To Lead, Advocate and Connect as the Voice of Business

House Bill 215 - Income Tax – Carried Interest – Additional Tax

Ways and Means Committee

January 21, 2021

OPPOSE

House Bill 215 imposes a 17% State income tax on the distributive share or pro-rata share of apass-through entity's (PTE) taxable income that is attributable to investment management services provided in the State. This tax does not apply if, during the taxable year, at least 80% of the average fair market value of the specified assets of the entity consist of real estate.

Carried interest is a financial term for the profit certain partners and limited liability company (LLC) members receive as a product of their invested capital or for the interest in the partnership or LLC received by these partners or members in connection with investment management activities they perform. As such, it is treated under the Internal Revenue Code as an investment taxable under the capital gains tax, and under Maryland's tax statute as taxable income.

This issue is a U.S. federal income tax matter, not a Maryland state tax matter. This is because all types of income are taxed at the same tax rate in Maryland. Imposing an additional Maryland tax to make up for a federal tax difference between the capital gains tax rate versus other income tax rate will result in more than tripling the Maryland tax on this income.

In 2020, two reports were commissioned to analyze the future of economic development in Montgomery County and Metro Maryland. Both reports (An Economic Roadmap to Recovery & Long-Term Success and James Chung, "Montgomery County at a Crossroads") spoke to the immense need for future investments through Venture Capital and capital gains, particularly in our Biotech, Quantum Computing, and Hospitality sectors. Montgomery County, and thereby the state, could see investments comparable to Boston and Silicon Valley but the state must pass policies that support this investment.

The Chamber continues to support a proposal to create a commission to analyze and make recommendations as to how to make Maryland's tax structure more business-friendly and economically competitive. This more comprehensive and strategic approach should be adopted, rather than a series of tax "one-offs" with little understood consequences.

For the aforementioned reasons, **the Chamber opposes House Bill 215 and respectfully urges an unfavorable report.**

The Montgomery County Chamber of Commerce (MCCC) accelerates the success of our nearly 500 members by advocating for increased business opportunities, strategic investment in infrastructure, and balanced tax reform to advance Metro Maryland as a regional, national, and global location for business success. Established in 1959, MCCC is an independent non-profit membership organization and is proud to be a Montgomery County Green Certified Business.

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