

Corporate taxes on the table

State panel will explore ways to hike revenue

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A state panel is weighing an overhaul of the Maryland's business tax system, including options that would limit tax-deductible income or bill companies even if they aren't profitable.

The Maryland Business Tax Reform Commission is examining one issue that the business community has seen before: combined reporting. That controversial measure aims to maximize the amount of income large companies with multiple subsidiaries have to count toward tax rates. Other options would tax businesses based on their revenue, as opposed to profit, or would set a minimum tax bill companies would be required to pay.

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regardless of when it happens, the state is looking at corporate taxes once again with an eye on the future. Meanwhile, the recession keeps causing state budget shortfalls to reappear. For businesses, any eventual tax changes could mean pinched margins or complicated new systems to learn.

The panel doesn't have the teeth to enact any new taxes, but its role is as an adviser to the General Assembly and it may recommend specific changes in a report not expected until December 2010. It was created in a 2007 special session in which the General Assembly also approved increasing the corporate income tax rate from 7 percent to 8.25 percent. That was part of a tax package that was expected to bring in \$1.7 billion in new revenue, but because of the recession, only helped soften the blow of revenue dips.

Corporations paid \$551 million in income taxes in fiscal year 2009. That made up about 4 percent of state revenue. That compares to \$846 million in corporate income taxes in fiscal year 2006. Declining revenue among nearly all categories of taxes forced hundreds of millions in emergency budget cuts, ultimately leaving the state in a \$348 million deficit below its forecasted fiscal 2009 budget. And that is expected to continue into fiscal 2010, which began July 1. Comptroller Peter Franchot was expected to announce a shortfall of up to \$300 million Sept. 17.

The tax options vary in how they would impact businesses, although they only apply to companies formed as C-Corporations — not S-Corporations, limited liability companies or partnerships, said Paul Wallace, a tax partner with Baltimore accounting firm Gross Mendelsohn. Examples of those subject to the tax include any public companies with large numbers of shareholders.

Combined reporting involves requiring Maryland companies with operations outside the state to change how they report income to the state. It's a so-called corporate loophole that allows companies to avoid reporting profit earned outside the state as income taxable in Maryland. When it was pitched in the 2007 special session, it was estimated to add \$56 million to corporate tax rolls in 2009. Those estimates were created before the recession hit, however.

Wallace said that combined reporting doesn't necessarily mean a higher tax bill for all companies — the impact depends on the profitability of the different segments of a business.

But companies such as McCormick and Co. vocally opposed combined reporting in 2007. As a result, Paul Nolan, a McCormick vice president, was named as a member of the commission. Other members come from the General Assembly, the Maryland Chamber of Commerce and the [Greater Baltimore Committee](#).

A gross receipts tax would differ from the current corporate income tax in that it would be calculated based on a firm's total revenue, not its profit. It's often considered a tax on the privilege to do business within the state. Andrew Schaufele, an analyst with the state Bureau of Revenue Estimates, told the commission at its Sept. 10 meeting.

It would create a more stable revenue stream being based on revenue, as compared to profit, Schaufele said. And it could carry a lower rate because it would have a broader base of payers. But it can also be unfair to businesses because it tends to add up to a rate higher than its nominal rate because it's applied multiple times on different levels of a company's production.

It's also especially hard on companies that have low profit margins, or ones that experience a year of unprofitability, said

Ron Wineholt, a lobbyist for the state chamber.

An alternative minimum tax sets a floor on the size of a company's tax bill. If a company's bill is below the floor, it pays the minimum. If it exceeds the floor, it pays a higher bill based on a complex formula, based on gross receipts or taxable income. But it receives a tax credit in future years in return, thereby not necessarily changing a company's long-term tax bill but accelerating revenue for the state.

Wineholt said a key priority for the chamber is ensuring that any changes to the state's tax policy don't discourage economic development and business growth. For example, the state's current tax law places the most emphasis on a company's sales, as opposed to its payroll and property, when calculating tax bills. That means companies aren't penalized for growing in the state.

Raymond S. Wacks, budget director for Howard County and chairman of the commission, said so far the commission has been looking at the issues "from 50,000 feet." In the coming year, it plans to look more deeply into the pros and cons with each option.

State lawmakers have said it's unlikely Gov. Martin O'Malley and the General Assembly will revisit taxes during that period, with an election on the horizon in November 2010. But Wacks said he is prepared to respond to any changes.

"We were created by the General Assembly, and we can be superseded by the General Assembly," Wacks said. "We're going to proceed with our work schedule as mandated in the legislation. If they want to work faster than that, we're more than happy to work with the General Assembly."

Greater Baltimore Committee CEO Donald C. Fry said he hopes lawmakers allow the commission to fulfill its purpose — carefully study the options outside of the hustle and bustle of the 90-day legislative session.





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Raymond S. Wacks oversees the state's business tax reform commission.