

10-402.

(a) In computing Maryland taxable income, a corporation shall allocate Maryland modified income derived from or reasonably attributable to its trade or business in this State in the following manner:

(1) if a corporation carries on its trade or business wholly within the State, the corporation shall allocate to the State all of the Maryland modified income of the corporation; and

(2) if a corporation carries on its trade or business in and out of the State, the corporation shall allocate to the State the part of the corporation's Maryland modified income that is derived from or reasonably attributable to the part of its trade or business carried on in the State, in the manner required in subsection (b), (c), or (d) of this section.

(b) (1) Except as provided in subsection (c) or (d) of this section, the part of the corporation's Maryland modified income derived from or reasonably attributable to trade or business carried on in the State may be determined by separate accounting if practicable.

(2) If in any taxable year a corporation is permitted or required to use the separate accounting method in determining all or a portion of its Maryland taxable income, the portion that is separately accounted for to Maryland shall be taxable whether or not the Maryland modified income of the corporation for the taxable year is zero or less.

(c) (1) **[If] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, 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:

(i) the numerator of which is the sum of the property factor, the payroll factor, and twice the sales factor; and

(ii) the denominator of which is 4.

(2) (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 IN AND OUT OF 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