MARYLAND
Chamber of Commerce

LEGISLATIVE POSITION:
Unfavorable
House Bill 357
Income Tax-Pass Through Entity— Additional Tax
House Ways & Means Committee

Thursday, January 28, 2021

Dear Chairwoman Kaiser and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 5,000 members and federated partners, and we work to develop and promote strong public policy that ensures sustained economic growth for Maryland businesses, employees and families.

House Bill 357 would impose an additional 4% tax on the income of a pass-through entity's taxable income exceeding $1,000,000, unless the pass-through entity is organized as a sole proprietorship or has implemented a specified stock ownership plan.

Many businesses in Maryland are organized as pass-through entities. Pass-through entities include sole proprietorships, partnerships and S-corporations. These businesses are not subject to the corporate income tax. Instead, owners are taxed under the individual income tax.

In Maryland, a C-corporation pays 8.25% income tax, and shareholders pay up to 8.95% personal income tax on any cash dividends they receive. This is considered when shareholders elect to be treated as an S-corporation or the members choose to be a partnership or limited liability company. However, the C-corporation shareholder only pays tax on dividends received. Conversely, a pass-through entity owner pays current income tax on *all* the income of the PTE, even the cash that is reinvested in the business (i.e. purchases of new equipment, etc.) that the member does not receive.

Maryland has remained one of the highest in terms of personal tax rates for quite some time. Implementation of this legislation would put the State at the top of that category. The additional tax would require the owners of pass-through entities that operate in Maryland to pay the current up-to 8.95% income tax, plus 4%, for a total of up-to 12.95%. This would exceed California's 12.3% for the individual who has under $1 million share of the PTE and close to California's top 13.4% for income over $1 million.

We know that larger pass-through entities employ a greater number of Marylanders. This legislation would present a very large disincentive for PTEs to expand, inhibiting their ability to create new jobs and contribute more the Maryland's economy.

Furthermore, COVID-19 has had a tremendous, detrimental impact on Maryland's economy. There is plenty of reason to remain cautious and concerned about its lasting implications. Maryland businesses continue to struggle, and the Comptroller's Office has estimated that approximately 30,000 businesses have either closed or will close permanently due to the pandemic. A period of major economic downturn and future uncertainty is not the time to implement tax measures that stand to negatively impact businesses that are already struggling to overcome the impact of COVID-19.

For these reasons, the Maryland Chamber of Commerce respectfully requests an **Unfavorable Report** on House Bill 357, as presented.