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THE MARYLAND HOUSE OF DELEGATES
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Testimony in Support of HB 495
Income Tax - Internal Revenue Code Amendments - Decoupling

This bill clarifies Maryland's law regarding conformity with federal tax changes.

Maryland Automatically Decouples from Certain Federal Tax Changes

Maryland law currently requires that the state automatically decouple from any federal tax change that is projected to have immediate and significant impact to our revenues.[1] Any federal tax changes that will cost Maryland at least $5 million in the year that the federal changes were passed does not go into effect in our state that year. For instance, if Congress enacts a change for tax year 2021 during calendar year 2021, Maryland automatically decouples for that year. This one-year pause provides the General Assembly a chance to review the federal law and its impact on our state and to accept or decline it.

State Law Needs Updating

Our state's decoupling law, however, does not account for retroactive federal tax changes. Such changes were unprecedented prior to 2020, when Congress enacted several retroactive tax changes.

The Department of Legislative Services noted in its Issue Papers for the 2021 legislative session[2] that "the current statute does not contemplate the passage of federal legislation that, in its year of enactment, would alter the computation of taxable income for previous taxable years. A change in the wording of the decoupling statute could better effectuate the intent of the statute to allow the General Assembly the opportunity to accept or reject changes to the federal income tax code that impact prior years."

Andrew Schaufele of the Bureau of Revenue Estimates similarly noted this problem in both of the Comptroller's 60 day reports following the federal CARES Act and the Consolidated Appropriations Act.[3,4] "I believe the intent of the decoupling language in TG § 10-108 is to prevent a change to the federal tax code from significantly impacting State revenues until the legislature has had the opportunity to either accept (by taking no action and allowing it to

1 Tax-General §10-108
2 http://dls.maryland.gov/pubs/prod/RecurRpt/Issue-Papers-2021-Legislative-Session.pdf#page=142
3 CARES Act 60 Day Report, June 12, 2020.
4 Consolidated Appropriations Act 60 Day Report, February 19, 2021.

flow-through) or to deny the change (by passing legislation to decouple). However, it appears that the current statute did not contemplate the passage of federal legislation that in its year of enactment, would alter the computation of taxable income for tax periods beginning in prior calendar years."

What This Bill Does

As passed by the House of Delegates, HB 495 would clarify the intent of Tax-General §10-108 to temporarily decouple the state from both current-year and retroactive federal tax changes. This would give the General Assembly time to evaluate and act before federal reforms impact state revenues. Notably, this change only applies prospectively to future federal tax modifications.

This clarification is especially needed as our status as a part-time legislature could leave the state unable to react in a timely manner to future federal tax changes that occur outside of the legislative session.

HB 495 is a needed clarification that would prevent future revenue shocks and give lawmakers time to think critically about conforming to or decoupling from retroactive federal tax changes before they automatically flow through to our state tax code.