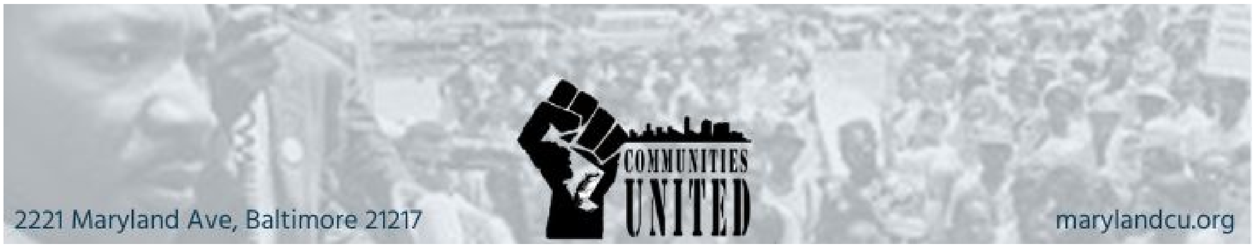
Communities United Testimony in Support - HB229.do
Uploaded by: Ahart, Jessi
Position: FAV



Testimony in Support of House Bill 275 - Fair Income Tax
Ways and Means Committee

Baltimore's premiere organizing and advocacy non-profit of low to moderate-income persons most impacted by systems of injustice proudly submits this written testimony of our support in the State of Maryland.

Since 2010, all we have been doing is organizing community members in communities and neighborhoods that are underfunded, over-policed, under-educated and under resources. Most of our members and their families live in food deserts, in poorly maintained housing, including public housing, sending their children to schools that lack proper basic modern updates: heating, cooling, well-maintained bathrooms and school supplies. Everything about their lives reminds them that the state and city do not value their lives. Even so, they have fought beside one another with us for community schools, safe housing, fair wages and accessible healthcare. We stand together demanding shifts in Maryland's tax law to put the burden on those able to pay.

All Marylanders deserve and need a world-class education system. We must not continue to prioritize tax breaks that benefit powerful special interests but do nothing to help our economy. We urge our legislators to commit to our families, communities and students as well as the future of our economy. Our students cannot wait.

We humbly, yet stridently ask that this committee takes a stand for those who need it most. We have a solution, and that is revisions to make our tax code fair.

Communities United urges a favorable report on House Bill 275.

1-26 RA HB 229 Throwback Rule.pdf

Uploaded by: Appletree, Roy

Position: FAV

TESTIMONY TO THE HOUSE WAYS AND MEANS COMMITTEE

HB 229 – Corporate Income Tax – Throwback Rule

POSITION: Support

BY: Lois Hybl and Richard Willson – Co-Presidents

Date: January 28, 2021

Promoting a sound economy and maintaining an equitable and flexible system of taxation are among the League's basic principles. LWVMD's positions include support for: 1) a progressive tax system, and 2) an equitable and efficient fiscal structure.

Maryland League members understand the importance of the relationship between various revenue sources available to state government and the services provided by those revenues. A sound revenue system must allow the State to invest in essential public goods such as education, transportation, and health care.

The Throwback Rule would require that certain sales of tangible personal property be attributed to the State for apportionment purposes. As with Combined Reporting, the broader issue is how to assure that our State received its fair share of corporate taxes from corporate sales. This is a classic "loophole" treatment of "nowhere income"

Maryland should join the many other states that use a similar rule.

We urge a favorable report on HB 229.

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410-269-0232 * info@lwvmd.org * www.lwvmd.org

HB 229 to W&M FAV Jan 28.pdf
Uploaded by: Bogdan, Henry
Position: FAV

MARYLAND NONPROFITS
marylandnonprofits.org
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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. Wee urge you to give House bill 229 a favorable report.

Henry Bogdan
Director of Public Policy
hbogdan@mdnonprofit.org

HB 229 - Corporate Income Tax - Throwback Rule.pdf
Uploaded by: Edwards, Donna
Position: FAV

MARYLAND STATE & D.C. AFL-CIO

AFFILIATED WITH NATIONAL AFL-CIO

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President Donna S. Edwards

Secretary-Treasurer Gerald W. Jackson

HB 229 – Corporate Income Tax – Throwback Rule
House Ways and Means Committee
January 28, 2021

SUPPORT

Donna S. Edwards
President
Maryland State and DC AFL-CIO

Madam Chair and members of the Committee, thank you for the opportunity to provide testimony in support of HB 229 – Corporate Income Tax – Throwback Rule. My name is Donna S. Edwards, and I am the President of the Maryland State and DC AFL-CIO. On behalf of the 340,000 union members in the state of Maryland, I offer the following comments.

It is time to address the issue of corporate "nowhere income", where an interstate corporation sells across state lines, and the profits from those sales are not collected by any state. HB 229 closes this corporate loophole ensuring that each dollar of corporate income in Maryland is subject to taxation by a single state – without double taxation on the profits – by assigning income to Maryland for the purpose of calculating the company's tax bill.

States as varied as West Virginia and California follow this same procedure for taxing interstate business transactions. HB 229 puts Maryland small businesses on an equal footing with their large competitors, ensuring every entity is paying taxes on income earned. By not closing this loophole, Maryland is being shorted tens of millions of dollars in revenue on an annual basis. That shortfall in tax revenue must be picked up by the workers of Maryland, and it is time to provide them with relief by holding multi-state corporations accountable.

We urge a favorable report on HB 229.

TESTIMONY FOR HB0229 Corporate Income Tax - Throwb
Uploaded by: Plante, Cecilia
Position: FAV

MARYLAND LEGISLATIVE COALITION

TESTIMONY FOR HB0229
CORPORATE INCOME TAX – THROWBACK RULE

Bill Sponsor: Delegate Stewart
Committee: Ways and Means
Organization Submitting: Maryland Legislative Coalition
Person Submitting: Cecilia Plante, co-chair
Position: FAVORABLE

I am submitting this testimony in favor of HB0229 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists and our Coalition supports well over 30,000 members.

Our members believe that there is no better time than the present to take a hard look at how Maryland receives revenue from taxes. Specifically, how skewed taxes are skewed in favor or large corporations and away from low-income earners.

How is it that large corporations can avoid paying taxes on profits they make on sales in Maryland when small businesses have to pay? This seems inherently unfair to local businesses. Small, local businesses have closed their doors in droves during the pandemic, while large companies have thrived.

Maryland needs revenues to shore up the budget for the coming year and try to get it's economy back on its feet. We believe it's time for the big corporations to step up and pay their fair share.

We support this bill and recommend a **FAVORABLE** report in committee.

HB 229 Throwback Rule.pdf
Uploaded by: Riley, Denise
Position: FAV

A Union of Professionals
AFT-Maryland

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Marietta English
PRESIDENT

Kenya Campbell
SECRETARY-TREASURER

Written Testimony to the House Ways and Means Committee
HB 229 - Corporate Income Tax - Throwback Rule
January 28, 2021

SUPPORT

Good afternoon Chair Kaiser and members of the House Ways and Means Committee. On behalf of our more than 20,000 state, municipal, and public education workers, AFT-Maryland asks for a favorable report for HB 229.

As the statewide organization for the Baltimore Teachers Union (BTU), as well as unions representing thousands of state employees, AFT-Maryland has a long history of supporting bills that not only make sure our state maintains the fiscal health needed to offer vital educational and residential services to Marylanders, but make sure our tax code is fair and equitable.

Maryland can simply no longer afford allowing the wealthy and most privileged who do business in our state to exploit outdated income tax loopholes. Our state agencies have failed to meet basic staffing needs, and as the Kirwan Commission has pointed out, students in our state have not been receiving the resources they deserve to be successful in their education. Maryland must stop putting the priorities of out-of-state corporations above the needs of its own residents.

HB 229 will help close the loopholes and make these out-of-state corporations pay their fair share. Currently, 28 states and the District of Columbia utilize the throwback rule, many of which are controlled by Republican legislatures.

The Maryland Department of Legislative Service reports that with this legislation we can generate hundreds of millions of dollars in revenue to meet the needs of our state agencies and educational systems.

It is for these reasons that we ask the committee for a favorable report to HB 229.

Marietta English
President

1.28_HB229 Throwback Rule Maryland PIRG.pdf
Uploaded by: Scarr, Emily
Position: FAV

Maryland PIRG

Maryland Public Interest Research Group

HB229 Corporate Income Tax – Throwback Rule

Ways and Means Committee

January 28th, 2021

Position: Favorable

Maryland PIRG's mission is to deliver persistent, result-oriented public interest activism that protects consumers, encourages a fair, sustainable economy, and fosters responsive, democratic government. We are a Baltimore based, statewide, non-partisan, non-profit, citizen-funded public interest advocacy organization with thousands of members across the state.

Maryland's corporate income tax is calculated using a formula that considers how much of a company's sales are located in Maryland. This system helps to prevent multiple states from taxing a business's profits.

However, when a company located in Maryland makes sales into another state, this income is sometimes not taxed by any state and It becomes "nowhere income." This bill would ensure that each dollar of corporate income in Maryland is subject to taxation by a single state, without double taxation or becoming so-called nowhere income.

Closing the pass-through/LLC loophole would help level the playing field for Maryland's local businesses who don't do business out of state. Reforming the system would help local businesses compete, and make sure big companies pay for the services that help them do business in Maryland.

We respectfully request a favorable report.

Emily Scarr, Maryland PIRG Director
@emilyscarr @Marylandpirg
Marylandpirg.org

HB 229_MDCEP_FAV.pdf
Uploaded by: Schumitz, Kali
Position: FAV

MDCEP
MARYLAND CENTER ON ECONOMIC POLICY

JANUARY 28, 2021

Closing Corporate Tax Loopholes Would Enable Maryland to Invest in our Future

Position Statement in Support of House Bill 229

Given before the House Ways and Means Committee

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 public health and education. It also puts small, Maryland-based businesses at a disadvantage. The Maryland Center on Economic Policy supports House Bill 229 because it would improve provisions of our tax system that shield corporate profits from taxation.

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."

House Bill 229 would ensure that each dollar of corporate income in Maryland is subject to taxation by a single state, without double taxation or nowhere income. Specifically, 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.

Nowhere income is a tax break corporations get that similarly situated individuals can't access. If you live in one state and work in another, you pay income tax on your total income in your state of residence. You can claim a credit for taxes paid to another state, but by default your state of residence gets it. House Bill 229 would essentially apply the same rule to corporations as individuals already follow.

Passing House Bill 229 would put Maryland in good company. 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.

Legislative analysts have estimated that similar bills introduced in past years would increase state revenues by about $50 million per year once fully implemented, enabling the state to weather the current crisis and invest more in education and other essential services that will strengthen our economy in the long run.[i] Cleaning up our tax code by removing special interest tax breaks is the best way to raise the resources Maryland needs to invest in public health, world-class public schools, and worker supports such as child care.

Maryland has a lot to offer as a place to do business, and will retain these advantages with a strong combined reporting law. We have the highest median household income among the 50 states.ii Our workforce is highly educated, with among the highest shares of advanced degree holders. College graduates have moved into Maryland at higher rates in recent years than into most other states.iii We have among the nation's highest shares of millionaires per capita.iv And our mix of taxes and services is among the most favorable to businesses, according to the accounting and consulting firm Ernst and Young.v

House Bill 229 represents an important step forward for Maryland's revenue system. If enacted, it would help us make the investments needed to build Maryland's future prosperity.

For these reasons, the Maryland Center on Economic Policy respectfully requests that the House Ways and Means Committee make a favorable report on House Bill 229.

Equity Impact Analysis: House Bill 229

Bill summary

House Bill 229 closes a loophole that currently allows large, multistate corporations to reduce their tax responsibility in Maryland.

Enacting the throwback rule would require Maryland-based corporations to attribute to Maryland any profits from sales into states where they are not taxable because of a lack of legal nexus. This would ensure that each dollar in profits is attributed to exactly one state for tax purposes, eliminating so-called "nowhere income."

Background

The throwback rule is well established across the country.

- 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, ranging from nearby West Virginia to economic powerhouse California.

Equity Implications

- Corporate tax loopholes primarily benefit the small number of wealthy households that hold the bulk of corporate stock and other financial assets. Multiple intersecting areas of historical and continuing racist policy have made household wealth in the United States heavily lopsided. The wealthiest 10 percent of white households nationwide (about 6 percent of all households) control nearly two-thirds of all built-up wealth.[vi] Closing corporate tax loopholes would ensure that our tax code does not place greater responsibilities on people who derive their income from work than on those whose income comes from wealth, and thereby lower one barrier that holds back many Marylanders of color.
- Closing corporate tax loopholes would generate revenues that could be invested in things like world-class

schools, sufficient child care assistance, and reliable transit. Investing in these basics strengthens our economy and can dismantle the economic barriers that too often hold back Marylanders of color.

Impact

House Bill 229 would likely **improve racial and economic equity** in Maryland.

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[i] Fiscal and policy note for HB 473 of 2020.

[ii] 2017 American Community Survey one-year estimates.

[iii] Quoctrung Bui, "The States That College Graduates Are Most Likely to Leave," *The New York Times*, Nov. 22, 2016, https://www.nytimes.com/2016/11/22/upshot/the-states-that-college-graduates-are-most-likely-to-leave.html

[iv] Robert Frank, "States with the Most Millionaires Per Capita," *CNBC*, Feb. 7, 2018, https://www.cnbc.com/2018/02/07/states-with-the-most-millionaires-per-capita.html

[v] "Total State and Local Business Taxes: State-by-State Estimates for Fiscal Year 2016," Ernst & Young LLP, 2017, https://www.ey.com/Publication/vwLUAssets/ey-total-state-and-local-business-taxes-2016/$File/ey-total-state-and-local-business-taxes-2016.pdf

[vi] 2016 Survey of Consumer Finances.

HB 229 - Fair Funding Coalition - FAV (2).pdf
Uploaded by: Slayton, Kevin
Position: FAV

MARYLAND
FAIR FUNDING
COALITION

Testimony in SUPPORT of HB 229
Del. Anne Kaiser, Chair
House Ways & Means Committee

The Maryland Fair Funding Coalition (MFFC) is a growing coalition of 25 organizations across the state that are committed to the state raising revenue to sustainably provide the resources it needs to make significant new investments in education funding and other essential services.

The MFFC supports proposals focused on eliminating loopholes and tax breaks that benefit special interests and fixing our upside-down tax code, which allows the wealthiest individuals to pay the smallest share of their income in state and local taxes. Fixing our tax system will support significant new state investments in education and ensure that large corporations and wealthy individuals are paying their share for the public services we all rely on.

Our coalition supports HB 229, which closes a major corporate tax loophole by ending corporate "nowhere income."

This legislation would close a loophole that shields some corporate profits from taxation. Maryland's corporate income tax is calculated 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 a business's profits. However, due to a federal law passed in the 1950's, when a company located in Maryland makes sales into another state, this income is sometimes not subject to taxation in *any* state and It becomes "nowhere income."

If enacted, HB 229 could generate nearly $50 million in annual revenue for the state once fully implemented, while funding a robust response to the pandemic. With a wide range of state services stretched thin, the best way to support needed investments in education is to reform Maryland's tax code to make it more effective and more equitable.

We must choose whether to commit to the investments necessary to create a world-class education system in Maryland, or to instead continue to prioritize tax breaks that benefit powerful special interests but do nothing to help our economy. Our coalition urges our legislators to commit to our students and the future of our economy. Maryland students cannot wait.

Therefore, we urge a favorable report on House Bill 229

AFSCME-HB229-FAV.pdf
Uploaded by: Smalls, Cindy
Position: FAV

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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.

Testimony-HB229-Corporate Income Tax – Throwback R
Uploaded by: Stevenson, Christopher
Position: FAV

Testimony on HB0229
Corporate Income Tax – Throwback Rule
Position: FAVORABLE

Dear Madam Chair and Members of the Ways and Means Committee,

My name is Ricarra Jones, and I am the Political Director with 1199SEIU- the largest healthcare union in the nation, where we represent over 10,000 healthcare workers in Maryland. Given the fact that many of our economically limited members pay more in taxes than several large Maryland corporations, we are supportive of HB0229- the Corporate Income Tax – Throwback Rule.

Tax loopholes have caused greedy corporations to swindle hardworking Marylanders, including our 1199SEIU members, out of millions of dollars in social services each year and other fiscal programs that could benefit communities across Maryland. Maryland's current corporate tax laws shield numerous corporations from paying full taxes through "nowhere sales." How is it equitable for a company with its primary facilities in Maryland to make a sale outside the state and not be charged a tax in either jurisdiction? It's not.

Marylanders are sacrificing necessities such as extended public transit hours, protective services for children, and much more to protect the bottom line of corporations. While the Act would increase some corporations' tax responsibilities, it is not likely to have a significant effect on their bottom lines. State taxes are only a small part of most companies' costs. Marylanders are the only ones significantly impacted under this tax policy.

For 1199SEIU members- the majority of whom are middle class- this Act is vital to providing essential services, such as emergency medical services. Not only would this Act create increase tax revenue for the state, but this Act would decrease inequitable tax loopholes and hold corporations to a higher standard. For this reason, we believe that this Act will benefit our members and Maryland as a whole. We ask that you support the Corporate Income Tax – Throwback Rule- Act of 2021.

Respectfully,

Ricarra Jones
Maryland/DC Political Director
1199SEIU United Healthcare Workers- East
Cell: 443-844-6513

Stewart_HB229_FAV.pdf

Uploaded by: Stewart, Vaughn

Position: FAV

Testimony in Support of HB229
Corporate Income Tax - Throwback Rule

Testimony by Delegate Vaughn Stewart

January 28, 2020 • Ways and Means Committee

Nowhere Income

Corporations that produce and sell goods in multiple states are required to pay state corporate income taxes based on the portion of their profits that can be attributed to the states in which they operate. Simply selling goods in a state does not alone subject a corporation to that state's corporate income tax. Under federal law, states can only tax corporations with a sufficient "nexus" to the state, which generally means a physical presence. As a result, many multi-state corporations have "nowhere" income that cannot be taxed in any state.

Nowhere income creates an opportunity for multistate corporations to avoid paying a state's income taxes. For example, if a Maryland-based company only makes 10% of its sales in Maryland, then the remaining 90% will be nowhere income that is not taxed anywhere. And yet that company takes full advantage of Maryland's infrastructure and talented workforce. This loophole hurts Maryland's small businesses because they usually pay state income tax on 100% of their profits, yet must compete with larger rivals who pay much less.

What the Bill Does

The solution to the problem of nowhere income is the throwback rule, which says that if a corporation with facilities in Maryland has income that is not taxed by any state, that income is "thrown back" into Maryland, and taxed here. Twenty-eight states and D.C. currently have a throwback rule, and HB229 adds Maryland to that list.

Why the Committee Should Vote Favorably

Last session, the throwback rule passed through the House and I urge this committee to pass it again this year. This bill will fund important improvements in our schools and is ever more urgent in the face of the pandemic and structural deficit our state is expected to face for years to come. Marylanders are hurting, and we cannot help them if we fund our state's recovery on their backs. We must ask wealthy corporations, many of whom have done quite well during the pandemic, to pay their share. We cannot do that when loopholes like nowhere income allow large businesses to avoid paying corporate income tax. In its first year, the throwback rule will produce $182.6 million in revenue for the state of Maryland, and it would produce at a similar level each year thereafter.

The bill's opponents will argue that the throwback rule amounts to a large tax increase on Maryland's businesses and will cause job losses. But these apocalyptic warnings are contrary to all available academic research on this topic. There have been three rigorous studies of the impact of throwback rules on a state's economy. In 2007, a group of researchers at the University of Tennessee found throwback rules to be insignificant as a predictor of Gross State Product. In a similar study, Professor Teresa Lightner at Oklahoma State University found that throwback rules were not significant predictors of economic growth. Professor Robert Tannenwald at Brandeis University focused specifically on manufacturing, and found that a state's business tax climate, including its adoption of a throwback rule, has "only a small, highly uncertain effect on manufacturer's capital spending." He added that "states may be more likely to stimulate their economy by enhancing public services valued by businesses." All of this research was confirmed mostly recently in 2014 by Reed College's Professor Kimberly Clausing, who found that throwback rules have no significant impact on employment or investment. Our own Department of Legislative Services has found that the bill will have minimal effect on small businesses.

The catastrophic predictions from the bill's opponents about job losses to the manufacturing and warehouse industries have not materialized in other states. In fact, many of the best states for manufacturing in the country--including California, Oregon, Kansas, Wisconsin, Alabama, and Louisiana--have throwback rules. When Indiana repealed its throwback rule in 2016, it was ranked by the Site Selection Group as the fifth best state for manufacturing; by last year, it had dropped to tenth in the same ranking. The opponents might also cite warehouse and distribution as a sector that will be devastated by this bill. But many of the states most aggressively targeted for Amazon's new distribution centers--including Illinois and Massachusetts--have throwback rules.

The throwback rule is a win-win-win: It will deter tax avoidance without hurting the economy, level the playing field for Maryland's small business owners, and generate funds for Maryland's recovery and the Blueprint for Maryland's Future. I urge a favorable report.

HB 229 - Throwback Rule - FAV - MSEA Zwerling.pdf
Uploaded by: Zwerling, Samantha
Position: FAV

MARYLAND STATE EDUCATION ASSOCIATION

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marylandeducators.org

Testimony SUPPORT of House Bill 229
Corporate Income Tax – Throwback Rule

House Ways and Means Committee
January 28, 2021

Samantha Zwerling
Government Relations

The Maryland State Education Association supports House Bill 229, which closes a corporate tax loophole benefitting multi-state corporations.

MSEA represents 75,000 educators and school employees who work in Maryland's public schools, teaching and preparing our 896,837 students for careers and jobs of the future. MSEA also represents 39 local affiliates in every county across the state of Maryland, and our parent affiliate is the 3 million-member National Education Association (NEA).

MSEA supports passage of an adequate, sustainable, predictable revenue stream that will adequately fund both the operating and construction costs of our public schools. A great public school for every child means our students have updated technology, small manageable classes, safe and modern schools, proper healthcare and nutrition, and have highly qualified and highly effective educators. The Blueprint for Maryland's Future outlines improvements to access to Pre-K and Career Technology Education, as well as expansion of the educator workforce and increased salaries to help deliver individualized instruction and recruit and retain the best workforce in the country.

House Bill 229 would close this corporate tax loophole and help ensure that large corporations are paying their fair share into the services that make Maryland a great place to live, learn, and do business. This bill not only passed this committee last year but also passed the House floor with a veto-proof majority. Implementing the Kirwan Commission's recommendations and making up for the learning loss, and social-emotional and behavioral health effects of the pandemic will take considerable resources. HB 229 is part of that funding solution.

MSEA urges a Favorable Report on House Bill 229.

012821 Testimony in Opposition to MD HB 229 (Throw

Uploaded by: Do, Stephanie

Position: UNF

COST
COUNCIL ON STATE TAXATION

Stephanie T. Do
Senior Tax Counsel
(202) 484-5213
sdo@cost.org

January 26, 2021

General Assembly of Maryland
House Ways and Means Committee

Re: COST's Opposition to House Bill 229, "Throwback" of Sales for Corporate Income Tax

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

Thank you for the opportunity to provide written testimony today on behalf of the Council On State Taxation (COST) in opposition to House Bill 229, which would impose a "throwback" rule for sales by Maryland corporate taxpayers. Under this rule, taxpayers would see their Maryland tax liability increase as their income would be assigned (apportioned) to Maryland based not only on their Maryland sales, but also on sales to customers in other states where they are not taxable. This rule violates fundamental tax principles, levying the wrong tax at the wrong rate in the wrong state.

It also penalizes manufacturers for investing and producing goods in Maryland. This is augmented by the additional challenges manufacturers already face from the COVID-19 pandemic. Manufacturers have additional costs from pandemic-related production stoppages, supply chain disruption, and workforce dislocation. Imposing a throwback rule augments these hurdles.

States that do not impose throwback rules are also more attractive for location and expansion. None of Maryland's neighboring states impose such a rule. COST urges the Committee to reject this measure.

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.

COST's Position on "Throwback" Rules

The COST Board of Directors has adopted a formal policy statement on throwback and related "throwout" rules. COST's policy position is:

Throwback and throwout laws seek to require companies to pay tax in

> *one state on income that another state has chosen not to tax or is legally unable to tax. A company's tax liability in one state should not be measured by its tax in another state. Throwback and throwout rules also discourage investment in a state. Such rules must not be adopted and must be repealed where they presently exist.*

Problems with "Throwback" Sales Apportionment Rules

Generally, throwback rules require a company, when calculating its tax in a state, to include income earned in another state if that other state chooses not to tax that income or is prohibited from taxing that income by the U.S. Constitution or by federal law.

A paper by three leading state tax economists addressed the case for and against these laws.[1] They cite two frequent claims made in favor of such policies but note that "the validity of each is questionable." The first claim proponents make is that throwback laws discourage tax planning. The authors conclude, however, that such laws fail to accomplish this goal and are in fact potentially damaging to the state's economic climate "because firms are discouraged from locating in throwback states."

The second claim proponents of throwback laws make is that such laws ensure that all corporate income is taxable in some state. The authors of the paper note that throwback laws do not accomplish this goal and argue that there is "little practical reason why any state's tax policy should be based on ensuring that out-of-state activity is properly included in some state's tax base." A corporation's correct measure of tax in a state is determinable without reference to the tax a corporation pays in other states. Throwback laws tax income that is, by definition, earned outside of the state, and such laws tax that income at the wrong rate and direct the resulting revenue to the wrong state. Missouri became the most recent example of a state repealing its throwback law, beginning on or after January 1, 2020.[2]

Conclusion

COST appreciates the opportunity to provide this Committee with testimony opposing "throwback" and urges members of the committee to please vote "no" on House Bill 229.

Sincerely,

Stephanie T. Do

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

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[1] *See* Fox, Luna and Murray, "How Should a Subnational Corporate Income Tax on Multistate Businesses Be Structured?", National Tax Journal, March 2005, pp. 153-5.

[2] *See* Missouri Senate Bill 884 (2018).

HB0229 - 1.28.21 -- Corporate Income Tax - Throwba
Uploaded by: Fry, Donald
Position: UNF

gbc POSITION STATEMENT

TESTIMONY PRESENTED TO THE HOUSE WAYS AND MEANS COMMITTEE

HOUSE BILL 229 -- CORPORATE INCOME TAX – THROWBACK RULE
Delegate Stewart

January 28, 2021

DONALD C. FRY
PRESIDENT & CEO
GREATER BALTIMORE COMMITTEE

Position: Oppose

House Bill 229 applies a "throwback" rule in determining whether sales are considered in the State for purposes of the State's corporate income tax apportionment formula. The bill requires businesses to include in its Maryland apportionment factor sales in states in which it is not subject to tax plus all sales in Maryland. Current law only includes sales to customers in Maryland. This bill adversely affects businesses that have multi-state operations and sell tangible property by significantly increasing Maryland tax liability.

The passage of House Bill 229 would create uncertainty for Maryland businesses while adding significant complication to the corporate tax structure. The proposal would make Maryland a less attractive location for businesses and at a competitive disadvantage to competitor states without the "throwback" rule, including Virginia, Pennsylvania, and North Carolina.

Distribution centers are an example of an industry that would be harmed by the passage of this bill. In recent years, Maryland has seen a string of success in attracting distribution centers, an industry that brings investment and good paying jobs by taking advantage of Maryland's central location in the Mid-Atlantic region. However, House Bill 229 discourages future distribution centers from considering Maryland as a location because of the increased cost of doing business here.

In response to this proposal and a myriad of tax-related legislation pending this session in the Maryland General Assembly, the GBC advocates for the creation of a comprehensive tax commission to study a fair, equitable, and modernized system of taxation. The GBC requests to be a formal member of any commission that may be created by the Maryland General Assembly. Based on need to examine Maryland's tax structure and the urgency for reliable revenue streams that fully fund education reform and other policy priorities, it is the right time for the creation of comprehensive tax commission.

This bill is inconsistent with one of the key tenets in *Gaining the Competitive Edge: Keys to Economic Growth and Job Creation in Maryland,* a report published by the GBC that identifies eight core pillars for a competitive business environment and job growth:

> **Tax structure that is fair and competitive.** Maryland's tax policy must be perceived by business as being competitive and devoid of elements that unreasonably target specific businesses or business sectors.

This bill is also inconsistent with the GBC's legislative priorities for 2021, specifically advocacy for policies to strengthen economic competitiveness and the facilitation and acceleration of economic recovery. The creation of a strong and competitive business climate is among the most important roles of government and this bill would significantly handicap Maryland's economic competiveness in the mid-Atlantic region. In the current climate of economic uncertainty and flux, Maryland's businesses need consistency and stability in their tax structures to be able to recover from this pandemic.

For these reasons, the Greater Baltimore Committee urges an unfavorable report on House Bill 229.

The Greater Baltimore Committee (GBC) is a non-partisan, independent, regional business advocacy organization comprised of hundreds of businesses -- large, medium and small -- educational institutions, nonprofit organizations and foundations located in Anne Arundel, Baltimore, Carroll, Harford, and Howard counties as well as Baltimore City. The GBC is a 66-year-old, private-sector membership organization with a rich legacy of working with government to find solutions to problems that negatively affect our competitiveness and viability.

GREATER BALTIMORE COMMITTEE
Suite 1700. 111 South Calvert Street. Baltimore, Maryland 21202-6180
410. 727-2820. Fax 410. 539-5705

MBIA Testimony HB 229.pdf
Uploaded by: Graf, Lori
Position: UNF

MARYLAND BUILDING INDUSTRY ASSOCIATION
11825 West Market Place | Fulton, MD 20759 | 301-776-6242

January 28, 2020

The Honorable Anne R. Kaiser
Ways & Means Committee
House Office Building, Room 131,
6 Bladen St., Annapolis, MD, 21401

RE: Opposition to HB 229 (Corporate Income Tax – Throwback Rule)

Dear Chairwoman Kaiser:

The Maryland Building Industry Association, representing 1,100 member firms statewide, appreciates the opportunity to participate in the discussion surrounding **HB 229 Corporate Income Tax – Throwback Rule**. MBIA Opposes the Act in its current version.

This bill would require that sales of tangible personal property be counted in the numerator of the sales factor. MBIA opposes this measure because the addition of out of state entities as taxable institutions will drive up the costs of goods imported into Maryland which in turn will drive up costs to consumers in numerous industries throughout the state. During the current economic uncertainty, we feel that climbing prices would be counterproductive to the attempts to recharge the economy in the future and make it that much harder to business that are the engine of the state economy to function.

For these reasons, MBIA respectfully requests the Committee give this measure an unfavorable report. Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or lgraf@marylandbuilders.org.

cc: Members of the House Ways & Means Committee

HB 229_ Corporate Income Tax - Throwback Rule_Unfa
Uploaded by: Griffin, Andrew
Position: UNF

MARYLAND Chamber of Commerce

LEGISLATIVE POSITION
UNFAVORABLE
House Bill 229
Corporate Income Tax - Throwback Rule
House Ways and Means Committee

Thursday, January 28, 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. Part of that work includes evaluating and maintaining the best approaches for business tax policies for the state.

HB 229 seeks to institute a rule requiring the reapportionment on the sales of tangible personal property to be included in the numerator of the sales factor for property that is delivered or shipped to a purchaser within the state from outside the state or on goods shipped from Maryland to a state where those goods are not taxable. This is commonly referred to as the "throwback rule." The bottom-line objective is to collect corporate income taxes off sales from outside the state on goods that originate in Maryland but are then not taxable in that other state. This piece of corporate tax legislation was introduced in 2017 and 2018, with each receiving a public hearing. Further action was not taken on either. A similar piece of legislation was introduced in 2011 and received an unfavorable report from the Senate Budget and Taxation Committee.

The "throwback rule" is seen by some as a magic fix for taxing "nowhere income," and the primary concerns remain that this apparatus will create tax inequality and competitive disadvantage for Maryland businesses and may even prove to be counterproductive if any loss in economic activity outweighs that of gains in revenue. In some cases, the "throwback rule" can even result in double taxation.

The Council On State Taxation, a nonprofit trade association whose objective is to promote equitable and nondiscriminatory tax policies across the Unites States, says a company's tax liability in one state should not be measured by their tax liability in another state.

For small, export-oriented Maryland businesses, this would have an outsized effect since they are less likely to have a nexus (e.g., facilities) in other states, meaning a larger portion of their income could become subject to this proposed additional taxation.

Finally, Maryland's own Business Tax Reform Commission previously considered this issue and ultimately recommended this tax scheme not be adopted because it represents a tax on product originators, thereby discouraging investment and business location in Maryland. This is particularly important as none of Maryland's neighbors--Pennsylvania, Delaware, Virginia or West Virginia--utilize a throwback rule.

Beyond all of this, we are in the midst of a global pandemic. To say that COVID-19 has had a tremendous, detrimental impact on Maryland's economy would be an understatement, and there is plenty of reason to remain cautious and concerned about its lasting implications. Maryland businesses continue to struggle, and the Comptroller's Office has estimated that approximately 30,000 businesses have either closed or will close permanently due to the pandemic. A period of major economic downturn and future uncertainty is not the time to implement tax measures that stand to negatively impact businesses that are already struggling to overcome the impact of COVID-19.

For these reasons, the Maryland Chamber of Commerce respectfully requests an **unfavorable report** on HB 229.

SB0229-Greater Bethesda Chamber -UNFABORABLE.pdf
Uploaded by: Italiano, Ginanne
Position: UNF

THE GREATER BETHESDA
CHAMBER of COMMERCE
Smart Business, Bright Future
95th ANNIVERSARY

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January 26, 2021

Delegate Anne Kaiser
Chair, House Ways and Means Committee
Maryland House of Delegates
Room 131, House Office Building
Annapolis, MD 21401

RE: HB0229 – Corporate Income Tax – Throwback Rule

Position: **OPPOSE**

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

On behalf of our 500-member businesses and more than 45,000 employees in Montgomery County, this statement is in Opposition to HB0229 – Corporate Income Tax – Throwback Rule. The objective of this legislation is to collect corporate income taxes off sales from outside the state on goods that originate in Maryland but are then not taxable in that other state.

The Maryland Business Tax Reform Commission previously considered this issue and recommended this tax scheme not be adopted because it represents a tax on product originators, thereby discouraging investment and business location in Maryland. This would also be more damaging because none of the surrounding states (Pennsylvania, Delaware, Virginia or West Virginia)--utilize a throwback rule, putting us at a competitive disadvantage.

While businesses -large and small - are currently struggling due to COVID-19 and related repercussions, this is not the time to implement this complex change, effecting tax preparers, taxpayers and businesses.

We ask you to please vote **UNFAVORABLE** on this bill, which continues to be voted "unfavorable" every year. Thank you for your consideration of our remarks.

Sincerely,

Allie Williams

Allie Williams
President & CEO

HB229_HB330_unfavorable_MRA.pdf
Uploaded by: Price, Sarah
Position: UNF

HB229 Corporate Income Tax – Throwback Rule
HB330 Effective Corporate Tax Rate Transparency Act of 2021
Ways and Means Committee
January 28, 2021

Position: Unfavorable

Background: HB229 and HB330 would alter Maryland's corporate income tax structure and income tax return requirements.

Comments: MRA opposes HB229 and HB330 and efforts that seek to alter Maryland's corporate income tax structure at this time.

HB229 would require businesses to pay additional income tax on goods sold outside of Maryland based on the corporate tax structure of other states, otherwise known as a "throwback rule". Throwback rules discourage businesses from locating in throwback states and do not effectively measure taxable income for corporations. None of Maryland's neighboring states have implemented a throwback rule, and the New Jersey General Assembly even repealed its throwback rule within a decade of implementing it, based on a study it commissioned that found that the throwback rule "does not more fairly measure a corporation's business activities in a state". Indiana also repealed its throwback rule with the express intent of promoting a more friendly business environment in the state.

HB330 would require businesses to include certain information about their effective tax rate when filing in Maryland, so that the State may evaluate its corporate tax rate and tax credits available to corporations. This legislation is unnecessary, as the Comptroller can evaluate the effectiveness of the Maryland corporate tax rate by reviewing the data that is currently required to be submitted by businesses. The information required by HB330 is largely already available to the Comptroller through the federal tax returns that corporations are required to include with their Maryland filings, and would not generate any revenue for the State.

HB229 and HB330 would create administrative burdens for businesses located in Maryland and would discourage businesses from locating here by establishing an unfair tax structure that captures business operations from outside of the state. Thank you for your consideration, and we urge an unfavorable report on these bills.

HB0229_UNF_MTC_Corporate Income Tax - Throwback Ru
Uploaded by: Rosendale, Martin
Position: UNF

MARYLAND TECH COUNCIL

TO: The Honorable Anne R. Kaiser, Chair
Members, House Ways and Means Committee
The Honorable Vaughn Stewart

FROM: Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman

DATE: January 28, 2021

RE: **OPPOSE** – House Bill 229 – *Corporate Income Tax – Throwback Rule*

The Maryland Tech Council (MTC) is a collaborative community, actively engaged in building stronger life science and technology companies by supporting the efforts of our individual members who are saving and improving lives through innovation. We support our member companies who are driving innovation through advocacy, education, workforce development, cost savings programs, and connecting entrepreneurial minds. The valuable resources we provide to our members help them reach their full potential making Maryland a global leader in the life sciences and technology industries. On behalf of MTC, we submit this letter of **opposition** for House Bill 229.

House Bill 229 applies a "throwback" rule in determining whether sales are considered in the State for purposes of the State's corporate income tax apportionment formula. The passage of House Bill 229 would create uncertainty for Maryland businesses while adding significant complication to the corporate tax structure. House Bill 229 makes Maryland a less attractive location for businesses and at a competitive disadvantage to competitor states without the "throwback" rule, including Virginia, Pennsylvania, and North Carolina. For these reasons, MTC requests an unfavorable report

For more information call:
Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman
410-244-7000

HB229 - MoCo Chamber - Throwback Rule.pdf
Uploaded by: Swanson, Tricia
Position: UNF

To Lead, Advocate and Connect as the Voice of Business

House Bill 229 – Corporate Income Tax - Throwback Rule

Ways and Means Committee

January 28, 2021

OPPOSE

The Montgomery County Chamber of Commerce ("MCCC"), as the voice of Montgomery County business, opposes House Bill 229 which once again propose adopting combined reporting.

As we have for many years, the MCCC opposes the restructuring of the corporate income tax to impose combined reporting in Maryland because of its negative impact on corporate headquartered companies. The Maryland Business Tax Reform Commission (the "Commission") was created during the 2007 Special Session to review and evaluate the State's current business tax structure and make specific recommendations for changes, including the imposition of combined reporting. The General Assembly explicitly directed the Commission to review whether to implement combined reporting in Maryland.

The Commission included an appointee of the Governor, certain State Senators and Delegates, a representative of local governments and members of the public. Between 2007 and 2011, the Commission held 28 separate meetings, heard extensive testimony and collected substantial data concerning Maryland's tax structure and policy. The Commission issued its final report and recommendations on December 15, 2010. By a vote of 13 – 4, the Commission recommended against combined reporting in Maryland. The Commission's final report explained its reasoning in rejecting combined reporting as follows:

- **Complexity** – combined reporting is a complex change for taxpayers, tax preparers and the Comptroller's Office, introducing uncertainty during a time when the economy is struggling.
- **Shift of Tax Burden** – combined reporting shifts the tax burden, substantially in some cases, among industries and among taxpayers, resulting in winners and losers.
- **Unnecessary** – many of the tax avoidance measures which combined reporting is intended to prevent have already been addressed by the State through the Delaware holding company add back, the captive real estate investment trust (REIT) legislation, and other measures.
- **Increased Volatility** – the Comptroller's study of recent corporate information returns indicates that combined reporting would lead to increased volatility in corporate income tax revenues, already one of the State's most volatile revenue sources.

Businesses are struggling and may struggle for some time and we would urge the State not to make dramatic changes in its tax policy. For the same reasons expressed by the Commission, **we request an unfavorable report on House Bill 229.**

Tricia Swanson, Vice President, Government Relations
Montgomery County Chamber of Commerce
301-738-0015 www.mcccmd.com