

SENATE BILL 813

Q3

2lr2575

By: **Senators Hester and Edwards**

Introduced and read first time: February 7, 2022

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Calculation of Taxable Income – Investments in Sustainable**
3 **Materials Management Projects**

4 FOR the purpose of allowing a subtraction modification under the Maryland income tax for
5 certain capital gain income invested in or realized from a certain sustainable
6 materials management project under certain circumstances; requiring certain
7 taxpayers to add certain capital gain income previously excluded from income to
8 determine Maryland adjusted gross income or Maryland modified income under
9 certain circumstances; and generally relating to the taxation of investments in
10 sustainable materials management projects.

11 BY repealing and reenacting, without amendments,
12 Article – Tax – General
13 Section 10–205(a), 10–207(a), 10–208(a), 10–306(a), 10–307(a), and 10–308(a)
14 Annotated Code of Maryland
15 (2016 Replacement Volume and 2021 Supplement)

16 BY adding to
17 Article – Tax – General
18 Section 10–205(n), 10–207(mm), and 10–208(bb)
19 Annotated Code of Maryland
20 (2016 Replacement Volume and 2021 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Tax – General
23 Section 10–306(b), 10–307(g), and 10–308(b)
24 Annotated Code of Maryland
25 (2016 Replacement Volume and 2021 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Tax – General

10–205.

(a) In addition to the modification under § 10–204 of this subtitle, the amounts under this section are added to the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(N) (1) IN THIS SUBSECTION, “SUSTAINABLE MATERIALS MANAGEMENT PROJECT” HAS THE MEANING STATED IN § 10–208 OF THIS SUBTITLE.

(2) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE AMOUNT OF ANY CAPITAL GAIN INCOME INVESTED IN A SUSTAINABLE MATERIALS MANAGEMENT PROJECT THAT WAS PREVIOUSLY EXCLUDED FROM THE FEDERAL ADJUSTED INCOME OF THE INVESTOR UNDER § 10–207(BB) OF THIS SUBTITLE IN THE EARLIER OF:

(I) THE TAXABLE YEAR IN WHICH THE INVESTMENT IS SOLD OR EXCHANGED; OR

(II) FOR AN INVESTMENT MADE BEFORE JANUARY 1, 2027, THE TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2025, BUT BEFORE JANUARY 1, 2027.

10–207.

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

(MM) (1) IN THIS SUBSECTION, “SUSTAINABLE MATERIALS MANAGEMENT PROJECT” HAS THE MEANING STATED IN § 10–208 OF THIS SUBTITLE.

(2) FOR A TAXABLE YEAR IN WHICH A TAXPAYER REALIZES CAPITAL GAIN INCOME FROM AN INVESTMENT THAT WAS MADE ON OR AFTER JULY 1, 2020, IN A SUSTAINABLE MATERIALS MANAGEMENT PROJECT IN THE STATE, THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES:

(I) IF THE CAPITAL GAIN INCOME IS REALIZED FROM AN INVESTMENT HELD IN THE PROJECT FOR A PERIOD OF AT LEAST 5 YEARS BUT LESS THAN 7 YEARS, ONE–THIRD OF THE CAPITAL GAINS;

1 **(II) IF THE CAPITAL GAIN INCOME IS REALIZED FROM AN**
2 **INVESTMENT HELD IN THE PROJECT FOR A PERIOD OF AT LEAST 7 YEARS BUT LESS**
3 **THAN 10 YEARS, TWO-THIRDS OF THE CAPITAL GAINS; OR**

4 **(III) IF THE CAPITAL GAIN INCOME IS REALIZED FROM AN**
5 **INVESTMENT HELD IN THE PROJECT FOR AT LEAST 10 YEARS, 100% OF THE CAPITAL**
6 **GAIN INCOME.**

7 10-208.

8 (a) In addition to the modification under § 10-207 of this subtitle, the amounts
9 under this section are subtracted from the federal adjusted gross income of a resident to
10 determine Maryland adjusted gross income.

11 **(BB) (1) IN THIS SUBSECTION, “SUSTAINABLE MATERIALS MANAGEMENT**
12 **PROJECT” MEANS:**

13 **(I) A MATERIALS RECOVERY OR SOLID WASTE SORTING**
14 **FACILITY OR ORGANICS RECYCLING FACILITY CONSTRUCTED OR INSTALLED ON OR**
15 **AFTER JULY 1, 2020, IF THE FACILITY IS CAPABLE OF:**

16 1. **PROCESSING AT LEAST 50,000 TONS EACH YEAR; AND**

17 2. **DIVERTING 80% OR MORE OF THE FACILITY’S INPUT**
18 **FEEDSTOCK FROM LANDFILL, LAND APPLICATION, OR INCINERATION DISPOSAL;**

19 **(II) THE CONSTRUCTION OR INSTALLATION OF EQUIPMENT OR**
20 **A FACILITY FOR PAPER PULPING OR PLASTIC WASHING, FLAKING, OR PELLETIZING,**
21 **ON OR AFTER JULY 1, 2020, THAT OPERATES AT LEAST 80% OF THE TIME TO**
22 **PROCESS AND RESELL RECYCLED OR REUSED MATERIALS FROM THE WASTE**
23 **STREAM;**

24 **(III) THE DESIGN OR CONSTRUCTION OF ANAEROBIC DIGESTION**
25 **EQUIPMENT OR AN ANAEROBIC DIGESTION FACILITY, ON OR AFTER JULY 1, 2020,**
26 **THAT IS CAPABLE OF PROCESSING ORGANIC WASTE, INCLUDING THE CONTENTS OF**
27 **HOUSEHOLD, INSTITUTIONAL, OR CORPORATE WASTE, AND CONVERTING THAT**
28 **WASTE INTO USEFUL PRODUCTS, INCLUDING ENERGY AND SOIL AMENDMENTS;**

29 **(IV) THE CONSTRUCTION OR INSTALLATION OF EQUIPMENT OR**
30 **A FACILITY, ON OR AFTER JULY 1, 2020, THAT:**

31 1. **USES TEXTILE OR CELLULOSIC FIBERS EXTRACTED**
32 **FROM THE WASTE STREAM TO MANUFACTURE FINISHED PRODUCTS;**

- 1 **2. PRODUCES REFUSE-DERIVED FUEL, IN ANY FORM;**
- 2 **3. IS CAPABLE OF PROCESSING OR DISASSEMBLING AND**
3 **REUSING ELECTRONIC WASTE IN ANY FORM;**
- 4 **4. REPROCESSES, RECLAIMS, OR RECYCLES BATTERIES;**
5 **OR**
- 6 **5. WASHES, CLEANS, OR PROCESSES RECYCLED GLASS**
7 **OR RELATED PRODUCTS; OR**

8 **(V) THE CONSTRUCTION OR INSTALLATION OF ANY EQUIPMENT**
9 **OR FACILITY, ON OR AFTER JULY 1, 2020, THAT USES AS ITS FEEDSTOCK AT LEAST**
10 **80% OF MATERIAL TAKEN FROM A FACILITY DESCRIBED IN ITEMS (I) THROUGH (IV)**
11 **OF THIS PARAGRAPH AND CONVERTS THAT MATERIAL INTO AN ECONOMICALLY**
12 **BENEFICIAL PRODUCT.**

13 **(2) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION**
14 **INCLUDES AN AMOUNT EQUAL TO ANY CAPITAL GAIN INCOME INVESTED BY THE**
15 **TAXPAYER IN A SUSTAINABLE MATERIALS MANAGEMENT PROJECT IN THE STATE.**

16 10-306.

17 (a) In addition to the modification under § 10-305 of this subtitle, the amounts
18 under this section are added to the federal taxable income of a corporation to determine
19 Maryland modified income.

20 (b) The addition under subsection (a) of this section includes the additions
21 required for an individual under:

22 (1) § 10-205(b) of this title (Enterprise zone wage credit, employment
23 opportunity credit, disability credit, and qualified ex-felon employee credit);

24 (2) § 10-205(c) of this title (Reforestation and timber stand modification);

25 (3) § 10-205(e) of this title (Net operating loss modification);

26 (4) § 10-205(g) of this title (Unlicensed child care facility operating
27 expenses);

28 (5) § 10-205(i) of this title (Maryland research and development tax credit);
29 **[and]**

30 (6) § 10-205(m) of this title (Credit for share of taxes paid by pass-through
31 entities); **AND**

1 **(7) § 10-205(N) OF THIS TITLE (DEFERRED CAPITAL GAIN INCOME**
2 **INVESTED IN SUSTAINABLE MATERIALS MANAGEMENT PROJECT).**

3 10-307.

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

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

9 (1) § 10-207(i) of this title (Profits on sale or exchange of State or local
10 bonds);

11 (2) § 10-207(k) of this title (Relocation and assistance payments);

12 (3) § 10-207(m) of this title (State or local income tax refunds);

13 (4) § 10-207(c-1) of this title (State tax-exempt interest from mutual
14 funds);

15 (5) § 10-207(hh) of this title (Gain on the transfer of property within the
16 Laurel Park site or Pimlico site or Bowie Race Course Training Center property and income
17 recognized as result of governmental expenditures); [or]

18 (6) § 10-207(jj) of this title (Coronavirus relief payments); **OR**

19 **(7) § 10-207(MM) OF THIS TITLE (CAPITAL GAIN INCOME REALIZED**
20 **FROM INVESTMENT IN SUSTAINABLE MATERIALS MANAGEMENT PROJECT).**

21 10-308.

22 (a) In addition to the modification under § 10-307 of this subtitle, the amounts
23 under this section are subtracted from the federal taxable income of a corporation to
24 determine Maryland modified income.

25 (b) The subtraction under subsection (a) of this section includes the amounts
26 allowed to be subtracted for an individual under:

27 (1) § 10-208(d) of this title (Enhanced agricultural management
28 equipment expenses);

29 (2) § 10-208(i) of this title (Reforestation or timber stand expenses);

1 (3) § 10–208(k) of this title (Wage expenses for targeted jobs);

2 (4) § 10–208(p) of this title (Elevator handrails in health care facilities);

3 [and]

4 (5) § 10–208(z) of this title (Donations to diaper banks and other charitable
5 entities); AND

6 **(6) § 10–208(BB) OF THIS TITLE (CAPITAL GAIN INCOME INVESTED IN**
7 **SUSTAINABLE MATERIALS MANAGEMENT PROJECT).**

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
9 1, 2022, and shall be applicable to all taxable years beginning after December 31, 2021.