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Patrick Moran - President

Testimony
HB 357 Income Tax – Pass Through Entity – Additional Tax
Ways & Means Committee
January 28th, 2021
Support

AFSCME Council 3 which representing 30,000 state and Higher Education employees supports HB 357. We believe the state must be committed to raising revenue to sustainably provide the resources it needs to make significant new investments in essential state services.

Maryland's tax code as well as federal law grant special treatment to pass-through companies such as LLCs, partnerships, and S-corporations by allowing them to avoid paying corporate income tax, instead "passing through" their profits directly to shareholders. This tax break creates an incentive for large businesses to reduce their tax responsibilities by using this form of legal organization. The 2017 federal tax overhaul expanded special treatment of pass-through income by creating a sizable new deduction for individuals with pass-through income.

While it is true that most pass-through businesses in Maryland are small, the greatest profits are flowing through very large businesses that choose these business structures specifically to avoid corporate income taxes and take advantage of additional deductions available to pass-through businesses. Closing the LLC loophole would ensure that these large passthrough entities pay their fair share in taxes while protecting small businesses who rely on these structures.

This legislation would partially offset the special tax treatment by levying a 4 percent tax — less than half the corporate tax rate — on the largest pass-through businesses. The tax would be paid at the entity level before the profits are “passed through” to the owners. It would only apply to businesses with over \$1 million in profits (after expenses) in a given year. Less than 2 percent of pass-through businesses in Maryland are this size.

As Marylanders consider major investments, we will need to strengthen the foundations of our economy in future years by prioritizing ending special interest tax breaks, making our tax code more equitable, and raising significant new revenue. House Bill 357 would accomplish all three goals.

For these reasons, we ask for a favorable report on House Bill 357.

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