COST
Council On State Taxation

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Maryland General Assembly
House Ways and Means Committee

Re: In Opposition to House Bill 330, State Effective Tax Rate

Dear Chair Kaiser, Vice Chair Washington, and Members of the Committee:

Thank you for the opportunity to provide testimony on behalf of the Council On State Taxation (COST) in opposition to House Bill 330 (H.B. 330), which would require annual reporting of a company's state "effective tax rate." This new requirement would create an unnecessary administrative burden and produce misleading results while providing no new revenue or useful information for the State.

About COST

COST is a nonprofit trade association based in Washington, DC. COST was formed in 1969 as an advisory committee to the Council of State Chambers of Commerce and today has an independent membership of over 500 major corporations engaged in interstate and international business. COST's objective is to preserve and promote the equitable and nondiscriminatory state and local taxation of multijurisdictional business entities. Many COST members have operations in Maryland that would be negatively impacted by this legislation.

Administrative Burden with No New Revenue or Useful Information

H.B. 330 would require annual reporting of the "effective tax rate" (Maryland income tax liability over Maryland book income) for each corporate taxpayer that is a publicly traded corporation or a subsidiary of a publicly traded corporation. This would be a new requirement unique to Maryland and would create a new administrative burden for both companies and the Comptroller without producing any revenue or useful information for Maryland policymakers. Specifically, the bill defines "effective tax rate as the quotient of a corporation's Maryland tax liability and its separate-company book income apportioned to Maryland. The information currently required to be submitted with a corporate taxpayer's return contains information sufficient to calculate the effective tax rate proposed by the legislation.

Comparing state tax liability with book income, however, provides no useful information. Book income is calculated in accordance with Generally Accepted Accounting Principles (GAAP) and taxable income represents policy choices made by federal and state lawmakers to depart from book income. Some of the differences between book and tax income numbers represent temporary timing differences (depreciation, prepaid expenses, etc.) while others represent permanent accounting differences (tax-exempt interest, meals & entertainment, political contributions, etc.). This new calculation would produce misleading results, as it fails to recognize all legitimate temporary and permanent accounting differences that make up the difference between book and tax income that can vary from taxpayer to taxpayer. Further, these misleading results are exacerbated when only certain taxpayers carry forward net operating loss deductions from prior years in accordance with Maryland law, creating stark differences in Maryland effective tax rates between otherwise similarly situated taxpayers.

Though the goal of H.B. 330 is unclear, if it is to generate tools to judge the effectiveness of Maryland's corporate income tax, one should compare the Maryland tax liability to Maryland taxable income. That information can be found on the Maryland corporate income tax return itself, which every taxpayer already files with the Comptroller.

Conclusion

For the reasons set forth above, COST encourages you to vote against H.B. 330.

Respectfully,

Stephanie T. Do

cc: COST Board of Directors
Douglas L. Lindholm, COST President & Executive Director