MARCH 29, 2023

Maryland's Tax System Should Not Reward Bad Actions

Position Statement in Support of House Bill 191

Given before the Senate Budget and Taxation Committee

Like our state budget, Maryland's tax system represents a series of choices that should ideally reflect our values as a state. Currently, our state income tax matches a provision of the federal tax code that essentially rewards bad behavior by businesses. **The Maryland Center on Economic Policy supports House Bill 191** because it would ensure that businesses aren't rewarded via a tax break for bad actions.

Prior to 2017, businesses could not deduct fines, fees or other payments related to a lawsuit settlement or violation of civil or criminal law. A provision of the 2017 Trump tax bill, the Tax Cut and Jobs Act, created a partial exemption to this, allowing businesses to deduct the cost of restitution, such as paying into a victims fund, or the cost to come into compliance with the law or regulation that the business violated[i]. Because Maryland automatically adopts changes to federal tax code, we also began granting this deduction without any input from legislators or the public.

An effective revenue system is an essential tool to enable Maryland to protect our investments in the foundations of our economy, such as public health, education, and transportation. Collecting sufficient revenue is especially important as we work to rebuild hollowed-out state agencies and guarantee all students a world-class education. All Marylanders benefit when we have sufficient resources to invest in the basics, and these investments can be particularly important to break down the barriers—built through past and present policies—that hold back many Marylanders because of their race, gender, a disability, or another aspect of their identity.

It is just as important that we have a fair tax system that asks everyone to contribute, without exceptions that special interest groups have forced into our tax system. Today, the wealthiest 1 percent of Maryland households pay a smaller share of their income in state and local taxes than the rest of us do, due in large part to corporate tax loopholes and lopsided tax breaks.[ii] Maryland should not double down on bad federal tax policies by giving a tax break to businesses that have violated the law.

House Bill 191 represents an important step forward for creating a revenue system that reflects our values as a state. If enacted, it would make our tax system more equitable and contribute to the resources Maryland families need to thrive.

For these reasons, the Maryland Center on Economic Policy respectfully requests that the Budget and Taxation Committee make a favorable report on House Bill 191.

Equity Impact Analysis: House Bill 191

Bill summary

House Bill 191 decouples Maryland's income tax from a provision of the federal tax code that allows a deduction in some cases for business expenses related to restitution or compliance after a business has been found in violation of the law.

Background

- Former President Trump's 2017 tax overhaul, the Tax Cut and Jobs Act, created this limited exemption. Previously no expenses associated with a violation of federal or civil law could be considered a business expense.

Equity Implications

- Fair tax reform would generate revenues that could be invested in things like world-class schools, improved customer service at state agencies, 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 191 would likely **improve racial and economic equity** in Maryland.

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[i] "TREASURY FINALIZES SECTION 162(F) REGULATIONS ON THE DEDUCTIBILITY OF AMOUNTS PAID TO, OR AT THE DIRECTION OF, A GOVERNMENTAL ENTITY," Shearman and Sterling, Jan. 26, 2021, https://www.shearman.com/perspectives/2021/01/treasury-finalizes-section-162f-regulations

[ii] Meg Wiehe, Aidan Davis, Carl Davis, Matt Gardner, Lisa Christensen Gee, and Dylan Grundman, "Who Pays? A Distributional Analysis of the Tax Systems in All 50 States," Institute on Taxation and Economic Policy, 2018, https://itep.org/wp-content/uploads/whopays-ITEP-2018.pdf