



Maryland Chamber of Commerce

Legislative Position

Tax
Commission
and
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W&M/APP
Committees
Nov. 14,2007

Tax Reform and Transportation Investment Act of 2007 – SB2

Provision that Establishes a Business Tax Reform Commission and also Imposes New Annual Information Reporting Requirements of Businesses

Summary: SB2, at page 35, adds new sections 10-110 and 10-804.1 to the Tax-General Article. It creates a Tax Reform Commission in Maryland. It would also impose a long list of annual income tax information reporting requirements on corporations, including those that currently have no tax filing requirements in the state.

Chamber Position: The Maryland Chamber of Commerce supports the establishment of a Commission to study Maryland's business tax structure, including the evaluation of the projected impacts on the state of "unitary combined reporting." We would look forward to assisting in such a Commission. However, we believe that the annual information reporting requirements should be amended, because those that are currently contained in the bill are overly broad, burdensome on the taxpayer's and on the state's administrative processes, and may be subject to legal challenge.

The Commission to study Maryland's business tax structure is a good idea, including the concept of evaluating more closely the projected impacts of "unitary combined reporting" on Maryland's tax revenues and economy. Although businesses paid \$9.4 billion in Maryland state and local taxes in fiscal year 2006, we appreciate the desire to further analyze the state's business taxes.

The matters are complex. Combined reporting is not a "loophole closer" as portrayed in the media. Many corporations will pay less tax with combined reporting, and many companies will pay more tax due only to the operation of the arithmetic of combined apportionment factors (i.e., not due to their use of tax avoidance mechanisms). The Fiscal and Policy Notes prepared for the proposed combined reporting bills do not address this aspect of combined reporting. The Maryland General Assembly has passed several laws in recent years to remove the effects of tax planning transactions (anti-Delaware holding company, intercompany pricing adjustments, anti-captive REIT) and the income tax auditors are using these tools and generating additional tax assessments. The listing issued by the Comptroller does not represent the conclusion that half of Maryland's corporations paid no income tax, because the list is incomplete and not informative in a number of ways (as indicated by the Comptroller's Office cover letters to the reports).

It is prudent for the State to study these matters further through a Commission.

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Please amend the list of annual reporting requirements contained in SB2.

- No other state has required this level and type of information reporting.
- Portions of the proposed requirements are subject to legal challenge, for example, requiring detailed income tax information from corporations that currently have no income tax nexus in Maryland.
- It requires the gathering of voluminous data that businesses do not maintain in this form for any other reason, and will add significant costs for processing and manpower – by both the taxpayers and the State of Maryland.
- The list requires information regarding other state tax filings, without recognition to the fact that the tax statutes in other states differ dramatically.
- There are over 50,000 corporations registered to do business in Maryland, per SDAT. There would be tens of thousands of additional corporations subject to the reporting requirements. We ask that you question the ability of the state's resources to efficiently utilize, in a way that will provide meaningful information, the huge amount of data from that number of filers.
- There are other means for securing the data the Commission would require for its study. Other states have performed analyses of their business tax structures and calculated statistically valid estimates of the impacts of combined reporting (including most recently Pennsylvania) without requiring this amount of information to be gathered and processed by the taxpayers and the tax agency.

We look forward to working with the Committee to draft amendments to the reporting requirements currently provided in SB2, so that adequate information is available for a review of Maryland's tax structure, and in a way that does not create undue burden on the taxpayers or the State.

We respectfully request that the reporting requirements of proposed section 10-804.1 (Tax-General Article) be amended.

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