Closing Loopholes That Allow Corporations to Avoid Maryland Taxes

SB311/HB295 - Combined reporting

Enacting combined reporting would change how corporate income tax is calculated, providing a more complete and accurate accounting of the profits corporations earn from their activities in Maryland than the current method. Combined reporting closes the door to a range of currently legal accounting tactics businesses use to avoid paying taxes to Maryland. Combined reporting essentially treats a parent company and its subsidiaries as one corporation for state income tax purposes. Doing so prevents companies from reducing their taxable profits by artificially shifting revenue out of state.

- Combined reporting also helps put smaller corporations with no presence outside of Maryland on a more equal tax footing with larger companies that operate in many states. Main Street businesses cannot afford to spend millions developing these complicated tax avoidance structures, but their large competitors can, and in so doing gain an unfair advantage.
- Combined reporting is well-established around the country. 24 states and the District of Columbia use combined reporting. Because it is so common, most large corporations that would be subject to a Maryland combined reporting law already have significant experience complying with it elsewhere
- Would generate an estimated $78.6 million per year (2019 Fiscal Note)

SB311/HB473 - Ending corporate "nowhere income" (throwback rule)

This legislation would close another loophole that shields some corporate profits from taxation. Maryland's corporate income tax is calculated using a formula that considers how much of a company's sales are located in Maryland. This system helps to prevent multiple states from taxing a business's profits. However, due to a federal law passed in the 1950s, when a company located in Maryland makes sales into another state, this income is sometimes not taxed by *any* state and It becomes "nowhere income."

Proposed legislation would ensure that each dollar of corporate income in Maryland is subject to taxation by a single state, without double taxation or nowhere income. Specifically, when a Maryland-based corporation sells goods into states that do not have jurisdiction to tax those sales, the bill would assign the resulting income to Maryland for the purpose of calculating the company's tax bill. This practice is often called the throwback rule, because profits are "thrown back" to the state where a business is located. Adopting the throwback rule would put small companies that primarily do business inside Maryland on more equal footing with large corporations that sell into other states.

- Most states that levy a corporate income tax already use the throwback rule, from nearby West Virginia to economic powerhouses like California.

- While the bill would increase some corporations' tax responsibilities, it is not likely to have a significant effect on their bottom lines. State taxes are only a small part of most companies' costs.
- This would generate an estimated $56.8 million per year (2018 Fiscal Note)

HB507 - Close the pass-through/LLC loophole

Today, businesses that organize as S-corporations, LLCs, or other so-called pass-through entities can avoid paying corporate income tax, no matter how large or profitable they become. There is a growing national trend of very large businesses choosing these business structures specifically to avoid corporate taxes. This legislation would partially offset that special treatment by levying a 4 percent tax—just under half the corporate tax rate—on the largest pass-through businesses. This reform would continue to protect small businesses by allowing all companies to deduct their first $1 million in profits and exempting sole proprietorships.

- Because it only applies to very large, profitable businesses, this reform is expected to affect less than 2% of pass-through companies.
- Texas, California, Massachusetts, Illinois, and the District of Columbia have similar policies in place
- It would generate an estimated $124 million per year (MDCEP estimate)

Eliminating Special Interest Tax Breaks

HB223 - End ineffective subsidy programs

Maryland currently spends millions on special tax breaks for businesses in hopes of spurring economic development, despite growing evidence that these subsidies do not work and primarily benefit large businesses that have the resources to collect the credits. This legislation would eliminate a number of subsidy programs that state analysts have found to be deeply flawed: the Enterprise Zone Tax Credit, the Biotechnology Investment Incentive Tax Credit, the state level Opportunity Zone tax credits, and the One Maryland Economic Development Tax Credit.

- In the long term, good schools and a well-educated workforce are much more important to attract and retain employers than short-term tax credits that are a small part of a business's bottom line.
- Eliminating these ineffective credits would save $34-$49 million per year

HB1066 - Decouple 529 Tax Benefit

Maryland offers an income tax credit for contributions made to contributions people make to a 529 plan, known as the Maryland College Investment Plan. While these plans were originally intended to help families save for college, the Republican federal tax bill in 2017 also allowed the funds to be used for private elementary or secondary education expenses. That would still be allowed under this change, as Maryland can't override the federal law, but funds used for private elementary or secondary school would no longer be tax-deductible.

- This would raise an estimated $20.3 million per year (2018 Fiscal Note)

Means test individual tax credits

Maryland has a number of tax credits designed to help working Marylanders afford certain things. This proposed legislation would cap many of these credits so they are not provided to very high-income tax filers who don't need a financial incentive or assistance to afford such improvements.

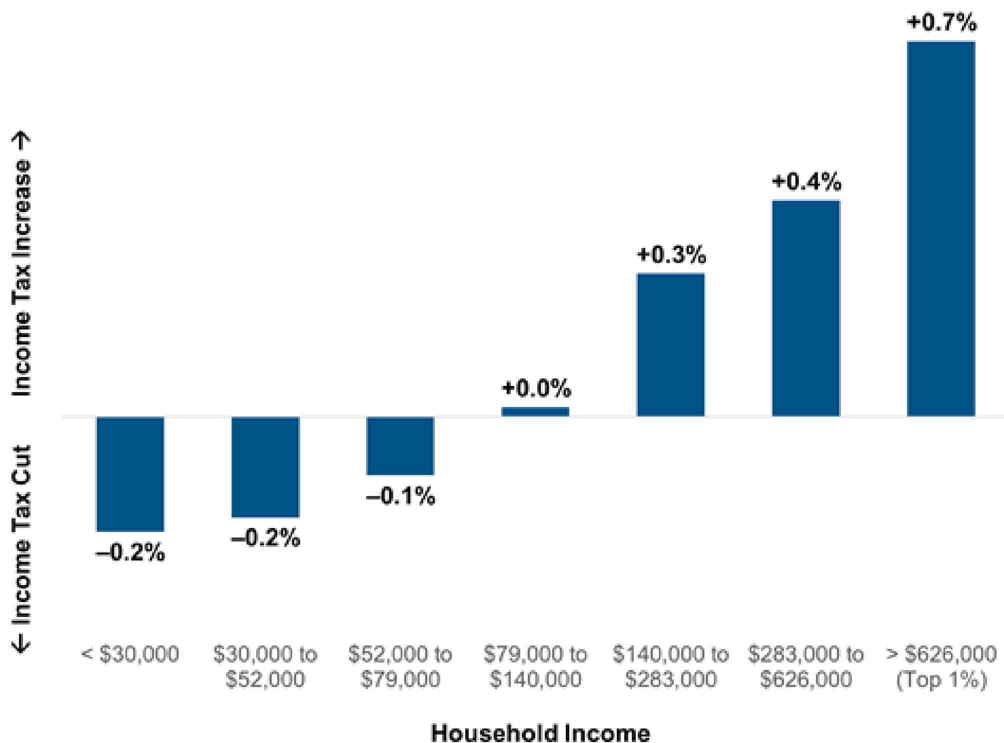
Improve Maryland's Upside-Down Tax Code

Maryland's tax responsibilities are upside-down. The wealthiest 1 percent of households pay a smaller share of their income in state and local taxes than the rest of us do, despite doubling their slice of the economic pie over the last 40 years. This means that our tax code further concentrates wealth and power in a few hands and does nothing to reduce the economic barriers that hold back many Marylanders, especially people of color. These proposals would improve our tax code and help ensure everyone is paying their fair share for the public services we all benefit from.

HB1190 - Restructure personal income tax brackets and rates

Restructuring our personal income tax is the most effective way to make our tax system more equitable while raising significant revenue to improve our schools. This legislation would reduce income taxes for low- and moderate-income households while raising them for the wealthiest Marylanders. This includes restoring a higher 7% tax bracket for annual income above $1 million.

- This would raise an estimated $689 million per year (MDCEP Estimate)



HB222 - Offset Special Treatment of Capital Gains

The federal tax code gives special treatment to income from capital gains—the net gain from the sale of an asset that has increased in value. The top federal tax rate on capital gains income is 23.8 percent, far below the 40.8 percent top rate on income from work. Because capital gains go only to households with accumulated wealth, they are even more lopsided than income from other sources. Nationwide, the wealthiest 1 percent of tax filers get two-thirds of all capital gains income, compared to one-sixth of income from all sources. The special treatment of capital gains is also an important driver of racial and ethnic inequity, because the wealthiest 10 percent of white households control nearly two-thirds of all wealth nationwide. This legislation would partially offset this special treatment with a 1 percent surtax on capital gains income.

- This would raise an estimated $66–$96 million per year

SB216/HB439 - Tax Income of Investment Managers at the Same Rate

Like thousands of other Maryland workers, from authors to restaurant servers, private equity and hedge fund managers are paid partly on the basis of their performance. Unlike other workers, wealthy fund managers pay a special, low tax rate on this income. This special treatment violates core principles of effective tax policy by taxing similar activities at different rates, shifting tax

responsibility away from those who can best afford to pay, and costing the state millions of dollars nationwide that could be used to support our schools and other vital public investments. This legislation which would eliminate this special tax break and ask wealthy fund managers to pay their fair share.

- It applies a 19% state income surtax on the distributive or pro-rata share of a pass-through entity's taxable income that is attributable to investment management services provided in Maryland, generating about $79 million per year (2017 Fiscal Note)

HB256 - Restore the Millionaire Estate Tax

Maryland has historically had a tax for the estates of millionaires and multi-millionaires. In addition to supporting state services, the estate tax is one tool for taxing wealth that hasn't been taxed before. In 2014, the General Assembly increased the estate tax exemption from $1 million to over $5 million, handing a windfall to a small number of ultra-wealthy heirs and making it harder for the state to invest in essential services. This change was misguided to begin with and, because of changes made by the 2017 federal tax overhaul, even its stated goal of matching the Maryland estate tax to the federal exemption no longer applies. We should reverse the flawed choice we made in 2014 and restore the exemption to $1 million.

- Maryland's estate tax does have additional provisions to protect family farms.
- This would generate an estimated $137.7 million per year (2014 Fiscal Note)