

January 28, 2021

Testimony on House Bill 229
Corporate Income Tax – Throwback Rule
House Way and Means Committee

Position: Favorable

Maryland Nonprofits is a statewide association of more than 1100 nonprofit organizations and institutions. We strongly urge you to support House Bill 229.

House Bill 229 would close a loophole that allows large, multistate corporations to artificially lower their tax responsibilities in Maryland. Allowing these special tax breaks makes it harder to invest in the pillars of Maryland’s economy, such as health care and education. It also puts small, Maryland-based businesses at a disadvantage.

When a company does business in multiple states, the states must determine how its income should be divided when calculating the company’s tax responsibility. Like most states, Maryland does this using a formula intended to measure the portion of a corporation’s business activities that occur in Maryland. This system helps to prevent multiple states from taxing each dollar of a business’s profits. However, due to a federal law passed in the 1950s, when a company located in Maryland makes sales into another state, this income is sometimes not subject to taxation by any state. It becomes “nowhere income.”

Under House Bill 229, when a Maryland corporation sells goods into states that do not have jurisdiction to tax those sales, the bill would assign the resulting income to Maryland for the purpose of calculating the company’s tax bill. This practice is often called the throwback rule, because profits are “thrown back” to the state where a business is located. Adopting the throwback rule would put small companies that primarily do business inside Maryland on more equal footing with large corporations that sell into other states.

Most states that levy a corporate income tax already use either the throwback rule or a similar “throw out” rule that achieves the same end using a different formula. Because it is so common, most large corporations that would be subject to these provisions already have significant experience complying with it elsewhere. We urge you to give House bill 229 a favorable report.

Henry Bogdan
Director of Public Policy
hbogdan@mdnonprofit.org