gbc POSITION STATEMENT

TESTIMONY PRESENTED TO THE SENATE BUDGET AND TAXATION COMMITTEE

SENATE BILL 360 – CORPORATE TAX FAIRNESS ACT OF 2022
Sponsor – Senators Pinsky, et al.

February 9, 2022

DONALD C. FRY
PRESIDENT & CEO
GREATER BALTIMORE COMMITTEE

Position: Oppose

The Greater Baltimore Committee (GBC) opposes Senate Bill 360, which (1) alters the distribution of corporate income tax revenues; (2) requires affiliated corporations to compute Maryland taxable income using combined reporting; and (3) applies a "throwback" rule in determining whether sales are considered in the State for purposes of the State's corporate income tax apportionment formula.

At issue is competitiveness, which has long been at the forefront of debate and discussion with regard to Maryland's business climate. While Maryland has numerous competitive strengths, including a highly-skilled workforce, excellent access to health care, top-ranked universities and a good quality of life, in many annual reviews the state consistently ranks near the bottom on a number of key business metrics. Additionally, when compared to neighboring states, Maryland's tax structure as it relates to business growth and job creation is often viewed unfavorably.

Combined Reporting

Combined reporting has been considered and defeated for many years. In 2010, the Maryland Business Tax Reform Commission (MBTRC) evaluated the effects of implementing combined reporting. The MBTRC recommended that the Maryland General Assembly reject this policy for a number of reasons, including that many of the tax avoidance measures that combined reporting is intended to prevent had already been addressed in previous policies enacted by the legislature. In 2014 while opposing a similar bill that would have required combined reporting, the Council on State Taxation wrote that combined reporting reduces jobs, increases the administrative burden on businesses and would have an "unpredictable and uncertain effect on Maryland's revenue."

In 2015, the Maryland Economic Development and Business Climate Commission, also known as the Augustine Commission, issued a report recommending that combined reporting not be adopted in Maryland and emphasized that this intent should be clearly communicated. The report said combined reporting "…can create revenue volatility and winners and losers among corporate taxpayers." It further added, "Combined reporting can also lead to additional litigation from taxpayers and create additional administrative costs for both taxpayers and the state."

"Throwback Rule"

Senate Bill 360 also 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 affects businesses that have multi-state operations and sell tangible property by significantly increasing Maryland tax liability for businesses. Senate Bill 360 would require a business to include in its Maryland apportionment factor sales to states in which it is not subject to Maryland sales tax, while current law only includes sales to customers in Maryland. Under the bill, those out of state sales are included (or "thrown back") into the taxable income.

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, Senate Bill 360 would discourage future distribution centers from considering Maryland as a location because of the increased cost of doing business here.

Keeping Maryland Competitive

This bill would create uncertainty for Maryland businesses while adding complication to the corporate tax structure.

Senate Bill 360 makes Maryland a less attractive location for businesses and uncompetitive with surrounding and competitor states that do not have combined reporting or the "throwback" rule.

As Maryland strives to be competitive in the 21st century economy, policies must reflect an understanding of the challenges faced by our State's businesses and a willingness of government to partner with the business community. Senate Bill 360 would put additional administrative burdens on businesses, which is not reflective of a state that strives to be competitive and welcoming to business growth and job creation.

This bill is inconsistent with two of the key tenets in *Gaining A 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:

> **Competitive costs of doing business.** Public policies must reflect a government predisposition to nurture business growth and to avoid arbitrarily or disproportionately imposing additional overhead upon the business sector.
>
> **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.

For these reasons, the Greater Baltimore Committee urges an unfavorable report on Senate Bill 360.

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 67-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.