

HOUSE BILL 449

Q3

8lr1078

By: **Delegate Lafferty**

Introduced and read first time: January 25, 2018

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Corporate Returns – Disclosure of Settlement Payments to**
3 **Governmental Units**

4 FOR the purpose of requiring certain corporations to attach to the Maryland income tax
5 return a certain statement identifying certain settlement payments to governmental
6 units under certain circumstances; requiring that certain statements be treated as
7 confidential taxpayer information; requiring the Comptroller to collect and compile
8 certain information and to submit a certain annual report to the Governor and the
9 General Assembly on or before a certain date; providing for the application of this
10 Act; and generally relating to corporate income tax returns.

11 BY repealing and reenacting, with amendments,
12 Article – Tax – General
13 Section 10–804(e)
14 Annotated Code of Maryland
15 (2016 Replacement Volume and 2017 Supplement)

16 BY adding to
17 Article – Tax – General
18 Section 10–804.2
19 Annotated Code of Maryland
20 (2016 Replacement Volume and 2017 Supplement)

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

23 **Article – Tax – General**

24 10–804.

25 (e) Each person required under this subtitle to file an income tax return or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 estimated income tax declaration or return shall:

2 (1) comply with the regulations of the Comptroller;

3 (2) keep the records that the Comptroller requires; and

4 (3) attach to an income tax return or otherwise file with the Comptroller
5 any records or statements that the Comptroller requires, including:

6 (i) for an individual who has income tax withheld from salary,
7 wages, or other compensation for personal services, or other payments, a copy of the
8 statement from the person who withholds the tax that states:

9 1. the amount of salary, wages, or other compensation for
10 personal services paid and the income tax withheld; or

11 2. the amount of payments made and the income tax
12 withheld;

13 (ii) a copy of the federal income tax return:

14 1. for a corporation; and

15 2. if the Comptroller requests, for an individual;

16 (iii) for a corporation, the statements required under [§ 10–804.1] §§
17 **10–804.1 AND 10–804.2** of this subtitle; and

18 (iv) if the Comptroller requests, for a corporation that is a member of
19 an affiliated group or controlled group under § 1504 or § 1563 of the Internal Revenue Code,
20 a statement of all intermember costs or expenses and all intermember sales, exchanges, or
21 other transactions involving tangible or intangible property for the taxable year.

22 **10–804.2.**

23 **(A) IF A CORPORATION THAT IS REQUIRED TO FILE AN INCOME TAX RETURN**
24 **UNDER THIS TITLE CLAIMS A DEDUCTION UNDER § 162(A) OF THE INTERNAL**
25 **REVENUE CODE ON THE CORPORATION'S FEDERAL INCOME TAX RETURN THAT**
26 **INCLUDES A SETTLEMENT PAYMENT TO A FEDERAL, STATE, OR LOCAL**
27 **GOVERNMENTAL UNIT, THE CORPORATION SHALL ATTACH TO THE INCOME TAX**
28 **RETURN A STATEMENT THAT IDENTIFIES:**

29 **(1) THE GOVERNMENTAL UNIT THAT RECEIVED THE SETTLEMENT;**
30 **AND**

31 **(2) THE AMOUNT PAID TO THE GOVERNMENTAL UNIT UNDER THE**

1 SETTLEMENT AGREEMENT.

2 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE STATEMENT
3 REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE TREATED AS
4 CONFIDENTIAL TAXPAYER INFORMATION SUBJECT TO TITLE 13, SUBTITLE 2 OF
5 THIS ARTICLE.

6 (C) THE COMPTROLLER SHALL:

7 (1) COLLECT AND COMPILE THE INFORMATION SUBMITTED UNDER
8 THIS SECTION; AND

9 (2) ON OR BEFORE MARCH 1 EACH YEAR, SUBMIT A REPORT TO THE
10 GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE
11 GENERAL ASSEMBLY THAT:

12 (I) INCLUDES THE AGGREGATE AMOUNT OF CORPORATE
13 SETTLEMENT PAYMENTS DEDUCTED AS ORDINARY AND NECESSARY BUSINESS
14 EXPENSES UNDER § 162(A) OF THE INTERNAL REVENUE CODE; AND

15 (II) IDENTIFIES THE GOVERNMENTAL UNITS THAT RECEIVED
16 THE SETTLEMENT PAYMENTS AND THE AGGREGATE AMOUNT OF SETTLEMENT
17 PAYMENTS RECEIVED BY EACH GOVERNMENTAL UNIT.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
19 1, 2018, and shall be applicable to all taxable years beginning on or after December 31,
20 2018.