MARYLAND
Chamber of Commerce

LEGISLATIVE POSITION:
UNFAVORABLE
House Bill 495
Income Tax – Internal Revenue Code Amendments and the Federal Cares Act - Decoupling
House Ways & Means Committee

Thursday, February 4, 2021

Dear Chairwoman Kaiser 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.

HB 495 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. ***HB 495 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. HB 495 would add an additional layer of financial complexity to these same struggling businesses. The proposed language in HB 495, 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, HB 495 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 HB 495. 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, HB 495 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 HB 495 were enacted, the impact of this much-needed assistance will be wiped away, leaving just additional complexities and burden for struggling employers.

At a time when economic recovery for Maryland employers is critical to their survival, HB 495 would cause increased tax burdens and even more permanent job loss as businesses close their doors. Conformity with the CARES Act provisions helps ensure as many employers as possible can remain in business and employ Marylanders.

For these reasons, the Chamber respectfully requests an **unfavorable report** on House Bill 495.