



Brooke Lierman
Comptroller

TESTIMONY OF KRISTA SERMON, DEPUTY DIRECTOR OF THE LEGAL DIVISION

Support with Amendments - Senate Bill 240 – Income Tax – Out-of-State Taxes Paid by Pass-Through Entities – Addition Modification

Budget and tax Committee

February 2, 2022

Chairman Guzzone, Vice Chairman Rosapepe and members of the Committee, it is my pleasure to provide testimony **in support with amendments** of Senate Bill 240 – Income Tax – Out-of-State Taxes Paid by Pass-Through Entities – Addition Modification. I would like to thank Chairman Guzzone for sponsoring this important legislation and the Committee for providing the opportunity for my testimony to be heard.

This bill amends the Tax General Article § 10-205 to require resident members of pass-through entities that paid entity-level taxes to another state to add back the amount of the credit received in the other state. This addback furthers the legislative goal of making the elective pass-through entity tax Maryland revenue-neutral by preventing Maryland resident PTE members from reducing their taxable income by the amount of the out-of-state PTE's deduction for state and local taxes. Current law provides analogous treatment for members of Maryland electing PTEs.

The Comptroller's Office brought this issue to the legislature's attention and assisted with draft language. Upon further review of the bill, the Comptroller suggests the following amendments for clarity and administrability. We understand that members of the Maryland Association of Certified Public Accountants may be submitting an amendment moving the subordinate clause of § 10-205(m)(2). We agree to this change and have incorporated it into the proposed amendments below.

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.

(m) The addition under subsection (a) of this section includes the amount of credit that is claimed ~~under:~~

(1) **UNDER** § 10-701.1 of this title for the amount of tax paid by a pass-through entity under § 10-102.1 of this title and is attributable to the member's share of tax on the member's share of the pass-through entity's taxable income, as defined in § 10-102.1(a)(8) of this title; AND

(2) ~~TO THE EXTENT NOT INCLUDED IN THE ADDITION UNDER SUBSECTION (D) OF THIS SECTION, § 10-703 OF THIS TITLE ON A RETURN FILED BY A PASS-THROUGH ENTITY IN A STATE OTHER THAN THIS STATE FOR THE AMOUNT OF TAX PAID BY THE PASS-THROUGH ENTITY TO THAT STATE, TO THE EXTENT~~

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**NOT INCLUDED IN THE ADDITION UNDER SUBSECTION (D) OF THIS SECTION,
~~OTHER THAN THIS STATE THAT IS:~~**

- (I) BASED ON THE PASS-THROUGH ENTITY'S NET INCOME;
- (II) ATTRIBUTABLE TO THE MEMBER'S SHARE OF THE TAX; AND
- (III) DEDUCTED FROM THE PASS-THROUGH ENTITY'S INCOME
UNDER THE FEDERAL INTERNAL REVENUE CODE.

The Comptroller requests the adoption of these amendments and a favorable report on the bill.

As always, the Comptroller's Office is willing and available to answer any questions you may have at your convenience. Please contact Justin Hayes, Director of State Affairs at jhayes@marylandtaxes.gov or 410-260-7696.