March 2, 2020

The Honorable Anne R. Kaiser, Chair
The Honorable Alonzo T. Washington, Char
House Committee on Ways and Means
House Office Building, Rm 131
Annapolis, MD 21401

RE: HB 1628, Sales and Use Tax – Rate Reduction and Services

Dear Chair Kaiser, Vice Chair Washington and Members of the House Committee on Ways and Means:

The Securities Industry and Financial Markets Association[1] is a national trade association which brings together the shared interests of hundreds of broker-dealers, banks and asset managers. As a whole, the finance and insurance industry employs roughly 100k people in Maryland. We appreciate the opportunity to provide comments on HB 1628, legislation which would impose a tax on financial and other services in Maryland.

SIFMA opposes the imposition of a sales tax on financial services. These taxes would unexpectedly increase the costs of savings, retirement, and college education for individual investors. Such taxes would also create a competitive disadvantage for resident businesses within a state and lead to decreased business activity and decreased employment. They would do so by increasing the cost of doing business in states that impose such a sales tax, a cost which is not imposed in most other states and pushing current and potential clients to seek out-of-state advice.

- A Tax on Investment Services Will Cause Some Investors to Shun Professional Advice.

  Setting financial goals and creating a balanced portfolio to achieve those goals are critical to obtaining financial security. This is particularly true in recent years, as personal savings, earnings, and 401k contributions will be increasingly relied upon to maintain a reasonable standard of living in retirement. Obtaining financial planning and investment advice, from a professional, significantly aids individuals and families in improving their financial well-being.

  Many people wisely turn to financial professionals to guide them through the process. The proposed tax on brokerage services and investment counseling would create a disincentive to the use of these services.

1 SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. Our principal role is to advocate on behalf of our members' interests before policy makers, regulators, the media and the public. Our primary focus is on legislation, regulation and business policy affecting retail and institutional investors, equity and fixed income markets and related products and services. SIFMA also serves as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. For more information, visit http://www.sifma.org.

- A Tax on Investment Services Creates a Disincentive to Save.

  It is frequently reported that Americans are not saving enough for retirement, for their children's college educations or for an unforeseen change in circumstance. The nation's personal savings rate, while up from a record low 1% in 2005, is still only about 8% of disposable personal income. Taxing investment services marginalizes the investor's rate of return on investment. Efforts should be made to make financial planning and saving more attractive, not less.

- Investors Will be Forced to Seek Advice from Out-Of-State Businesses.

  Unlike some other professional services, investment services can easily be performed outside the state. In the modern economy, customers can easily conduct transactions outside the state by phone, internet, fax, or simply driving to a neighboring state. If customers purchase services from providers without a physical presence in the state, no sales tax will be billed – this creates a competitive disadvantage for local businesses. Further, a service tax on financial services would give in-state clients and prospective clients a strong financial incentive to take their business elsewhere, and out-of-state clients and prospective clients would have virtually no incentive to do business in the state.

  A tax on investment services thus would not generate the anticipated revenue. It would also likely result in lower industry employment and less taxable income. Notably, several other states have enacted or attempted a sales tax on financial services:

  1. Florida passed a sales tax on services in July 1987; 6 months later they repealed it because it put in-state businesses at a competitive disadvantage to out-of-state counterparts.
  2. In October 2007, Michigan enacted a broad tax on services. Worried that it would negatively affect jobs, a taxpayer coalition was quickly formed to repeal it. The tax was repealed 17 hours after it became effective.
  3. In 1990, Massachusetts passed a tax on services that applied only to services provided to businesses; the state repealed the tax two days after it took effect because of the fear of economic harm and potential job loss.

- Certain Tax on Services Legislation May Include Business-to-Business (B2B) Transactions.

  In certain tax on services proposals, it is unclear where the "sale" of a service occurs (especially when there are no goods or deliverables to the customer), and the many of the services that would be taxable under this proposal are B2B transactions. There are a number of "good tax policy" reasons why B2B sales should not be subject to sales tax:

  1. The sales tax is designed to be a tax on consumption; when business-to-business services are taxed, it becomes a tax on production. It is possible that throughout the sales cycle, sales tax may be due on intercompany sales despite the fact there has been no economic gain.
  2. Such taxes are particularly harmful to and are a disadvantage to small businesses. The new taxes would increase direct costs, some of which may not necessarily be understood by small business. This would also greatly increase tax compliance requirements and cost.

3. The taxes imposed on business services would have a "pyramiding" effect – the tax is imposed on each transaction in the economic flow. This will result in increased costs at each level and higher-costs to the final consumer. This tax will be more similar to the European VAT model – where tax is imposed on each transaction, at each level of the economy. However, with a VAT there is a credit mechanism to offset tax collected and remitted.

- States that May Currently Impose a Sales Tax on Financial Services Often Have Unique Conditions.

  South Dakota is one state that imposes a tax on most services. However, South Dakota has a low state sales tax rate (4%) and does not impose an income tax or personal property tax. New Mexico and Hawaii are two other states that are frequently referred to for imposing sales tax on a broad range of services. However, in both states, a gross receipts tax is imposed rather than a sales tax.

  In most states, sales tax has been imposed on the sale of tangible personal property and limited types of services. The majority of states generally tax only a limited number of specific services, and that has, generally, helped preserve the states' competitive business environments.

We appreciate your willingness to consider our concerns. Please do not hesitate to contact me at 212-313-1233 or nlancia@sifma.org with any questions.

Sincerely,

Nancy Lancia

Managing Director
State Government Affairs
SIFMA