Maryland Should Join its Peers in Ending Corporate 'Nowhere Income'

Position Statement Supporting House Bill 639

Given before the House Ways and Means Committee

Maryland families and businesses alike rely on the public investments that make our state a great place to live. Thanks to high-quality schools, Maryland's workforce is among the country's best-educated. Thanks to our intermodal transportation networks, people and goods can move efficiently throughout Maryland. Thanks to our investments in public safety, business owners can rest assured that their life's work is protected. That's why it is so important that we make sure the Maryland corporations that depend on these investments pay their fair share of the cost—whether they sell their wares in a single neighborhood or throughout the country. The Maryland Center on Economic Policy supports House Bill 639, which would close a loophole that shields some corporate profits from taxation.

Our economy doesn't end at the state line, and neither do many businesses. When a company does business in multiple states, the states must determine how its income should be divided when calculating the company's tax responsibility. Like most states, Maryland does this using a formula that considers how much of a company's property, payroll, and sales are located in Maryland (manufacturers only consider sales when apportioning income).[i] This system helps to prevent multiple states from taxing each dollar of 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.[ii] It becomes "nowhere income."

House Bill 639 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 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. It would also generate upwards of $53 million per year in revenue, strengthening Maryland's ability to invest in the essential services businesses depend on daily.[iii]

Passing House Bill 639 would put Maryland in good company. Most states that levy a corporate income tax already use the throwback rule, from nearby West Virginia to economic powerhouses like California.[iv] 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, and the majority of business executives are more concerned about things like access to a skilled workforce, access to transportation, and the local quality of life when they decide where to locate.[v] The revenues brought in by House Bill 639 would allow us to invest more in these things, making Maryland more attractive to businesses.

Maryland should join the majority of its peers in adopting the throwback rule, which would modernize one part of our tax system and ensure that the corporations that benefit from Maryland's public investments pay their fair share.

For these reasons, the Maryland Center on Economic Policy respectfully asks that the House Ways and Means Committee make a favorable report on House Bill 639.

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[i] "Legislative Handbook Series Vol. 3," *Department of Legislative Services*, 2014, 57, http://mgaleg.maryland.gov/Pubs/legislegal/2014-LegislativeHandbookSeries-Vol-3.pdf.

[ii] Michael Mazerov, "Closing Three Common Corporate Income Tax Loopholes Could Raise Additional Revenue for Many States," *Center on Budget and Policy Priorities*, 2003, 4–6, http://www.cbpp.org/archiveSite/4-9-02sfp.pdf.

[iii] Heather Ruby, "Fiscal and Policy Note: House Bill 639," *Department of Legislative Services*, 2017, http://mgaleg.maryland.gov/2017RS/fnotes/bil_0009/hb0639.pdf.

[iv] Mazerov, "Closing Three Common Corporate Income Tax Loopholes," 5. Note that Louisiana and Rhode Island have adopted the throwback rule since this report was published, while Indiana and New Jersey have repealed theirs. Currently, 25 states and the District of Columbia use the rule.

[v] Michael Mazerov, "Cutting State Corporate Income Taxes Is Unlikely to Create Many Jobs," *Center on Budget and Policy Priorities*, 2010, http://www.cbpp.org/research/cutting-state-corporate-income-taxes-is-unlikely-to-create-many-jobs.
"Corporate Site Selection Factors," *Area Development*, 2016, http://www.areadevelopment.com/corporate-site-selection-factors/.