January 22, 2015

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Dear Governor Hogan, Speaker Busch, and President Miller:

The new legislative session has opened with the promise of a serious conversation about corporate taxes, and the Maryland Chamber looks forward to being part of the debate. Much of the discussion, however, has been about "combined reporting," a complex formula that assesses taxes based on a company's profits and losses in other states, as well as in Maryland.

In the last several years, combined reporting has been exhaustively researched and debated among public policy makers in Annapolis. Specifically, in 2007 the General Assembly directed the Comptroller to study combined reporting's impact on corporate tax revenue, and he found no net benefit. The Maryland Business Tax Reform Commission also weighed the pros and cons of combining reporting, deciding in the end against it. Here is a summary of those and other studies:

- No Net Impact on Revenue – Combined reporting will not increase revenues. Groups advocating for combined reporting see it as a "silver bullet" that will raise billions in additional tax revenue, but the data do not support that argument. The Comptroller's study tracked five years of dual tax filings from the same companies, one set using the current system and one using combined reporting. The study found no significant additional revenue. Instead, the two systems brought in roughly the same amount of revenue over the five year period, though distributed differently.

- No Help in Capturing Revenue – Maryland has laws and successful audit methods for maximizing the capture of tax revenue. In 2004, the Maryland General Assembly added two provisions to the state tax statutes that undo the perceived abuse of intercompany/interstate transactions: 1) the "add-back" provision, which disallows deductions for certain expenses paid to related corporations in other states, and 2) "section 482" powers which allow the Comptroller to adjust amounts of income and expense between related corporations. Further, since early in the last decade, the Comptroller's office has aggressively audited multistate corporations. Using the 2004 changes, the state has added millions of dollars in taxes collected, and the courts have increasingly found in favor of the Comptroller in litigated cases. Because of the legislation, audits, and court decisions, claims that large corporations are evading Maryland taxes by "booking work done in Maryland to states with lower rates" are simply not true.

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- Increasing Volatility – Though the net revenue to the state would have been roughly the same over the five year period of the Comptroller's study, in three of those five years, the annual totals would have been significantly less if combined reporting had been in place. Such volatility creates uncertainty and makes budgeting difficult both for businesses and for policy makers.

- Creating Winners and Losers – The Comptrollers' study showed that combined reporting would shift tax burdens among industries, with some individual companies paying more while others paid less. This picking of "winners" and "losers" would be seemingly arbitrary and not tied to Maryland's strategy for economic development. Further, among the "losing" industries were information technology and manufacturing, two sectors that Maryland is trying to attract. At the same time, real estate, management companies, and utilities, for example, would receive large windfalls from reduced taxes if combined reporting were enacted.

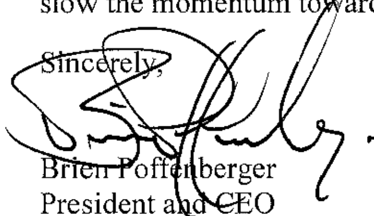
- Creating a Competitive Disadvantage – Many of Maryland's major competitor states do not use combined reporting. In assessing our business climate, we should focus our comparisons on those states that pose the greatest threats. In the battle to attract and retain businesses, we most often compete with Virginia, Pennsylvania, Delaware, North Carolina, and New Jersey, and none of them use combined reporting. And so implementing combined reporting would create a competitive disadvantage for Maryland and hamper our ability to create jobs.

- Creating Undue Complexity – Combined reporting is a highly complex method of apportioning taxable income among all the states in which the companies do business, and if adopted, it would apply to all Maryland corporations – small, medium, and large. Although the largest companies may be equipped for such complexity, Maryland's smaller businesses would not. Adoption of combined reporting would greatly increase the time and expense required to prepare companies' Maryland returns.

Despite claims to the contrary, combined reporting closes no loopholes and adds little to overall state coffers. Instead, it adds volatility to tax revenues, disadvantages Maryland among its competitors, adds complexity to small businesses, and risks alienating the very industries Maryland is trying to attract. Combined reporting would be bad for Maryland, its businesses, and the state agencies charged with servings its needs.

The policy conversation in Annapolis has turned toward the business climate and economic development. There is a growing consensus around the need to create jobs and grow the state's economy. The message has resonated with voters, with legislators, and with our members. Adopting combined reporting would be a step backward and would only serve to slow the momentum toward a more prosperous Maryland.

Sincerely,



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