Maryland's $2.8 Billion Missed Opportunity, Appendix: Data Sources and Methodology

Combined Reporting

Description: Enact combined reporting, a method of calculating corporate income tax responsibilities in which all members of a corporate group (such as subsidiaries and parent companies) are treated as a single entity.

Data sources:

- SB 469 of 2013 Fiscal and Policy Note
- SB 395 of 2014 Fiscal and Policy Note
- SB 179 of 2015 Fiscal and Policy Note
- SB 432 of 2016 Fiscal and Policy Note

Methodological notes:

- Each year's estimate is taken from the most recent fiscal note that includes that year.
- For bills with multiple tax provisions or local revenue impacts, only the all-funds state revenue impact of combined reporting is used.

Throwback Rule

Description: Enact the throwback rule, a rule used in calculating Maryland's share of a multistate corporation's profits. When a Maryland-based corporation makes sales into a state that lacks the authority (nexus) to tax the resulting profits, the throwback rule requires those profits to be attributed to Maryland.

Data sources:

- SB 800 of 2011 Fiscal and Policy Note
- SB 833 of 2017 Fiscal and Policy Note

Methodological notes:

- Each year's estimate is taken from the most recent fiscal note that includes that year.
- For bills with multiple tax provisions or local revenue impacts, only the all-funds state revenue impact of the throwback rule is used.
- Neither fiscal note includes a revenue estimate for FY 2017. This memo assumes the FY 2017 impact is the average of the FY 2016 impact (estimated in 2011) and the FY 2018 impact (estimated in 2017).

Close the LLC Loophole

Description: Levy a 4 percent tax on the profits of the largest S-corporations, partnerships, and LLCs, which are exempt from the federal and state corporate income tax. Every company's first $1 million in profit is exempt, and sole proprietorships are entirely exempt.

Data sources:

- HB 507 of 2020 Fiscal and Policy Note
- Bureau of Economic Analysis data on Maryland and nationwide personal income
- Congressional Budget Office projections of nationwide personal income

Methodological notes:

- Revenue impact was projected backward based on estimated growth in Maryland personal income.
- Maryland personal income for FY 2021 to 2025 was estimated based on Congressional Budget Office estimates of nationwide personal income.
- It was assumed that future quarterly growth in Maryland personal income will equal quarterly growth in nationwide personal income, minus the average difference in growth rates between Maryland and nationwide personal income from 2013 to 2019.

End Ineffective Subsidies

Description: Repeal certain business tax subsidy programs that the Department of Legislative Services to be ineffective or lack evidence of effectiveness. The revenue estimate includes the following programs: Enterprise Zones, Biotechnology Investment Tax Credit, Businesses that Create New Jobs Tax Credit, One Maryland.

Data sources:

- Maryland Tax Expenditure Report, FY 2018
- Maryland Tax Expenditure Report, FY 2016

Methodological notes:

- FY 2014 data are from the FY 2016 Tax Expenditure Report. Data for all other years from the 2018 report.

Offset Capital Gains Special Treatment

Description: Levy a 1 percent surtax on capital gains income, which is taxed at a lower rate than ordinary income at the federal level.

Data sources:

- HB 956 of 2012 Fiscal and Policy Note
- IRS Historic Table 2
- Bureau of Economic Analysis data on Maryland personal income

Methodological notes:

- HB 956 of 2012 would have levied a 2 percent surtax on capital gains income. Revenue estimates for FY 2014 through FY 2017 are one-half of each year's estimate from the fiscal note.
- The 2012 fiscal note did not include a revenue estimate for FY 2018, and data on capital gains income in 2018 are not yet available.
- MDCEP estimated Maryland capital gains as a share of total personal income in each calendar year based on IRS Historic Table 2 and BEA data on personal income. During this period, capital gains averaged 2.68 percent of total personal income.
- Maryland personal income totaled $382.8 billion in calendar year 2018. If capital gains income was 2.68 percent of this total, it would be slightly over $10.2 billion.
- MDCEP estimated capital gains in each *fiscal* year by averaging historical data from the applicable calendar years, yielding FY 2018 estimated capital gains of $10.8 billion.
- Based on estimated capital gains by fiscal year, the HB 956 fiscal note implies an effective tax rate of 1.92 percent, slightly below the 2.00 percent statutory tax rate.
- Halving the HB 956 effective tax rate and multiplying by estimated FY 2018 capital gains income yields a FY 2018 revenue estimate of $103.6 billion.

Close the Carried Interest Loophole

Description: Levy a 17 percent tax on performance-related income of certain investment fund managers to offset federal taxation of this income at the lower capital gains rate.

Data sources:

- Joint Committee on Taxation, "Estimated Budget Effects of the Revenue Provisions Contained in the President's Budget Proposal," fiscal years 2012 to 2017, https://www.jct.gov/publications.html?func=select&id=7
- HB 915 of 2017 Fiscal and Policy Note

Methodological notes:

- The Joint Committee on Taxation documents include estimates of the nationwide revenue gain from closing the carried interest loophole at the federal level.
- For each fiscal year, the JCT estimate from the same federal fiscal year's document is used. For example, MDCEP's SFY 2014 estimate is based on the JCT estimate in the document prepared for the president's FFY 2014 budget.
- In the fiscal note for HB 915 of 2017, the Department of Legislative Services estimates that 3 percent of nationwide carried interest is attributable to Maryland. MDCEP uses the same assumption.

Fix the Millionaire Estate Tax

Description: Repeal Chapter 612 of 2014, lowering the state estate tax exemption to its earlier value of $1 million.

Data sources:

- HB 552 of 2016 Fiscal and Policy Note

Methodological notes:

- The fiscal note for HB 552 of 2016 includes an estimate of the revenue loss from Chapter 612 of 2014.