

# HOUSE BILL 403

Q3  
SB 409/19 – B&T

2lr2227  
CF 2lr2226

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By: **Delegate Korman**

Introduced and read first time: January 19, 2022

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Subtraction Modification – Employee-Owned Businesses**

3 FOR the purpose of allowing a subtraction modification under the State income tax for  
4 income from a qualified transfer of stock or membership interest of a Maryland  
5 corporation or limited liability company to certain employee ownership entities;  
6 limiting the amount of the subtraction to a certain amount if the transfer is to a  
7 direct share ownership plan; and generally relating to a Maryland income tax  
8 subtraction modification for income from qualified transfers of ownership interests.

9 BY repealing and reenacting, without amendments,  
10 Article – Tax – General  
11 Section 10–207(a) and 10–307(a)  
12 Annotated Code of Maryland  
13 (2016 Replacement Volume and 2021 Supplement)

14 BY adding to  
15 Article – Tax – General  
16 Section 10–207(mm)  
17 Annotated Code of Maryland  
18 (2016 Replacement Volume and 2021 Supplement)

19 BY repealing and reenacting, with amendments,  
20 Article – Tax – General  
21 Section 10–307(g)  
22 Annotated Code of Maryland  
23 (2016 Replacement Volume and 2021 Supplement)

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

26 **Article – Tax – General**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 10-207.

2 (a) To the extent included in federal adjusted gross income, the amounts under  
3 this section are subtracted from the federal adjusted gross income of a resident to determine  
4 Maryland adjusted gross income.

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

7 (II) "DIRECT SHARE OWNERSHIP PLAN" MEANS AN  
8 ARRANGEMENT IN WHICH A PORTION OF THE HIGHEST CLASS OF VOTING STOCK OR  
9 VOTING MEMBERSHIP INTEREST OF A CORPORATION OR LIMITED LIABILITY  
10 COMPANY IS HELD DIRECTLY BY ALL TENURED EMPLOYEES.

11 (III) 1. "EMPLOYEE OWNERSHIP TRUST" MEANS:

12 A. A TRUST, INCLUDING A FOREIGN TRUST, THAT HOLDS  
13 THE HIGHEST CLASS OF VOTING STOCK OR VOTING MEMBERSHIP INTEREST OF A  
14 CORPORATION OR LIMITED LIABILITY COMPANY;

15 B. A TRUST WITH THE EXCLUSIVE PURPOSE OF  
16 CREATING EMPLOYEE OWNERSHIP BY OBTAINING AND HOLDING STOCK OR  
17 MEMBERSHIP INTEREST OF AN EMPLOYER AND PROMOTING THE FINANCIAL AND  
18 NONFINANCIAL INTERESTS OF ALL TENURED EMPLOYEES; OR

19 C. A TRUST THAT DISTRIBUTES OR ALLOCATES  
20 PRINCIPAL AND INCOME PROPORTIONALLY TO ALL TENURED EMPLOYEES ON THE  
21 BASIS OF HOURS WORKED, SALARY, OR SENIORITY, OR TO ONE OR MORE  
22 CHARITABLE ORGANIZATIONS.

23 2. "EMPLOYEE OWNERSHIP TRUST" INCLUDES A  
24 NONCHARITABLE PURPOSE TRUST AUTHORIZED UNDER § 14.5-408 OF THE ESTATES  
25 AND TRUSTS ARTICLE AND A PERPETUAL TRUST.

26 (IV) "EMPLOYEE STOCK OWNERSHIP PLAN" HAS THE MEANING  
27 STATED IN § 4975(E)(7) OF THE INTERNAL REVENUE CODE.

28 (V) "EMPLOYER" INCLUDES TWO OR MORE PERSONS TREATED  
29 AS A SINGLE EMPLOYER UNDER § 414(B), (C), (M), OR (O) OF THE INTERNAL  
30 REVENUE CODE.

31 (VI) "QUALIFIED TRANSFER" MEANS THE TRANSFER OF ANY  
32 AMOUNT OF STOCK OR MEMBERSHIP INTEREST OF A CORPORATION OR LIMITED

1 LIABILITY COMPANY TO AN EMPLOYEE STOCK OWNERSHIP PLAN, AN EMPLOYEE  
2 OWNERSHIP TRUST, OR A DIRECT SHARE OWNERSHIP PLAN, IF:

3 1. THE STOCK OR MEMBERSHIP INTEREST HAS VOTING  
4 POWER EQUAL TO OR IN EXCESS OF THAT OF THE CLASS OF STOCK OR MEMBERSHIP  
5 INTEREST OF THE EMPLOYER HAVING THE GREATEST VOTING POWER;

6 2. THE STOCK OR MEMBERSHIP INTEREST HAS  
7 DIVIDEND RIGHTS EQUAL TO OR IN EXCESS OF THAT OF THE CLASS OF STOCK OR  
8 MEMBERSHIP INTEREST OF THE EMPLOYER HAVING THE GREATEST DIVIDEND  
9 RIGHTS; AND

10 3. IN THE CASE OF A TRANSFER TO A DIRECT SHARE  
11 OWNERSHIP PLAN, THE LARGEST AMOUNT OF STOCK OR MEMBERSHIP INTEREST  
12 TRANSFERRED TO ANY EMPLOYEE DOES NOT EXCEED 10 TIMES THE SMALLEST  
13 AMOUNT OF STOCK OR MEMBERSHIP INTEREST TRANSFERRED TO ANY TENURED  
14 EMPLOYEE.

15 (VII) "TENURED EMPLOYEE" MEANS AN EMPLOYEE OR  
16 INDEPENDENT CONTRACTOR WHO HAS PROVIDED:

17 1. AT LEAST 1,000 HOURS OF SERVICES TO THE  
18 EMPLOYER WITHIN THE PRECEDING 12 MONTHS; OR

19 2. THE NUMBER OF HOURS ESTABLISHED IN THE TERMS  
20 OF AN EMPLOYEE STOCK OWNERSHIP PLAN, AN EMPLOYEE OWNERSHIP TRUST, OR  
21 A DIRECT SHARE OWNERSHIP PLAN IF THE EMPLOYEE STOCK OWNERSHIP PLAN,  
22 EMPLOYEE OWNERSHIP TRUST, OR DIRECT SHARE OWNERSHIP PLAN ESTABLISHES  
23 A NUMBER OF HOURS OF SERVICE THAT IS LESS THAN THE NUMBER REQUIRED  
24 UNDER ITEM 1 OF THIS SUBPARAGRAPH.

25 (2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE  
26 SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES ANY INCOME  
27 FROM A QUALIFIED TRANSFER OF THE STOCK OR MEMBERSHIP INTEREST OF A  
28 MARYLAND CORPORATION OR LIMITED LIABILITY COMPANY.

29 (3) IF THE QUALIFIED TRANSFER IS TO A DIRECT SHARE OWNERSHIP  
30 PLAN, THE SUBTRACTION IS LIMITED TO THE LOWEST AMOUNT OF STOCK OR  
31 MEMBERSHIP INTEREST TRANSFERRED TO ANY TENURED EMPLOYEE DURING THE  
32 TAXABLE YEAR MULTIPLIED BY THE NUMBER OF ALL TENURED EMPLOYEES.

33 10-307.

34 (a) To the extent included in federal taxable income, the amounts under this

1 section are subtracted from the federal taxable income of a corporation to determine  
2 Maryland modified income.

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

5 (1) § 10–207(i) of this title (Profits on sale or exchange of State or local  
6 bonds);

7 (2) § 10–207(k) of this title (Relocation and assistance payments);

8 (3) § 10–207(m) of this title (State or local income tax refunds);

9 (4) § 10–207(c–1) of this title (State tax–exempt interest from mutual  
10 funds);

11 (5) [~~§ 10–207(hh)~~] **§ 10–207(II)** of this title (Gain on the transfer of  
12 property within the Laurel Park site or Pimlico site or Bowie Race Course Training Center  
13 property and income recognized as result of governmental expenditures); **[or]**

14 (6) § 10–207(jj) of this title (Coronavirus relief payments); **OR**

15 **(7) § 10–207(MM) OF THIS TITLE (INCOME FROM THE TRANSFER OF**  
16 **AN ENTITY TO CERTAIN EMPLOYEE OWNERSHIP ENTITIES).**

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
18 1, 2022, and shall be applicable to all taxable years beginning after December 31, 2021.