

# HOUSE BILL 599

Q3

8lr1201

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By: **Delegates Taylor, Anderson, Barve, Cane, Frush, Haynes, Howard, Ivey, Jones, Manno, Morhaim, Proctor, Stukes, and Vaughn**  
Introduced and read first time: January 31, 2008  
Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Subtraction Modification – Creation of a Minority Business**  
3 **Enterprise**

4 FOR the purpose of providing a subtraction modification under the Maryland income  
5 tax for certain income from certain sales that result in the creation of certain  
6 minority business enterprises; providing for the recapture of a certain  
7 subtraction modification under certain circumstances; providing a certain  
8 addition modification under certain circumstances; defining certain terms;  
9 providing for the application of this Act; and generally relating to a Maryland  
10 income tax subtraction modification for certain sales that result in the creation  
11 of certain minority business enterprises.

12 BY repealing and reenacting, without amendments,  
13 Article – Tax – General  
14 Section 10–205(a), 10–207(a), 10–306(a), and 10–307(a)  
15 Annotated Code of Maryland  
16 (2004 Replacement Volume and 2007 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article – Tax – General  
19 Section 10–306(b) and 10–307(g)  
20 Annotated Code of Maryland  
21 (2004 Replacement Volume and 2007 Supplement)

22 BY adding to  
23 Article – Tax – General  
24 Section 10–205(j) and 10–207(y)  
25 Annotated Code of Maryland  
26 (2004 Replacement Volume and 2007 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



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

3 **Article - Tax - General**

4 10-205.

5 (a) In addition to the modification under § 10-204 of this subtitle, the  
6 amounts under this section are added to the federal adjusted gross income of a  
7 resident to determine Maryland adjusted gross income.

8 **(J) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES**  
9 **THE AMOUNT REQUIRED AS A RESULT OF A RECAPTURE EVENT UNDER § 10-207**  
10 **OF THIS SUBTITLE.**

11 10-207.

12 (a) To the extent included in federal adjusted gross income, the amounts  
13 under this section are subtracted from the federal adjusted gross income of a resident  
14 to determine Maryland adjusted gross income.

15 **(Y) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE**  
16 **THE MEANINGS INDICATED.**

17 **(II) "QUALIFYING MINORITY BUSINESS ENTERPRISE"**  
18 **MEANS ANY LEGAL ENTITY, EXCEPT A JOINT VENTURE, THAT:**

19 **1. IS ORGANIZED TO ENGAGE IN COMMERCIAL**  
20 **TRANSACTIONS;**

21 **2. IS MORE THAN 50% CONTROLLED BY ONE OR**  
22 **MORE INDIVIDUALS WHO ARE SOCIALLY AND ECONOMICALLY DISADVANTAGED;**

23 **3. IS MORE THAN 20% OWNED BY ONE OR MORE**  
24 **INDIVIDUALS WHO ARE SOCIALLY AND ECONOMICALLY DISADVANTAGED; AND**

25 **4. IS MANAGED BY, AND HAS ITS DAILY BUSINESS**  
26 **OPERATIONS CONTROLLED BY, ONE OR MORE OF THE SOCIALLY AND**  
27 **ECONOMICALLY DISADVANTAGED INDIVIDUALS WHO OWN IT.**

28 **(III) "QUALIFYING SALE" MEANS A SALE OF AN ENTITY THAT**  
29 **RESULTS IN THE CREATION OF A QUALIFYING MINORITY BUSINESS ENTERPRISE.**

30 **(IV) "RECAPTURE EVENT" MEANS ANY SALE OF THE ASSETS**  
31 **OF, OR STOCK OR OTHER OWNERSHIP INTEREST IN, A BUSINESS ENTERPRISE**

1 THAT RESULTS IN THE BUSINESS ENTERPRISE NO LONGER QUALIFYING AS A  
2 QUALIFIED MINORITY BUSINESS ENTERPRISE.

3 (V) "SOCIALY AND ECONOMICALLY DISADVANTAGED  
4 INDIVIDUAL" HAS THE MEANING STATED IN § 14-301 OF THE STATE FINANCE  
5 AND PROCUREMENT ARTICLE.

6 (2) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION  
7 INCLUDES 60% OF THE INCOME RECOGNIZED AS A RESULT OF THE QUALIFYING  
8 SALE.

9 (3) IF A RECAPTURE EVENT OCCURS WITHIN 7 YEARS AFTER THE  
10 QUALIFYING SALE, AN AMOUNT IS ADDED TO THE SELLER'S FEDERAL ADJUSTED  
11 GROSS INCOME TO DETERMINE MARYLAND ADJUSTED GROSS INCOME, EQUAL  
12 TO THE SUBTRACTION PROVIDED UNDER THIS SUBSECTION.

13 10-306.

14 (a) In addition to the modification under § 10-305 of this subtitle, the  
15 amounts under this section are added to the federal taxable income of a corporation to  
16 determine Maryland modified income.

17 (b) The addition under subsection (a) of this section includes the additions  
18 required for an individual under:

19 (1) § 10-205(b) of this title (Enterprise zone wage credit, employment  
20 opportunity credit, disability credit, and qualified ex-felon employee credit);

21 (2) § 10-205(c) of this title (Reforestation and timber stand  
22 modification);

23 (3) § 10-205(e) of this title (Net operating loss modification);

24 (4) § 10-205(g) of this title (Unlicensed child care facility operating  
25 expenses); [and]

26 (5) § 10-205(i) of this title (Maryland research and development tax  
27 credit); AND

28 (6) § 10-205(j) OF THIS TITLE (GAIN FROM SALE OF MINORITY  
29 BUSINESS ENTERPRISE).

30 10-307.

1           (a)    To the extent included in federal taxable income, the amounts under this  
2 section are subtracted from the federal taxable income of a corporation to determine  
3 Maryland modified income.

4           (g)    The subtraction under subsection (a) of this section includes the amounts  
5 allowed to be subtracted for an individual under:

6                   (1)    § 10–207(i) of this title (Profits on sale or exchange of State or local  
7 bonds);

8                   (2)    § 10–207(k) of this title (Relocation and assistance payments);

9                   (3)    § 10–207(m) of this title (State or local income tax refunds); [or]

10                   (4)    § 10–207(c–1) of this title (State tax exempt interest from mutual  
11 funds); **OR**

12                   **(5)    § 10–207(y) OF THIS TITLE (GAIN FROM SALE OF MINORITY**  
13 **BUSINESS ENTERPRISE).**

14           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
15 July 1, 2008, and shall be applicable to all taxable years beginning after December 31,  
16 2007.