

# **MDChamber\_Duckman\_Fav\_SB523**

Uploaded by: Duckman, Ashley

Position: FAV



**LEGISLATIVE POSITION:**

**Favorable**

**Senate Bill 523**

**Income Tax- Pass Through Entities-Imposition of Tax**

**Senate Budget & Taxation Committee**

**Wednesday, February 12, 2020**

Dear Chairman Guzzone and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 4,500 members and federated partners, and we work to develop and promote strong public policy that ensures sustained economic growth for Maryland businesses, employees and families.

Many small businesses in Maryland are organized as pass-through entities. Pass-through entities include sole proprietorships, partnerships and S-corporations. These businesses are not subject to the corporate income tax. Instead, owners are taxed under the individual income tax.

The federal Tax Cuts and Jobs Act of 2017 (TCJA) imposed a new, \$10,000 limitation on the deductible amount of state and local taxes (income + property, otherwise known as SALT) paid by an individual. The SALT cap impacts all individuals, including small businesses that are organized as pass-through entities since these businesses pay the income tax related to their business income on the owner's individual income tax return. TCJA does not, however, cap the SALT obligations of non-PTE corporations, giving C-corporations a tax advantage compared to individuals and small businesses.

Senate Bill 523 would have the effect of restoring a federal income tax deduction to individuals and pass-through entities when filing their federal income tax return. The bill would confirm that the state and local tax (SALT) currently remitted to Maryland by pass-through entities is a tax on the *entity*, thereby allowing the owners to take the position that the tax is a business entity tax not subject to the \$10,000 SALT limitation enacted in TCJA. Further, the bill clarifies, if so elected, that at the entity-level the tax under 10.102.1 is a tax on and a tax paid by the PTE itself (and not "paid on behalf of" the owners), thus making the state income tax paid by the entity deductible against business income for federal taxable income purposes.

The bill is revenue neutral for Maryland's treasury. In order to maintain revenue neutrality for the State, the income from the PTE still flows through to the owners' individual income tax return.

Six states have passed similar legislation in response to the SALT cap imposed by TCJA. Most recently, New Jersey enacted a similar statute on January 13, 2020.

Small businesses are the driving force of job creation and economic expansion in Maryland and make up almost 92 percent of the State's registered companies. This relatively minor code change would provide federal tax relief for tens of thousands of Maryland's small business owners, while remaining revenue neutral to the State.

For these reasons, the Maryland Chamber of Commerce respectfully requests a **favorable report** on **SB 523**.



# **ICSC\_Fav\_SB523**

Uploaded by: Sidh, Sushant

Position: FAV



February 11, 2020

The Honorable Guy Guzzone  
Chair, Senate Budget and Taxation Committee  
3-W, Miller Senate Office Building  
Annapolis MD 21401

RE: Senate Bill 523– Taxes – Election for Pass -Through Entities

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

The International Council of Shopping Centers (ICSC) is the trade organization representing the shopping center industry. Worldwide, the organization maintains almost 70,000 members. In Maryland, ICSC represents the interests of almost 1,900 shopping centers in every county and municipality in the State.

With respect to Senate Bill 523, Taxes – Election for Pass -Through Entities (PTE), our membership wholeheartedly supports the concept of equalizing the playing field for small businesses which are typically PTE with corporations for federal tax purposes. This legislation would reverse the penalties enacted in the 2017 tax legislation authored by the Trump Administration that capped the federal deduction for State and Local Taxes paid at \$10,000.

The establishment of a cap for State and local taxes placed Maryland small business owners at a disadvantage versus individuals residing in other states that may not have income and property taxes. Senate Bill 523 would reset Maryland law in accordance with Internal Revenue Service (IRS) standards to allow PTE to pass along credits to small business owners for federal taxes purposes for taxes paid at the State and local levels.

This is a way for Maryland to equalize the tax burden on residents vis-à-vis other states, while having no impact on State revenues. Under this bill, Maryland tax revenue would remain neutral. It would only impact the tax liability of small business owners at the federal level which balances the inequity established under the Trump Administration's 2017 tax legislation.

The membership of ICSC urges a favorable report.

For additional information or if you have questions, please contact Sushant Sidh at 410-268-3099.

# **MDCPA\_Syrylo\_Fav\_SB 523**

Uploaded by: Syrylo, karen

Position: FAV



February 12, 2020

Senator Guy Guzzone, Chair  
Budget and Taxation Committee  
3 West Miller Senate Office Building  
11 Bladen Street  
Annapolis, MD 21401

Re: SB 523 Income Tax – Pass-Through Entities – Imposition of Tax  
Support

Dear Chairman Guzzone and Members of the Committee:

The Maryland Association of Certified Public Accountants is a professional membership association representing the CPA profession in Maryland, with more than 9,000 members and a history of serving the public interest since 1901. MACPA members represent many areas of practice, including business and industry, public practice, government, education, and consulting.

Many of our members serve clients that are, or are employed by, businesses that are among the thousands of Maryland's pass-through entities (PTEs), i.e. S-corporations, partnerships and limited liability companies. SB 523 represents a unique opportunity for the Maryland legislature to provide federal tax relief to the owners of these businesses *without any impact at all on the state's and locals' income tax revenues*.

PTEs don't pay a corporate income tax; rather, the entity's income "passes through" to its members who then report their share of the PTE's income on their personal returns. The bill's goal is to restore a federal income tax deduction to the members of these entities by confirming that the tax Maryland currently imposes on PTEs is a tax on the entity.

Maryland's current law requires the PTE tax be paid with respect to only the nonresident members; the bill would retain that requirement, and also allow PTEs to elect to pay tax with respect to all of their members, both resident and nonresident. The tax being imposed on and paid by the PTE thus allows the position that the entity tax is not subject to the new federal \$10,000 limitation on deductions for state and local taxes, newly imposed by the U.S. Congress when it enacted the 2017 federal tax law (known as the TCJA or Tax Cuts and Jobs Act). That \$10,000 limitation applies only to individuals and not to state taxes imposed on business entities. The bill therefore will also put PTE businesses on a level playing field with C-corporations, which have no limitation on their state tax deductions for federal tax purposes.

February 12, 2020

The PTE tax rate in the bill is set at the highest “state” rate plus the lowest “local” rate for individual members, in order to avoid Constitutional issues regarding taxation of nonresidents; and the current corporate rate for members that are other entities. The PTE income will still be reported on the member’s personal tax return, and the member will reflect Maryland credits for the part of the PTE’s state plus local tax that relates to his share of the PTE’s income. For residents who live in localities with tax rates that are higher than the lowest rate, the rate that the PTE paid, the residents will be responsible for an additional amount so that their total tax is calculated at their actual rate. This approach will allow for proper reflection of the state and local tax amounts on the individual return, resulting in the same state revenue and local revenue as prior to this change.

Several other states have implemented laws for the same treatment of PTE taxes, e.g. Connecticut’s law was enacted in 2018. We hope that Maryland will do the same.

We ask that the Committee give SB523 a favorable report.

Thank you very much for the opportunity to offer these comments for your consideration. Whenever we can be of assistance, please contact MaryBeth Halpern at the MACPA office at [marybeth@macpa.org](mailto:marybeth@macpa.org) or (443) 632-2330.

Sincerely,



J. Thomas Hood, III, CPA  
CEO & Executive Director

cc: Nick Manis, Manis Canning & Associates



**MedChi\_Steve Wise\_FAV\_SB0523**

Uploaded by: Wise, Steve

Position: FAV

# MedChi

*The Maryland State Medical Society*

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TO: The Honorable Guy Guzzone, Chair  
Members, Senate Budget and Taxation Committee

FROM: J. Steven Wise  
Pamela Metz Kasemeyer  
Danna L. Kauffman  
Richard A. Tabuteau

DATE: February 12, 2020

RE: **SUPPORT** – Senate Bill 523 – *Income Tax – Pass-Through Entities – Imposition of Tax*

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The Maryland State Medical Society (MedChi), the largest physician organization in Maryland, **supports** Senate Bill 523.

The federal “Tax Cuts and Jobs Act of 2017” (TCJA) imposed a new \$10,000 limitation on the deductible amount of state and local taxes paid by an individual. Many physicians are small business owners, and this change results in individuals who are small business owners and paying more than \$10,000 per year in combination of state income tax, property tax and other related taxes having a federal income tax payment higher than in prior years when these taxes were fully deductible on the federal return.

The TCJA did not change the fact that state and local taxes paid by a business entity (e.g., partnerships, limited liability companies and S-corporations) are still fully deductible for the entity’s federal taxable income calculation. By clarifying that Section 10-102.1 of the Tax General Article of the Maryland Annotated Code is a tax on the pass-through entity, individuals who are small business owners, can take the position that the tax is not subject to the new \$10,000 limitation, which only applies to individuals, therefore essentially restoring the federal tax deduction.

For these reasons, MedChi supports Senate Bill 523.

**For more information call:**

J. Steven Wise  
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Richard A. Tabuteau  
410-244-7000