



National Association  
of Professional Employer Organizations

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*Submitted via email to Kim.landry@mlis.state.md.us.*

Senator Guy Guzzone  
Chairman Budget and Taxation Committee  
Maryland General Assembly  
Pennsylvania House of Representatives  
3 West Miller Senate Office Building  
Annapolis, Maryland 21401

**RE: Public Testimony in OPPOSITION of SB 1045, Sales and Use Tax – Taxable  
Business Services – Alteration**

Dear Chair Guzzone,

On behalf of the National Association of Professional Employer Organizations (NAPEO), I would like to thank you for the opportunity to comment on the legislation under consideration by the Budget and Taxation Committee, SB 1045.

**We believe it is necessary to include amending language clarifying that the sales tax being considered would not apply to a Professional Employer Organization (PEO) as PEOs are co-employers with their Maryland small business clients (as defined under Md. Code Regs. 09.32.01.26) and, as such, they are not solely a payroll service provider. The sales tax this bill would impose on PEOs would not only negatively impact PEOs but also the small business clients that partner with a PEO as discussed in detail below.**

NAPEO is the voice of the PEO industry. PEOs provide human resource services to small and mid-size businesses—paying wages and taxes under the PEO's EIN, offering workers' compensation and risk management services, and providing compliance assistance with employment-related rules and regulations. In addition, many PEOs provide HR technology systems and access to 401(k) plans, health, dental, and life insurance, dependent care, and other benefits. In doing so, PEOs help businesses take care of employees by enabling them to offer Fortune 500-level benefits at an affordable cost and providing access to experienced HR professionals. PEOs also help business owners and executives save time by taking administrative and HR related tasks off their plates, allowing them to focus on the success of their businesses. PEOs have been operating in Maryland for decades.

**PEOs are Employers and Not Subject to SB 1045**

Under Maryland law, [MD. Regs. Code 09.32.01.26](#), PEOs are co-employers along with their client companies. Client companies handle day-to-day supervision, oversight, and control of its worksite and its employees while PEOs serve as the administrative employer with the Maryland Department of Labor and Comptroller of Maryland and provide administrative services to the client company such as paying wages and remitting taxes under the PEO's EIN. As PEOs are not payroll services



as outlined in the proposed legislation, we respectfully request that the following clarifying language be included in SB 1045 to ensure the legislation is implemented as intended without significant unintended consequences to Maryland small businesses that partner with a PEO.

*“A professional employer organization, as defined in Md. Code Regs. 09.32.01.26, is excluded from taxable service.”*

PEOs provide critical services to small businesses and their employees creating regional economic opportunities and benefits. Recent data shows businesses that partner with a PEO grow 7-9 percent faster, have 10-14 percent lower turnover, and are 50 percent less likely to go out of business<sup>1</sup>. These benefits to small businesses and their employees are at risk if PEOs are subject to a sales tax that will drive up the cost of their services and could make partnering with a PEO unaffordable altogether. Inevitably, this is an economic burden on small businesses that will shift to consumers either through the increased costs of benefits to consumers that PEOs offer or passed along to Maryland citizens through higher prices and/or stagnating wages.

Moreover, if the requested clarification is not included, Maryland would be the only state in which PEOs operate that would tax the entire PEO invoice of services creating a significant regional disadvantage for the state’s small businesses compared to other states. In short, businesses selling services into and out of Maryland would be at a competitive disadvantage compared to businesses entering the same transactions in neighboring states.

### **Not all Monies a PEO Collects Should be Subject to SB 1045**

If the above clarification that PEOs are not subject to the sales tax is not feasible, NAPEO respectfully requests that, at the very least, monies passing through their entities not be subject to the sales tax under consideration.

PEOs collect money from clients to remit payroll to the worksite employees of their client companies, remit money for the various benefit plans sponsored by the PEO and offered to the client company’s worksite employees, and remit the appropriate state and federal taxes on behalf of its client companies. The PEO is essentially acting as a pass-through entity for these purposes. Since these monies do *not* represent revenue to the PEO, they should not be included in the sales tax calculation. Other states have consistently recognized that a PEO should not be subject to this type of tax solely for the administrative fee charged for services performed.

As such, NAPEO respectfully requests that if the PEO clarification as requested above is not viable, the following language be added to SB 1045 concerning the application of exemptions to sales taxes under the bill.

*“A professional employer organization, as defined in Md. Code Regs. 09.32.01.26, shall exclude from its total revenue payments received from a client for wages, salaries, payroll*

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<sup>1</sup>McBassi & Company (2024). PEO Clients: [http://www.napeo.org/docs/default-source/white-papers/2024-white-paper-final.pdf?sfvrsn=324039d4\\_4](http://www.napeo.org/docs/default-source/white-papers/2024-white-paper-final.pdf?sfvrsn=324039d4_4)



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*taxes on those wages, employee benefits, retirement benefits, workers' compensation benefits, or other assessments paid to or on behalf of employees assigned or provided to the client."*

Thank you for the opportunity to comment on SB 1045 to ensure the PEO-client company relationship is considered and the legislation is implemented as intended without significant unintended consequences to PEOs and the Maryland small business clients they partner with. If you should have any additional questions, please feel free to contact me at [rfauble@napeo.org](mailto:rfauble@napeo.org).

Sincerely,

Reid Fauble

Director, State Government Affairs

NAPEO