

HOUSE BILL 39

Q3
HB 330/21 – W&M

(PRE-FILED)

3lr0748

By: **Delegate Charkoudian**

Requested: November 14, 2022

Introduced and read first time: January 11, 2023

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Effective Corporate Tax Rate Transparency Act of 2023**

3 FOR the purpose of requiring certain corporations to attach to their Maryland income tax
4 return a certain statement that includes certain information relating to the
5 corporations' effective tax rate; requiring that the statement be made under oath and
6 signed in a certain manner, subject to audit by the Comptroller, and treated as
7 confidential taxpayer information; and generally relating to corporate income tax
8 returns.

9 BY repealing and reenacting, with amendments,
10 Article – Tax – General
11 Section 10–804(e)
12 Annotated Code of Maryland
13 (2022 Replacement Volume)

14 BY adding to
15 Article – Tax – General
16 Section 10–804.2
17 Annotated Code of Maryland
18 (2022 Replacement Volume)

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

21 **Article – Tax – General**

22 10–804.

23 (e) Each person required under this subtitle to file an income tax return or
24 estimated income tax declaration or return shall:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (1) comply with the regulations of the Comptroller;
- 2 (2) keep the records that the Comptroller requires; and
- 3 (3) attach to an income tax return or otherwise file with the Comptroller
4 any records or statements that the Comptroller requires, including:
- 5 (i) for an individual who has income tax withheld from salary,
6 wages, or other compensation for personal services, or other payments, a copy of the
7 statement from the person who withholds the tax that states:
- 8 1. the amount of salary, wages, or other compensation for
9 personal services paid and the income tax withheld; or
- 10 2. the amount of payments made and the income tax
11 withheld;
- 12 (ii) a copy of the federal income tax return:
- 13 1. for a corporation; and
- 14 2. if the Comptroller requests, for an individual;
- 15 (iii) for a corporation, the statements required under § 10–804.1 of
16 this subtitle; [and]

17 **(IV) FOR A PUBLICLY TRADED CORPORATION AND ITS**
18 **SUBSIDIARIES, THE STATEMENT REQUIRED UNDER § 10–804.2 OF THIS SUBTITLE;**
19 **AND**

20 [(iv)] (v) if the Comptroller requests, for a corporation that is a
21 member of an affiliated group or controlled group under § 1504 or § 1563 of the Internal
22 Revenue Code, a statement of all intermember costs or expenses and all intermember sales,
23 exchanges, or other transactions involving tangible or intangible property for the taxable
24 year.

25 **10–804.2.**

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

28 **(2) “EFFECTIVE TAX RATE” MEANS A PERCENTAGE THAT EQUALS THE**
29 **QUOTIENT OF:**

30 **(1) THE STATE INCOME TAX LIABILITY OF A PUBLICLY TRADED**

1 CORPORATION; AND

2 (II) THE BOOK INCOME OF THE CORPORATION:

3 1. DETERMINED IN ACCORDANCE WITH GENERALLY
4 ACCEPTED ACCOUNTING PRINCIPLES; AND

5 2. AS ALLOCATED TO THE STATE USING A
6 THREE-FACTOR APPORTIONMENT FRACTION:

7 A. THE NUMERATOR OF WHICH IS THE SUM OF THE
8 PROPERTY FACTOR, THE PAYROLL FACTOR, AND THE RECEIPTS FACTOR,
9 CALCULATED IN ACCORDANCE WITH THE MODEL MULTISTATE TAX COMPACT WITH
10 RECOMMENDED AMENDMENTS TO ARTICLE IV, AS PROMULGATED BY THE
11 MULTISTATE TAX COMMISSION; AND

12 B. THE DENOMINATOR OF WHICH IS 3.

13 (3) "PUBLICLY TRADED CORPORATION" INCLUDES ANY SUBSIDIARY
14 OF THE CORPORATION.

15 (B) A PUBLICLY TRADED CORPORATION THAT IS REQUIRED TO FILE AN
16 INCOME TAX RETURN UNDER THIS TITLE SHALL ATTACH TO THE INCOME TAX
17 RETURN A STATEMENT THAT:

18 (1) IDENTIFIES THE CORPORATION'S EFFECTIVE TAX RATE;

19 (2) PROVIDES AN ITEMIZED EXPLANATION OF HOW THE
20 CORPORATION'S EFFECTIVE TAX RATE WAS CALCULATED, INCLUDING THE VALUE
21 OF ANY CREDITS, DEDUCTIONS, SUBTRACTION MODIFICATIONS, NET OPERATING
22 LOSSES CARRIED FORWARD OR BACKWARD, OR OTHER ADJUSTMENTS APPLIED TO
23 DETERMINE THE STATE INCOME TAX LIABILITY OF THE CORPORATION; AND

24 (3) INCLUDES A COMPARISON OF THE EFFECTIVE TAX RATE OF THE
25 CORPORATION BOTH BEFORE AND AFTER THE APPLICATION OF ANY CREDITS,
26 DEDUCTIONS, SUBTRACTION MODIFICATIONS, OR OTHER ADJUSTMENTS.

27 (C) THE STATEMENT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION:

28 (1) SHALL BE:

29 (I) MADE UNDER OATH AND SIGNED IN THE SAME MANNER AS
30 REQUIRED FOR INCOME TAX RETURNS UNDER § 10-804 OF THIS SUBTITLE; AND

1 **(II) SUBJECT TO AUDIT BY THE COMPTROLLER IN THE COURSE**
2 **OF AND UNDER THE NORMAL PROCEDURES APPLICABLE TO CORPORATE INCOME**
3 **TAX RETURN AUDITS; AND**

4 **(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, SHALL BE**
5 **TREATED AS CONFIDENTIAL TAXPAYER INFORMATION SUBJECT TO TITLE 13,**
6 **SUBTITLE 2 OF THIS ARTICLE.**

7 **(D) (1) THE COMPTROLLER SHALL:**

8 **(I) COLLECT AND COMPILE THE INFORMATION SUBMITTED**
9 **UNDER THIS SECTION; AND**

10 **(II) ON OR BEFORE MARCH 1 EACH YEAR, SUBMIT A REPORT TO**
11 **THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT**
12 **ARTICLE, THE GENERAL ASSEMBLY THAT IDENTIFIES THE AVERAGE EFFECTIVE**
13 **TAX RATE FOR ALL PUBLICLY TRADED CORPORATIONS REQUIRED TO FILE THE**
14 **STATEMENT UNDER SUBSECTION (B) OF THIS SECTION.**

15 **(2) THE REPORT REQUIRED UNDER PARAGRAPH (1)(II) OF THIS**
16 **SUBSECTION SHALL INCLUDE:**

17 **(I) THE AVERAGE EFFECTIVE TAX RATE OF PUBLICLY TRADED**
18 **CORPORATIONS, SORTED BY:**

19 **1. TYPES OF BUSINESS, ITEMIZED BY THE NORTH**
20 **AMERICAN INDUSTRIAL CLASSIFICATION SYSTEM CODE REPORTED ON EACH**
21 **CORPORATION'S INCOME TAX RETURN UNDER THIS TITLE;**

22 **2. EFFECTIVE TAX RATE; AND**

23 **3. VARIOUS MEASURES OF SIZE, SUCH AS INCOME,**
24 **PAYROLL, AND GROSS RECEIPTS; AND**

25 **(II) AN ANALYSIS IDENTIFYING AND COMPARING POTENTIAL**
26 **CAUSES FOR REDUCED EFFECTIVE TAX RATES, WHICH MAY INCLUDE FEDERAL OR**
27 **STATE TAX LOOPHOLES, TREATMENT OF OPERATING LOSSES, CREDITS AND**
28 **DEDUCTIONS, OR THE APPORTIONMENT FORMULA.**

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
30 1, 2023, and shall be applicable to all taxable years beginning after December 31, 2022.