
By: **Chairman, Budget and Taxation Committee (By Request -
Departmental - Comptroller)**

Introduced and read first time: January 26, 2006

Rules suspended

Assigned to: Budget and Taxation

Committee Report: Favorable

Senate action: Adopted

Read second time: February 21, 2006

CHAPTER _____

1 AN ACT concerning

2 **Comptroller - Business Trusts**

3 FOR the purpose of altering certain definitions to clarify that a business trust not
4 taxed as a corporation is subject to a certain tax imposed on pass-through
5 entities; providing for the application of this Act; and generally relating to a
6 certain tax imposed on pass-through entities.

7 BY repealing and reenacting, with amendments,
8 Article - Tax - General
9 Section 10-102.1(a)
10 Annotated Code of Maryland
11 (2004 Replacement Volume and 2005 Supplement)

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

14 **Article - Tax - General**

15 10-102.1.

16 (a) (1) In this section the following words have the meanings indicated.

17 (2) "Distributable cash flow" means taxable income reportable by a
18 pass-through entity on its federal income tax return for the taxable year:

1 (i) adjusted, in the case of an entity using the accrual method of
2 accounting to report federal taxable income, to reflect the amount of taxable income
3 that would have been reported under the cash method of accounting;

4 (ii) increased by the sum of:

5 1. cash receipts for the taxable year that are not includable
6 in the gross income of the entity, including capital contributions and loan proceeds;

7 2. amounts allowable to the entity for the taxable year as
8 deductions for depreciation, amortization, and depletion; and

9 3. the decrease, if any, in the entity's liability reserve as of
10 the end of the taxable year; and

11 (iii) decreased by the sum of:

12 1. cash expenditures for the taxable year that are not
13 deductible in computing the taxable income of the entity, not including distributions
14 to shareholders, partners, or members; and

15 2. the increase, if any, in the entity's liability reserve as of
16 the end of the taxable year.

17 (3) "Liability reserve" means accrued unpaid liabilities that are not
18 deductible in computing taxable income.

19 (4) "Member" means:

20 (i) a shareholder of an S corporation;

21 (ii) a general or limited partner of a partnership, limited
22 partnership, or limited liability partnership; [or]

23 (iii) a member of a limited liability company; OR

24 (IV) A BENEFICIARY OF A BUSINESS TRUST.

25 (5) "Nonresident entity" means an entity that is not formed under the
26 laws of the State and is not qualified by or registered with the Department of
27 Assessments and Taxation to do business in the State.

28 (6) "Nonresident taxable income" means any income described in §
29 10-210(b)(1) through (4) of this title.

30 (7) "Pass-through entity" means:

31 (i) an S corporation;

32 (ii) a partnership; [or]

1 (iii) a limited liability company that is not taxed as a corporation
2 under this title; OR

3 (IV) A BUSINESS TRUST THAT IS NOT TAXED AS A CORPORATION
4 UNDER THIS TITLE.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
6 effect July 1, 2006, and shall be applicable to all taxable years beginning after
7 December 31, 2005.