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THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

**Senate Bill 968 – Income Tax – Captive Real Estate Investment Trusts - Alterations**

March 15, 2023

Mr. Chairman and Members of the Senate Budget and Taxation Committee,

In 2007, the Maryland General Assembly passed legislation that closed a loophole that large corporations were using to avoid paying corporate income tax. Prior to the bill's passage, large corporations could shift the ownership of the real property holdings to a subsidiary Real Estate Investment Trust (REIT) and pay it rent for the use of these properties. The rents were considered a business expense and were deductible from the state corporate income tax. Meanwhile, the REIT would pay back the rent as a dividend to the parent company which was free from tax liability.

The 2007 legislation closed that loophole while recognizing that REITs serve a good purpose in providing a less risky vehicle for investing in commercial real estate and the legislation was crafted to hold harmless legitimate publicly traded REITs. In the years since the passage of the 2007 state law the Multistate Tax Commission developed model language for other states trying to resolve the issue of tax avoidance with updates to reflect more current investment practices including regulations imposed on foreign owned companies.

Senate Bill 968 simply updates our tax law on REITs to conform with Multistate Tax Commission model language. This change will ensure that those companies that are properly using REITs as legitimate forms of investment are not penalized in Maryland, while those corporations using REITs for tax avoidance will still be denied under Maryland law.

I respectfully request a favorable report on Senate Bill 968.