

# SENATE BILL 22

Q7, Q3

8lr4544

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By: **Senators Jones and Frosh**

Introduced and read first time: October 29, 2007

Assigned to: Budget and Taxation

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## 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 effective date and application of this Act; and generally relating to the  
13 imposition of an alternative minimum assessment on corporations doing  
14 business in the State.

15 BY repealing and reenacting, with amendments,  
16 Article – Tax – General  
17 Section 1–101(i)  
18 Annotated Code of Maryland  
19 (2004 Replacement Volume and 2007 Supplement)

20 BY adding to  
21 Article – Tax – General  
22 Section 10–102.2 and 10–726  
23 Annotated Code of Maryland  
24 (2004 Replacement Volume and 2007 Supplement)

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

27 **Article – Tax – General**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 1-101.

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

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

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

6 **10-102.2.**

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

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

12 (3) **"ALTERNATIVE MINIMUM ASSESSMENT" MEANS THE**  
13 **ALTERNATIVE MINIMUM ASSESSMENT DETERMINED UNDER THIS SECTION.**

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

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

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

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

1 (II) SERVICES PERFORMED WITHIN THE STATE;

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

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

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

8 (8) "STATE INCOME TAX" MEANS THE TAX IMPOSED UNDER §  
9 10-102 OF THIS SUBTITLE, DETERMINED BEFORE THE APPLICATION OF THE  
10 CREDITS ALLOWED UNDER §§ 10-701 AND 10-701.1 OF THIS TITLE, BUT AFTER  
11 THE APPLICATION OF ANY OTHER CREDITS ALLOWED UNDER SUBTITLE 7 OF  
12 THIS TITLE.

13 (B) (1) IN ADDITION TO ANY OTHER TAX IMPOSED UNDER THIS TITLE,  
14 A TAX IS IMPOSED UNDER THIS SECTION ON EACH CORPORATION DOING  
15 BUSINESS IN THE STATE FOR ANY TAXABLE YEAR IF THE ALTERNATIVE  
16 MINIMUM ASSESSMENT FOR THE CORPORATION AS DETERMINED UNDER THIS  
17 SECTION EXCEEDS THE STATE INCOME TAX.

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

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

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

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

33 (II) IF MARYLAND GROSS PROFITS ARE GREATER THAN  
34 \$2,000,000 BUT LESS THAN OR EQUAL TO \$10,000,000, THE ALTERNATIVE

1 MINIMUM ASSESSMENT IS .0025 TIMES THE GROSS PROFITS IN EXCESS OF  
2 \$2,000,000 MULTIPLIED TIMES 1.11111.

3 (III) IF MARYLAND GROSS PROFITS ARE GREATER THAN  
4 \$10,000,000 BUT LESS THAN OR EQUAL TO \$15,000,000, THE ALTERNATIVE  
5 MINIMUM ASSESSMENT IS .0035 TIMES THE GROSS PROFITS.

6 (IV) IF MARYLAND GROSS PROFITS ARE GREATER THAN  
7 \$15,000,000 BUT LESS THAN OR EQUAL TO \$25,000,000, THE ALTERNATIVE  
8 MINIMUM ASSESSMENT IS .006 TIMES THE GROSS PROFITS.

9 (V) IF MARYLAND GROSS PROFITS ARE GREATER THAN  
10 \$25,000,000 BUT LESS THAN OR EQUAL TO \$37,500,000, THE ALTERNATIVE  
11 MINIMUM ASSESSMENT IS .007 TIMES THE GROSS PROFITS.

12 (VI) IF MARYLAND GROSS PROFITS ARE GREATER THAN  
13 \$37,500,000, THE ALTERNATIVE MINIMUM ASSESSMENT IS .008 TIMES THE  
14 GROSS PROFITS.

15 (3) (I) IF MARYLAND GROSS RECEIPTS ARE LESS THAN OR  
16 EQUAL TO \$10,000,000, THE ALTERNATIVE MINIMUM ASSESSMENT IS ZERO.

17 (II) IF MARYLAND GROSS RECEIPTS ARE GREATER THAN  
18 \$10,000,000 BUT LESS THAN OR EQUAL TO \$20,000,000, THE ALTERNATIVE  
19 MINIMUM ASSESSMENT IS .00125 TIMES THE GROSS RECEIPTS IN EXCESS OF  
20 \$10,000,000 MULTIPLIED TIMES 1.11111.

21 (III) IF MARYLAND GROSS RECEIPTS ARE GREATER THAN  
22 \$20,000,000 BUT LESS THAN OR EQUAL TO \$30,000,000, THE ALTERNATIVE  
23 MINIMUM ASSESSMENT IS .00175 TIMES THE GROSS RECEIPTS.

24 (IV) IF MARYLAND GROSS RECEIPTS ARE GREATER THAN  
25 \$30,000,000 BUT LESS THAN OR EQUAL TO \$50,000,000, THE ALTERNATIVE  
26 MINIMUM ASSESSMENT IS .003 TIMES THE GROSS RECEIPTS.

27 (V) IF MARYLAND GROSS RECEIPTS ARE GREATER THAN  
28 \$50,000,000 BUT LESS THAN OR EQUAL TO \$75,000,000, THE ALTERNATIVE  
29 MINIMUM ASSESSMENT IS .0035 TIMES THE GROSS RECEIPTS.

30 (VI) IF MARYLAND GROSS RECEIPTS ARE GREATER THAN  
31 \$75,000,000, THE ALTERNATIVE MINIMUM ASSESSMENT IS .004 TIMES THE  
32 GROSS RECEIPTS.

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

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

8                   (II) \$15,000,000 OF GROSS RECEIPTS; OR

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

14           (D) (1) FOR THE FIRST TAXABLE YEAR FOR WHICH IT IS REQUIRED TO  
15 COMPUTE THE ALTERNATIVE MINIMUM ASSESSMENT UNDER THIS SECTION, A  
16 TAXPAYER SHALL ELECT TO EMPLOY THE COMPUTATION METHOD SET FORTH IN  
17 SUBSECTION (C)(2) OF THIS SECTION OR THE COMPUTATION METHOD SET  
18 FORTH IN SUBSECTION (C)(3) OF THIS SECTION.

19                   (2) THE COMPUTATION ELECTED BY A TAXPAYER UNDER  
20 PARAGRAPH (1) OF THIS SUBSECTION SHALL BE EMPLOYED BY THE TAXPAYER  
21 FOR THE COMPUTATION OF THE ALTERNATIVE MINIMUM ASSESSMENT FOR  
22 THAT TAXABLE YEAR AND FOR THE 4 SUCCEEDING TAXABLE YEARS, UNDER  
23 REGULATIONS THAT THE COMPTROLLER ADOPTS.

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

27                           (II) ANY CHANGE IN THE METHOD OF COMPUTATION OF THE  
28 ALTERNATIVE MINIMUM ASSESSMENT THAT THE TAXPAYER ELECTS SHALL BE  
29 EMPLOYED BY THE TAXPAYER FOR THE TAXABLE YEAR FOR WHICH THE CHANGE  
30 IS EFFECTIVE AND FOR THE 4 SUCCEEDING TAXABLE YEARS.

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

34                   (2) IF FIVE OR MORE TAXPAYERS ARE MEMBERS OF AN  
35 AFFILIATED GROUP, THE SUM OF THE ALTERNATIVE MINIMUM ASSESSMENTS OF

1 EACH OF THE MEMBERS OF THE AFFILIATED GROUP FOR A PRIVILEGE PERIOD  
2 MAY NOT EXCEED \$20,000,000.

3 (3) IF THE SUM OF THE ALTERNATIVE MINIMUM ASSESSMENT  
4 FOR ALL MEMBERS OF THE AFFILIATED GROUP COMPUTED AS SET FORTH IN  
5 SUBSECTION (C) OF THIS SECTION AFTER APPLICATION OF THE MAXIMUM SET  
6 BY PARAGRAPH (1) OF THIS SUBSECTION WOULD OTHERWISE EXCEED  
7 \$20,000,000, THE ALTERNATIVE MINIMUM ASSESSMENT FOR A MEMBER OF THE  
8 AFFILIATED GROUP SHALL EQUAL THE ALTERNATIVE MINIMUM ASSESSMENT  
9 FOR THAT MEMBER OF THE AFFILIATED GROUP COMPUTED AS SET FORTH IN  
10 SUBSECTION (C) OF THIS SECTION AFTER APPLICATION OF THE MAXIMUM SET  
11 BY PARAGRAPH (1) OF THIS SUBSECTION MULTIPLIED BY A FRACTION:

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

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

17 **10-726.**

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

20 (2) "ALTERNATIVE MINIMUM ASSESSMENT" MEANS THE  
21 ALTERNATIVE MINIMUM ASSESSMENT DETERMINED UNDER § 10-102.2 OF THIS  
22 TITLE.

23 (3) "STATE INCOME TAX" MEANS THE TAX IMPOSED UNDER §  
24 10-102 OF THIS TITLE, DETERMINED BEFORE THE APPLICATION OF THE  
25 CREDITS ALLOWED UNDER THIS SECTION AND §§ 10-701 AND 10-701.1 OF THIS  
26 SUBTITLE, BUT AFTER THE APPLICATION OF ANY OTHER CREDITS ALLOWED  
27 UNDER THIS SUBTITLE.

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

33 (2) SUBJECT TO THE LIMITATIONS OF SUBSECTION (C) OF THIS  
34 SECTION, THE AMOUNT OF THE TAX IMPOSED UNDER § 10-102.2 OF THIS TITLE

1 MAY BE CARRIED FORWARD INDEFINITELY FOR SUCCEEDING TAXABLE YEARS  
2 UNTIL THE FULL AMOUNT IS USED AS A CREDIT UNDER THIS SECTION.

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

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

7 (2) 50% OF THE STATE INCOME TAX.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 January 1, 2008, and shall be applicable to all taxable years beginning after December  
10 31, 2007.