ACCOUNTING USED IN THE COMPUTATION OF ITS
25 NET INCOME FOR FEDERAL TAX PURPOSES ARISING DURING THE TAXABLE YEAR
26 FROM:

27 (I) SALES OF TANGIBLE PERSONAL PROPERTY THAT ARE SHIPPED
28 TO POINTS WITHIN THIS STATE, REGARDLESS OF WHERE THE PROPERTY IS LOCATED
29 AT THE TIME OF THE RECEIPT OF ORDERS OR APPROPRIATION TO ORDERS;

30 (II) SERVICES PERFORMED WITHIN THE STATE;

31 (III) RENTALS FROM PROPERTY SITUATED, AND ROYALTIES FROM
32 THE USE OF PATENTS OR COPYRIGHTS, WITHIN THE STATE; AND

33 (IV) ALL OTHER BUSINESS RECEIPTS EARNED WITHIN THE STATE.

34 (7) "MEMBER OF AN AFFILIATED GROUP" MEANS A TAXPAYER THAT IS
35 PART OF AN AFFILIATED GROUP.

1 (8) "STATE INCOME TAX" MEANS THE TAX IMPOSED UNDER § 10-102 OF
2 THIS SUBTITLE, DETERMINED BEFORE THE APPLICATION OF THE CREDITS ALLOWED
3 UNDER §§ 10-701 AND 10-701.1 OF THIS TITLE, BUT AFTER THE APPLICATION OF ANY
4 OTHER CREDITS ALLOWED UNDER SUBTITLE 7 OF THIS TITLE.

5 (B) (1) IN ADDITION TO ANY OTHER TAX IMPOSED UNDER THIS TITLE, A TAX
6 IS IMPOSED UNDER THIS SECTION ON EACH CORPORATION DOING BUSINESS IN THE
7 STATE FOR ANY TAXABLE YEAR IF THE ALTERNATIVE MINIMUM ASSESSMENT FOR
8 THE CORPORATION AS DETERMINED UNDER THIS SECTION EXCEEDS THE STATE
9 INCOME TAX.

10 (2) FOR ANY TAXABLE YEAR, THE AMOUNT OF THE TAX IMPOSED UNDER
11 THIS SECTION IS THE AMOUNT BY WHICH THE ALTERNATIVE MINIMUM ASSESSMENT
12 EXCEEDS THE STATE INCOME TAX FOR THE TAXABLE YEAR.

13 (3) THE TAX IMPOSED UNDER THIS SECTION APPLIES TO ANY
14 CORPORATION IF THE CORPORATION'S BUSINESS ACTIVITY IN THE STATE IS
15 SUFFICIENT TO GIVE THE STATE JURISDICTION TO IMPOSE THE TAX UNDER THE
16 CONSTITUTION AND STATUTES OF THE UNITED STATES, EVEN IF THE CORPORATION
17 IS EXEMPT FROM THE TAX IMPOSED UNDER § 10-102 OF THIS SUBTITLE PURSUANT
18 TO P.L. 86-272 (15 U.S.C. §§ 381 ET SEQ.).

19 (C) (1) FOR ANY TAXABLE YEAR, SUBJECT TO THE TAXPAYER'S ELECTION AS
20 PROVIDED UNDER SUBSECTION (D) OF THIS SECTION, THE ALTERNATIVE MINIMUM
21 ASSESSMENT IS THE AMOUNT DETERMINED UNDER PARAGRAPH (2) OR (3) OF THIS
22 SUBSECTION.

23 (2) (I) IF MARYLAND GROSS PROFITS ARE LESS THAN OR EQUAL TO
24 \$1,000,000, THE ALTERNATIVE MINIMUM ASSESSMENT IS ZERO.

25 (II) IF MARYLAND GROSS PROFITS ARE GREATER THAN \$1,000,000
26 BUT LESS THAN OR EQUAL TO \$10,000,000, THE ALTERNATIVE MINIMUM ASSESSMENT
27 IS .0025 TIMES THE GROSS PROFITS IN EXCESS OF \$1,000,000 MULTIPLIED TIMES
28 1.11111.

29 (III) IF MARYLAND GROSS PROFITS ARE GREATER THAN \$10,000,000
30 BUT LESS THAN OR EQUAL TO \$15,000,000, THE ALTERNATIVE MINIMUM ASSESSMENT
31 IS .0035 TIMES THE GROSS PROFITS.

32 (IV) IF MARYLAND GROSS PROFITS ARE GREATER THAN \$15,000,000
33 BUT LESS THAN OR EQUAL TO \$25,000,000, THE ALTERNATIVE MINIMUM ASSESSMENT
34 IS .006 TIMES THE GROSS PROFITS.

35 (V) IF MARYLAND GROSS PROFITS ARE GREATER THAN \$25,000,000
36 BUT LESS THAN OR EQUAL TO \$37,500,000, THE ALTERNATIVE MINIMUM ASSESSMENT
37 IS .007 TIMES THE GROSS PROFITS.

38 (VI) IF MARYLAND GROSS PROFITS ARE GREATER THAN \$37,500,000,
39 THE ALTERNATIVE MINIMUM ASSESSMENT IS .008 TIMES THE GROSS PROFITS.

1 (3) (I) IF MARYLAND GROSS RECEIPTS ARE LESS THAN OR EQUAL TO
2 \$2,000,000, THE ALTERNATIVE MINIMUM ASSESSMENT IS ZERO.

3 (II) IF MARYLAND GROSS RECEIPTS ARE GREATER THAN \$2,000,000
4 BUT LESS THAN OR EQUAL TO \$20,000,000, THE ALTERNATIVE MINIMUM ASSESSMENT
5 IS .00125 TIMES THE GROSS RECEIPTS IN EXCESS OF \$2,000,000 MULTIPLIED TIMES
6 1.11111.

7 (III) IF MARYLAND GROSS RECEIPTS ARE GREATER THAN \$20,000,000
8 BUT LESS THAN OR EQUAL TO \$30,000,000, THE ALTERNATIVE MINIMUM ASSESSMENT
9 IS .00175 TIMES THE GROSS RECEIPTS.

10 (IV) IF MARYLAND GROSS RECEIPTS ARE GREATER THAN \$30,000,000
11 BUT LESS THAN OR EQUAL TO \$50,000,000, THE ALTERNATIVE MINIMUM ASSESSMENT
12 IS .003 TIMES THE GROSS RECEIPTS.

13 (V) IF MARYLAND GROSS RECEIPTS ARE GREATER THAN \$50,000,000
14 BUT LESS THAN OR EQUAL TO \$75,000,000, THE ALTERNATIVE MINIMUM ASSESSMENT
15 IS .0035 TIMES THE GROSS RECEIPTS.

16 (VI) IF MARYLAND GROSS RECEIPTS ARE GREATER THAN
17 \$75,000,000, THE ALTERNATIVE MINIMUM ASSESSMENT IS .004 TIMES THE GROSS
18 RECEIPTS.

19 (4) NOTWITHSTANDING PARAGRAPHS (2)(I) AND (II) AND (3)(I) AND (II) OF
20 THIS SUBSECTION, SUBJECT TO SUBSECTION (E)(2) OF THIS SECTION, THE SUM OF
21 THE AMOUNTS SUBJECT TO AN ALTERNATIVE MINIMUM ASSESSMENT OF ZERO FOR
22 ALL OF THE MEMBERS OF AN AFFILIATED GROUP OR A CONTROLLED GROUP UNDER
23 § 1504 OR § 1563 OF THE INTERNAL REVENUE CODE MAY NOT EXCEED:

24 (I) \$5,000,000 OF GROSS PROFITS;

25 (II) \$10,000,000 OF GROSS RECEIPTS; OR

26 (III) FOR A GROUP WHOSE MEMBERS HAVE NOT ALL ELECTED THE
27 SAME COMPUTATION METHOD UNDER THIS SUBSECTION, AN AMOUNT AS
28 DETERMINED BY THE COMPTROLLER EQUAL TO FIVE TIMES THE APPLICABLE
29 AMOUNTS THAT ARE SUBJECT TO AN ALTERNATIVE MINIMUM ASSESSMENT OF ZERO
30 UNDER PARAGRAPH (2) OR (3) OF THIS SUBSECTION.

31 (D) (1) FOR THE FIRST TAXABLE YEAR FOR WHICH IT IS REQUIRED TO
32 COMPUTE THE ALTERNATIVE MINIMUM ASSESSMENT UNDER THIS SECTION, A
33 TAXPAYER SHALL ELECT TO EMPLOY THE COMPUTATION METHOD SET FORTH IN
34 SUBSECTION (C)(2) OF THIS SECTION OR THE COMPUTATION METHOD SET FORTH IN
35 SUBSECTION (C)(3) OF THIS SECTION.

36 (2) THE COMPUTATION ELECTED BY A TAXPAYER UNDER PARAGRAPH
37 (1) OF THIS SUBSECTION SHALL BE EMPLOYED BY THE TAXPAYER FOR THE
38 COMPUTATION OF THE ALTERNATIVE MINIMUM ASSESSMENT FOR THAT TAXABLE

1 YEAR AND FOR THE 4 SUCCEEDING TAXABLE YEARS, UNDER REGULATIONS THAT
2 THE COMPTROLLER ADOPTS.

3 (3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE
4 TAXPAYER MAY CHANGE ITS ELECTION AT ANY TIME AFTER THE INITIAL 5 TAXABLE
5 YEARS.

6 (II) ANY CHANGE IN THE METHOD OF COMPUTATION OF THE
7 ALTERNATIVE MINIMUM ASSESSMENT THAT THE TAXPAYER ELECTS SHALL BE
8 EMPLOYED BY THE TAXPAYER FOR THE TAXABLE YEAR FOR WHICH THE CHANGE IS
9 EFFECTIVE AND FOR THE 4 SUCCEEDING TAXABLE YEARS.

10 (E) (1) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION, THE
11 ALTERNATIVE MINIMUM ASSESSMENT FOR A TAXPAYER FOR A TAXABLE YEAR MAY
12 NOT EXCEED \$5,000,000.

13 (2) IF FIVE OR MORE TAXPAYERS ARE MEMBERS OF AN AFFILIATED
14 GROUP, THE SUM OF THE ALTERNATIVE MINIMUM ASSESSMENTS OF EACH OF THE
15 MEMBERS OF THE AFFILIATED GROUP FOR A PRIVILEGE PERIOD MAY NOT EXCEED
16 \$20,000,000.

17 (3) IF THE SUM OF THE ALTERNATIVE MINIMUM ASSESSMENT FOR ALL
18 MEMBERS OF THE AFFILIATED GROUP COMPUTED AS SET FORTH IN SUBSECTION (C)
19 OF THIS SECTION AFTER APPLICATION OF THE MAXIMUM SET BY PARAGRAPH (1) OF
20 THIS SUBSECTION WOULD OTHERWISE EXCEED \$20,000,000, THE ALTERNATIVE
21 MINIMUM ASSESSMENT FOR A MEMBER OF THE AFFILIATED GROUP SHALL EQUAL
22 THE ALTERNATIVE MINIMUM ASSESSMENT FOR THAT MEMBER OF THE AFFILIATED
23 GROUP COMPUTED AS SET FORTH IN SUBSECTION (C) OF THIS SECTION AFTER
24 APPLICATION OF THE MAXIMUM SET BY PARAGRAPH (1) OF THIS SUBSECTION
25 MULTIPLIED BY A FRACTION:

26 (I) THE NUMERATOR OF WHICH IS \$20,000,000; AND

27 (II) THE DENOMINATOR OF WHICH IS THE SUM OF THE
28 ALTERNATIVE MINIMUM ASSESSMENTS FOR ALL MEMBERS OF THE AFFILIATED
29 GROUP COMPUTED AS SET FORTH IN SUBSECTION (C) OF THIS SECTION AFTER
30 APPLICATION OF THE MAXIMUM SET BY PARAGRAPH (1) OF THIS SUBSECTION.

31 10-725.

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

34 (2) "ALTERNATIVE MINIMUM ASSESSMENT" MEANS THE ALTERNATIVE
35 MINIMUM ASSESSMENT DETERMINED UNDER § 10-102.2 OF THIS TITLE.

36 (3) "STATE INCOME TAX" MEANS THE TAX IMPOSED UNDER § 10-102 OF
37 THIS TITLE, DETERMINED BEFORE THE APPLICATION OF THE CREDITS ALLOWED
38 UNDER THIS SECTION AND §§ 10-701 AND 10-701.1 OF THIS SUBTITLE, BUT AFTER THE
39 APPLICATION OF ANY OTHER CREDITS ALLOWED UNDER THIS SUBTITLE.

1 (B) (1) AS PROVIDED IN THIS SECTION, IF THE STATE INCOME TAX FOR ANY
2 TAXABLE YEAR EXCEEDS THE ALTERNATIVE MINIMUM ASSESSMENT FOR THAT
3 TAXABLE YEAR, A CORPORATION MAY CLAIM THE AMOUNT OF THE TAX IMPOSED
4 UNDER § 10-102.2 OF THIS TITLE FOR ANY PREVIOUS TAXABLE YEAR AS A CREDIT
5 AGAINST THE STATE INCOME TAX.

6 (2) SUBJECT TO THE LIMITATIONS OF SUBSECTION (C) OF THIS
7 SECTION, THE AMOUNT OF THE TAX IMPOSED UNDER § 10-102.2 OF THIS TITLE MAY
8 BE CARRIED FORWARD INDEFINITELY FOR SUCCEEDING TAXABLE YEARS UNTIL THE
9 FULL AMOUNT IS USED AS A CREDIT UNDER THIS SECTION.

10 (C) FOR ANY TAXABLE YEAR, THE CREDIT ALLOWED UNDER THIS SECTION
11 MAY NOT EXCEED THE LESSER OF:

12 (1) THE AMOUNT BY WHICH THE STATE INCOME TAX EXCEEDS THE
13 ALTERNATIVE MINIMUM ASSESSMENT; OR

14 (2) 50% OF THE STATE INCOME TAX.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2005, and shall be applicable to all taxable years beginning after December
17 31, 2005.