

NEXT FOR O'MALLEY: HALT 'LOOPHOLES'

Companies avoid millions in taxes, he says

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[SUN REPORTERS]

Climbing to the roof of a downtown Baltimore restaurant with a view of the city's skyline and inner-city neighborhoods, Gov. Martin O'Malley vowed yesterday to close corporate "loopholes" that he said allow large companies to avoid paying millions of dollars in state and local taxes each year.

"Businesses that benefit from our state's services must be willing to invest in those services with their tax dollars, so that everyone is paying their fair share," O'Malley said.

The Democratic governor said the state should close a "glaring loophole" that allows large corporations to avoid real estate recordation and transfer taxes — a levy typically equal to 2 percent of sale prices.

O'Malley climbed a ladder from the upper story of Gardel's restaurant to the roof, where he pointed to the Alex. Brown office building, which was sold last year but, because of the loophole, was not subject to transfer taxes. Philadelphia-based Resource America Inc. sold the 30-story tower last year for \$120 million and avoided paying \$2.4 million in city and state transfer and recordation fees.

"You know what it paid in transfer tax?" O'Malley said. "Not a single dime. If one of these houses around us had sold for \$200,000, that homeowner would have paid \$4,000 in the local transfer taxes. ... That's not fair, and that's not right."

Yesterday's news conference was the third this week that the governor has held to roll out more details of his blueprint to close a projected \$1.7 billion [Please see O'MALLEY, 5B]

shortfall in the state general fund budget that begins July 1 next year.

O'Malley has outlined plans to make the state income tax more progressive, increase the sales tax rate from 5 percent to 6 percent and extend it to more services and to reduce the state property tax rate by 3 cents per \$100 of assessed value over three years.

Business groups and Republican legislators rapped the governor's business tax proposals yesterday, saying that they would make Maryland less competitive in attracting and keeping jobs.

"It's totally irresponsible for the state to go off on these spending splurges and expect the public to accept it," said Senate Minority Leader David R. Brinkley, a Frederick County Republican.

Some corporations avoid paying transfer taxes by making their real estate part of a limited liability corporation. When the time comes to sell the building, they sell the LLC instead, thus avoiding the 0.5 percent levy that the state charges on property sales. Seventeen counties and Baltimore City levy a transfer tax on real property transactions, with the city and Baltimore County imposing a 1.5 percent tax.

The General Assembly has considered bills several times in recent years to close that loophole, but they have never succeeded.

House Speaker Michael E. Busch, an Anne Arundel County Democrat, has made prohibiting that practice a priority, but Senate President Thomas V. Mike Miller, a Southern Maryland Democrat, has not previously supported it.

However, Miller said recently

that he would shepherd such a bill through his chamber if it were part of a budget-balancing package that includes legalized slot machine gambling.

Groups, including the Maryland Chamber of Commerce, Maryland State Builders Association, and Maryland Association of Realtors, have opposed bills closing the loophole.

"It would make Maryland commercial real property less attractive as a business investment, and the bill has been in 12 times since 1990 and defeated 12 times because it is not a good tax policy," said Ronald W. Wineholt, the in-house lobbyist for the Maryland Chamber of Commerce.

Closing the loophole would be worth about \$14 million a year for the state, making it a relatively small part of O'Malley's efforts to balance the budget. Most of the money generated by the tax would go to local governments, about \$50 million a year.

But the measure could be politically important for O'Malley for two reasons: Not only does it contribute to the governor's effort to pitch his fiscal package as a plan to make state taxes fairer, but it also could help ease the pain of local leaders who could see their finances hurt by the state's budget-balancing.

O'Malley has said that he hopes to avoid making cuts in state aid to local governments — money that helps support schools, public safety and other popular programs but that has often been subject to reductions in tough fiscal times. But Miller, Busch and others have said local governments will have to feel some of



the pain. Giving local governments new revenue from the transfer tax could ease that burden.

Anne Arundel County Executive John R. Leopold, a Republican, said support for closing the corporate tax loopholes crosses party lines. He said closing the transfer tax loophole in particular would mean millions for Anne Arundel County that could prove crucial in its ability to maintain public services.

"My concern, of course, is that part of the budget-reduction package will ultimately include reductions in state aid to counties," Leopold said. "Any monies we can secure to counterbalance those cuts are welcome."

O'Malley — who was joined at yesterday's news conference by Mayor Sheila Dixon and two Democratic state senators representing the city, Verna L. Jones and Catherine E. Pugh — also called for the state to adopt "combined reporting," a tax law change aimed at preventing large companies doing business in Maryland from hiding profits in subsidiaries in other states.

In July, state Comptroller Peter Franchot released a report that said nearly half of Maryland's largest for-profit companies did not pay corporate income taxes in 2005.

Franchot has called for preventing large companies from using real estate investment trusts to move profits to states with low or no corporate taxes. The O'Malley administration estimates that by moving to "combined reporting," the state would receive an additional \$25 million per year in revenue, with three-fourths available for operating expenses and the remainder reserved for the Transportation Trust Fund. Some legislators believe that the annual fiscal impact could be much greater, perhaps \$100 million or more.

"We commend Governor O'Malley for shutting down the loopholes that giant, multistate corporations invent to evade Maryland taxes," said Progressive Maryland Director Sean Dobson. "Combined reporting restores a

level playing field to small Maryland companies that play by the rules, and it recoups lost revenue to fund health care expansion and public schools."

Wineholt, of the Maryland Chamber of Commerce, said the change would boost the tax bills of companies with operations in more than one state.

"Businesses that face the prospect of higher taxation under combined reporting would simply shift their jobs and investments to other states," he said. "You cannot build walls around the state's borders."

O'Malley's tax plans came in for a different round of criticism yesterday from Baltimore business leaders, who complained that he isn't increasing them enough. The **Greater Baltimore Committee** complained that the governor had not proposed an increase in the state's 23.5-cent-a-gallon gasoline tax to raise funds for transportation programs.

At a news conference at the Camden Yards Maryland Rail Commuter service train station, GBC President Donald C. Fry called for a 10-cent-a-gallon increase in the tax, which has not been raised since 1992.

O'Malley has said he wants to index the fuel levy to inflation, but otherwise proposed no increase despite previously hinting that he could support it. He supports an increase in the vehicle titling tax and the corporate income tax in an effort to raise an additional \$400 million a year for the Transportation Trust Fund.

Fry said O'Malley was setting the bar too low. The GBC chief said the administration should raise an additional \$600 million a year for transportation, which he called the business community's No. 1 priority.

The former Harford County state senator and delegate rejected the argument often raised by opponents of a tax increase that the price of gas is already too high. At the 33.5-cent level the GBC is proposing, state taxes would make up only one-eighth of the cost of a gallon of gas, Fry said. He said that after the tax was raised in 1992, taxes made

up more than one-fifth the cost.

"There's never a right time, there's never a right price," he said.

The transportation fund is used to fund highways and mass transit, as well as Baltimore-Washington International Thurgood Marshall Airport and the port of Baltimore. The GBC contends that O'Malley's plan does not raise enough money to address a \$40 billion backlog in capital spending projects.

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