

SENATE BILL 766

Q3, Q7

4lr2415
CF 4lr1834

By: **Senators Hettleman, Rosapepe, M. Washington, and Lewis Young**

Introduced and read first time: February 1, 2024

Assigned to: Budget and Taxation

A BILL ENTITLED

AN ACT concerning

Fair Share for Maryland Act of 2024

FOR the purpose of altering a certain limit on the unified credit used for determining the Maryland estate tax for decedents dying on or after a certain date; altering a certain limitation on the amount of the Maryland estate tax for decedents dying on or after a certain date; requiring that certain sales of tangible personal property be included in the numerator of the sales factor used for apportioning a corporation's income to the State under certain circumstances; altering the State income tax rate on Maryland taxable income of certain individuals; providing for an additional State individual income tax rate on the net capital gains of individuals, subject to certain exceptions; imposing a certain income tax on income distributed to certain members of certain pass-through entities from the pass-through entity's taxable income exceeding a certain amount; expanding eligibility for the Maryland earned income tax credit for individuals without qualifying children by altering the income thresholds at which the credit phases out; providing that, after a certain taxable year, the income threshold and phase-out amounts are adjusted annually for inflation; altering the definition of "qualified child" and income eligibility requirements for purposes of qualifying for a certain credit against the State income tax for certain dependent children; altering the calculation of the child tax credit; requiring certain corporations to compute Maryland taxable income using a certain method; requiring, subject to regulations adopted by the Comptroller, certain groups of corporations to file a combined income tax return reflecting the aggregate income tax liability of all the members of the group; requiring the Comptroller to adopt certain regulations consistent with certain regulations adopted by the Multistate Tax Commission; requiring the Comptroller to assess interest and penalties under certain circumstances; and generally relating to Maryland estate tax and income tax.

BY repealing and reenacting, without amendments,

Article – Tax – General

Section 7–309(a) and (b)(1), (2), and (9)

Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2022 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 7–309(b)(3), 10–105(a), 10–402(d), 10–704, 10–751, and 10–811

Annotated Code of Maryland

(2022 Replacement Volume and 2023 Supplement)

BY adding to

Article – Tax – General

Section 10–102.2 and 10–402.1

Annotated Code of Maryland

(2022 Replacement Volume and 2023 Supplement)

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

Article – Tax – General

7–309.

(a) Notwithstanding an Act of Congress that repeals or reduces the federal credit under § 2011 of the Internal Revenue Code, the provisions of this subtitle in effect before the passage of the Act of Congress shall apply with respect to a decedent who dies after the effective date of the Act of Congress so as to continue the Maryland estate tax in force without reduction in the same manner as if the federal credit had not been repealed or reduced.

(b) (1) Except as provided in paragraphs (2) through (9) of this subsection and subsection (c) of this section, after the effective date of an Act of Congress described in subsection (a) of this section, the Maryland estate tax shall be determined using:

(i) the federal credit allowable by § 2011 of the Internal Revenue Code as in effect before the reduction or repeal of the federal credit pursuant to the Act of Congress; and

(ii) other provisions of federal estate tax law as in effect on the date of the decedent’s death.

(2) Except as provided in paragraphs (3) through (9) of this subsection and subsection (c) of this section, if the federal estate tax is not in effect on the date of the decedent’s death, the Maryland estate tax shall be determined using:

(i) the federal credit allowable by § 2011 of the Internal Revenue Code as in effect before the reduction or repeal of the federal credit pursuant to the Act of Congress; and

(ii) other provisions of federal estate tax law as in effect on the date immediately preceding the effective date of the repeal of the federal estate tax.

(3) (i) Notwithstanding any increase in the unified credit allowed against the federal estate tax for decedents dying after 2003, the unified credit used for determining the Maryland estate tax for a decedent may not exceed the applicable credit amount corresponding to an applicable exclusion amount, within the meaning of § 2010(c) of the Internal Revenue Code, of:

1. \$1,000,000 for a decedent dying before January 1, 2015;
2. \$1,500,000 for a decedent dying on or after January 1, 2015, but before January 1, 2016;
3. \$2,000,000 for a decedent dying on or after January 1, 2016, but before January 1, 2017;
4. \$3,000,000 for a decedent dying on or after January 1, 2017, but before January 1, 2018;
5. \$4,000,000 for a decedent dying on or after January 1, 2018, but before January 1, 2019; [and]
6. \$5,000,000 for a decedent dying on or after January 1, 2019, **BUT BEFORE JANUARY 1, 2025**, plus any deceased spousal unused exclusion amount calculated in accordance with paragraph (9) of this subsection; **AND**
- 7. \$2,000,000 FOR A DECEDENT DYING ON OR AFTER JANUARY 1, 2025, PLUS ANY DECEASED SPOUSAL UNUSED EXCLUSION AMOUNT CALCULATED IN ACCORDANCE WITH PARAGRAPH (9) OF THIS SUBSECTION.**

(ii) The Maryland estate tax shall be determined without regard to any deduction for State death taxes allowed under § 2058 of the Internal Revenue Code.

(iii) Unless the federal credit allowable by § 2011 of the Internal Revenue Code is in effect on the date of the decedent's death, the federal credit used to determine the Maryland estate tax may not exceed 16% of the amount by which the decedent's taxable estate, as defined in § 2051 of the Internal Revenue Code, exceeds:

1. \$1,000,000 for a decedent dying before January 1, 2015;
2. \$1,500,000 for a decedent dying on or after January 1, 2015, but before January 1, 2016;
3. \$2,000,000 for a decedent dying on or after January 1, 2016, but before January 1, 2017;

4. \$3,000,000 for a decedent dying on or after January 1, 2017, but before January 1, 2018;

5. \$4,000,000 for a decedent dying on or after January 1, 2018, but before January 1, 2019; [and]

6. \$5,000,000 for a decedent dying on or after January 1, 2019, **BUT BEFORE JANUARY 1, 2025**, plus any deceased spousal unused exclusion amount calculated in accordance with paragraph (9) of this subsection; **AND**

7. \$2,000,000 FOR A DECEDENT DYING ON OR AFTER JANUARY 1, 2025, PLUS ANY DECEASED SPOUSAL UNUSED EXCLUSION AMOUNT CALCULATED IN ACCORDANCE WITH PARAGRAPH (9) OF THIS SUBSECTION.

(9) (i) In this paragraph, “deceased spousal unused exclusion amount” means the applicable exclusion amount in effect at the time of the death of the last predeceased spouse of the decedent under paragraph (3) of this subsection reduced by the taxable estate of the last predeceased spouse:

1. as reported on a Maryland estate tax return filed with the Comptroller; or

2. as reported on a federal estate tax return, if:

A. the last predeceased spouse was not a Maryland resident and no property with a Maryland estate tax situs was includible in the gross estate of the last predeceased spouse; or

B. the last predeceased spouse died before January 1, 2019, and no Maryland estate tax return was required to be filed with respect to the predeceased spouse’s estate.

(ii) The deceased spousal unused exclusion amount may not be taken into account under paragraph (3) of this subsection unless:

1. if the last predeceased spouse died on or after January 1, 2019, a Maryland estate tax return is timely filed for the last predeceased spouse, on which the deceased spousal unused exclusion amount is calculated and an irrevocable election is made that the deceased spousal unused exclusion amount may be taken into account; or

2. if the last predeceased spouse died before January 1, 2019, or was not a Maryland resident and no property with a Maryland estate tax situs was includible in the gross estate of the last predeceased spouse, an election was made under § 2010(c) of the Internal Revenue Code on the federal estate tax return of the last predeceased spouse.

(iii) 1. Notwithstanding any other provision of this article, the Comptroller may examine a Maryland estate tax return of a predeceased spouse after the time for assessing a tax under this title has expired under § 13–1101 of this article solely for the purposes of determining the validity of the deceased spousal unused exclusion election and the amount to be taken into account under paragraph (3) of this subsection.

2. This subparagraph may not be construed to authorize the assessment of any additional tax with respect to the predeceased spouse’s Maryland estate tax return if the period of limitation under § 13–1101 of this article has expired.

10–402.

(d) (1) (i) In this paragraph:

1. “manufacturing corporation” means a domestic or foreign corporation which is primarily engaged in activities that, in accordance with the North American Industrial Classification System (NAICS), United States Manual, United States Office of Management and Budget, 1997 Edition, would be included in Sector 11, 31, 32, or 33; and

2. “manufacturing corporation” does not include a refiner, as defined in § 10–101 of the Business Regulation Article.

(ii) If a manufacturing corporation carries on its trade or business within and outside the State and the trade or business is a unitary business, the part of the corporation’s Maryland modified income derived from or reasonably attributable to trade or business carried on in the State shall be determined using a single sales factor apportionment formula, by multiplying its Maryland modified income by 100% of the sales factor.

(iii) In filing its tax return for each year, a manufacturing corporation shall certify that the NAICS Code reported on its Maryland return is consistent with that reported to other government agencies.

(iv) If the Comptroller determines that a corporation has submitted information that incorrectly classifies the corporation as a manufacturing corporation under subparagraph (i) of this paragraph, the Comptroller shall reclassify the corporation in an appropriate manner.

(2) Except as provided in paragraphs (1) and (3) of this subsection:

(i) for a taxable year beginning after December 31, 2017, but before January 1, 2019, if the trade or business is a unitary business, the part of the corporation’s Maryland modified income derived from or reasonably attributable to trade or business carried on in the State shall be determined using a 3–factor apportionment fraction:

1. the numerator of which is the sum of the property factor, the payroll factor, and 3 times the sales factor; and

2. the denominator of which is 5;

(ii) for a taxable year beginning after December 31, 2018, but before January 1, 2020, if the trade or business is a unitary business, the part of the corporation's Maryland modified income derived from or reasonably attributable to trade or business carried on in the State shall be determined using a 3-factor apportionment fraction:

1. the numerator of which is the sum of the property factor, the payroll factor, and 4 times the sales factor; and

2. the denominator of which is 6;

(iii) for a taxable year beginning after December 31, 2019, but before January 1, 2021, if the trade or business is a unitary business, the part of the corporation's Maryland modified income derived from or reasonably attributable to trade or business carried on in the State shall be determined using a 3-factor apportionment fraction:

1. the numerator of which is the sum of the property factor, the payroll factor, and 5 times the sales factor; and

2. the denominator of which is 7;

(iv) for a taxable year beginning after December 31, 2020, but before January 1, 2022, if the trade or business is a unitary business, the part of the corporation's Maryland modified income derived from or reasonably attributable to trade or business carried on in the State shall be determined using a 3-factor apportionment fraction:

1. the numerator of which is the sum of the property factor, the payroll factor, and 6 times the sales factor; and

2. the denominator of which is 8; and

(v) for a taxable year beginning after December 31, 2021, if the trade or business is a unitary business, the part of the corporation's Maryland modified income derived from or reasonably attributable to trade or business carried on in the State shall be determined using a single sales factor apportionment formula, by multiplying its Maryland modified income by 100% of the sales factor.

(3) (i) Each year a worldwide headquartered company that filed a federal corporate income tax return for the taxable year may elect to calculate its Maryland modified income derived from or reasonably attributable to trade or business carried on in the State using a 3-factor apportionment fraction:

1. the numerator of which is the sum of the property factor,

the payroll factor, and twice the sales factor; and

2. the denominator of which is 4.

(ii) To determine under subparagraph (i) of this paragraph the Maryland modified income of a corporation or group of corporations that is a worldwide headquartered company that filed a federal corporate income tax return for the taxable year, gross income from intangible investments, including dividends, interest, royalties, and capital gains from the sale of intangible property, shall be included in the calculation of the numerator based on the average of the property and payroll factors.

(4) The property factor under paragraphs (2) and (3) of this subsection shall include:

(i) rented and owned real property; and

(ii) tangible personal property located in the State and used in the trade or business.

(5) (I) FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2025, SALES OF TANGIBLE PERSONAL PROPERTY SHALL BE INCLUDED IN THE NUMERATOR OF THE SALES FACTOR UNDER PARAGRAPH (1), (2), OR (3) OF THIS SUBSECTION IF:

1. THE PROPERTY IS DELIVERED OR SHIPPED TO A PURCHASER WITHIN THE STATE, REGARDLESS OF THE FREE ON BOARD (F.O.B.) POINT OR OTHER CONDITIONS OF THE SALE; OR

2. THE PROPERTY IS SHIPPED FROM AN OFFICE, A STORE, A WAREHOUSE, A FACTORY, OR ANY OTHER PLACE OF STORAGE IN THE STATE AND THE CORPORATION IS NOT TAXABLE IN THE STATE OF THE PURCHASER.

(II) FOR PURPOSES OF SUBPARAGRAPH (I) OF THIS PARAGRAPH, A CORPORATION IS TAXABLE IN A STATE IF:

1. IN THAT STATE THE CORPORATION IS SUBJECT TO A NET INCOME TAX, FRANCHISE TAX MEASURED BY NET INCOME, FRANCHISE TAX FOR THE PRIVILEGE OF DOING BUSINESS, OR CORPORATE STOCK TAX; OR

2. THAT STATE HAS JURISDICTION TO SUBJECT THE TAXPAYER TO A NET INCOME TAX, REGARDLESS OF WHETHER, IN FACT, THE STATE IMPOSES A TAX.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Tax – General

10-102.2.

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

(2) “MEMBER” MEANS:

(I) A SHAREHOLDER OF AN S CORPORATION;

(II) A GENERAL OR LIMITED PARTNER OF A PARTNERSHIP, LIMITED PARTNERSHIP, OR LIMITED LIABILITY PARTNERSHIP;

(III) A MEMBER OF A LIMITED LIABILITY COMPANY; OR

(IV) A BENEFICIARY OF A BUSINESS TRUST OR STATUTORY TRUST.

(3) “PASS-THROUGH ENTITY” MEANS:

(I) AN S CORPORATION;

(II) A PARTNERSHIP;

(III) A LIMITED LIABILITY COMPANY THAT IS NOT TAXED AS A CORPORATION UNDER THIS TITLE; OR

(IV) A BUSINESS TRUST OR STATUTORY TRUST THAT IS NOT TAXED AS A CORPORATION UNDER THIS TITLE.

(B) THIS SECTION DOES NOT APPLY TO THE INCOME OF A PASS-THROUGH ENTITY THAT IS A SOLE PROPRIETORSHIP.

(C) (1) IN ADDITION TO ANY OTHER TAX IMPOSED UNDER THIS TITLE, A TAX IS IMPOSED ON THE DISTRIBUTIVE SHARE OR PRO RATA SHARE OF INCOME DISTRIBUTED TO A MEMBER OF A PASS-THROUGH ENTITY FROM THE PASS-THROUGH ENTITY’S TAXABLE INCOME THAT EXCEEDS \$1,000,000.

(2) THE RATE OF THE TAX IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS 8.25%.

10-105.

(a) (1) For an individual other than an individual described in paragraph (2) of this subsection, the State income tax rate is:

- (i) 2% of Maryland taxable income of \$1 through \$1,000;
- (ii) 3% of Maryland taxable income of \$1,001 through \$2,000;
- (iii) 4% of Maryland taxable income of \$2,001 through \$3,000;
- (iv) 4.75% of Maryland taxable income of \$3,001 through \$100,000;
- (v) 5% of Maryland taxable income of \$100,001 through \$125,000;
- (vi) 5.25% of Maryland taxable income of \$125,001 through \$150,000;
- (vii) 5.5% of Maryland taxable income of \$150,001 through \$250,000;

[and]

(viii) ~~5.75%~~ **6%** of Maryland taxable income [in excess of \$250,000] **OF \$250,001 THROUGH \$500,000;**

(IX) 6.5% OF MARYLAND TAXABLE INCOME OF \$500,001 THROUGH \$1,000,000; AND

(X) 7% OF MARYLAND TAXABLE INCOME IN EXCESS OF \$1,000,000.

(2) For spouses filing a joint return or for a surviving spouse or head of household as defined in § 2 of the Internal Revenue Code, the State income tax rate is:

- (i) 2% of Maryland taxable income of \$1 through \$1,000;
- (ii) 3% of Maryland taxable income of \$1,001 through \$2,000;
- (iii) 4% of Maryland taxable income of \$2,001 through \$3,000;
- (iv) 4.75% of Maryland taxable income of \$3,001 through \$150,000;
- (v) 5% of Maryland taxable income of \$150,001 through \$175,000;
- (vi) 5.25% of Maryland taxable income of \$175,001 through \$225,000;
- (vii) 5.5% of Maryland taxable income of \$225,001 through \$300,000;

[and]

(viii) ~~[5.75%]~~ **6%** of Maryland taxable income [in excess of \$300,000] **OF \$300,001 THROUGH \$600,000;**

(IX) 6.5% OF MARYLAND TAXABLE INCOME OF \$600,001 THROUGH \$1,200,000; AND

(X) 7% OF MARYLAND TAXABLE INCOME IN EXCESS OF \$1,200,000.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF THE MARYLAND TAXABLE INCOME OF AN INDIVIDUAL DESCRIBED IN PARAGRAPH (1) OR (2) OF THIS SUBSECTION INCLUDES ANY AMOUNT OF NET CAPITAL GAIN, AS DEFINED AND DETERMINED UNDER THE INTERNAL REVENUE CODE, THE STATE INCOME TAX FOR THE INDIVIDUAL IS THE SUM OF:

1. THE RATES SPECIFIED IN PARAGRAPH (1) OR (2) OF THIS SUBSECTION APPLIED TO MARYLAND TAXABLE INCOME; AND

2. AN ADDITIONAL 1% OF THE AMOUNT OF NET CAPITAL GAIN INCLUDED IN THE INDIVIDUAL'S MARYLAND TAXABLE INCOME.

(II) TO THE EXTENT INCLUDED IN CALCULATING NET CAPITAL GAIN FOR FEDERAL INCOME TAX PURPOSES, ANY AMOUNT OF CAPITAL GAIN FROM THE SALE OR EXCHANGE OF THE FOLLOWING ASSETS IS NOT SUBJECT TO THE ADDITIONAL 1% TAX RATE SPECIFIED IN SUBPARAGRAPH (I)2 OF THIS PARAGRAPH:

1. ANY RESIDENTIAL DWELLING SOLD FOR LESS THAN \$1,500,000 THAT IS THE INDIVIDUAL'S PRIMARY RESIDENCE, INCLUDING THE LAND ON WHICH THE DWELLING IS LOCATED AND ANY ACCESSORY DWELLING UNIT ASSOCIATED WITH THE RESIDENCE, IF THE DWELLING IS A SINGLE-FAMILY HOME, A TOWN HOUSE, A ROW HOME, A RESIDENTIAL CONDOMINIUM UNIT, OR A RESIDENTIAL COOPERATIVE UNIT;

2. ASSETS HELD IN:

A. A CASH OR DEFERRED ARRANGEMENT PLAN UNDER § 401(K) OF THE INTERNAL REVENUE CODE;

B. A TAX-SHELTERED ANNUITY OR CUSTODIAL ACCOUNT UNDER § 403(B) OF THE INTERNAL REVENUE CODE;

C. A DEFERRED COMPENSATION PLAN UNDER § 457(B) OF THE INTERNAL REVENUE CODE;

D. AN INDIVIDUAL RETIREMENT ACCOUNT OR INDIVIDUAL RETIREMENT ANNUITY UNDER § 408 OF THE INTERNAL REVENUE CODE;

E. A ROTH INDIVIDUAL RETIREMENT ACCOUNT UNDER § 408A OF THE INTERNAL REVENUE CODE; OR

F. A DEFINED CONTRIBUTION PLAN, A DEFINED BENEFIT PLAN, OR A SIMILAR RETIREMENT SAVINGS PLAN;

3. CATTLE, HORSES, OR BREEDING LIVESTOCK HELD FOR MORE THAN 12 MONTHS IF, FOR THE TAXABLE YEAR OF THE SALE OR EXCHANGE, MORE THAN 50% OF THE INDIVIDUAL'S GROSS INCOME FOR THE TAXABLE YEAR, INCLUDING INCOME FROM THE SALE OR EXCHANGE OF CAPITAL ASSETS, IS FROM FARMING OR RANCHING;

4. LAND THAT IS SUBJECT TO A CONSERVATION, AGRICULTURAL, OR FOREST PRESERVATION EASEMENT OR THAT WILL BE SUBJECT TO A CONSERVATION, AGRICULTURAL, OR FOREST PRESERVATION EASEMENT ON THE SALE OR EXCHANGE OF THE LAND;

5. PROPERTY USED IN A TRADE OR BUSINESS, THE COST OF WHICH IS DEDUCTIBLE UNDER § 179 OF THE INTERNAL REVENUE CODE; OR

6. AFFORDABLE HOUSING OWNED BY A NONPROFIT ORGANIZATION.

10-704.

(a) In this section, "taxpayer" means:

- (1) an individual filing an income tax return; or
- (2) a married couple filing a joint income tax return.

(b) (1) A resident who is a taxpayer may claim a credit against the State income tax for a taxable year in the amount determined under subsection (c) of this section for earned income.

(2) A resident who is a taxpayer may claim a credit against the county income tax for a taxable year in the amount determined under subsection (d) of this section for earned income.

(c) (1) Except as provided in paragraphs (2) and (3) of this subsection and subject to subsection (e) of this section, the credit allowed against the State income tax under subsection (b)(1) of this section is the lesser of:

(i) 50% of the earned income credit allowable for the taxable year under § 32 of the Internal Revenue Code or that would have been allowable but for the limitation under § 32(m) of the Internal Revenue Code; or

(ii) the State income tax for the taxable year.

(2) (i) Subject to subparagraph (iii) of this paragraph and subsection (e) of this section, a resident may claim a refund in the amount, if any, by which the applicable percentage specified in subparagraph (ii) of this paragraph of the earned income credit allowable for the taxable year under § 32 of the Internal Revenue Code exceeds the State income tax for the taxable year.

(ii) Subject to subparagraph (iii) of this paragraph, the applicable percentage of the earned income credit allowable under § 32 of the Internal Revenue Code to be used for purposes of determining the refund provided under this paragraph is:

1. 25% for a taxable year beginning after December 31, 2013, but before January 1, 2015;

2. 25.5% for a taxable year beginning after December 31, 2014, but before January 1, 2016;

3. 26% for a taxable year beginning after December 31, 2015, but before January 1, 2017;

4. 27% for a taxable year beginning after December 31, 2016, but before January 1, 2018;

5. 28% for a taxable year beginning after December 31, 2017, but before January 1, 2020; and

6. 45% for a taxable year beginning after December 31, 2019.

(iii) For purposes of determining the refund provided under this paragraph, the earned income credit allowable under § 32 of the Internal Revenue Code is calculated without regard to the limitation under § 32(m) of the Internal Revenue Code.

(3) (i) For purposes of this section for an individual without a qualifying child, the credit allowable for a taxable year under § 32 of the Internal Revenue Code is calculated without regard to:

1. the minimum age requirement under § 32(c)(1)(A)(ii)(II) of the Internal Revenue Code; or

2. the limitation under § 32(m) of the Internal Revenue Code.

(ii) [Subject to subparagraph (iii) of this paragraph, the] **THE** credit allowed against the State income tax under subsection (b)(1) of this section for an individual without a qualifying child is:

1. equal to 100% of the earned income credit allowable for a taxable year under § 32 of the Internal Revenue Code; **AND**

2. **CALCULATED BY SUBSTITUTING:**

A. \$7,840 FOR THE EARNED INCOME AMOUNT IN § 32(B)(2)(A) OF THE INTERNAL REVENUE CODE; AND

B. \$19,160 FOR THE PHASE-OUT AMOUNT IN § 32(B)(2)(A) OF THE INTERNAL REVENUE CODE.

[(iii) For a taxable year beginning after December 31, 2019, but before January 1, 2023, the tax credit allowed under this paragraph may not exceed \$530 for a taxable year.]

(III) 1. FOR EACH TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2026, THE EARNED INCOME AMOUNT AND PHASE-OUT AMOUNT IN SUBPARAGRAPH (II)2 OF THIS PARAGRAPH SHALL BE INCREASED BY AN AMOUNT EQUAL TO THE PRODUCT OF MULTIPLYING EACH AMOUNT BY THE COST-OF-LIVING ADJUSTMENT SPECIFIED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH.

2. FOR THE PURPOSES OF THIS SUBPARAGRAPH, THE COST-OF-LIVING ADJUSTMENT IS THE COST-OF-LIVING ADJUSTMENT WITHIN THE MEANING OF § 1(F)(3) OF THE INTERNAL REVENUE CODE FOR THE CALENDAR YEAR IN WHICH THE TAXABLE YEAR BEGINS, AS DETERMINED BY THE COMPTROLLER BY SUBSTITUTING “CALENDAR YEAR 2026” FOR “CALENDAR YEAR 2016” IN § 1(F)(3)(B) OF THE INTERNAL REVENUE CODE.

3. IF ANY INCREASE DETERMINED UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH IS NOT A MULTIPLE OF \$10, THE INCREASE SHALL BE ROUNDED DOWN TO THE NEXT LOWEST MULTIPLE OF \$10.

(iv) If the tax credit allowed under this paragraph in any taxable year exceeds the total tax otherwise payable by the individual without a qualifying child for that taxable year, the individual may claim a refund in the amount of the excess.

(d) (1) Except as provided in paragraph (2) of this subsection and subject to subsection (e) of this section, the credit allowed against the county income tax under subsection (b)(2) of this section is the lesser of:

(i) the earned income credit allowable for the taxable year under § 32 of the Internal Revenue Code or that would have been allowable but for the limitation under § 32(m) of the Internal Revenue Code multiplied by 10 times the county income tax rate for the taxable year; or

(ii) the county income tax for the taxable year.

(2) (i) A county may provide, by law, for a refundable county earned income credit as provided in this paragraph.

(ii) If a county provides for a refundable county earned income credit under this paragraph, on or before July 1 prior to the beginning of the first taxable year for which it is applicable, the county shall give the Comptroller notice of the refundable county earned income credit.

(iii) If a county provides for a refundable county earned income credit under this paragraph, a resident may claim a refund of the amount, if any, by which the product of multiplying the credit allowable for the taxable year under § 32 of the Internal Revenue Code or that would have been allowable but for the limitation under § 32(m) of the Internal Revenue Code by 5 times the county income tax rate for the taxable year exceeds the county income tax for the taxable year.

(iv) The amount of any refunds payable under a refundable county earned income credit operates to reduce the income tax revenue from individuals attributable to the county income tax for that county.

(e) (1) Subject to paragraph (2) of this subsection, for an individual who is a resident of the State for only a part of the year, the amount of the credit or refund allowed under this section shall be determined based on the part of the earned income credit allowable for the taxable year under § 32 of the Internal Revenue Code that is attributable to Maryland, determined by multiplying the federal earned income credit by a fraction:

(i) the numerator of which is the Maryland adjusted gross income of the individual; and

(ii) the denominator of which is the federal adjusted gross income of the individual.

(2) For purposes of determining the amount of the credit or refund under paragraph (1) of this subsection, the part of the earned income credit allowable for the taxable year under § 32 of the Internal Revenue Code is calculated without regard to the limitation under § 32(m) of the Internal Revenue Code.

10-751.

(a) (1) In this section the following words have the meanings indicated.

(2) “Qualified child” means a dependent of a taxpayer, if the dependent:

(i) is a dependent for purposes of § 152 of the Internal Revenue Code; and

(ii) [1.] is under the age of [6] 18 years[; or

2. A. is under the age of 17 years; and

B. is a child with a disability, as defined under § 8-401 of the Education Article].

(3) “Taxpayer” means:

(i) an individual filing an income tax return; or

(ii) a married couple filing a joint income tax return.

(b) [A] **SUBJECT TO SUBSECTION (D) OF THIS SECTION**, A taxpayer who is a resident [and has federal adjusted gross income for the taxable year of \$15,000 or less] may claim a credit against the State income tax for each qualified child in an amount equal to:

(1) \$750, IF THE QUALIFIED CHILD IS UNDER THE AGE OF 6 YEARS; OR

(2) \$500, IF THE QUALIFIED CHILD IS AT LEAST 6 YEARS OLD.

(c) (1) FOR EACH TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2026, THE AMOUNTS SPECIFIED IN SUBSECTION (B) OF THIS SECTION SHALL BE INCREASED BY AN AMOUNT EQUAL TO THE PRODUCT OF MULTIPLYING THE AMOUNTS BY THE COST-OF-LIVING ADJUSTMENT SPECIFIED IN THIS SUBSECTION.

(2) FOR THE PURPOSES OF THIS SUBSECTION, THE COST-OF-LIVING ADJUSTMENT IS THE COST-OF-LIVING ADJUSTMENT WITHIN THE MEANING OF § 1(F)(3) OF THE INTERNAL REVENUE CODE FOR THE CALENDAR YEAR IN WHICH THE TAXABLE YEAR BEGINS, AS DETERMINED BY THE COMPTROLLER, BY SUBSTITUTING “CALENDAR YEAR 2026” FOR “CALENDAR YEAR 2016” IN § 1(F)(3)(A) OF THE INTERNAL REVENUE CODE.

(3) IF ANY DECREASE DETERMINED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS NOT A MULTIPLE OF \$50, THE INCREASE SHALL BE ROUNDED DOWN TO THE NEXT LOWEST MULTIPLE OF \$50.

(D) THE AMOUNT OF THE CREDIT ALLOWED UNDER SUBSECTION (B) OF THIS SECTION FOR A QUALIFIED CHILD SHALL BE REDUCED, BUT NOT BELOW ZERO, BY \$50 FOR EACH \$1,000, OR FRACTION THEREOF, BY WHICH THE TAXPAYER'S FEDERAL ADJUSTED GROSS INCOME EXCEEDS:

(1) \$65,000 IN THE CASE OF A MARRIED COUPLE FILING A JOINT RETURN, OR A SURVIVING SPOUSE OR HEAD OF HOUSEHOLD AS DEFINED IN § 2 OF THE INTERNAL REVENUE CODE FILING AN INCOME TAX RETURN;

(2) \$32,500 IN THE CASE OF A MARRIED INDIVIDUAL FILING SEPARATELY; OR

(3) \$45,000 IN THE CASE OF ANY OTHER INDIVIDUAL.

[(c)] (E) If the credit allowed under this section in any taxable year exceeds the State income tax for that taxable year, the taxpayer may claim a refund in the amount of the excess.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Tax – General

10-402.1.

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

(2) “COMBINED GROUP” MEANS A GROUP OF CORPORATIONS:

(I) THAT IS ENGAGED IN A UNITARY BUSINESS;

(II) IN WHICH MORE THAN 50% OF THE VOTING STOCK OF EACH MEMBER IS DIRECTLY OR INDIRECTLY OWNED BY:

1. A COMMON OWNER OR COMMON OWNERS, EITHER CORPORATE OR NONCORPORATE; OR

2. ONE OR MORE MEMBER CORPORATIONS OF THE GROUP;

(III) THE MEMBERS OF WHICH ARE SUBJECT TO THE INCOME TAX OR WOULD BE SUBJECT TO THE INCOME TAX IF DOING BUSINESS IN THE STATE; AND

(IV) CONSISTING OF ANY OTHER MEMBERS UNDER THE CIRCUMSTANCES AND TO THE EXTENT PROVIDED IN REGULATIONS ADOPTED BY THE COMPTROLLER TO PREVENT THE AVOIDANCE OF TAX OR TO REFLECT CLEARLY THE INCOME OF ANY MEMBER OF THE COMBINED GROUP FOR ANY PERIOD.

(3) “COMBINED RETURN” MEANS A TAX RETURN FOR THE COMBINED GROUP CONTAINING INFORMATION AS PROVIDED IN THIS SECTION OR OTHERWISE REQUIRED BY THE COMPTROLLER.

(4) “UNITARY BUSINESS” MEANS A SINGLE ECONOMIC ENTERPRISE THAT IS MADE EITHER OF SEPARATE PARTS OF A SINGLE BUSINESS ENTITY OR OF A COMMONLY CONTROLLED GROUP OF BUSINESS ENTITIES THAT ARE SUFFICIENTLY INTERDEPENDENT, INTEGRATED, AND INTERRELATED THROUGH THEIR ACTIVITIES SO AS TO PROVIDE MUTUAL BENEFIT THAT PRODUCES A SHARING OR EXCHANGE OF VALUE AMONG THEM AND A SIGNIFICANT FLOW OF VALUE TO THE SEPARATE PARTS.

(B) (1) THE TERM “UNITARY BUSINESS” SHALL BE CONSTRUED TO THE BROADEST EXTENT ALLOWED UNDER THE U.S. CONSTITUTION.

(2) A BUSINESS CONDUCTED DIRECTLY OR INDIRECTLY BY ONE CORPORATION IS A UNITARY BUSINESS WITH RESPECT TO THAT PORTION OF A BUSINESS CONDUCTED BY ANOTHER CORPORATION THROUGH ITS DIRECT OR INDIRECT INTEREST IN A PARTNERSHIP IF THE REQUIREMENTS OF SUBSECTION (A)(4) OF THIS SECTION ARE SATISFIED, INCLUDING IF THERE IS SYNERGY AND AN EXCHANGE AND FLOW OF VALUE BETWEEN THE TWO PARTS OF THE BUSINESS AND THE TWO CORPORATIONS ARE MEMBERS OF THE SAME COMMONLY CONTROLLED GROUP.

(3) A BUSINESS CONDUCTED BY A PARTNERSHIP SHALL BE TREATED AS CONDUCTED BY ITS PARTNERS, WHETHER DIRECTLY HELD OR INDIRECTLY HELD THROUGH A SERIES OF PARTNERSHIPS, TO THE EXTENT OF THE PARTNER’S DISTRIBUTIVE SHARE OF THE PARTNERSHIP’S INCOME, REGARDLESS OF THE PERCENTAGE OF THE PARTNER’S OWNERSHIP INTEREST OR ITS DISTRIBUTIVE OR ANY OTHER SHARE OF PARTNERSHIP INCOME.

(C) (1) EXCEPT AS PROVIDED BY AND SUBJECT TO REGULATIONS ADOPTED BY THE COMPTROLLER, FOR ALL TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2027, A CORPORATION ENGAGED IN A UNITARY BUSINESS SHALL FILE A COMBINED RETURN, REPORTING AND PAYING TAX ON WORLDWIDE TAXABLE INCOME AS A COMBINED GROUP, REFLECTING THE AGGREGATE INCOME TAX LIABILITY OF ALL MEMBERS OF THE COMBINED GROUP THAT ARE ENGAGED IN A UNITARY BUSINESS.

(2) THE TAXABLE INCOME OF A CORPORATION REQUIRED TO FILE

UNDER § 10-811(A)(2) OF THIS TITLE IS EQUAL TO THE COMBINED GROUP'S MARYLAND MODIFIED INCOME AS ADJUSTED UNDER SUBSECTION (D)(3) OF THIS SECTION.

(D) (1) THE MARYLAND MODIFIED INCOME OF THE COMBINED GROUP EQUALS THE PRODUCT OF:

(I) THE COMBINED GROUP'S APPORTIONABLE MARYLAND MODIFIED INCOME, AS DETERMINED UNDER PARAGRAPH (2) OF THIS SUBSECTION AND ADJUSTED UNDER PARAGRAPH (3) OF THIS SUBSECTION; AND

(II) THE COMBINED GROUP'S MARYLAND APPORTIONMENT FACTOR, AS DETERMINED UNDER PARAGRAPH (4) OF THIS SUBSECTION.

(2) (I) SUBJECT TO SUBPARAGRAPHS (II) THROUGH (IV) OF THIS PARAGRAPH, THE APPORTIONABLE MARYLAND MODIFIED INCOME OF THE COMBINED GROUP EQUALS THE SUM OF THE CORPORATION'S AND EACH MEMBER'S MARYLAND MODIFIED INCOME.

(II) 1. SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, FOR ANY MEMBER INCORPORATED IN THE UNITED STATES OR INCLUDED IN A CONSOLIDATED FEDERAL CORPORATE INCOME TAX RETURN, THE INCOME TO BE INCLUDED IN THE TOTAL APPORTIONABLE INCOME OF THE COMBINED GROUP IS THE MARYLAND MODIFIED INCOME AS CALCULATED UNDER § 10-304 OF THIS TITLE.

2. THE INCOME OF EACH MEMBER SHALL BE CALCULATED ON A SEPARATE RETURN BASIS AS IF THE MEMBER WERE NOT CONSOLIDATED FOR FEDERAL INCOME TAX PURPOSES.

(III) 1. FOR ANY MEMBER NOT INCLUDED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE INCOME TO BE INCLUDED IN THE TOTAL INCOME OF THE COMBINED GROUP IS DETERMINED AS PROVIDED UNDER THIS SUBPARAGRAPH.

2. A PROFIT AND LOSS STATEMENT SHALL BE PREPARED FOR EACH FOREIGN BRANCH OR CORPORATION IN THE CURRENCY IN WHICH THE BOOKS OF ACCOUNT OF THE BRANCH OR CORPORATION ARE REGULARLY MAINTAINED.

3. THE PROFIT AND LOSS STATEMENT SHALL BE ADJUSTED TO CONFORM TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AS ADOPTED BY THE U.S. FINANCIAL ACCOUNTING STANDARDS BOARD FOR THE PREPARATION OF THE PROFIT AND LOSS STATEMENTS, EXCEPT AS MODIFIED BY

REGULATION.

4. EXCEPT AS OTHERWISE PROVIDED BY REGULATION, THE PROFIT AND LOSS STATEMENT OF EACH MEMBER OF THE COMBINED GROUP, AND THE APPORTIONMENT FACTORS RELATED TO EACH STATEMENT, WHETHER UNITED STATES OR FOREIGN, SHALL BE TRANSLATED INTO THE CURRENCY IN WHICH THE PARENT COMPANY MAINTAINS ITS BOOKS AND RECORDS.

5. INCOME APPORTIONED TO THE STATE SHALL BE EXPRESSED IN UNITED STATES DOLLARS.

(IV) IF A UNITARY BUSINESS INCLUDES INCOME FROM A PARTNERSHIP, THE INCOME TO BE INCLUDED IN THE TOTAL INCOME OF THE COMBINED GROUP EQUALS THE DIRECT AND INDIRECT DISTRIBUTIVE SHARE OF THE PARTNERSHIP'S UNITARY BUSINESS INCOME ALLOCATED TO ANY MEMBER OF THE COMBINED GROUP.

(3) THE COMBINED GROUP'S APPORTIONABLE MARYLAND MODIFIED INCOME SHALL BE ADJUSTED TO ELIMINATE INTERCOMPANY TRANSACTIONS AS DETERMINED UNDER THE INTERNAL REVENUE CODE.

(4) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE COMBINED GROUP'S MARYLAND APPORTIONMENT FACTOR IS A FRACTION:

1. THE NUMERATOR OF WHICH IS THE SUM OF THE CORPORATION'S AND EACH MEMBER'S MARYLAND FACTORS UNDER § 10-402 OF THIS SUBTITLE; AND

2. THE DENOMINATOR OF WHICH IS THE SUM OF THE CORPORATION'S AND EACH MEMBER'S FACTORS UNDER § 10-402 OF THIS SUBTITLE.

(II) THE APPORTIONMENT FACTORS OF PASS-THROUGH ENTITY MEMBERS ARE INCLUDED IN THE NUMERATOR UNDER SUBPARAGRAPH (I)1 OF THIS PARAGRAPH AND THE DENOMINATOR UNDER SUBPARAGRAPH (I)2 OF THIS PARAGRAPH TO THE EXTENT OF THE CORPORATION'S DIRECT AND INDIRECT DISTRIBUTIVE SHARE OF THAT ENTITY.

(E) (1) THE COMPTROLLER SHALL ADOPT REGULATIONS THAT ARE NECESSARY AND APPROPRIATE TO CARRY OUT THIS SECTION.

(2) THE REGULATIONS ADOPTED BY THE COMPTROLLER SHALL BE CONSISTENT WITH THE "PRINCIPLES FOR DETERMINING THE EXISTENCE OF A UNITARY BUSINESS" (REG. IV.1.(B)) OF THE MODEL GENERAL ALLOCATION AND APPORTIONMENT REGULATIONS, AS ADOPTED BY THE MULTISTATE TAX

COMMISSION.

10-811.

(A) (1) [Each member of] EXCEPT AS PROVIDED BY AND SUBJECT TO REGULATIONS ADOPTED BY THE COMPTROLLER, an affiliated group of corporations [shall file a separate income tax return] ENGAGED IN A UNITARY BUSINESS SHALL FILE A COMBINED INCOME TAX RETURN REFLECTING THE AGGREGATE INCOME TAX LIABILITY OF ALL THE MEMBERS OF THE AFFILIATED GROUP THAT ARE ENGAGED IN A UNITARY BUSINESS.

(2) THE RETURN REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE THE INCOME AND APPORTIONMENT FACTORS DETERMINED UNDER § 10-402.1(D) OF THIS TITLE, AND ANY OTHER INFORMATION REQUIRED BY THE COMPTROLLER, FOR ALL MEMBERS OF THE COMBINED GROUP WHEREVER LOCATED OR DOING BUSINESS.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE COMBINED RETURN SHALL BE FILED UNDER THE NAME AND FEDERAL EMPLOYER IDENTIFICATION NUMBER OF THE PARENT CORPORATION IF THE PARENT IS A MEMBER OF THE COMBINED GROUP.

(II) IF THERE IS NO PARENT CORPORATION OR IF THE PARENT IS NOT A MEMBER OF THE COMBINED GROUP, THE MEMBERS OF THE COMBINED GROUP SHALL CHOOSE A MEMBER TO FILE THE RETURN.

(III) THE FILING MEMBER UNDER SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH SHALL CONTINUE TO FILE THE COMBINED RETURN UNLESS THE FILING MEMBER IS NO LONGER THE PARENT CORPORATION OR NO LONGER A MEMBER OF THE COMBINED GROUP.

(4) THE RETURN SHALL BE SIGNED BY A RESPONSIBLE OFFICER OF THE FILING MEMBER ON BEHALF OF THE COMBINED GROUP MEMBERS.

(5) MEMBERS OF THE COMBINED GROUP ARE JOINTLY AND SEVERALLY LIABLE FOR THE TAX LIABILITY OF THE COMBINED GROUP INCLUDED IN THE COMBINED RETURN.

(B) (1) THE COMPTROLLER MAY, BY REGULATION, REQUIRE THAT THE COMBINED RETURN INCLUDE THE INCOME AND ASSOCIATED APPORTIONMENT FACTORS OF ENTITIES THAT ARE NOT INCLUDED IN THE COMBINED REPORT BUT THAT ARE MEMBERS OF A UNITARY BUSINESS IN ORDER TO REFLECT PROPER APPORTIONMENT OF INCOME OF THE ENTIRE UNITARY BUSINESS.

(2) IF THE COMPTROLLER DETERMINES THAT THE REPORTED INCOME OR LOSS OF A TAXPAYER ENGAGED IN A UNITARY BUSINESS WITH A MEMBER NOT INCLUDED IN THE COMBINED GROUP REPRESENTS AN AVOIDANCE OR EVASION OF TAX, THE COMPTROLLER MAY, ON A CASE-BY-CASE BASIS, REQUIRE THAT ALL OR PART OF THE INCOME AND ASSOCIATED APPORTIONMENT FACTORS OF THE MEMBER BE INCLUDED IN THE TAXPAYER'S COMBINED RETURN.

(3) THE COMPTROLLER MAY REQUIRE:

(I) THE EXCLUSION OF ONE OR MORE FACTORS, THE INCLUSION OF ONE OR MORE ADDITIONAL FACTORS, OR THE EMPLOYMENT OF ANY OTHER METHOD THAT WILL FAIRLY REPRESENT THE TAXPAYER'S BUSINESS IN THE STATE; OR

(II) THE EMPLOYMENT OF ANY OTHER METHOD TO EFFECTUATE A PROPER REFLECTION OF THE TOTAL AMOUNT OF INCOME SUBJECT TO APPORTIONMENT AND AN EQUITABLE ALLOCATION AND APPORTIONMENT OF THE COMBINED GROUP'S OR ITS MEMBERS' INCOME.

(C) THE COMPTROLLER SHALL ADOPT REGULATIONS THAT ARE NECESSARY AND APPROPRIATE TO CARRY OUT THIS SECTION.

SECTION 4. AND BE IT FURTHER ENACTED, That, for a taxable year beginning after December 31, 2025, but before January 1, 2027, notwithstanding §§ 13-602 and 13-702 of the Tax – General Article, the Comptroller shall assess interest and penalties under §§ 13-602 and 13-702 of the Tax – General Article if a corporation pays estimated income tax for the taxable year in an amount less than 90% of the tax required to be shown on the corporation's income tax return for the taxable year.

SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 2027, and shall be applicable to all taxable years beginning after December 31, 2026.

SECTION 6. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect July 1, 2027, and shall be applicable to all taxable years beginning after December 31, 2027.

SECTION 7. AND BE IT FURTHER ENACTED, That, except as provided in Sections 5 and 6 of this Act, this Act shall take effect July 1, 2024.