Nareit

Real estate
working for you®

March 3, 2025
Senate Bill 859 Fair Share for Maryland Act of 2025

Position: Unfavorable

Nareit submits this testimony in strong opposition to S.B. 859's provisions that that would impose an 8.25% surtax on a partner's income on partnership income in excess of $1 million and would impose a separate 2.5% "transportation fee" on pass-through entities with income in excess of $10 million. While we understand the need to raise revenue to close the budget gap, as described below, these provisions will do more harm than good for the state.

Nareit is the worldwide representative voice for REITs and real estate companies with an interest in U.S. real estate. Nareit's members are REITs and other real estate companies throughout the world that own, operate, and finance income-producing real estate, as well as those firms and individuals who advise, study, and service those businesses.

Real estate companies commonly own their properties through partnerships and joint ventures that are pass-through entities with third parties. S.B. 859's two additional pass-through entity taxes would undermine pro-growth features of Maryland's tax structure relative to other states and would seriously affect Maryland's competitiveness and ability to attract additional investment to the state, harming the economic growth needed in the state.

Further, many pension funds, university endowments, and other non-profit organizations, including those based in Maryland, invest through partnerships, and their returns would be negatively affected by the pass-through entity tax proposals in this legislation. In particular, the Maryland State Retirement and Pension System's (SRPS's) Annual Comprehensive Financial Report 2024 (Investment Section: Chief Investment Officer's Report) notes that a significant portion of the SRPS's $68.2 billion portfolio (as of June 30, 2024) is invested in partnerships.

Over eleven of our member companies are headquartered in Maryland, and they employ over a thousand people in Maryland. Additionally, 111 of our member companies own and operate almost 3,000 Maryland properties valued at approximately $40 billion.[1] REITs pay the second-highest percentage of property taxes paid by the private sector as compared to all other states.

[1] These include vital community assets such as Bethesda Row, Pike & Rose, T. Rowe Price's future global headquarters, the Shady Grove Bio+Tech Campus, White Marsh Plaza, the Clarksburg and Hagerstown Premium Outlets, the Alexandria Technology Center-Gaithersburg, MGM National Harbor, Tanger Outlets National Harbor, the Gaylord National, the University of Maryland BioPark I and II (including newly opened 4MLK in downtown Baltimore), the Columbia Medical Campus I and II, as well as thousands of apartments, community shopping centers, cell towers, self-storage facilities, medical office buildings, senior housing facilities, hotels, manufactured home communities, logistics centers, and other types of rental properties.

1875 I Street, NW, Ste 500
Washington, D.C. 20006-5413
202-739-9400

reit.com

Nareit

Real estate working for you

Our local members make significant contributions to their local Maryland community. For example, JBG SMITH, a Bethesda-based company, manages an affordable housing platform called the Impact Pool, which has helped create and preserve over 800 units of quality workforce housing in Maryland since 2020.

Additionally, COPT Defense Properties, headquartered in Columbia, invested more than $2 million of its own resources to plan, design and build an affordable, quality childcare United Way facility in Columbia at no cost to the organization. The facility opened in Jan. 2022.

Most of our members operate in many states, and they must evaluate the overall business climate in various jurisdictions. As a policy matter, these provisions effectively undo the stability of the pass-through tax regime in the state, putting Maryland at a distinct disadvantage compared to other states. Even beyond the impact of the current taxes contemplated on passthroughs, these provisions send a clear anti-competitive message to businesses that structural features of the tax code are subject to change arbitrarily. This message alone will cause even businesses that might be willing to bear the additional 8.25%/2.5% taxes to reevaluate their investment decisions towards states with more stable taxing regimes.

Thus, the impact of enacting these taxes will turbocharge an exodus from the state, not just as a result of the direct economic cost to businesses making investment decisions, but even more fundamentally as companies seek to invest in states where they can be assured a stable taxing regime.

Accordingly, Nareit recommends an unfavorable report for S.B. 859.

For more information, please contact Bill Castelli at wcastelli@rwllaw.com or 410-269-5066 or Camille Fesche at cfesche@rwllaw.com or 410-269-5066.