House Bill 222 – Income Tax Rates – Capital Gains Income

Position: Oppose

The Maryland REALTORS® opposes HB 222 which would impose an additional 1% capital gains tax on Maryland taxpayers. Because Maryland already taxes capital gains at a fully indexed state income tax rate, HB 222 is trying to address an issue in federal law and not Maryland law.

Capital gains taxes are paid on many assets including real estate. Although a portion of the capital gains on principal homes is excluded from tax, that is only true if the property is your principal residence. Moreover, because that law was never indexed to inflation, its value has eroded since it was passed in 1997. Today if you are an individual filer, any gain over $250,000 is taxed. If you are filing jointly, any gain over $500,000 is taxed. That means many middle-income taxpayers who have held onto their property are likely to be taxed under this proposal.

Real estate is still one of the principal tools for wealth building in the middle class. Between paying for cars, a home, and daily living expenses, often there is not enough income left over for middle income owners to invest. Unlike their other expenses, at least their home is likely to gain value and build wealth for them over time. Those taxpayers that realize a gain above the federal exclusion will already be taxed under federal and Maryland law and should not receive an additional tax on top of that.

Secondly, investment real estate pays the full capital gains tax with adjustments for cost basis. By increasing the Maryland capital gains tax, this legislation will disincentivize investment in Maryland properties. Everything from commercial real estate, to vacation properties will be taxed not only at Maryland's fully indexed income tax rate but at an additional 1%. This tax will hit Maryland taxpayers who own a second home and will hurt our vacation destinations.

Finally, real estate already pays 58% of the revenue for local governments. Real estate is not an undertaxed asset. In addition to capital gains, transfer taxes, recordation taxes, recordation fees, impact taxes, excise taxes, property taxes and property surcharges, real estate carries its weight when contributing to the well-being of our state. For all of these reasons, the REALTORS® recommend an unfavorable report.

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