MARYLAND
Chamber of Commerce

LEGISLATIVE POSITION:
UNFAVORABLE
Senate Bill 578
Income Tax – Retroactive Changes Under the Federal CARES Act—Addition Modification
Senate Budget & Taxation Committee

Wednesday, February 24, 2021

Dear Chairman Guzzone and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 5,000 members and federated partners, and we work to develop and promote strong public policy that ensures sustained economic recovery and growth for Maryland businesses, employees, and families. The Maryland Chamber of Commerce has worked diligently since the outbreak of the COVID-19 pandemic to support the health and safety of the public and the economic recovery of Maryland's business community, which has been so hard hit.

SB 578 has been reviewed by the Maryland Chamber's tax committee which is comprised of CPAs, tax attorneys and business tax professionals. This testimony is composed of input from those considered experts in their field.

Maryland businesses, while adapting, are struggling to keep their businesses running and employees on the payroll. The hardest hit industries and small businesses are either still closed or are operating at a small fraction of their pre-pandemic levels, leaving their margins razor thin. ***SB 578 is a retroactive tax increase*** on those very businesses struggling to keep their doors open by counteracting the CARES Act provisions designed to infuse cash into businesses and the economy. SB 578 would add an additional layer of financial complexity to these same struggling businesses. The proposed language in SB 578, which disallows federal CARES Act provisions that provide deductions for excess business losses and expanded business interest expenses, would negatively impact many businesses, particularly the smaller businesses that have been disproportionately hit the hardest.

According to the Maryland Association of CPAs, SB 578 does not actually "decouple" from the CARES Act provisions. Instead, it requires an addition modification in 2021 for net operating losses (NOLs) and other deductions that were carried back to prior years under the CARES Act, thus removing these deductions and increasing taxable income for 2021. Businesses that already filed their prior year amended tax returns to secure the cashflow benefits intended by the CARES Act would now be saddled with a larger tax bill because of SB 578. Additionally, the bill does not address what happens to these items in future periods. If they are lost, then Maryland businesses would be worse off as a result of the CARES Act provisions. As proposed, SB 578 would add back any Maryland income tax benefits claimed for these federal CARES Act items for businesses' tax years prior to 2020 on their 2021 Maryland tax year returns. This would place Maryland businesses at a competitive disadvantage compared to other states that allow these relief provisions to apply.

Very clearly, the CARES Act was intended to offer economic assistance to the businesses struggling to survive the impacts of the COVID-19 pandemic. If SB 578 were enacted, the impact of this much-needed assistance will be wiped away, leaving just additional complexities and burden for struggling employers.

To be clear, the Chamber is concerned with the impacts on the retroactive and prospective decoupling in SB 578. With economic uncertainty and a slow recovery, businesses may need access to these provisions in future tax years to keep their doors open and employees on the payroll. At a time when economic recovery for Maryland employers is critical to their survival, SB 578 would cause increased tax burdens and even more permanent job loss. Conformity with the CARES Act provisions helps ensure as many employers as possible can remain in business.

For these reasons, the Chamber respectfully requests an **unfavorable report** on Senate Bill 578.