

# HOUSE BILL 39

Q3

3lr0748

HB 330/21 – W&M

(PRE-FILED)

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By: **Delegate Charkoudian**

Requested: November 14, 2022

Introduced and read first time: January 11, 2023

Assigned to: Ways and Means

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 2, 2023

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Effective Corporate Tax Rate Transparency Act of 2023~~  
3 **Corporate Income Tax Returns of Publicly Traded Corporations – Reporting**  
4 **Requirement**

5 FOR the purpose of ~~requiring certain corporations to attach to their Maryland income tax~~  
6 ~~return a certain statement that includes certain information relating to the~~  
7 ~~corporations' effective tax rate; requiring that the statement be made under oath and~~  
8 ~~signed in a certain manner, subject to audit by the Comptroller, and treated as~~  
9 ~~confidential taxpayer information~~ requiring the Comptroller to submit a certain  
10 report to the Governor and the General Assembly on or before a certain date each  
11 year relating to certain publicly traded corporations that pay no State income taxes  
12 for a certain taxable year; and generally relating to corporate income tax returns.

13 BY repealing and reenacting, with amendments,

14 Article – Tax – General

15 Section ~~10-804(e)~~ 10-821

16 Annotated Code of Maryland

17 (2022 Replacement Volume)

18 ~~BY adding to~~

19 ~~Article – Tax – General~~

20 ~~Section 10-804.2~~

21 ~~Annotated Code of Maryland~~

22 ~~(2022 Replacement Volume)~~

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 **Article – Tax – General**

4 ~~10-804.~~

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

7 ~~(1) comply with the regulations of the Comptroller;~~

8 ~~(2) keep the records that the Comptroller requires; and~~

9 ~~(3) attach to an income tax return or otherwise file with the Comptroller~~  
10 ~~any records or statements that the Comptroller requires, including:~~

11 ~~(i) for an individual who has income tax withheld from salary,~~  
12 ~~wages, or other compensation for personal services, or other payments, a copy of the~~  
13 ~~statement from the person who withholds the tax that states:~~

14 ~~1. the amount of salary, wages, or other compensation for~~  
15 ~~personal services paid and the income tax withheld; or~~

16 ~~2. the amount of payments made and the income tax~~  
17 ~~withheld;~~

18 ~~(ii) a copy of the federal income tax return:~~

19 ~~1. for a corporation; and~~

20 ~~2. if the Comptroller requests, for an individual;~~

21 ~~(iii) for a corporation, the statements required under § 10-804.1 of~~  
22 ~~this subtitle; [and]~~

23 ~~(IV) FOR A PUBLICLY TRADED CORPORATION AND ITS~~  
24 ~~SUBSIDIARIES, THE STATEMENT REQUIRED UNDER § 10-804.2 OF THIS SUBTITLE;~~  
25 ~~AND~~

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

1 ~~10-804.2.~~

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

4 (2) ~~“EFFECTIVE TAX RATE” MEANS A PERCENTAGE THAT EQUALS THE~~  
5 ~~QUOTIENT OF:~~

6 (I) ~~THE STATE INCOME TAX LIABILITY OF A PUBLICLY TRADED~~  
7 ~~CORPORATION; AND~~

8 (H) ~~THE BOOK INCOME OF THE CORPORATION:~~

9 1. ~~DETERMINED IN ACCORDANCE WITH GENERALLY~~  
10 ~~ACCEPTED ACCOUNTING PRINCIPLES; AND~~

11 2. ~~AS ALLOCATED TO THE STATE USING A~~  
12 ~~THREE FACTOR APPORTIONMENT FRACTION:~~

13 A. ~~THE NUMERATOR OF WHICH IS THE SUM OF THE~~  
14 ~~PROPERTY FACTOR, THE PAYROLL FACTOR, AND THE RECEIPTS FACTOR,~~  
15 ~~CALCULATED IN ACCORDANCE WITH THE MODEL MULTISTATE TAX COMPACT WITH~~  
16 ~~RECOMMENDED AMENDMENTS TO ARTICLE IV, AS PROMULGATED BY THE~~  
17 ~~MULTISTATE TAX COMMISSION; AND~~

18 B. ~~THE DENOMINATOR OF WHICH IS 3.~~

19 (3) ~~“PUBLICLY TRADED CORPORATION” INCLUDES ANY SUBSIDIARY~~  
20 ~~OF THE CORPORATION.~~

21 (B) ~~A PUBLICLY TRADED CORPORATION THAT IS REQUIRED TO FILE AN~~  
22 ~~INCOME TAX RETURN UNDER THIS TITLE SHALL ATTACH TO THE INCOME TAX~~  
23 ~~RETURN A STATEMENT THAT:~~

24 (1) ~~IDENTIFIES THE CORPORATION’S EFFECTIVE TAX RATE;~~

25 (2) ~~PROVIDES AN ITEMIZED EXPLANATION OF HOW THE~~  
26 ~~CORPORATION’S EFFECTIVE TAX RATE WAS CALCULATED, INCLUDING THE VALUE~~  
27 ~~OF ANY CREDITS, DEDUCTIONS, SUBTRACTION MODIFICATIONS, NET OPERATING~~  
28 ~~LOSSES CARRIED FORWARD OR BACKWARD, OR OTHER ADJUSTMENTS APPLIED TO~~  
29 ~~DETERMINE THE STATE INCOME TAX LIABILITY OF THE CORPORATION; AND~~

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

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

~~(1) SHALL BE:~~

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

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

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

~~(D) (1) THE COMPTROLLER SHALL:~~

~~(I) COLLECT AND COMPILE THE INFORMATION SUBMITTED UNDER THIS SECTION; AND~~

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

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

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

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

~~2. EFFECTIVE TAX RATE; AND~~

~~3. VARIOUS MEASURES OF SIZE, SUCH AS INCOME, PAYROLL, AND GROSS RECEIPTS; AND~~

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

10-821.

(a) (1) A corporation required under Part II of this subtitle to file a return for a taxable year shall complete and file with the Comptroller an income tax return:

(i) on or before the April 15 that follows that taxable year; or

(ii) if income tax is computed for a fiscal year, on or before the 15th day of the 4th month after the end of that year.

(2) Within 60 days after a corporation loses or surrenders its charter in the State, is dissolved or liquidated, or voluntarily or involuntarily withdraws from the State, the corporation shall complete and file with the Comptroller an income tax return.

(b) A corporation required under § 10-816 of this subtitle to file a declaration of estimated income tax for a taxable year shall complete and file with the Comptroller a quarterly estimated tax return on or before the 15th day of the 4th, 6th, 9th, and 12th months of that year.

(C) (1) IN THIS SUBSECTION, "PUBLICLY TRADED CORPORATION" INCLUDES ANY SUBSIDIARY OF THE CORPORATION.

(2) ON OR BEFORE DECEMBER 31, 2023, AND EACH DECEMBER 31 THEREAFTER, THE COMPTROLLER SHALL SUBMIT A REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY THAT IDENTIFIES FOR THE IMMEDIATELY PRECEDING TAXABLE YEAR:

(I) THE NUMBER OF PUBLICLY TRADED CORPORATIONS CONDUCTING A TRADE OR BUSINESS IN ANOTHER STATE THAT ARE REQUIRED TO FILE AN INCOME TAX RETURN UNDER THIS SUBTITLE; AND

(II) THE NUMBER OF PUBLICLY TRADED CORPORATIONS IDENTIFIED UNDER ITEM (I) OF THIS PARAGRAPH THAT PAID NO AMOUNT OF STATE INCOME TAX.

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