

SENATE BILL 633

Q3
HB 599/08 – W&M

9lr2982
CF HB 31

By: **Senators Pugh, Conway, Kelley, and McFadden**

Introduced and read first time: February 6, 2009

Assigned to: Budget and Taxation

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 2008 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 2008 Supplement)

22 BY adding to
23 Article – Tax – General
24 Section 10–205(k) and 10–207(y)
25 Annotated Code of Maryland
26 (2004 Replacement Volume and 2008 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

Article – Tax – General

10–205.

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

(K) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE AMOUNT REQUIRED AS A RESULT OF A RECAPTURE EVENT UNDER § 10–207 OF THIS SUBTITLE.

10–207.

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

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

(II) “QUALIFYING MINORITY BUSINESS ENTERPRISE” MEANS ANY LEGAL ENTITY, EXCEPT A JOINT VENTURE, THAT:

1. IS ORGANIZED TO ENGAGE IN COMMERCIAL TRANSACTIONS;

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

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

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

(III) “QUALIFYING SALE” MEANS A SALE OF AN ENTITY THAT RESULTS IN THE CREATION OF A QUALIFYING MINORITY BUSINESS ENTERPRISE.

(IV) “RECAPTURE EVENT” MEANS ANY SALE OF THE ASSETS 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 THE INCOME RECOGNIZED AS A RESULT OF THE QUALIFYING SALE.

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

12 10-306.

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

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

18 (1) § 10-205(b) of this title (Enterprise zone wage credit, employment
19 opportunity credit, disability credit, and qualified ex-felon employee credit);

20 (2) § 10-205(c) of this title (Reforestation and timber stand
21 modification);

22 (3) § 10-205(e) of this title (Net operating loss modification);

23 (4) § 10-205(g) of this title (Unlicensed child care facility operating
24 expenses); [and]

25 (5) § 10-205(i) of this title (Maryland research and development tax
26 credit); AND

27 (6) § 10-205(k) OF THIS TITLE (GAIN FROM SALE OF MINORITY
28 BUSINESS ENTERPRISE).

29 10-307.

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

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

3 (1) § 10–207(i) of this title (Profits on sale or exchange of State or local
4 bonds);

5 (2) § 10–207(k) of this title (Relocation and assistance payments);

6 (3) § 10–207(m) of this title (State or local income tax refunds); [or]

7 (4) § 10–207(c–1) of this title (State tax exempt interest from mutual
8 funds); **OR**

9 (5) **§ 10–207(Y) OF THIS TITLE (GAIN FROM SALE OF MINORITY**
10 **BUSINESS ENTERPRISE).**

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 July 1, 2009, and shall be applicable to all taxable years beginning after December 31,
13 2008.