

HOUSE BILL 1257

Q3

71r3084

By: **Delegates Hixson, Barve, Doory, Howard, N. King, and ~~McKee~~ McKee, Bartlett, Cardin, Gilchrist, Ivey, Kaiser, Rice, Ross, Stukes, F. Turner, and Walker**

Introduced and read first time: February 22, 2007

Assigned to: Rules and Executive Nominations

Re-referred to: Ways and Means, March 5, 2007

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2007

CHAPTER _____

1 AN ACT concerning

2 **Income Tax – Captive Real Estate Investment Trusts**

3 FOR the purpose of requiring that a certain deduction for dividends paid be added to
4 federal taxable income to determine Maryland modified income of certain real
5 estate investment trusts for Maryland income tax purposes; defining a certain
6 term; providing for the application of this Act; and generally relating to a
7 Maryland income tax addition modification in the amount of the dividends paid
8 deduction for certain real estate investment trusts.

9 BY adding to

10 Article – Tax – General

11 Section 10–306.2

12 Annotated Code of Maryland

13 (2004 Replacement Volume and 2006 Supplement)

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

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 Article - Tax - General

2 **10-306.2.**

3 (A) IN THIS SECTION:

4 (1) "CAPTIVE REIT" MEANS A CORPORATION, TRUST, OR
5 ASSOCIATION:

6 ~~(1)~~ (I) THAT IS CONSIDERED A REAL ESTATE INVESTMENT
7 TRUST FOR THE TAXABLE YEAR UNDER § 856 OF THE INTERNAL REVENUE
8 CODE;

9 ~~(2)~~ (II) THAT IS NOT ~~PUBLICLY TRADED~~ REGULARLY TRADED
10 ON AN ESTABLISHED SECURITIES MARKET; AND

11 ~~(3)~~ (III) MORE THAN 50% OF THE VOTING POWER OR VALUE OF
12 THE BENEFICIAL INTERESTS OR SHARES OF WHICH ~~ARE~~, AT ANY TIME DURING
13 THE LAST HALF OF THE TAXABLE YEAR, IS OWNED OR CONTROLLED, DIRECTLY
14 OR INDIRECTLY, BY A SINGLE PERSON OTHER THAN: ENTITY THAT IS SUBJECT
15 TO THE PROVISIONS OF SUBCHAPTER C OF CHAPTER 1 OF THE INTERNAL
16 REVENUE CODE; AND

17 (2) "CAPTIVE REIT" DOES NOT INCLUDE:

18 (I) A CORPORATION, TRUST, OR ASSOCIATION MORE THAN
19 50% OF THE VOTING POWER OR VALUE OF THE BENEFICIAL INTERESTS OR
20 SHARES OF WHICH, AT ANY TIME DURING WHICH THE CORPORATION, TRUST, OR
21 ASSOCIATION SATISFIES ITEM (1)(III) OF THIS SUBSECTION, IS OWNED OR
22 CONTROLLED, DIRECTLY OR INDIRECTLY, BY:

23 ~~(1)~~ 1. A REAL ESTATE INVESTMENT TRUST OTHER THAN A
24 REAL ESTATE INVESTMENT TRUST DESCRIBED IN ITEM (1) OF THIS
25 SUBSECTION; OR

26 ~~(II)~~ A QUALIFIED REAL ESTATE INVESTMENT TRUST
27 SUBSIDIARY UNDER § 856(i) OF THE INTERNAL REVENUE CODE.

28 2. A PERSON EXEMPT FROM TAXATION UNDER § 501
29 OF THE INTERNAL REVENUE CODE; OR

3. A LISTED AUSTRALIAN PROPERTY TRUST; OR

(II) SUBJECT TO REGULATIONS THAT THE COMPTROLLER ADOPTS, A REAL ESTATE INVESTMENT TRUST THAT IS INTENDED TO BECOME REGULARLY TRADED ON AN ESTABLISHED SECURITIES MARKET AND THAT SATISFIES THE REQUIREMENTS OF § 856(A)(5) AND (6) OF THE INTERNAL REVENUE CODE BY REASON OF § 856(H)(2) OF THE INTERNAL REVENUE CODE.

(B) IN ADDITION TO THE MODIFICATIONS UNDER §§ 10-305 THROUGH 10-306.1 OF THIS SUBTITLE, AN AMOUNT EQUAL TO THE AMOUNT OF THE DIVIDENDS PAID DEDUCTION ALLOWED UNDER THE INTERNAL REVENUE CODE FOR THE TAXABLE YEAR IS ADDED TO FEDERAL TAXABLE INCOME TO DETERMINE THE MARYLAND MODIFIED INCOME OF A CAPTIVE REIT.

(C) FOR PURPOSES OF THIS SECTION, THE CONSTRUCTIVE OWNERSHIP RULES PRESCRIBED UNDER § 318(A) OF THE INTERNAL REVENUE CODE, AS MODIFIED BY § 856(D)(5) OF THE INTERNAL REVENUE CODE, SHALL APPLY IN DETERMINING THE OWNERSHIP OF STOCK, ASSETS, OR NET PROFITS OF ANY PERSON.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007, and shall be applicable to all taxable years beginning after December 31, 2006.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.