

# SENATE BILL 890

Q3, K3

8lr3169

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By: **Senator Serafini**

Introduced and read first time: February 5, 2018

Assigned to: Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Subtraction Modification – Entities That Provide Paid Sick Leave**

3 FOR the purpose of allowing certain individuals a subtraction modification under the State  
4 income tax for a certain amount of nonpassive income attributable to certain  
5 pass-through entities that meet certain requirements; providing that the  
6 subtraction modification applies only to the nonpassive income of a member of an  
7 eligible pass-through entity if certain conditions are met; providing that certain  
8 individuals and married couples with federal adjusted gross income in excess of  
9 certain amounts are not eligible for the subtraction modification; providing for the  
10 application of this Act; defining certain terms; and generally relating to a subtraction  
11 modification under the State income tax for members of a pass-through entity that  
12 provides paid leave.

13 BY repealing and reenacting, without amendments,  
14 Article – Tax – General  
15 Section 10–208(a)  
16 Annotated Code of Maryland  
17 (2016 Replacement Volume and 2017 Supplement)

18 BY adding to  
19 Article – Tax – General  
20 Section 10–208(w)  
21 Annotated Code of Maryland  
22 (2016 Replacement Volume and 2017 Supplement)

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

25 **Article – Tax – General**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 10–208.

2 (a) In addition to the modification under § 10–207 of this subtitle, the amounts  
3 under this section are subtracted from the federal adjusted gross income of a resident to  
4 determine Maryland adjusted gross income.

5 (W) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE  
6 MEANINGS INDICATED.

7 (II) “MEMBER” MEANS:

8 1. A SHAREHOLDER OF AN S CORPORATION;

9 2. A GENERAL OR LIMITED PARTNER OF A  
10 PARTNERSHIP, LIMITED PARTNERSHIP, OR LIMITED LIABILITY PARTNERSHIP;

11 3. A MEMBER OF A LIMITED LIABILITY COMPANY;

12 4. A BENEFICIARY OF A BUSINESS TRUST OR STATUTORY  
13 TRUST; OR

14 5. A SOLE PROPRIETOR.

15 (III) 1. “NONPASSIVE INCOME” MEANS INCOME OTHER THAN  
16 INCOME FROM PASSIVE ACTIVITY AS DETERMINED UNDER § 469 OF THE INTERNAL  
17 REVENUE CODE.

18 2. “NONPASSIVE INCOME” DOES NOT INCLUDE WAGES,  
19 INTEREST, DIVIDENDS, OR CAPITAL GAINS.

20 (IV) “PASS–THROUGH ENTITY” MEANS:

21 1. AN S CORPORATION;

22 2. A PARTNERSHIP;

23 3. A LIMITED LIABILITY COMPANY THAT IS NOT TAXED  
24 AS A CORPORATION UNDER THIS TITLE;

25 4. A BUSINESS TRUST OR STATUTORY TRUST THAT IS  
26 NOT TAXED AS A CORPORATION UNDER THIS TITLE; OR

27 5. A SOLE PROPRIETORSHIP.

1           **(2) (I) SUBJECT TO THE REQUIREMENTS OF THIS SUBSECTION,**  
2 **THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE FIRST**  
3 **\$20,000 OF NONPASSIVE INCOME RECEIVED BY AN INDIVIDUAL WHO IS A MEMBER**  
4 **OF A PASS-THROUGH ENTITY THAT MEETS THE REQUIREMENTS OF THIS SECTION**  
5 **AND TITLE 3, SUBTITLE 13 OF THE LABOR AND EMPLOYMENT ARTICLE.**

6           **(II) THE SUBTRACTION UNDER THIS SUBSECTION APPLIES TO**  
7 **NONPASSIVE INCOME ATTRIBUTABLE TO A PASS-THROUGH ENTITY IF:**

8                   **1. THE TAXPAYER MATERIALLY PARTICIPATES IN THE**  
9 **DAY-TO-DAY OPERATIONS OF THE TRADE OR BUSINESS;**

10                   **2. THE PASS-THROUGH ENTITY EMPLOYS AT LEAST ONE**  
11 **PERSON WHO IS NOT A MEMBER OF THE PASS-THROUGH ENTITY; AND**

12                   **3. AT LEAST 1,200 AGGREGATE HOURS OF WORK IN THE**  
13 **STATE ARE PERFORMED BY THE CLOSE OF THE TAXABLE YEAR FOR WHICH THE**  
14 **SUBTRACTION IS TAKEN BY EMPLOYEES WHO MEET THE REQUIREMENTS OF THIS**  
15 **PARAGRAPH AND WHO ARE EMPLOYED BY THE PASS-THROUGH ENTITY.**

16           **(III) IN DETERMINING WHETHER THE REQUIREMENT UNDER**  
17 **SUBPARAGRAPH (II)3 OF THIS PARAGRAPH IS MET, ONLY HOURS WORKED IN A WEEK**  
18 **IN WHICH THE EMPLOYEE WORKS AT LEAST 30 HOURS MAY BE CONSIDERED.**

19           **(3) (I) AN INDIVIDUAL IS NOT ELIGIBLE FOR THE SUBTRACTION**  
20 **UNDER THIS SUBSECTION IF THE INDIVIDUAL HAS FEDERAL ADJUSTED GROSS**  
21 **INCOME FOR THE TAXABLE YEAR THAT EXCEEDS \$200,000.**

22           **(II) A MARRIED COUPLE FILING A JOINT RETURN IS NOT**  
23 **ELIGIBLE FOR THE SUBTRACTION UNDER THIS SUBSECTION IF THE MARRIED**  
24 **COUPLE HAS FEDERAL ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR THAT**  
25 **EXCEEDS \$250,000.**

26           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
27 1, 2018, and shall be applicable to all taxable years beginning after December 31, 2018.