

SENATE BILL 561

Q3
SB 409/19 – B&T

2lr2226
CF HB 403

By: **Senators Feldman, Jennings, Corderman, Edwards, Elfreth, Ferguson, Hayes, Jackson, King, Klausmeier, Pinsky, Ready, Rosapepe, and Simonaire**

Introduced and read first time: January 31, 2022

Assigned to: Budget and Taxation

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:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Tax – General**

2 10–207.

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

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

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

12 (III) 1. “EMPLOYEE OWNERSHIP TRUST” MEANS:

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

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

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

24 2. “EMPLOYEE OWNERSHIP TRUST” INCLUDES A
25 NONCHARITABLE PURPOSE TRUST AUTHORIZED UNDER § 14.5–408 OF THE ESTATES
26 AND TRUSTS ARTICLE AND A PERPETUAL TRUST.

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

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

32 (VI) “QUALIFIED TRANSFER” MEANS THE TRANSFER OF ANY

1 AMOUNT OF STOCK OR MEMBERSHIP INTEREST OF A CORPORATION OR LIMITED
2 LIABILITY COMPANY TO AN EMPLOYEE STOCK OWNERSHIP PLAN, AN EMPLOYEE
3 OWNERSHIP TRUST, OR A DIRECT SHARE OWNERSHIP PLAN, IF:

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

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

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

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

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

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

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

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

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

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

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

8 (2) § 10–207(k) of this title (Relocation and assistance payments);

9 (3) § 10–207(m) of this title (State or local income tax refunds);

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

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

15 (6) § 10–207(jj) of this title (Coronavirus relief payments); **OR**

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

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
19 1, 2022, and shall be applicable to all taxable years beginning after December 31, 2021.