SENATE BILL 458

By: Senators Guzzone, King, Peters, and Zucker
Introduced and read first time: February 4, 2019
Assignsed to: Budget and Taxation

A BILL ENTITLED

AN ACT concerning

Corporate Income Tax – Single Sales Factor Apportionment – Deferred Tax Relief

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

BY adding to

Article – Tax – General
Section 10–311
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

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

Article – Tax – General

10–311.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law.
(A) (1) In this section the following words have the meanings indicated.

(2) “Net deferred tax asset” means the amount by which the deferred tax assets exceed the deferred tax liabilities of a taxpayer, computed in accordance with generally accepted accounting principles.

(3) “Net deferred tax liability” means the amount by which the deferred tax liabilities exceed the deferred tax assets of a taxpayer, computed in accordance with generally accepted accounting principles.

(B) This section applies to a corporation that on or before April 24, 2018, the date of enactment of the provisions of §10–402 of this title by Chapters 341 and 342 of the Acts of the General Assembly of 2018, was:

(1) publicly traded; or

(2) affiliated with a corporation that was publicly traded, and participated in the filing of the publicly traded corporation’s financial statements prepared in accordance with generally accepted accounting principles.

(C) (1) In addition to the modifications under §§10–307 and 10–308 of this subtitle, the amounts determined under Subsection (D) of this section are subtracted from the federal taxable income of a corporation to determine Maryland modified income of the corporation if, as of April 24, 2018, the date of enactment of the provisions of §10–402 of this title by Chapters 341 and 342 of the Acts of the General Assembly of 2018, the enactment resulted in an aggregate:

(I) increase to the corporation’s net deferred tax liability;

(II) decrease to the corporation’s net deferred tax asset; or

(III) change from a net deferred tax asset to a net deferred tax liability.
(2) The amount of any increase, decrease, or change shall be determined without regard to the subtraction authorized under this section.

(D) (1) Subject to paragraph (2) of this subsection, the subtraction authorized under this section is equal to one-tenth of the amount necessary to offset the aggregate:

   (i) increase to the corporation’s net deferred tax liability;

   (ii) decrease to the corporation’s net deferred tax asset; or

   (iii) change from a net deferred tax asset to a net deferred tax liability.

   (2) The subtraction authorized under this section may be used to reduce the corporation’s Maryland modified income for 10 consecutive taxable years beginning with the first taxable year that begins after December 31, 2022.

   (3) The subtraction calculated under this section may not be reduced as a result of any event that occurs after the calculation, including the disposition or abandonment of any asset.

   (4) The subtraction authorized under this section:

      (i) shall be calculated without regard to the federal tax effect; and

      (ii) may not alter the tax basis of any asset.

   (5) If the subtraction determined under this section results in a subtraction that exceeds Maryland modified income computed without regard to the subtraction under this section, the amount of the excess may be carried forward to succeeding taxable years and used to reduce Maryland modified income in each succeeding taxable year until the excess is fully used.

   (E) (1) On or before July 1, 2020, a corporation that intends to claim a subtraction under this section shall file with the Comptroller
A STATEMENT THAT SPECIFIES THE TOTAL AMOUNT OF THE SUBTRACTION THAT
THE CORPORATION INTENDS TO CLAIM.

(2) THE STATEMENT SHALL BE ON THE FORM AND CONTAIN THE
INFORMATION THE COMPTROLLER Requires.

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

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

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

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