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Written Testimony to Senate Budget and Taxation Committee
SB 694 - Corporate Income Tax - Single Sales Factor Apportionment Exemption – Worldwide Headquartered Company Election
March 4, 2020

SUPPORT

Good afternoon Chair Guzzone and members of the Budget and Taxation Committee. On behalf of Maryland's 20,000 state, municipal, and public education workers, AFT- Maryland asks for a favorable report on SB 694.

As the statewide organization for the Baltimore Teachers Union (BTU), as well as unions representing thousands of state employees, AFT-Maryland supports bills that will help bring badly needed revenues into the state. With the increased funds, our state will in a better position to compete economically, provide a world-class public education system and meet the needs of our residents who rely on state services.

The proposed public school reform policies introduced by the Kirwan Commission and this year's Blueprint for Maryland's Future, found that significant new resources must be committed to education to build our state's economy.

In order to accomplish this, all citizens and businesses must be willing to pay their fair share of taxes. Currently, the burden lays heavily on the middle class and lower income residents who pay higher taxes per capita than the wealthy. It is time for capital gains to be taxed fairly so the wealthy and businesses begin to pay their fair share.

It is for these reasons that we ask the committee give a favorable report to SB 694.

Marietta English
President

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Enlarging Corporate Tax Loopholes Would Move Maryland in the Wrong Direction

Position Statement in Opposition to Senate Bill 694

Given before the Senate Budget and Taxation Committee

An effective revenue system is an essential tool to enable Maryland to invest in the foundations of our economy, such as education, health care, and transportation. Just as importantly, a fair tax system is essential to push back against the increasing concentration of wealth and power in a few hands. All Marylanders benefit when we have sufficient resources to invest in the basics, and these investments can be particularly important to break down the barriers—built through past and present policies—that hold back many Marylanders because of their race, gender, a disability, or another aspect of their identity. Senate Bill 694 would move Maryland in the wrong direction by expanding a tax loophole that benefits only a small number of large, multistate corporations. For these reasons, the Maryland Center on Economic Policy opposes Senate Bill 694.

Maryland has been underinvesting in the foundations of our communities ever since the Great Recession. We chipped away at public school funding, allowing the number of school districts that were close to full funding under the Thornton formula to fall from 23 out of 24 in fiscal year 2008 to only six by 2017—with more than half of the state's Black students going to school in a district that was underfunded by 15 percent or more.[i]

We have allowed other essential investments to erode as well:

- As of late 2017, legislative analysts estimated that state agencies were understaffed to the tune of about 2,500 workers.[ii]
- Today, nearly 3,000 Marylanders with disabilities that are considered "severe" by state standards are unable to access supports that could help them succeed in the workforce because the state lacks the resources to provide those supports.[iii]

Senate Bill 694 would make it harder to invest in essential services by expanding a tax break for large corporations. The General Assembly in 2018 enacted legislation to phase in a single sales factor apportionment formula for corporate income taxes. The single sales factor formula, which Maryland first introduced for manufacturers in 2001, enables large, profitable multi-state corporations to reduce what counts as taxable income in Maryland by basing their tax only on their sales to consumers in the state. Without this tax break, a corporation's taxes typically also include the shares of its property and payroll (that is, employees) located in the state.

More concerning, the 2018 law allowed certain multistate corporations headquartered in Maryland to choose each year which apportionment formula to use in calculating their Maryland taxes. While the single sales factor formula on the whole reduces corporations' tax responsibilities, this may not be the case for every company. The 2018 law carved out a small number of large corporations who can choose each year whether to use the single sales factor formula or the previous three-factor formula. This potentially allows eligible corporations to switch their apportionment formula every year in order to minimize their tax responsibility.

Senate Bill 694 would enlarge this loophole. Currently, a company must employ at least 500 people at its Maryland headquarters (in addition to other requirements) to take advantage of the tax break. Senate Bill 694 would lower this threshold to 400 employees for corporations that are franchisors and meet the other requirements. State analysts in 2019 estimated that about 12 additional companies would become eligible for the tax break with the lower threshold.[iv] Targeting 12 large corporations for special treatment is far from sound tax policy.

As Marylanders consider the major investments we will need to strengthen the foundations of our economy in future years—from world-class schools to high-quality health care—we should work to end special interest tax breaks, make our tax code more equitable, and raise the revenue needed to support vital services. Senate Bill 694 would do the opposite, expanding a tax break that allows a small number of large, wealthy corporations to choose how their taxes are calculated to minimize their tax responsibility.

For these reasons, the Maryland Center on Economic Policy respectfully requests that the Senate Budget and Taxation Committee make an unfavorable report on Senate Bill 694.

Equity Impact Analysis: Senate Bill 694

Bill summary

Senate Bill 694 would allow publicly traded corporations that are franchisors to choose their tax apportionment formula each year if they are headquartered in Maryland and if their headquarters employ at least 400 people. Current law requires companies to employ at least 500 people at their headquarters (in addition to meeting the other requirements) to take advantage of this tax break.

Background

In the 2018 legislative session, the General Assembly passed legislation that phases in a single sales factor formula for calculating corporate income taxes. This approach means the amount of a company's business income that is subject to Maryland taxation is calculated using its percentage of sales in the state. This policy allows large, multistate corporations to calculate their taxes based only on the sales they make in Maryland, without considering their operations here.

The 2018 law also allows certain companies to choose the apportionment formula used to calculate their tax responsibilities each year. Companies that are eligible for the tax break may use either the single sales factor formula (or the phased-in formula, in applicable years) or the state's previous formula, which included a company's payroll and property in Maryland. Eligible companies can make this choice each year, switching between apportionment formulas as often as they choose to minimize their tax responsibilities.

Equity Implications

- Corporate tax loopholes primarily benefit the small number of wealthy households that hold the bulk of corporate stock and other financial assets. Multiple intersecting areas of historical and continuing racist policy have made household wealth in the United States heavily lopsided. The wealthiest 10 percent of white households nationwide (about 6 percent of all households) control nearly two-thirds of all built-up wealth—leaving less for everyone else, including the majority of white households and nearly all households of color.[v] Enlarging corporate tax loopholes would simply create a new tax break for the wealthy individuals who already pay a smaller share of their income in state and local taxes than the rest of us do.

- Senate Bill 694 would expand a corporate tax loophole to let a small number of large corporations choose the tax apportionment formula that minimizes their tax responsibility. This would cost the state revenue, making it harder to invest in things like world-class schools, sufficient child care assistance, and reliable transit. Investing in these basics strengthens our economy and can dismantle the economic barriers that too often hold back Marylanders of color. Weakening these investments would do the opposite.

Impact

Senate Bill 694 would likely **worsen racial and economic equity** in Maryland.

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[i] Christopher Meyer, "Budgeting for Opportunity: How our Fiscal Policy Choices Can Remove Barriers Facing Marylanders of Color and Advance Shared Prosperity," Maryland Center on Economic Policy, 2018, http://www.mdeconomy.org/budgeting-for-opportunity/

[ii] David Juppe et al., "Executive Branch Staffing Adequacy Study," Department of Legislative Services, 2018, http://dls.maryland.gov/pubs/prod/TaxFiscalPlan/Executive-Branch-Staffing-Adequacy-Study.pdf

[iii] Maryland State Department of Education–Division of Rehabilitation Services, https://dors.maryland.gov/consumers/Pages/waiting.aspx

[iv] Senate Bill 1022 of 2019 Fiscal and Policy Note.

[v] 2016 Survey of Consumer Finances.

SB694_Raymond_techcorrection
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Position: INFO

Statement of Michael Raymond
Vice President, Tax Operations
Choice Hotels International, Inc.
Re: SB 694
Senate Committee on Budget & Taxation
March 4, 2020

Good afternoon, Chairman Guzzone.

Thank you for the opportunity to testify on behalf of my employer, Choice Hotels International, on this important bill.

The bill corrects an issue in current law that was enacted in 2018, regarding single sales factor apportionment.

The single sales factor statute states that a company with at least 500 full-time employees at its headquarters may elect **not** to use the new apportionment formula enacted in that statute, electing to keep the status quo.

Choice Hotels' executive offices and headquarters relocated from Florida to Silver Spring, Maryland in 1968. In 2013, the company moved to new headquarters in Rockville.

In 2017, our headquarters head count stood at 441. Currently, our headquarters head count is 459 FTEs.

As I mentioned, the law enacted in 2018 provides an election for companies with headquarters headcounts over 500 FTEs. Choice Hotels is just shy of the threshold to be able to use the election.

SB 694 before the Committee today lowers that threshold to 400 FTEs, allowing Choice Hotels to use the election as a Maryland-headquartered company.

To further narrow the application of the bill, it applies the lower FTE threshold only to franchisor companies, which Choice Hotels is and always has been.

Thank you for the opportunity to speak about this technical correction bill, Mr. Chairman.

And thank you for your consideration of the clarifying amendment to this bill that removes any ambiguity regarding its application to Maryland-based companies.

I'll be pleased to answer any questions you may have.