

SENATE BILL 795

Q3, Q1, Q7

9lr1841
CF 9lr1551

By: **Senator Hayes**

Introduced and read first time: February 4, 2019

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Income and Property Taxes – Qualified Maryland Opportunity Zone**
3 **Investments**

4 FOR the purpose of allowing a subtraction modification under the Maryland income tax for
5 certain gains from the sale to, or an exchange with, a certain unrelated person of
6 qualified Maryland opportunity zone property; providing for the calculation of the
7 subtraction modification; requiring certain taxpayers to add a certain deduction back
8 to federal adjusted gross income to determine Maryland adjusted gross income;
9 requiring certain taxpayers to add a certain deduction back to federal adjusted gross
10 income to determine Maryland modified income; requiring the Comptroller to assess
11 a certain penalty on a person that claims a certain subtraction modification in a
12 taxable year in which the qualified Maryland opportunity fund fails to satisfy certain
13 requirements; requiring the governing body of a county or municipal corporation to
14 grant a property tax credit on a certain assessment of qualified Maryland
15 opportunity zone business property under certain circumstances; providing for the
16 amount of the credit; requiring the Secretary of Housing and Community
17 Development to certify to the State Department of Assessments and Taxation certain
18 information with respect to certain qualified Maryland opportunity zone business
19 properties; requiring the Department, before property tax bills are sent, to submit to
20 the appropriate governing body certain information concerning qualified Maryland
21 opportunity zone business properties; requiring the State to reimburse, subject to
22 the State budget, a county or municipal corporation for certain amounts in a certain
23 manner; defining certain terms; providing for the application of this Act; and
24 generally relating to a subtraction modification under the Maryland income tax for
25 gains from sales or exchanges of qualified Maryland opportunity zone property and
26 a property tax credit for certain Maryland opportunity zone business property.

27 BY repealing and reenacting, without amendments,
28 Article – Tax – General
29 Section 10–204(a), 10–305(a), and 10–307(a)
30 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2016 Replacement Volume and 2018 Supplement)

2 BY adding to

3 Article – Tax – General

4 Section 10–204(m), 10–207.1, and 13–718

5 Annotated Code of Maryland

6 (2016 Replacement Volume and 2018 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article – Tax – General

9 Section 10–305(d) and 10–307(g)

10 Annotated Code of Maryland

11 (2016 Replacement Volume and 2018 Supplement)

12 BY adding to

13 Article – Tax – Property

14 Section 9–103.2

15 Annotated Code of Maryland

16 (2012 Replacement Volume and 2018 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

18 That the Laws of Maryland read as follows:

19 **Article – Tax – General**

20 10–204.

21 (a) To the extent excluded from federal adjusted gross income, the amounts under
22 this section are added to the federal adjusted gross income of a resident to determine
23 Maryland adjusted gross income.

24 **(M) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES ANY**
25 **CAPITAL GAINS EXCLUDED UNDER § 1400Z–2 OF THE INTERNAL REVENUE CODE.**

26 **10–207.1.**

27 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
28 **INDICATED.**

29 **(2) “QUALIFIED INVESTMENT” MEANS:**

30 **(I) WITH RESPECT TO INVESTMENT IN A QUALIFIED MARYLAND**
31 **OPPORTUNITY ZONE BUSINESS OR IN QUALIFIED MARYLAND OPPORTUNITY ZONE**
32 **STOCK, AN INVESTMENT OF AT LEAST \$25,000; OR**

33 **(II) WITH RESPECT TO INVESTMENT IN A QUALIFIED MARYLAND**

1 OPPORTUNITY ZONE PROPERTY, AN INVESTMENT OF AT LEAST \$100,000.

2 (3) "QUALIFIED MARYLAND OPPORTUNITY FUND" MEANS AN
3 INVESTMENT VEHICLE THAT:

4 (I) IS ORGANIZED AS A CORPORATION OR PARTNERSHIP FOR
5 THE PURPOSE OF INVESTING IN QUALIFIED MARYLAND OPPORTUNITY ZONE
6 PROPERTY, OTHER THAN ANOTHER QUALIFIED MARYLAND OPPORTUNITY ZONE
7 FUND; AND

8 (II) HOLDS AT LEAST 90% OF THE FUND'S ASSETS IN QUALIFIED
9 MARYLAND OPPORTUNITY ZONE PROPERTY, DETERMINED BY THE AVERAGE OF THE
10 PERCENTAGE OF QUALIFIED MARYLAND OPPORTUNITY ZONE PROPERTY HELD IN
11 THE FUND AS MEASURED:

12 1. ON THE LAST DAY OF THE FIRST 6-MONTH PERIOD OF
13 THE TAXABLE YEAR OF THE FUND; AND

14 2. ON THE LAST DAY OF THE TAXABLE YEAR OF THE
15 FUND.

16 (4) "QUALIFIED MARYLAND OPPORTUNITY ZONE BUSINESS" MEANS
17 A TRADE OR BUSINESS IN WHICH SUBSTANTIALLY ALL OF THE TANGIBLE PROPERTY
18 OWNED OR LEASED BY THE TAXPAYER IS LOCATED IN A QUALIFIED MARYLAND
19 OPPORTUNITY ZONE.

20 (5) "QUALIFIED MARYLAND OPPORTUNITY ZONE BUSINESS
21 PROPERTY" MEANS TANGIBLE PROPERTY USED IN A TRADE OR BUSINESS OF A
22 QUALIFIED MARYLAND OPPORTUNITY FUND IF:

23 (I) THE PROPERTY WAS ACQUIRED BY THE QUALIFIED
24 MARYLAND OPPORTUNITY FUND BY PURCHASE, AS DEFINED IN § 179(D)(2) OF THE
25 INTERNAL REVENUE CODE, AFTER DECEMBER 31, 2018;

26 (II) 1. THE ORIGINAL USE OF THE PROPERTY IN THE
27 QUALIFIED MARYLAND OPPORTUNITY ZONE COMMENCES WITH THE QUALIFIED
28 MARYLAND OPPORTUNITY FUND; OR

29 2. THE QUALIFIED MARYLAND OPPORTUNITY FUND
30 SUBSTANTIALLY IMPROVES THE PROPERTY; AND

31 (III) DURING SUBSTANTIALLY ALL OF THE QUALIFIED
32 MARYLAND OPPORTUNITY FUND'S HOLDING PERIOD OF THE PROPERTY,

1 SUBSTANTIALLY ALL OF THE USE OF THE PROPERTY WAS IN A QUALIFIED
2 MARYLAND OPPORTUNITY ZONE.

3 (6) "QUALIFIED MARYLAND OPPORTUNITY ZONE PROPERTY" MEANS
4 PROPERTY THAT IS:

5 (I) QUALIFIED MARYLAND OPPORTUNITY ZONE STOCK;

6 (II) QUALIFIED MARYLAND OPPORTUNITY ZONE PARTNERSHIP
7 INTEREST; OR

8 (III) QUALIFIED MARYLAND OPPORTUNITY ZONE BUSINESS
9 PROPERTY.

10 (7) "QUALIFIED MARYLAND OPPORTUNITY ZONE STOCK" MEANS ANY
11 STOCK, LIMITED PARTNERSHIP INTEREST, OR LIMITED LIABILITY COMPANY
12 INTEREST IN A DOMESTIC CORPORATION, LIMITED PARTNERSHIP, OR LIMITED
13 LIABILITY COMPANY, IF:

14 (I) THE STOCK OR INTEREST IS ACQUIRED BY THE QUALIFIED
15 OPPORTUNITY FUND AFTER DECEMBER 31, 2018, AT ITS ORIGINAL ISSUE FROM THE
16 CORPORATION, LIMITED PARTNERSHIP, OR LIMITED LIABILITY COMPANY SOLELY IN
17 EXCHANGE FOR CASH;

18 (II) AS OF THE TIME THE STOCK WAS ISSUED, THE
19 CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY WAS A QUALIFIED
20 MARYLAND OPPORTUNITY ZONE BUSINESS OR, IN THE CASE OF A NEW ENTITY, WAS
21 BEING ORGANIZED FOR THE PURPOSES OF BEING A QUALIFIED MARYLAND
22 OPPORTUNITY ZONE BUSINESS; AND

23 (III) DURING SUBSTANTIALLY ALL OF THE QUALIFIED
24 MARYLAND OPPORTUNITY FUND'S HOLDING PERIOD FOR THE STOCK, THE
25 CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY QUALIFIED AS A
26 QUALIFIED MARYLAND OPPORTUNITY ZONE BUSINESS.

27 (8) "UNRELATED PARTY" MEANS A PERSON THAT IS NOT:

28 (I) A FAMILY MEMBER; OR

29 (II) A PERSON UNDER COMMON CONTROL THROUGH
30 OWNERSHIP OF, OR BEING UNDER THE OWNERSHIP OF, ANOTHER PERSON OR
31 ENTITY THROUGH AT LEAST A 10% HOLDING.

1 **(9) “SUBSTANTIAL IMPROVEMENT” OR “SUBSTANTIALLY IMPROVE”**
2 **MEANS, DURING ANY 30–MONTH PERIOD IN THE POSSESSION OF A QUALIFIED**
3 **MARYLAND OPPORTUNITY FUND BEGINNING AFTER THE DATE OF ACQUISITION OF**
4 **THE PROPERTY, ADDITIONS TO THE BASIS OF A PROPERTY THAT EXCEED AN**
5 **AMOUNT EQUAL TO THE ADJUSTED BASIS OF THE PROPERTY AT THE BEGINNING OF**
6 **THE 30–MONTH PERIOD.**

7 **(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, TO THE**
8 **EXTENT INCLUDED IN FEDERAL ADJUSTED GROSS INCOME, A PERSON MAY**
9 **SUBTRACT THE GAIN FROM THE SALE TO, OR AN EXCHANGE WITH, AN UNRELATED**
10 **PERSON OF QUALIFIED MARYLAND OPPORTUNITY ZONE PROPERTY.**

11 **(2) THE SUBTRACTION UNDER PARAGRAPH (1) OF THIS SUBSECTION**
12 **MAY NOT EXCEED:**

13 **(I) FOR A QUALIFIED INVESTMENT HELD FOR AT LEAST 5**
14 **YEARS, 10% OF THE BASIS OF THE INVESTMENT;**

15 **(II) FOR A QUALIFIED INVESTMENT HELD FOR AT LEAST 7**
16 **YEARS, 15% OF THE BASIS OF THE INVESTMENT; AND**

17 **(III) FOR A QUALIFIED INVESTMENT HELD FOR AT LEAST 10**
18 **YEARS, 25% OF THE BASIS OF THE INVESTMENT.**

19 10–305.

20 (a) To the extent excluded from federal taxable income, the amounts under this
21 section are added to the federal taxable income of a corporation to determine Maryland
22 modified income.

23 (d) The addition under subsection (a) of this section includes the additions
24 required for an individual under:

25 (1) § 10–204(b) of this title (Dividends and interest from another state or
26 local obligation);

27 (2) § 10–204(c)(2) of this title (Federal tax–exempt income);

28 (3) § 10–204(e) of this title (Oil percentage depletion allowance);

29 (4) § 10–204(i) of this title (Deduction for qualified production activities
30 income);

31 (5) § 10–204(j) of this title (Deduction for costs for security clearance
32 administrative expenses and construction and equipment costs incurred to construct or

1 renovate a sensitive compartmented information facility); [and]

2 (6) § 10–204(l) of this title (Deduction for donations to qualified permanent
3 endowment funds); AND

4 (7) § 10–204(M) OF THIS TITLE (CAPITAL GAINS DEFERRED FOR
5 INVESTMENT IN OPPORTUNITY ZONE).

6 10–307.

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

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

12 (1) § 10–207(i) of this title (Profits on sale or exchange of State or local
13 bonds);

14 (2) § 10–207(k) of this title (Relocation and assistance payments);

15 (3) § 10–207(m) of this title (State or local income tax refunds); [or]

16 (4) § 10–207(c–1) of this title (State tax–exempt interest from mutual
17 funds); OR

18 (5) § 10–207.1 OF THIS TITLE (INVESTMENTS IN QUALIFIED
19 OPPORTUNITY FUNDS).

20 13–718.

21 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
22 INDICATED.

23 (2) “QUALIFIED MARYLAND OPPORTUNITY FUND” HAS THE MEANING
24 STATED IN § 10–207.1 OF THIS ARTICLE.

25 (3) “QUALIFIED MARYLAND OPPORTUNITY ZONE PROPERTY” HAS
26 THE MEANING STATED IN § 10–207.1 OF THIS ARTICLE.

27 (B) IF A PERSON CLAIMS A SUBTRACTION MODIFICATION UNDER § 10–207.1
28 OR § 10–307(G)(5) OF THIS ARTICLE FOR A TAXABLE YEAR IN WHICH THE QUALIFIED
29 MARYLAND OPPORTUNITY FUND DID NOT HOLD AT LEAST 90% OF ITS ASSETS IN
30 QUALIFIED MARYLAND OPPORTUNITY ZONE PROPERTY AS DETERMINED UNDER §

1 **10-207.1(A)(3)(II) OF THIS ARTICLE, THE COMPTROLLER SHALL ASSESS A PENALTY**
2 **IN THE AMOUNT SPECIFIED UNDER SUBSECTION (C) OF THIS SECTION FOR EACH**
3 **MONTH THAT THE FUND FAILED TO SATISFY THE REQUIREMENT.**

4 **(C) THE PENALTY ASSESSED UNDER SUBSECTION (B) OF THIS SECTION IS**
5 **EQUAL TO THE ANNUAL INTEREST RATE SPECIFIED UNDER § 13-604 OF THIS TITLE**
6 **MULTIPLIED BY THE QUOTIENT OF:**

7 **(1) 90% OF THE FUND'S ASSETS; AND**

8 **(2) THE AMOUNT OF QUALIFIED MARYLAND OPPORTUNITY ZONE**
9 **PROPERTY HELD BY THE FUND.**

10 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
11 as follows:

12 **Article – Tax – Property**

13 **9-103.2.**

14 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
15 **INDICATED.**

16 **(2) “BASE YEAR” MEANS THE TAXABLE YEAR IMMEDIATELY BEFORE**
17 **THE TAXABLE YEAR IN WHICH A PROPERTY TAX CREDIT UNDER THIS SECTION IS TO**
18 **BE GRANTED.**

19 **(3) (I) “BASE YEAR VALUE” MEANS THE VALUE OF THE PROPERTY**
20 **USED TO DETERMINE THE ASSESSMENT ON WHICH THE PROPERTY TAX ON REAL**
21 **PROPERTY WAS IMPOSED FOR THE BASE YEAR.**

22 **(II) “BASE YEAR VALUE” DOES NOT INCLUDE ANY NEW REAL**
23 **PROPERTY THAT WAS FIRST ASSESSED IN THE BASE YEAR.**

24 **(4) “ELIGIBLE ASSESSMENT” MEANS THE DIFFERENCE BETWEEN THE**
25 **BASE YEAR VALUE AND THE ACTUAL VALUE AS DETERMINED BY THE DEPARTMENT**
26 **FOR THE APPLICABLE TAXABLE YEAR IN WHICH THE TAX CREDIT UNDER THIS**
27 **SECTION IS TO BE GRANTED.**

28 **(5) “QUALIFIED MARYLAND OPPORTUNITY FUND” HAS THE MEANING**
29 **STATED IN § 10-207.1 OF THE TAX – GENERAL ARTICLE.**

30 **(6) “QUALIFIED MARYLAND OPPORTUNITY ZONE BUSINESS**
31 **PROPERTY” HAS THE MEANING STATED IN § 10-207.1 OF THE TAX – GENERAL**

1 **ARTICLE.**

2 **(B) THE GOVERNING BODY OF A COUNTY OR OF A MUNICIPAL CORPORATION**
3 **SHALL GRANT A TAX CREDIT UNDER THIS SECTION AGAINST THE PROPERTY TAX**
4 **IMPOSED ON THE ELIGIBLE ASSESSMENT OF QUALIFIED MARYLAND OPPORTUNITY**
5 **ZONE BUSINESS PROPERTY IF THE PROPERTY WAS VACANT FOR AT LEAST 12**
6 **MONTHS BEFORE THE ACQUISITION OF THE PROPERTY BY A QUALIFIED MARYLAND**
7 **OPPORTUNITY FUND.**

8 **(C) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE**
9 **APPROPRIATE GOVERNING BODY SHALL CALCULATE THE AMOUNT OF THE TAX**
10 **CREDIT UNDER THIS SECTION EQUAL TO A PERCENTAGE OF THE AMOUNT OF**
11 **PROPERTY TAX IMPOSED ON THE ELIGIBLE ASSESSMENT OF THE QUALIFIED**
12 **MARYLAND OPPORTUNITY ZONE BUSINESS PROPERTY AS FOLLOWS:**

13 **(I) 100% IN THE FIRST TAXABLE YEAR FOLLOWING THE**
14 **CALENDAR YEAR IN WHICH THE PROPERTY INITIALLY BECOMES A QUALIFIED**
15 **MARYLAND OPPORTUNITY ZONE BUSINESS PROPERTY; AND**

16 **(II) 10% IN THE SECOND THROUGH SIXTH TAXABLE YEARS.**

17 **(2) FOR PURPOSES OF CALCULATING THE AMOUNT OF THE CREDIT**
18 **ALLOWED UNDER THIS SECTION, THE AMOUNT OF PROPERTY TAX IMPOSED ON THE**
19 **ELIGIBLE ASSESSMENT SHALL BE CALCULATED WITHOUT REDUCTION FOR ANY**
20 **CREDITS ALLOWED UNDER THIS TITLE.**

21 **(D) WHEN A MARYLAND OPPORTUNITY ZONE IS DESIGNATED BY THE**
22 **SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT, THE SECRETARY**
23 **SHALL CERTIFY TO THE DEPARTMENT:**

24 **(1) THE REAL PROPERTIES IN THE ZONE THAT ARE QUALIFIED**
25 **MARYLAND OPPORTUNITY ZONE BUSINESS PROPERTIES; AND**

26 **(2) THE DATE THAT THE REAL PROPERTIES BECAME QUALIFIED**
27 **MARYLAND OPPORTUNITY ZONE BUSINESS PROPERTIES.**

28 **(E) BEFORE PROPERTY TAX BILLS ARE MAILED, THE DEPARTMENT SHALL**
29 **SUBMIT TO THE APPROPRIATE GOVERNING BODY OF A COUNTY OR MUNICIPAL**
30 **CORPORATION A LIST CONTAINING:**

31 **(1) THE LOCATION OF EACH QUALIFIED MARYLAND OPPORTUNITY**
32 **ZONE BUSINESS PROPERTY;**

1 **(2) THE AMOUNT OF THE BASE YEAR VALUE FOR EACH QUALIFIED**
2 **MARYLAND OPPORTUNITY ZONE BUSINESS PROPERTY; AND**

3 **(3) THE AMOUNT OF THE ELIGIBLE ASSESSMENT FOR EACH**
4 **QUALIFIED MARYLAND OPPORTUNITY ZONE BUSINESS PROPERTY.**

5 **(F) AS PROVIDED IN THE STATE BUDGET, THE STATE SHALL REMIT TO**
6 **EACH COUNTY OR MUNICIPAL CORPORATION AN AMOUNT EQUAL TO ONE-HALF OF**
7 **THE FUNDS THAT WOULD HAVE BEEN COLLECTED IF THE PROPERTY TAX CREDIT**
8 **UNDER THIS SECTION HAD NOT BEEN GRANTED.**

9 **(G) (1) (I) ON OR BEFORE JUNE 30 EACH YEAR, A COUNTY OR**
10 **MUNICIPAL CORPORATION MAY SUBMIT A REQUEST, TO THE DEPARTMENT, FOR THE**
11 **REIMBURSEMENT UNDER SUBSECTION (F) OF THIS SECTION.**

12 **(II) IF THE COUNTY OR MUNICIPAL CORPORATION SUBMITS THE**
13 **REQUEST UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DEPARTMENT**
14 **SHALL CERTIFY TO THE COMPTROLLER, ON OR BEFORE JULY 31, THE AMOUNT OF**
15 **REIMBURSEMENT DUE TO THE COUNTY OR MUNICIPAL CORPORATION.**

16 **(III) IF THE COMPTROLLER RECEIVES THE CERTIFICATION**
17 **UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE COMPTROLLER SHALL, ON**
18 **OR BEFORE AUGUST 31, REIMBURSE THE COUNTY OR MUNICIPAL CORPORATION.**

19 **(2) IF A COUNTY OR MUNICIPAL CORPORATION SUBMITS A REQUEST**
20 **FOR THE REIMBURSEMENT REQUIRED UNDER SUBSECTION (F) OF THIS SECTION**
21 **AFTER JUNE 30:**

22 **(I) THE DEPARTMENT SHALL ISSUE ITS CERTIFICATION TO THE**
23 **COMPTROLLER WITHIN 30 DAYS AFTER RECEIPT OF THE REQUEST; AND**

24 **(II) THE COMPTROLLER SHALL REIMBURSE THE COUNTY OR**
25 **MUNICIPAL CORPORATION WITHIN 30 DAYS AFTER RECEIPT OF THE**
26 **CERTIFICATION.**

27 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be
28 applicable to all taxable years beginning after December 31, 2018.

29 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall be
30 applicable to all taxable years beginning after June 30, 2018.

31 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect June
32 1, 2019.