

SENATE BILL 458

Q3

9lr0407

By: **Senators Guzzone, King, Peters, and Zucker**

Introduced and read first time: February 4, 2019

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 7, 2019

CHAPTER _____

1 AN ACT concerning

2 **Corporate Income Tax – Single Sales Factor Apportionment – Deferred Tax**
3 **Relief**

4 FOR the purpose of providing a subtraction modification under the Maryland corporate
5 income tax for certain changes to a certain corporation's deferred tax assets or
6 liabilities that are the result of certain acts of the General Assembly; providing for
7 the calculation of the amount of the subtraction modification; providing that the
8 subtraction modification may be claimed only for certain taxable years; providing
9 that the subtraction may not be reduced as a result of an event that occurs after the
10 calculation of the subtraction; providing, under certain circumstances, for the
11 carryforward of the subtraction; requiring a corporation that intends to claim the
12 subtraction to file a certain statement on or before a certain date; authorizing the
13 Comptroller to review and alter the amount of the subtraction specified in the
14 statement or claimed on certain tax returns; defining certain terms; and generally
15 relating to a subtraction modification under the Maryland corporate income tax for
16 certain changes to a certain corporation's deferred tax assets or liabilities.

17 BY adding to
18 Article – Tax – General
19 Section 10–311
20 Annotated Code of Maryland
21 (2016 Replacement Volume and 2018 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Article – Tax – General

1

2 **10-311.**

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

5 (2) “NET DEFERRED TAX ASSET” MEANS THE AMOUNT BY WHICH THE
6 DEFERRED TAX ASSETS EXCEED THE DEFERRED TAX LIABILITIES OF A TAXPAYER,
7 COMPUTED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING
8 PRINCIPLES.

9 (3) “NET DEFERRED TAX LIABILITY” MEANS THE AMOUNT BY WHICH
10 THE DEFERRED TAX LIABILITIES EXCEED THE DEFERRED TAX ASSETS OF A
11 TAXPAYER, COMPUTED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING
12 PRINCIPLES.

13 (B) THIS SECTION APPLIES TO A CORPORATION THAT ON OR BEFORE APRIL
14 24, 2018, THE DATE OF ENACTMENT OF THE PROVISIONS OF § 10-402 OF THIS TITLE
15 BY CHAPTERS 341 AND 342 OF THE ACTS OF THE GENERAL ASSEMBLY OF 2018,
16 WAS:

17 (1) PUBLICLY TRADED; OR

18 (2) AFFILIATED WITH A CORPORATION THAT WAS PUBLICLY TRADED,
19 AND PARTICIPATED IN THE FILING OF THE PUBLICLY TRADED CORPORATION’S
20 FINANCIAL STATEMENTS PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED
21 ACCOUNTING PRINCIPLES.

22 (C) (1) IN ADDITION TO THE MODIFICATIONS UNDER §§ 10-307 AND
23 10-308 OF THIS SUBTITLE, THE AMOUNTS DETERMINED UNDER SUBSECTION (D) OF
24 THIS SECTION ARE SUBTRACTED FROM THE FEDERAL TAXABLE INCOME OF A
25 CORPORATION TO DETERMINE MARYLAND MODIFIED INCOME OF THE
26 CORPORATION IF, AS OF APRIL 24, 2018, THE DATE OF ENACTMENT OF THE
27 PROVISIONS OF § 10-402 OF THIS TITLE BY CHAPTERS 341 AND 342 OF THE ACTS
28 OF THE GENERAL ASSEMBLY OF 2018, THE ENACTMENT RESULTED IN AN
29 AGGREGATE:

30 (I) INCREASE TO THE CORPORATION’S NET DEFERRED TAX
31 LIABILITY;

32 (II) DECREASE TO THE CORPORATION’S NET DEFERRED TAX
33 ASSET; OR

1 (III) CHANGE FROM A NET DEFERRED TAX ASSET TO A NET
2 DEFERRED TAX LIABILITY.

3 (2) THE AMOUNT OF ANY INCREASE, DECREASE, OR CHANGE SHALL
4 BE DETERMINED WITHOUT REGARD TO THE SUBTRACTION AUTHORIZED UNDER
5 THIS SECTION.

6 (D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE
7 SUBTRACTION AUTHORIZED UNDER THIS SECTION IS EQUAL TO ONE-TENTH OF THE
8 AMOUNT NECESSARY TO OFFSET THE AGGREGATE:

9 (I) INCREASE TO THE CORPORATION'S NET DEFERRED TAX
10 LIABILITY;

11 (II) DECREASE TO THE CORPORATION'S NET DEFERRED TAX
12 ASSET; OR

13 (III) CHANGE FROM A NET DEFERRED TAX ASSET TO A NET
14 DEFERRED TAX LIABILITY.

15 (2) THE SUBTRACTION AUTHORIZED UNDER THIS SECTION MAY BE
16 USED TO REDUCE THE CORPORATION'S MARYLAND MODIFIED INCOME FOR 10
17 CONSECUTIVE TAXABLE YEARS BEGINNING WITH THE FIRST TAXABLE YEAR THAT
18 BEGINS AFTER DECEMBER 31, ~~2022~~ 2028.

19 (3) THE SUBTRACTION CALCULATED UNDER THIS SECTION MAY NOT
20 BE REDUCED AS A RESULT OF ANY EVENT THAT OCCURS AFTER THE CALCULATION,
21 INCLUDING THE DISPOSITION OR ABANDONMENT OF ANY ASSET.

22 (4) THE SUBTRACTION AUTHORIZED UNDER THIS SECTION:

23 (I) SHALL BE CALCULATED WITHOUT REGARD TO THE FEDERAL
24 TAX EFFECT; AND

25 (II) MAY NOT ALTER THE TAX BASIS OF ANY ASSET.

26 (5) IF THE SUBTRACTION DETERMINED UNDER THIS SECTION
27 RESULTS IN A SUBTRACTION THAT EXCEEDS MARYLAND MODIFIED INCOME
28 COMPUTED WITHOUT REGARD TO THE SUBTRACTION UNDER THIS SECTION, THE
29 AMOUNT OF THE EXCESS MAY BE CARRIED FORWARD TO SUCCEEDING TAXABLE
30 YEARS AND USED TO REDUCE MARYLAND MODIFIED INCOME IN EACH SUCCEEDING
31 TAXABLE YEAR UNTIL THE EXCESS IS FULLY USED.

1 **(E) (1) ON OR BEFORE JULY 1, 2020, A CORPORATION THAT INTENDS TO**
2 **CLAIM A SUBTRACTION UNDER THIS SECTION SHALL FILE WITH THE COMPTROLLER**
3 **A STATEMENT THAT SPECIFIES THE TOTAL AMOUNT OF THE SUBTRACTION THAT**
4 **THE CORPORATION INTENDS TO CLAIM.**

5 **(2) THE STATEMENT SHALL BE ON THE FORM AND CONTAIN THE**
6 **INFORMATION THE COMPTROLLER REQUIRES.**

7 **(3) THE COMPTROLLER MAY REVIEW AND ALTER THE AMOUNT OF:**

8 **(I) THE SUBTRACTION SPECIFIED IN THE STATEMENT**
9 **REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION; OR**

10 **(II) THE SUBTRACTION CLAIMED ON A TAX RETURN FOR ANY**
11 **TAXABLE YEAR.**

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
13 1, 2019.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.