6lr2262

By: Delegates King, Barkley, Bozman, G. Clagett, Dumais, Feldman, Gordon, Levy, Murray, Patterson, and Ramirez Introduced and read first time: February 10, 2006 Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

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Income Tax - Corporations - Payments to Related Entities

3 FOR the purpose of altering a certain exception to a requirement that certain interest

4 expenses and certain intangible expenses be added to the federal taxable income

- 5 of a corporation to determine Maryland modified income under certain
- 6 circumstances; providing for the application of this Act; and generally relating to
- 7 a requirement that certain interest expenses and certain intangible expenses be
- 8 added to the federal taxable income of a corporation to determine Maryland
- 9 modified income under certain circumstances.

10 BY repealing and reenacting, with amendments,

- 11 Article Tax General
- 12 Section 10-306.1(c)
- 13 Annotated Code of Maryland
- 14 (2004 Replacement Volume and 2005 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

16 MARYLAND, That the Laws of Maryland read as follows:

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Article - Tax - General

18 10-306.1.

19 (c) The addition required under subsection (b) of this section does not apply to 20 any portion of the interest expense or intangible expense to the extent that the

21 corporation establishes, as determined by the Comptroller, that:

(1) the transaction giving rise to the payment of the interest expense or
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;

25 (2) the interest expense or intangible expense was paid pursuant to 26 arm's-length contracts at an arm's-length rate of interest or price; and

27 (3) (i) during the same taxable year[,]:

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	1. the related member directly or indirectly paid, accrued, or incurred the interest expense or intangible expense to a person who is not a related member; OR
	2. THE CORPORATION MAKING THE PAYMENT DIRECTLY OR INDIRECTLY RECEIVED THE INTEREST EXPENSE OR INTANGIBLE EXPENSE FROM A PERSON WHO IS NOT A RELATED MEMBER;
9	(ii) 1. the related member was subject to a tax measured by its net income or receipts in this State, another state or possession of the United States, or a foreign nation that has entered into a comprehensive tax treaty with the United States government;
13 14	2. a measure of the tax imposed by this State, another state or possession of the United States, or a foreign nation that has entered into a comprehensive tax treaty with the United States government included the interest expense or intangible expense received by the related member from the corporation; and
16 17	3. the aggregate effective tax rate imposed on the amounts received by the related member is equal to or greater than 4%; or

18 (iii) in the case of an interest expense, the corporation and the 19 related member are banks.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 21 July 1, 2006, and shall be applicable to all taxable years beginning after December 31,

22 2006.

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