

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 39
Ways and Means

(Delegate Charkoudian)

Budget and Taxation

Corporate Income Tax Returns of Publicly Traded Corporations - Reporting Requirement

This bill requires the Comptroller to submit a report to the Governor and the General Assembly by December 31 each year that identifies for the immediately preceding taxable year the number of publicly traded corporations conducting a trade or business in another state that are required to file a Maryland income tax return and paid no amount of State income tax. For purposes of the bill, “publicly traded corporation” includes any subsidiary of the corporation. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: General fund expenditures for the Comptroller’s Office increase by \$70,000 in FY 2024 only for necessary one-time costs, as discussed below. However, as also discussed below, it is unclear how the Comptroller’s Office can produce the initial report for tax year 2022 as required under the bill. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Each Maryland corporation and every other corporation that conducts business within Maryland, including public service companies and financial institutions, is subject to the Maryland corporate income tax.

Tax Rate and Base

Under Maryland's corporate income tax, a tax rate of 8.25% is applied to a corporation's Maryland taxable income. Maryland taxable income is federal taxable income (federal gross income minus allowable federal deductions) adjusted for Maryland addition and subtraction modifications (Maryland modified income) and allocated to the State based on the applicable apportionment factor.

Exhibit 1 summarizes the computation of the corporate income tax.

Exhibit 1
Computation of Maryland Corporate Income Tax

Federal Taxable Income
plus addition modifications
minus subtraction modifications
equals
Maryland Modified Income
multiplied by apportionment factor
equals
Maryland Taxable Income
multiplied by State tax rate (8.25%)
equals
Gross Maryland Tax
minus tax credits
equals
Maryland Corporate Income Tax Liability

Source: Department of Legislative Services

Apportionment of Income to Maryland

Unistate Corporations: For a corporation that operates wholly within the State, Maryland taxable income is equal to the corporation's Maryland modified income. In other words,

the corporation must allocate to the State all of its Maryland modified income for purposes of determining Maryland taxable income.

Multistate Corporations: A corporation engaged in multistate operations must determine the portion of the corporation's Maryland modified income that is allocable to Maryland using a specified apportionment factor. The apportionment factor is then multiplied by Maryland modified income to calculate Maryland taxable income. Pursuant to Chapters 341 and 342 of 2018, beginning in tax year 2022, all corporations subject to Maryland corporate income tax (with the exception of specified worldwide headquartered companies) must use a single-factor apportionment formula based on sales (single sales factor formula) to determine Maryland taxable income.

Prior to the enactment of Chapters 341 and 342, taxable multistate corporations other than manufacturing corporations were generally required to calculate Maryland taxable income using a three-factor apportionment formula based on payroll, property, and a double-weighted sales factor. The Acts phased in the single sales factor formula over tax years 2018 to 2022.

State Expenditures: The Comptroller's Office advises that the bill's reporting requirement necessitates (1) modifications to the corporate income tax form and (2) one-time programming changes for purposes of data collection and aggregation. Associated one-time costs total an estimated \$40,000 and \$30,000, respectively. Thus, general fund expenditures for the Comptroller's Office increase by \$70,000 in fiscal 2024 only.

However, because modifications to the corporate income tax form are needed in order to collect and report the required information, it is unclear how the Comptroller's Office can comply with the bill's requirement with respect to the initial report for tax year 2022, as the filing of those corporate income tax returns is ongoing.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See HB 330 of 2021 and HB 1088 of 2020.

Designated Cross File: None.

Information Source(s): Comptroller's Office; Multistate Tax Commission; Department of Legislative Services

Fiscal Note History:
rh/jrb

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