Senate Bill 311 – Corporate Tax Fairness Act of 2020

Budget and Taxation Committee

January 29, 2020

Oppose

According to the fiscal and policy note, Senate Bill 311 "applies a "throwback" rule in determining whether sales are considered in the State for purposes of the State's corporate income tax apportionment formula, beginning in tax year 2020. The Comptroller must assess interest and penalties if a corporation pays estimated tax of less than 90% of the required tax for tax year 2020. The bill also requires affiliated corporations to compute Maryland taxable income using combined reporting beginning in tax year 2021."

MBA is concerned that changing Maryland's current tax structure with the objective of increasing tax revenue may have a disastrous impact on businesses that are already struggling with a myriad of challenges. In addition, in light of the recent federal tax reform changes, MBA strongly recommends against making any significant State tax changes without first studying the impact of how such a change will impact businesses given the new federal tax environment.

Further, the vast majority of banks in Maryland are small businesses themselves, continuing to digest significant financial regulatory reform legislation and regulations enacted over the past decade at the federal level. MBA is opposed to tax changes that would compound these challenges by increasing costs and negatively impacting Maryland's businesses and economy. Many of Maryland's community banks are headquartered here yet also lend and take deposits in our surrounding states.

In 2016, after extensive consideration, the Economic Development and Business Climate Commission concluded that, *"Maryland's use of separate entity reporting under the corporate income tax is advantageous to many Maryland corporations, and the principal alternative, combined reporting, is generally considered to not be business friendly."*

The report further recommends, *"Do not adopt combined reporting and indicate clearly the intent not to do so."* MBA has a long-standing position of opposition to changing Maryland's tax law to require affiliated corporations to compute Maryland taxable income using "combined reporting." Under "combined reporting," all of a corporation's subsidiaries are included in a single return. This allows the State to subject companies with no presence in Maryland to taxation.

Combined reporting requires corporations to file a Maryland tax return that includes all of the entities in a consolidated group and not just the entities that are doing business in Maryland. This change would result in a significant increase in the regulatory burden and costs on corporations. As the fiscal note points out, corporate tax revenues fluctuate greatly with combined reporting and therefore are not a stable source of revenue for the state.

Due to the negative impact combined reporting could have on banks operating in multiple states that have, in some cases, thousands of subsidiaries and the uncertainty that such a drastic change in the corporate tax structure will actually result in stable, increased revenue, the Maryland Bankers Association urges the Committee to vote unfavorably on SB 311.