February 21, 2024

The Honorable Guy Guzzone
Maryland General Assembly
Chair, Senate Budget and Taxation Committee
3 West Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Dear Chair Guzzone and Members of the Senate Budget and Taxation Committee:

On behalf of CTIA®, the trade association for the wireless communications industry, I write to respectfully oppose Senate Bill 766, legislation that would impose mandatory unitary combined reporting (MUCR) on multistate businesses in Maryland.

Proponents of SB 766 have suggested that MUCR would improve the fairness of the corporate income tax by closing "loopholes." They further argue that MUCR would more accurately determine multistate business income attributable to economic activity in Maryland.

However, there is considerable disagreement among states, businesses, and tax policy experts about the fairest and most accurate way to determine the states' respective shares of income of multistate businesses. One of the major concerns surrounding MUCR is that a state could arbitrarily assign more income than is justified by the level of a corporation's real economic activity in the state. MUCR may reduce the link between income tax liabilities and where income is actually earned because it assumes all corporations in an affiliated unitary group have the same level of profitability, which is not consistent with either economic theory or business experience.

Many academic studies suggest that MUCR can increase revenue volatility and may not generate additional revenue:

- "*An Evaluation of Combined Reporting for Tennessee*" issued by Dr. William Fox:
    - Combined reporting does not significantly increase tax revenue
    - It "probably increases tax revenue, but by a relatively small amount and perhaps only for a short period"
    - Tax revenues in NY and VT decreased the year they adopted combined reporting

- *"Understanding the Revenue Effects of Combined Reporting*" issued by Robert Cline:
    - "Overall revenue effects of adopting combined reporting is very difficult to predict reliably"
    - Tax collections could increase, decrease or remain the same, given the complex relationship among members of a combined group

Switching to MCUR would create significant administrative and compliance burdens for taxpayers and the Comptroller alike:

- There is little agreement among the states as to what specifically constitutes a unitary group and the concept of a "unitary business" is uniquely factual.
- Determining the scope of the unitary group is a complicated, subjective, and costly process that is not required in separate filing states and often results in expensive, time-consuming litigation.
- In addition, due to the factual nature of the inquiry, unitary combined return audits take much longer than separate company return audits and often require more state personnel to effectively complete.
- Combined reporting does not create a level playing field, particularly for smaller businesses with limited compliance resources.

Finally, while many states in the Northeast have adopted MUCR, most of the states around Maryland have not. Delaware, Pennsylvania, and Virginia are all separate reporting states and only West Virginia has adopted combined reporting. Enacting MUCR would not help Maryland's position in competing with neighboring states for investment and jobs.

For the reasons discussed above, CTIA respectfully requests that the Committee not advance SB 766. However, if the committee does decide to move forward with this legislation, we respectfully request that a provision be added to address the issues created by Financial Accounting Standards Board Statement 109 (ASC 740).

Publicly traded companies book assets for financial reporting purposes under Generally Accepted Accounting Principles (GAAP) rules. However, Internal Revenue Service rules for recording and depreciating the same assets are different. Under ASC 740, a change to MUCR is a significant tax law change that will require companies to analyze the differences between the financial book basis of assets they own versus the income tax basis of those same assets. The cumulative effect of those differences will likely require most companies to record an additional deferred tax liability expense.

One of the most significant differences recognized by many companies occurs as a result of accelerated tax depreciation taken on depreciable assets under I.R.S. rules versus the amount that is deducted for financial book purposes. Since depreciable assets create one of the largest differences required to be accounted for under ASC 740, it is likely that this requirement to reflect the additional expense resulting from the state's proposed changes would hit capital intensive companies much harder than other companies.

The ASC 740 ramifications of the move to combined reporting should be addressed to avoid companies with significant investments in Maryland being negatively impacted twice by combined reporting

changes. Not only could these companies experience an increase in their income tax liability because of these major changes, but they will also have the added financial strain of recognizing additional tax expense for financial reporting purposes.

Specifically, we request that any MUCR legislation provide for a reasonable schedule to allow the future deduction of the additional expenses triggered from any book/tax differences under ASC 740.

Sincerely,

Annissa Reed

Annissa Reed
Director
State and Local Affairs