



The Bar Association of Baltimore City

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Testimony before the House Ways and Means Committee –March 2, 2020

HOUSE BILL 1628

Sales and Use Tax – Rate Reduction and Services

OPPOSITION

The Bar Association of Baltimore City (BABC), formed in 1880, is an organization of 2,541 legal professionals committed to providing quality legal education, advocacy, and services to its members. The association's mission includes promoting professionalism, equality, and diversity among its members; fostering collegiality; advancing the public image of the profession and providing law-related services and education to the public; and exercising leadership on local, state, and national level to advance these goals. The BABC members offer legal services to businesses and citizens residing within and outside of the State of Maryland. Many of the BABC members' clients, particularly those in Baltimore City, seek professional intervention to improve their quality of life and advocate on their behalf during times of need (e.g. by preparing estate plans, responding to employment matters, handling divorce and custody matters, facing eviction, considering bankruptcy, handling guardianship, any other civil or criminal matters, among others). **HB 1628** would alter the definition of taxable service to expand the sales and use tax to legal services, resulting in commodization of legal services and significantly impact the BABC members and their clients. **The BABC adamantly opposes HB 1628.** The taxation of legal services would be unwise, inequitable, unconstitutional, burdensome, and would cause widespread loss of business and economic competition.

A sales tax on legal services would disproportionately tax Maryland citizens during times of hardship, vulnerability and misfortune. It is the position of the BABC that this tax may further discourage citizens from retaining legal counsel and diminish their access to justice. When legal services are perceived as already cost-prohibitive to thousands of Maryland residents, the BABC asks why the legislature would impose additional taxes on these crucial services. **HB 1628** should be rejected to protect disadvantaged Marylanders.

The BABC also opposes this tax since it is far reaching, unconstitutional, and will cause significant inequities in execution. Maryland will face numerous lawsuits for imposing a tax on citizens in their exercise of constitutionally protected rights (e.g. criminal defense, defending tax actions, etc.). **HB 1628** will also be challenged on other constitutional grounds, such as Due Process and Commerce Clause violations, and for discrimination and violation of the Equal Protection clause. The proposed taxation scheme discriminates against private individuals at the expense of exempting legal services provided to indigents, government, nonprofit entities and employers without any reasonable basis.

Moreover, **HB 1628** would place a significant burden on BABC members and leaves several open questions on application and enforcement. The collection of the sales tax is an administrative burden and may be passed along to the BABC members, including solo practitioners, who would be obligated to collect the state sales tax from clients when they make a "purchase." This tax will likely have the reverse impact of encouraging clients to hire out of state lawyers or assign work to offices outside of the State of Maryland. In a small state such as Maryland, there is no logical reason to incentivize recipients of legal services to go elsewhere.

The BABC rarely testifies on bills, but has chosen to do so here. The BABC believes that **HB 1628** will not advance the interests of clients seeking legal advice and will result in dire consequences to the State of Maryland and our members' economic competition. We therefore urge the committee to reject this bill and **issue an unfavorable report on HB 1628.**

For more information, please contact Kelly Hughes Iverson, Immediate Past President of the BABC, at 410-783-4022 or Darren Kadish, President Elect of the BABC, at (410)385-1177.