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Testimony of
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Before the
Maryland House of Delegates Ways and Means Committee

Hearing on H.B. 39, Effective Corporate Tax Rate Transparency Act of 2023
February 2, 2023

Chair Atterbeary and Members of the Ways and Means Committee, I'm Michael Mazerov, a Senior Fellow with the State Fiscal Policy division of the Center on Budget and Policy Priorities in Washington, D.C. The Center is a non-partisan research and policy institute that pursues federal and state policies designed to reduce poverty and inequality in fiscally responsible, equitable, and effective ways. We apply our expertise in budget and tax issues and in programs and policies that help low-income people to help inform debates and achieve better policy outcomes. I appreciate the opportunity to submit testimony in support of H.B. 39. Delegate Charkoudian's bill would require publicly traded corporations and their subsidiaries taxable in Maryland to calculate and report to the Comptroller their effective state corporate income tax rates. The Comptroller would then issue an annual study reporting these results and explaining them on an aggregate, anonymized basis.

Although I believe all states with corporate income taxes should require publicly traded corporations to report their bottom-line tax liability and certain other line-items from their tax returns on a non-anonymized basis,[1] this bill is a positive step toward giving policymakers and the public a better picture than is currently available of how well Maryland's corporate tax structure is working to ensure all corporations pay their fair share of income tax. As this committee has heard in taking testimony on several corporate tax reform bills this session and in prior sessions, Maryland has a very weak corporate tax structure in comparison to many other states. Among other flaws, it does not mandate combined reporting, does not contain a throwback rule, imposes no form of corporate minimum tax, treats all income as apportionable, and allows all corporations to apportion their income using a single sales factor formula. Although, to its credit, the Comptroller's office publishes a considerable amount of information extracted from state corporate tax returns,[2] these data are lacking in certain respects. For example, they do not identify several significant tax breaks that are brought into the Maryland tax code because of its conformity to the federal code, and they do not contain critical information on the share of profits of multistate corporations that are taxable in

[1] See: Michael Mazerov, "State Corporate Tax Disclosure: The Next Step in Corporate Tax Reform," February 14, 2007, https://www.cbpp.org/research/state-corporate-tax-disclosure-the-next-step-in-corporate-tax-reform.

[2] See the annual reports available at https://www.marylandtaxes.gov/reports/corporate-income-reports.php.

Maryland. Requiring a calculation of the effective corporate tax rate using book income, as the bill proposes, would address these and other shortcomings of the Comptroller's current publication.

More importantly, there will be great benefit in tasking the Comptroller's office with ensuring the accuracy of corporations' effective tax rate calculations and issuing its own analysis of the factors explaining these data. Outside analysts do not have access to the relevant book income information at all, since publicly traded corporations file consolidated returns but Maryland requires individual members of a consolidated group to file separate returns. And while we could use the data currently published by the Comptroller to develop estimates and analyses of average effective tax rates based on federal taxable income, these would almost inevitably be subject to debate and dispute. The Comptroller's own analyses mandated by the bill are likely be viewed as more authoritative.

One particularly commendable feature of the bill is the requirement that the traditional three-factor apportionment formula be used to apportion book income to the state. The effective tax rate is actual tax liability divided by a measure of profit earned in Maryland. The single sales factor apportionment formula that is used for tax calculation purposes was not intended to be an accurate measure of profit attributable to Maryland; it was deliberately enacted to provide an economic development incentive. Accordingly, the substitution of the property/payroll/receipts formula in the current version of Article IV of the Multistate Tax Compact (including recent recommended changes like sourcing of receipts to the states in which customers are located) will help identify the impact of the state's new apportionment formula on effective corporate tax rates. Going forward, this can then be carefully studied to determine if the purported economic development benefits of single sales factor apportionment justify the forgone revenue.[3]

Again, I thank the Committee for the opportunity to submit written testimony on H.B. 39. I recommend a favorable report on the bill. I may be reached at mazerov@cbpp.org if Committee members have any questions.

[3] There are good reasons to doubt the effectiveness of single sales factor apportionment as a job creation incentive. See: Michael Mazerov, "Case for "Single Sales Factor" Tax Cut Now Much Weaker," April 1, 2015, https://www.cbpp.org/blog/case-for-single-sales-factor-tax-cut-now-much-weaker.