

SENATE BILL 979

Q7, Q3

1lr3090

By: **Senator Jones–Rodwell**

Constitutional Requirements Complied with for Introduction in the last 35 Days of Session

Introduced and read first time: March 9, 2011

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Taxation of Corporations – Alternative Minimum Assessment**

3 FOR the purpose of imposing a certain tax on corporations doing business in the State
4 based on a certain alternative minimum assessment; providing that a certain
5 tax applies even if a corporation is exempt from the State income tax in
6 accordance with a certain federal law; providing for the computation of the
7 alternative minimum assessment as a certain percentage of a corporation's
8 gross receipts or gross profits, based on a certain election made by the
9 corporation; limiting the alternative minimum assessment to a certain amount
10 for any corporation and to a certain amount for certain groups of corporations;
11 providing for certain credits against the corporate income tax; providing for the
12 application of this Act; and generally relating to the imposition of an alternative
13 minimum assessment on corporations doing business in the State.

14 BY repealing and reenacting, with amendments,
15 Article – Tax – General
16 Section 1–101(i)
17 Annotated Code of Maryland
18 (2010 Replacement Volume)

19 BY adding to
20 Article – Tax – General
21 Section 10–102.2 and 10–729
22 Annotated Code of Maryland
23 (2010 Replacement Volume)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Tax – General**

2 1–101.

3 (i) (1) “Income tax” means the tax imposed under Title 10 of this article.

4 (2) “Income tax” includes the State income tax and county income tax.

5 **(3) FOR A CORPORATION, “INCOME TAX” INCLUDES THE TAX**
6 **IMPOSED UNDER § 10–102.2 OF THIS ARTICLE.**7 **10–102.2.**8 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
9 **MEANINGS INDICATED.**10 **(2) “AFFILIATED GROUP” MEANS A GROUP OF CORPORATIONS**
11 **DEFINED AS AN AFFILIATED GROUP BY § 1504 OF THE INTERNAL REVENUE**
12 **CODE THAT FILES A FEDERAL CONSOLIDATED INCOME TAX RETURN.**13 **(3) “ALTERNATIVE MINIMUM ASSESSMENT” MEANS THE**
14 **ALTERNATIVE MINIMUM ASSESSMENT DETERMINED UNDER THIS SECTION.**15 **(4) “COST OF GOODS SOLD” MEANS THE COST OF GOODS SOLD**
16 **CALCULATED UNDER THE SAME METHOD USED BY THE TAXPAYER FOR**
17 **PURPOSES OF COMPUTING THE TAXPAYER’S FEDERAL INCOME TAX, OR OTHER**
18 **INPUT OR EXPENDITURE, AS DETERMINED BY THE COMPTROLLER, AS MAY BE**
19 **NECESSARY TO EQUITABLY MEASURE THE BUSINESS ACTIVITY OF THE**
20 **TAXPAYER, MULTIPLIED BY THE THREE-FACTOR DOUBLE-WEIGHTED SALES**
21 **FACTOR APPORTIONMENT FRACTION SPECIFIED UNDER § 10–402(C)(1) OF THIS**
22 **TITLE.**23 **(5) “MARYLAND GROSS PROFITS” MEANS MARYLAND GROSS**
24 **RECEIPTS REDUCED BY RETURNS AND ALLOWANCES ATTRIBUTABLE TO**
25 **MARYLAND GROSS RECEIPTS, LESS THE COST OF GOODS SOLD.**26 **(6) “MARYLAND GROSS RECEIPTS” MEANS THE RECEIPTS OF THE**
27 **TAXPAYER FOR THE TAXABLE YEAR, COMPUTED ON THE CASH OR ACCRUAL**
28 **BASIS ACCORDING TO THE METHOD OF ACCOUNTING USED IN THE**
29 **COMPUTATION OF THE TAXPAYER’S NET INCOME FOR FEDERAL TAX PURPOSES**
30 **ARISING DURING THE TAXABLE YEAR FROM:**31 **(I) SALES OF TANGIBLE PERSONAL PROPERTY THAT ARE**
32 **SHIPPED TO POINTS WITHIN THE STATE, REGARDLESS OF WHERE THE**

1 PROPERTY IS LOCATED AT THE TIME OF THE RECEIPT OF ORDERS OR
2 APPROPRIATION TO ORDERS;

3 (II) SERVICES PERFORMED WITHIN THE STATE;

4 (III) RENTALS FROM PROPERTY SITUATED WITHIN THE
5 STATE AND ROYALTIES FROM THE USE OF PATENTS OR COPYRIGHTS WITHIN
6 THE STATE; AND

7 (IV) ALL OTHER BUSINESS RECEIPTS EARNED WITHIN THE
8 STATE.

9 (7) "MEMBER OF AN AFFILIATED GROUP" MEANS A TAXPAYER
10 THAT IS PART OF AN AFFILIATED GROUP.

11 (8) "STATE INCOME TAX" MEANS THE TAX IMPOSED UNDER §
12 10-102 OF THIS SUBTITLE, DETERMINED BEFORE THE APPLICATION OF THE
13 CREDITS ALLOWED UNDER §§ 10-701 AND 10-701.1 OF THIS TITLE BUT AFTER
14 THE APPLICATION OF ANY OTHER CREDITS ALLOWED UNDER SUBTITLE 7 OF
15 THIS TITLE.

16 (B) (1) IN ADDITION TO ANY OTHER TAX IMPOSED UNDER THIS TITLE,
17 A TAX IS IMPOSED UNDER THIS SECTION ON EACH CORPORATION DOING
18 BUSINESS IN THE STATE FOR ANY TAXABLE YEAR IF THE ALTERNATIVE
19 MINIMUM ASSESSMENT FOR THE CORPORATION AS DETERMINED UNDER THIS
20 SECTION EXCEEDS THE STATE INCOME TAX.

21 (2) FOR ANY TAXABLE YEAR, THE AMOUNT OF THE TAX IMPOSED
22 UNDER THIS SECTION IS THE AMOUNT BY WHICH THE ALTERNATIVE MINIMUM
23 ASSESSMENT EXCEEDS THE STATE INCOME TAX FOR THE TAXABLE YEAR.

24 (3) THE TAX IMPOSED UNDER THIS SECTION APPLIES TO ANY
25 CORPORATION IF THE CORPORATION'S BUSINESS ACTIVITY IN THE STATE IS
26 SUFFICIENT TO GIVE THE STATE JURISDICTION TO IMPOSE THE TAX UNDER THE
27 CONSTITUTION AND STATUTES OF THE UNITED STATES, EVEN IF THE
28 CORPORATION IS EXEMPT FROM THE TAX IMPOSED UNDER § 10-102 OF THIS
29 SUBTITLE PURSUANT TO P.L. 86-272 (15 U.S.C. §§ 381 ET SEQ.).

30 (C) (1) FOR ANY TAXABLE YEAR, SUBJECT TO THE TAXPAYER'S
31 ELECTION AS PROVIDED UNDER SUBSECTION (D) OF THIS SECTION, THE
32 ALTERNATIVE MINIMUM ASSESSMENT IS THE AMOUNT DETERMINED UNDER
33 PARAGRAPH (2) OR (3) OF THIS SUBSECTION.

1 **(2) (I) IF MARYLAND GROSS PROFITS ARE LESS THAN OR**
2 **EQUAL TO \$2,000,000, THE ALTERNATIVE MINIMUM ASSESSMENT IS ZERO.**

3 **(II) IF MARYLAND GROSS PROFITS ARE GREATER THAN**
4 **\$2,000,000 BUT LESS THAN OR EQUAL TO \$10,000,000, THE ALTERNATIVE**
5 **MINIMUM ASSESSMENT IS 0.0025 TIMES THE GROSS PROFITS IN EXCESS OF**
6 **\$2,000,000 MULTIPLIED TIMES 1.11111.**

7 **(III) IF MARYLAND GROSS PROFITS ARE GREATER THAN**
8 **\$10,000,000 BUT LESS THAN OR EQUAL TO \$15,000,000, THE ALTERNATIVE**
9 **MINIMUM ASSESSMENT IS 0.0035 TIMES THE GROSS PROFITS.**

10 **(IV) IF MARYLAND GROSS PROFITS ARE GREATER THAN**
11 **\$15,000,000 BUT LESS THAN OR EQUAL TO \$25,000,000, THE ALTERNATIVE**
12 **MINIMUM ASSESSMENT IS 0.006 TIMES THE GROSS PROFITS.**

13 **(V) IF MARYLAND GROSS PROFITS ARE GREATER THAN**
14 **\$25,000,000 BUT LESS THAN OR EQUAL TO \$37,500,000, THE ALTERNATIVE**
15 **MINIMUM ASSESSMENT IS 0.007 TIMES THE GROSS PROFITS.**

16 **(VI) IF MARYLAND GROSS PROFITS ARE GREATER THAN**
17 **\$37,500,000, THE ALTERNATIVE MINIMUM ASSESSMENT IS 0.008 TIMES THE**
18 **GROSS PROFITS.**

19 **(3) (I) IF MARYLAND GROSS RECEIPTS ARE LESS THAN OR**
20 **EQUAL TO \$10,000,000, THE ALTERNATIVE MINIMUM ASSESSMENT IS ZERO.**

21 **(II) IF MARYLAND GROSS RECEIPTS ARE GREATER THAN**
22 **\$10,000,000 BUT LESS THAN OR EQUAL TO \$20,000,000, THE ALTERNATIVE**
23 **MINIMUM ASSESSMENT IS 0.00125 TIMES THE GROSS RECEIPTS IN EXCESS OF**
24 **\$10,000,000 MULTIPLIED TIMES 1.11111.**

25 **(III) IF MARYLAND GROSS RECEIPTS ARE GREATER THAN**
26 **\$20,000,000 BUT LESS THAN OR EQUAL TO \$30,000,000, THE ALTERNATIVE**
27 **MINIMUM ASSESSMENT IS 0.00175 TIMES THE GROSS RECEIPTS.**

28 **(IV) IF MARYLAND GROSS RECEIPTS ARE GREATER THAN**
29 **\$30,000,000 BUT LESS THAN OR EQUAL TO \$50,000,000, THE ALTERNATIVE**
30 **MINIMUM ASSESSMENT IS 0.003 TIMES THE GROSS RECEIPTS.**

31 **(V) IF MARYLAND GROSS RECEIPTS ARE GREATER THAN**
32 **\$50,000,000 BUT LESS THAN OR EQUAL TO \$75,000,000, THE ALTERNATIVE**
33 **MINIMUM ASSESSMENT IS 0.0035 TIMES THE GROSS RECEIPTS.**

1 (VI) IF MARYLAND GROSS RECEIPTS ARE GREATER THAN
2 **\$75,000,000**, THE ALTERNATIVE MINIMUM ASSESSMENT IS **0.004** TIMES THE
3 GROSS RECEIPTS.

4 (4) NOTWITHSTANDING PARAGRAPHS (2)(I) AND (II) AND (3)(I)
5 AND (II) OF THIS SUBSECTION, SUBJECT TO SUBSECTION (E)(2) OF THIS
6 SECTION, THE SUM OF THE AMOUNTS SUBJECT TO AN ALTERNATIVE MINIMUM
7 ASSESSMENT OF ZERO FOR ALL OF THE MEMBERS OF AN AFFILIATED GROUP OR
8 A CONTROLLED GROUP UNDER § 1504 OR § 1563 OF THE INTERNAL REVENUE
9 CODE MAY NOT EXCEED:

10 (I) **\$5,000,000** OF GROSS PROFITS;

11 (II) **\$15,000,000** OF GROSS RECEIPTS; OR

12 (III) FOR A GROUP WHOSE MEMBERS HAVE NOT ALL
13 ELECTED THE SAME COMPUTATION METHOD UNDER THIS SUBSECTION, AN
14 AMOUNT AS DETERMINED BY THE COMPTROLLER EQUAL TO FIVE TIMES THE
15 APPLICABLE AMOUNTS THAT ARE SUBJECT TO AN ALTERNATIVE MINIMUM
16 ASSESSMENT OF ZERO UNDER PARAGRAPH (2) OR (3) OF THIS SUBSECTION.

17 (D) (1) FOR THE FIRST TAXABLE YEAR FOR WHICH IT IS REQUIRED TO
18 COMPUTE THE ALTERNATIVE MINIMUM ASSESSMENT UNDER THIS SECTION, A
19 TAXPAYER SHALL ELECT TO EMPLOY THE COMPUTATION METHOD SET FORTH IN
20 SUBSECTION (C)(2) OF THIS SECTION OR THE COMPUTATION METHOD SET
21 FORTH IN SUBSECTION (C)(3) OF THIS SECTION.

22 (2) THE COMPUTATION ELECTED BY A TAXPAYER UNDER
23 PARAGRAPH (1) OF THIS SUBSECTION SHALL BE EMPLOYED BY THE TAXPAYER
24 FOR THE COMPUTATION OF THE ALTERNATIVE MINIMUM ASSESSMENT FOR
25 THAT TAXABLE YEAR AND FOR THE 4 SUCCEEDING TAXABLE YEARS, UNDER
26 REGULATIONS THAT THE COMPTROLLER ADOPTS.

27 (3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,
28 THE TAXPAYER MAY CHANGE THE TAXPAYER'S ELECTION AT ANY TIME AFTER
29 THE INITIAL 5 TAXABLE YEARS.

30 (II) ANY CHANGE IN THE METHOD OF COMPUTATION OF THE
31 ALTERNATIVE MINIMUM ASSESSMENT THAT THE TAXPAYER ELECTS SHALL BE
32 EMPLOYED BY THE TAXPAYER FOR THE TAXABLE YEAR FOR WHICH THE CHANGE
33 IS EFFECTIVE AND FOR THE 4 SUCCEEDING TAXABLE YEARS.

1 **(E) (1) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS**
2 **SECTION, THE ALTERNATIVE MINIMUM ASSESSMENT FOR A TAXPAYER FOR A**
3 **TAXABLE YEAR MAY NOT EXCEED \$5,000,000.**

4 **(2) IF FIVE OR MORE TAXPAYERS ARE MEMBERS OF AN**
5 **AFFILIATED GROUP, THE SUM OF THE ALTERNATIVE MINIMUM ASSESSMENTS OF**
6 **EACH OF THE MEMBERS OF THE AFFILIATED GROUP FOR A PRIVILEGE PERIOD**
7 **MAY NOT EXCEED \$20,000,000.**

8 **(3) IF THE SUM OF THE ALTERNATIVE MINIMUM ASSESSMENT**
9 **FOR ALL MEMBERS OF THE AFFILIATED GROUP COMPUTED AS SET FORTH IN**
10 **SUBSECTION (C) OF THIS SECTION AFTER APPLICATION OF THE MAXIMUM SET**
11 **BY PARAGRAPH (1) OF THIS SUBSECTION WOULD OTHERWISE EXCEED**
12 **\$20,000,000, THE ALTERNATIVE MINIMUM ASSESSMENT FOR A MEMBER OF THE**
13 **AFFILIATED GROUP SHALL EQUAL THE ALTERNATIVE MINIMUM ASSESSMENT**
14 **FOR THAT MEMBER OF THE AFFILIATED GROUP COMPUTED AS SET FORTH IN**
15 **SUBSECTION (C) OF THIS SECTION AFTER APPLICATION OF THE MAXIMUM SET**
16 **BY PARAGRAPH (1) OF THIS SUBSECTION MULTIPLIED BY A FRACTION:**

17 **(I) THE NUMERATOR OF WHICH IS \$20,000,000; AND**

18 **(II) THE DENOMINATOR OF WHICH IS THE SUM OF THE**
19 **ALTERNATIVE MINIMUM ASSESSMENTS FOR ALL MEMBERS OF THE AFFILIATED**
20 **GROUP COMPUTED AS SET FORTH IN SUBSECTION (C) OF THIS SECTION AFTER**
21 **APPLICATION OF THE MAXIMUM SET BY PARAGRAPH (1) OF THIS SUBSECTION.**

22 **10-729.**

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

25 **(2) “ALTERNATIVE MINIMUM ASSESSMENT” MEANS THE**
26 **ALTERNATIVE MINIMUM ASSESSMENT DETERMINED UNDER § 10-102.2 OF THIS**
27 **TITLE.**

28 **(3) “STATE INCOME TAX” MEANS THE TAX IMPOSED UNDER §**
29 **10-102 OF THIS TITLE, DETERMINED BEFORE THE APPLICATION OF THE**
30 **CREDITS ALLOWED UNDER THIS SECTION AND §§ 10-701 AND 10-701.1 OF THIS**
31 **SUBTITLE BUT AFTER THE APPLICATION OF ANY OTHER CREDITS ALLOWED**
32 **UNDER THIS SUBTITLE.**

33 **(B) (1) AS PROVIDED IN THIS SECTION, IF THE STATE INCOME TAX**
34 **FOR ANY TAXABLE YEAR EXCEEDS THE ALTERNATIVE MINIMUM ASSESSMENT**
35 **FOR THAT TAXABLE YEAR, A CORPORATION MAY CLAIM THE AMOUNT OF THE**

1 TAX IMPOSED UNDER § 10-102.2 OF THIS TITLE FOR ANY PREVIOUS TAXABLE
2 YEAR AS A CREDIT AGAINST THE STATE INCOME TAX.

3 (2) SUBJECT TO THE LIMITATIONS OF SUBSECTION (C) OF THIS
4 SECTION, THE AMOUNT OF THE TAX IMPOSED UNDER § 10-102.2 OF THIS TITLE
5 MAY BE CARRIED FORWARD INDEFINITELY FOR SUCCEEDING TAXABLE YEARS
6 UNTIL THE FULL AMOUNT IS USED AS A CREDIT UNDER THIS SECTION.

7 (C) FOR ANY TAXABLE YEAR, THE CREDIT ALLOWED UNDER THIS
8 SECTION MAY NOT EXCEED THE LESSER OF:

9 (1) THE AMOUNT BY WHICH THE STATE INCOME TAX EXCEEDS
10 THE ALTERNATIVE MINIMUM ASSESSMENT; OR

11 (2) 50% OF THE STATE INCOME TAX.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 July 1, 2011, and shall be applicable to all taxable years beginning after December 31,
14 2010.