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TESTIMONY

TO: Honorable Guy Guzzone, Chairman
Senate Budget & Taxation Committee

FROM: Mike Johansen, RWL on behalf of
INVEST IN MARYLAND COALITION

DATE: February 9, 2022

RE: OPPOSITION to SB 361- "Income Tax – Carried Interest – Additional Tax"

The Invest in Maryland Coalition is comprised of many segments of the Maryland financial advisory services industry. It was formed to advocate on legislative matters affecting the delivery of professional financial advisory services to Maryland businesses and individuals – those who rely on professionals to plan for retirement, grow their savings, maximize the value of their businesses and holdings, invest in new ventures, and generally protect their assets.

The Invest in Maryland Coalition opposes legislation that would place new burdens on Maryland individuals, businesses, and the financial services industry – especially when those burdens are limited to the State of Maryland. ***State tax policy should incentivize, not discourage, growth and investment within state borders.***

SB 361 imposes an additional tax on 'carried interest.' The bill imposes a 17% tax on certain income derived from investment management services – on top of the existing state income tax of up to 5.5%. Further, the bill is applicable to tax year 2022 -- meaning the new tax applies to activity occurring prior to the bill's July 1, 2022 effective date.

SB 361 would hinder investment in Maryland. The new tax burden would have one of two effects, or both – first, investors would avoid Maryland and focus their activities in other states where the tax does not apply; and second, the value of Maryland businesses and start-ups would fall. Relocation out of Maryland could occur – as the new tax arguably applies to Maryland based investment management companies even if their investments are out of state.

The proposed legislation also has a retroactive effect. Not only does the new tax apply to income generated in TY 2022 prior to the effective date, the bill would levy the new 17% tax on investment decisions made many years ago (at a time when the value of the deal was not subject to this unique tax treatment). This is an inherent unfairness that should be avoided when creating new tax policy.

The negative impacts of this legislation will be felt far beyond the financial services industry. Maryland will lose jobs, innovation, and even tax revenue as firms respond by de-investing in the State.

For all these reasons, we urge an unfavorable report on SB 361.

For more information contact Mike Johansen or John "JR" Reith at 410-269-5066.