

# SENATE BILL 561

Q3  
SB 409/19 – B&T

2lr2226  
CF HB 403

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

Introduced and read first time: January 31, 2022  
Assigned to: Budget and Taxation

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 5, 2022

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## CHAPTER \_\_\_\_\_

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

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### 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.



1 Section 10–307(g)  
2 Annotated Code of Maryland  
3 (2016 Replacement Volume and 2021 Supplement)

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

6 **Article – Tax – General**

7 10–207.

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

11 **(MM) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE**  
12 **MEANINGS INDICATED.**

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

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

18 **A. A TRUST, INCLUDING A FOREIGN TRUST, THAT HOLDS**  
19 **THE HIGHEST CLASS OF VOTING STOCK OR VOTING MEMBERSHIP INTEREST OF A**  
20 **CORPORATION OR LIMITED LIABILITY COMPANY;**

21 **B. A TRUST WITH THE EXCLUSIVE PURPOSE OF**  
22 **CREATING EMPLOYEE OWNERSHIP BY OBTAINING AND HOLDING STOCK OR**  
23 **MEMBERSHIP INTEREST OF AN EMPLOYER AND PROMOTING THE FINANCIAL AND**  
24 **NONFINANCIAL INTERESTS OF ALL TENURED EMPLOYEES; OR**

25 **C. A TRUST THAT DISTRIBUTES OR ALLOCATES**  
26 **PRINCIPAL AND INCOME PROPORTIONALLY TO ALL TENURED EMPLOYEES ON THE**  
27 **BASIS OF HOURS WORKED, SALARY, OR SENIORITY, OR TO ONE OR MORE**  
28 **CHARITABLE ORGANIZATIONS.**

29 **2. “EMPLOYEE OWNERSHIP TRUST” INCLUDES A**  
30 **NONCHARITABLE PURPOSE TRUST AUTHORIZED UNDER § 14.5–408 OF THE ESTATES**  
31 **AND TRUSTS ARTICLE AND A PERPETUAL TRUST.**

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

1           (v) "EMPLOYER" INCLUDES TWO OR MORE PERSONS TREATED  
2 AS A SINGLE EMPLOYER UNDER § 414(B), (C), (M), OR (O) OF THE INTERNAL  
3 REVENUE CODE.

4           (vi) "QUALIFIED TRANSFER" MEANS THE TRANSFER OF ANY  
5 AMOUNT OF STOCK OR MEMBERSHIP INTEREST OF A CORPORATION OR LIMITED  
6 LIABILITY COMPANY TO AN EMPLOYEE STOCK OWNERSHIP PLAN, AN EMPLOYEE  
7 OWNERSHIP TRUST, OR A DIRECT SHARE OWNERSHIP PLAN, IF:

8           1. THE STOCK OR MEMBERSHIP INTEREST HAS VOTING  
9 POWER EQUAL TO OR IN EXCESS OF THAT OF THE CLASS OF STOCK OR MEMBERSHIP  
10 INTEREST OF THE EMPLOYER HAVING THE GREATEST VOTING POWER;

11           2. THE STOCK OR MEMBERSHIP INTEREST HAS  
12 DIVIDEND RIGHTS EQUAL TO OR IN EXCESS OF THAT OF THE CLASS OF STOCK OR  
13 MEMBERSHIP INTEREST OF THE EMPLOYER HAVING THE GREATEST DIVIDEND  
14 RIGHTS; AND

15           3. IN THE CASE OF A TRANSFER TO A DIRECT SHARE  
16 OWNERSHIP PLAN, THE LARGEST AMOUNT OF STOCK OR MEMBERSHIP INTEREST  
17 TRANSFERRED TO ANY EMPLOYEE DOES NOT EXCEED 10 TIMES THE SMALLEST  
18 AMOUNT OF STOCK OR MEMBERSHIP INTEREST TRANSFERRED TO ANY TENURED  
19 EMPLOYEE.

20           (vii) "TENURED EMPLOYEE" MEANS AN EMPLOYEE OR  
21 INDEPENDENT CONTRACTOR WHO HAS PROVIDED:

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

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

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

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

5 10–307.

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

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

11           (1) § 10–207(i) of this title (Profits on sale or exchange of State or local  
12 bonds);

13           (2) § 10–207(k) of this title (Relocation and assistance payments);

14           (3) § 10–207(m) of this title (State or local income tax refunds);

15           (4) § 10–207(c–1) of this title (State tax–exempt interest from mutual  
16 funds);

17           (5) ~~§ 10–207(hh)~~ **§ 10–207(II)** of this title (Gain on the transfer of  
18 property within the Laurel Park site or Pimlico site or Bowie Race Course Training Center  
19 property and income recognized as result of governmental expenditures); ~~[or]~~

20           (6) § 10–207(jj) of this title (Coronavirus relief payments); **OR**

21           **(7) § 10–207(MM) OF THIS TITLE (INCOME FROM THE TRANSFER OF**  
22 **AN ENTITY TO CERTAIN EMPLOYEE OWNERSHIP ENTITIES).**

23           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
24 1, 2022, and shall be applicable to all taxable years beginning after December 31, 2021.