Center on Budget and Policy Priorities

1275 First Street NE, Suite 1200
Washington, DC 20002

Tel: 202-408-1080
Fax: 202-408-1056

center@cbpp.org
www.cbpp.org

March 5, 2025

Maryland's Tax Loophole for Billionaire Corporations Must End as Federal Cuts Loom for Working Families

Testimony of Don Griswold, Senior Fellow, Center on Budget and Policy Priorities, Before the Maryland Senate Budget and Taxation Committee

Chair Guzzone, Vice Chair Rosapepe, and members of the Senate Budget and Taxation Committee, thank you for the opportunity to submit this testimony in favor of Senate Bill 859.

My name is Don Griswold. Previously Berkshire Hathaway's executive tax counsel and an enabler of tax avoidance by some of the world's largest corporations, I'm now a senior fellow at the nonpartisan Center on Budget and Policy Priorities (CBPP), a nonprofit research and policy institute pursuing policies that reduce inequality and restore fiscal responsibility in equitable and effective ways. At CBPP, I provide state tax policy advice to legislators — including those who have not yet realized that they are uncomfortable allowing corporate income tax to remain virtually optional for global corporations controlled by the world's wealthiest people when, at the same time, the federal government threatens essential programs like SNAP, which provides 690,000 Marylanders with needed food assistance.[1]

The Fair Share for Maryland Act (SB 859) includes a provision which closes a huge tax loophole that discriminates against Maryland's local business corporations, transfers far too much tax responsibility onto hardworking Maryland families, and rigs the system in favor of a small number of immensely powerful global corporations that are abusing their power by not paying their fair share.

Worldwide Combined Reporting — a straightforward, time-tested,[2] U.S. Supreme Court-approved[3] policy solution — would close this loophole, level the playing field, and bring in over $700 million a year in greatly needed tax revenues. I urge its passage as part of the Fair Share for Maryland Act.

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[1] Katie Bergh, "Millions of Low-Income Households Would Lose Food Aid Under Proposed House Republican SNAP Cuts," CBPP, February 24, 2025, https://www.cbpp.org/sites/default/files/2-24-25fa.pdf.

[2] Eleven states have allowed worldwide combined reporting for many years; Alaska requires it for oil companies. Michael Mazerov, "States Can Fight Corporate Tax Avoidance by Requiring Worldwide Combined Reporting," CBPP, June 27, 2024, https://www.cbpp.org/sites/default/files/6-27-24sfp.pdf.

[3] Container Corp. v. Calif. FTB, 463 U.S. 159 (1983); Barclays Bank PLC v. Calif. FTB, 512 U.S. 298 (1994).

The Profit-Shifting Loophole

It's common knowledge that powerful global corporations have avoided hundreds of billions of dollars in federal and state income tax in recent years. They pay sophisticated advisors huge fees to develop complex schemes that shift their profits offshore — beyond the reach of federal and state tax authorities — into tax havens that brazenly cannibalize other jurisdictions' revenues.

Maryland corporate income tax, like that of most other states, piggybacks on federal tax calculations, so offshore profit-shifting for federal tax avoidance automatically avoids Maryland tax as well. And it's all perfectly legal today under Maryland law.

The problem is enormous, and it is driven by the world's most aggressive corporations and the billionaires who control them. Consider, for example, the globe's three wealthiest people: [4]

- Presidential adviser — and wielder of a DOGE chainsaw — Elon Musk's Tesla reportedly paid virtually zero federal tax on billions of dollars in profits over the past several years.[5]
- Jeff Bezos's Amazon reportedly avoided $5 billion in federal tax in a recent four-year period.[6]
- Centibillionaire Mark Zuckerberg's Facebook is among six global giants (also including Apple, Cisco, eBay, Google, and Microsoft) that together reportedly underpaid their U.S. corporate income taxes by $277 billion by skirting rules aimed at reducing offshore profit-shifting from 2009 through 2022. With interest and penalties, that's half a trillion dollars.[7]

Incomplete Closure of the Loophole

Despite knowledge of this profit-shifting, Maryland is among the minority of states that still tax corporations with an antiquated, mid-20th century method called **Separate Filing**, which taxes only a severely incomplete portion of a taxpayer's total profits. This makes Maryland (as my former colleagues and I often told our corporate clients) the tax avoiders' "voluntary victim."

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[4] Beyond their corporate income tax avoidance, for insights into the *personal* income tax avoidance of the world's four richest people (Berkshire Hathaway's Warren Buffett plus the three individuals noted here), see Jesse Eisinger, Jeff Ernsthausen, and Paul Kiel, "The Secret IRS Files: Trove of Never-Before-Seen Records Reveal How the World's Wealthiest Avoid Income Tax," ProPublica, June 8, 2021, https://www.propublica.org/article/the-secret-irs-files-trove-of-never-before-seen-records-reveal-how-the-wealthiest-avoid-income-tax.

[5] Sarah Anderson, Zachary Tashman, and William Rice, "More for Them, Less for Us — Corporations That Pay Their Executives More Than Uncle Sam," Americans for Tax Fairness, March 2024, https://americansfortaxfairness.org/wp-content/uploads/NFTLFU-REPORT-March-12.pdf. See also Matthew Gardner, "Elon Musk's company avoided almost all federal income tax on nearly $11 billion of U.S. income over three years," Institution on Taxation and Economic Policy (ITEP)*,* January 30, 2025, https://itep.org/tesla-reported-zero-federal-income-tax-in-2024; Jess Bidgood, "What That Chainsaw Was Really About," New York Times, February 21, 2025, https://www.nytimes.com/2025/02/21/us/politics/elon-musk-doge-cpac-chainsaw.html.

[6] Matthew Gardner, "Amazon Avoids More Than $5 Billion in Corporate Income Taxes, Reports 6 Percent Tax Rate on $35 Billion of US Income," ITEP, February 7, 2022, https://itep.org/amazon-avoids-more-than-5-billion-in-corporate-income-taxes-reports-6-percent-tax-rate-on-35-billion-of-us-income/.

[7] Reuven Avi-Yonah *et al.*, "Commensurate with Income: IRS Nonenforcement Has Cost $1 Trillion," Tax Notes Federal, May 22, 2023.

In the face of industrial-scale corporate tax avoidance that has siphoned from its coffers for decades, the General Assembly has enacted some narrowly targeted anti-abuse rules over the years, notably "addbacks" of intercompany royalty and interest. But the extraordinarily well-resourced corporate tax avoidance industry will always be many steps ahead of such quaint countermeasures. Based on my decades of deep experience on the avoiders' side, I've explained: "Vulnerable to distracting and expensive litigation and narrowly targeting an incomplete suite of CIT [corporate income tax] strategies . . . , addbacks are an inadequate countermeasure."[8]

Governor Moore's proposal to move from the Separate Filing method to **Water's Edge Combined Reporting** is a step in the right direction because it shuts down *domestic* profit-shifting (from Maryland to the heavily marketed tax haven of Delaware, for example). But that 1980s-era method leaves wide open the loophole that 21st century tax abusers — notably including the wealthiest abusers of corporate and executive power in the current moment — use to shift their taxable profits *offshore* and into shell companies in foreign tax havens.

The Complete Solution Is Worldwide Combined Reporting

As part of the Fair Share for Maryland Act, the state has an opportunity to close the tax avoidance loophole by adopting Worldwide Combined Reporting. No half-measure here; Worldwide Combined Reporting's requirement of complete transparency shuts down corporate state tax dodging entirely. Adoption of Worldwide Combined Reporting will give Marylanders an efficient and effective 21st century tool for countering the abuse of corporate power by requiring even the most aggressive corporations to pay their fair share of Maryland corporate taxes.[9]

This prudent policy will make all profit-shifting (foreign or domestic) entirely ineffective. Worldwide Combined Reporting eliminates the opportunity for sophisticated avoiders to manipulate the fundamental fictions on which tax avoidance is based — shell companies and paper transactions — because this method instead taxes based on business fundamentals. Virtually every global corporation operates as a *single,* integrated, unitary business enterprise, no matter how many affiliated entities appear in its organizational chart. So, it should be taxed as a single taxpayer.

Why You Should Care

Conservative revenue estimates released last month by the Institute on Taxation and Economic Policy (ITEP) project more than $700 million annually in new revenues for Maryland once you close the loophole that allows a small group of the world's most aggressive global giants to dodge their responsibility to the people of Maryland.[10] These funds will help Maryland close its budget gap, respond effectively to the federal government's financial threats, and enable important public investments in good schools, good nutrition, good roads, good health care, and good state workers who deliver high-quality service to Marylanders.

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[8] Don Griswold, "Innovation Principles for Multistate CIT Planning — Part 2," Tax Notes State, May 30, 2022, https://www.taxnotes.com/tax-notes-state/corporate-taxation/innovation-principles-multistate-cit-planning-part-2/2022/05/30/7dhfw?highlight=griswold%20innovation.

[9] Mazerov, *op. cit.*

[10] Carl Davis *et al.,* "A Revenue Analysis of Worldwide Combined Reporting in the States," ITEP, February 20, 2025, https://itep.org/worldwide-combined-reporting-state-corporate-taxes/.

The problem of unfettered profit-shifting by global power-abusers is not limited to reductions in public funds that could have been devoted to projects for the common good. Leaving pervasive tax avoidance unchecked has additional consequences — like perpetuating public distrust of a tax system that remains rigged, undermining fiscal citizenship, and sapping popular confidence in government for the common good.

Maryland can, and should, do better.

Every Marylander should be able to expect from their elected officials a tax system that distributes the tax-paying responsibility fairly, that is no longer optional for aggressive global abusers of billionaire corporate power, and that requires corporations run by the world's wealthiest people to compete on a level playing field with local corporate businesses in Maryland.

Why is your enactment of Worldwide Combined Reporting so important? Because an unrigged tax system is an essential element of a society that invests in inclusive prosperity. Because tax fairness makes Maryland more competitive. And because tax justice creates space for each and every Marylander to achieve financial dignity.

Conclusion

Now, in 2025 more than ever, Marylanders need Worldwide Combined Reporting.

Thank you for the opportunity to submit this testimony. I welcome questions.