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VAST MAJORITY OF LARGE MARYLAND CORPORATIONS ARE ALREADY SUBJECT TO "COMBINED REPORTING" IN OTHER STATES

Fears of Job Loss from Reducing Corporate Tax Avoidance Are Unwarranted

By Michael Mazerov and Mark Enriquez*

For the past several years, there has been serious discussion in Maryland of adopting an important reform in the state corporate income tax known as "combined reporting." The state legislature established the Maryland Business Tax Reform Commission in 2007 to study combined reporting and several other corporate tax policy issues, and it is expected to issue its final report by December 15, 2010. During the extended debate on this issue, some Maryland corporations and elected officials have expressed concern that the adoption of combined reporting could result in companies leaving the state or shunning Maryland for new investment. In fact, the vast majority of the largest multistate corporations with facilities and employees in Maryland subject themselves to combined reporting in the 23 *other* states that already mandate it.

At least 108 of the largest 120 multistate corporations doing business in Maryland also maintain a facility in at least one state that mandates combined reporting; those corporations therefore are already calculating income tax under combined reporting rules in other states. A majority of these corporations — 67 of the 120 — have facilities in fully *ten or more* combined reporting states.

Most large corporations consist of a parent corporation and its subsidiaries. Combined reporting effectively treats the parent and most or all of its subsidiaries as a single corporation for state income tax purposes. In doing so, combined reporting nullifies a wide array of tax-avoidance strategies large multistate corporations have devised to artificially move profits out of the states in which they are earned and onto the books of subsidiaries located in states that will tax the income at a lower rate — or not at all.[1] Maryland has lost substantial revenue due to these strategies. The absence of mandatory combined reporting has made it more difficult for the state to collect the revenue it is legally owed. The state was forced to litigate two cases all the way to the U.S. Supreme Court to shut down abusive tax shelters put in place by the Syms clothing store chain and manufacturer Crown Cork and Seal. If mandatory combined reporting had been in effect, these costly cases would have been unnecessary.

Some 16 states have mandated the use of combined reporting for at least two decades; seven more have put it into effect since 2004. Governor O'Malley recommended that Maryland adopt mandatory combined reporting as part of the revenue-raising package he put forth during the fall 2007 special legislative session, and the House of Delegates actually approved it at that time (HB 2).

* Research conducted by former CBPP intern Quinn Ryan contributed substantially to this report.

Representatives of some major multistate corporations doing business in Maryland have expressed opposition to combined reporting, suggesting that it will subject them to difficult and costly tax compliance burdens and possibly lead to job losses as major employers leave the state or reject it for future investments. Despite the growing number of states adopting this policy and the Governor's and the House of Delegates' previous endorsement, some current members of the legislature may be reluctant to mandate the use of combined reporting out of concern that it will adversely affect the state's economy.

This study presents compelling evidence that such concerns are unwarranted. It summarizes the results of a careful examination of the states in which the 120 largest Maryland employers potentially affected by combined reporting have facilities and therefore are clearly subject to the states' corporate income taxes.[2] As documented in Figure 1, the study finds that:

- At least 108 of the 120 largest Maryland employers examined maintain facilities in at least one combined reporting state or are a member of a corporate group that has a facility in at least one combined reporting state. The "compliance burdens" and tax liabilities arising from combined reporting cannot be that unreasonable if these companies — or the parent corporation that controls their decision-making — have willingly maintained a facility in one or more combined reporting states.

- The vast majority of the corporations examined maintain facilities in *multiple* combined reporting states. Three-fourths of them — 90 out of 120 — have facilities in five or more combined reporting states. More than half — 67 out of 120 — have facilities in ten or more such states, and more than one-fourth — 34 out of 120 — have facilities in 20 or more combined reporting states.

- Eighteen companies have facilities in *all 23* combined reporting states.

- Ninety-three have a facility in California, the state that pioneered combined reporting and — as any corporate tax manager will attest — enforces it most aggressively.

- Thirty-two of the companies maintain their *headquarters* in combined reporting states. These companies include Bechtel, Berkshire-Hathaway (parent of GEICO), Hewlett-Packard, Target, and Wells Fargo.

Taken together, these facts provide compelling evidence that Maryland's adoption of combined reporting would not lead these companies to remove facilities or shun the state as a location for future investments.

It would take considerable effort to determine *when* the facilities identified in this report were sited in combined reporting states, and such an investigation is beyond the scope of the study. However, given that 16 states have mandated the use of combined reporting for 20 years or longer, it seems reasonable to assume that many of these corporations sited their facilities in combined reporting states *after* the state adopted this policy. It also seems reasonable to assume that many of these same facilities have been expanded and/or modernized multiple times since the initial siting decision was made. In other words, not only have 108 of the 120 companies chosen not to abandon the long-time combined reporting states, it seems likely that many or most of them have chosen to locate or expand in such states fully cognizant of the fact that the state had implemented this policy. If this is

FIGURE 1

Most Large Maryland Employers Are Already Subject to Combined Reporting in Other States

Maryland Employer [Parent Corp.]	AK	AZ	CA	CO	HI	ID	IL	KS	ME	MA	MI	MN	MT	NE	NH	NY	ND	OR	TX	UT	VT	WV	WI	#	HQ
AAI Corp [Textron]																								14	
Abacus Corporation																								4	
ADF Pizza																								2	
Administaff Companies																								9	TX
Admiral Security																								0	
Aerotek, Inc. [Allegis]																								18	
Allen Family Foods Inc																								0	
Allied Barton Security [Blackstone}																								16	
Alpha NYPEO Inc [Selective Ins Grp]																								1	
Arbitron, Inc.																								4	
BAE Systems																								14	
Bank of America																								23	
Barrett Business Services																								6	
BB&T Bank																								11	
Bechtel Power Corp																								15	CA
Becton Dickinson Corp																								9	
Best Buy																								23	MN
BGE [Constellation]																								5	
BJ's Wholesale Club																								3	MA
Black & Decker Corp [Stanley]																								7	
Bob Evans Restaurants																								11	
Booz Allen Hamilton																								13	
Broadway Services																								0	
C& S Wholesale Grocers																								6	NH
Carmax																								9	
Cheesecake Factory																								15	CA
Chevy Chase Bank [Now DBA Capital One]																								3	
Citigroup																								19	NY
Coca Cola Enterprises Inc. [CCE]																								16	
Comcast Corp																								18	
Computer Sciences Corp																								17	
Costco																								20	
CVS																								21	
DARCARS of Rockville																								0	
Darden Restaurants																								22	
Discovery Channel																								5	
Dollar Tree																								21	
DynCorp International Inc.																								8	
FedEx																								23	
First Data Merchant Svcs Corp. [KKR]																								14	NY
Food Lion LLC [Delhaize]																								1	

FIGURE 1 Continued

Most Large Maryland Employers Are Already Subject to Combined Reporting in Other States

Maryland Employer [Parent Corp.]	AK	AZ	CA	CO	HI	ID	IL	KS	ME	MA	MI	MN	MT	NE	NH	NY	ND	OR	TX	UT	VT	WV	WI	#	HQ
Food-A-Rama																								0	
Gaylord National Resort & Conv. Ctr																			■					1	
GEICO [Berkshire Hathaway]	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	23	NE
General Dynamics Information	■	■	■	■	■	■	■	■	■	■	■	■		■	■				■	■	■		■	18	
Genesis HealthCare									■	■					■						■	■		5	
Giant Food/Martin's [Royal Ahold]							■			■					■	■						■	■	6	
H&R Block	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	23	
Hair Cuttery							■			■					■								■	4	
Heartland Empl Svcs [Manor Care]		■	■	■			■	■			■	■					■		■	■		■	■	12	
Hewlett Packard Co.	■	■	■	■		■	■	■	■	■	■	■		■	■	■		■	■	■	■	■	■	20	CA
Home Depot	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	23	
Honeywell Technology Solutions	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	23	
Hughes Network Systems Inc.			■				■				■								■	■				5	
Inovis USA [GXS]			■								■								■					3	
International Business Machines (IBM)		■	■	■			■					■				■		■	■		■			9	NY
J C Penney	■	■	■	■		■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	22	TX
Kelly Services Inc.	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	23	MI
KFC/Pizza Hut [Yum Brands]			■																■		■			3	
Kmart/Sears	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	23	IL
Kohl's	■	■	■	■		■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	22	WI
L-3 Services/Titan	■	■	■	■	■	■	■	■		■	■		■	■	■	■	■	■	■	■	■			19	NY
Lockheed Martin	■	■	■	■	■		■	■		■	■	■				■		■	■	■		■	■	16	
Lowe's	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	23	
M&T Bank		■														■		■			■	■		5	NY
Mack Trucks [Volvo]			■				■												■					3	
Macy's		■	■	■	■	■	■	■	■	■	■	■	■		■	■	■	■	■	■	■	■	■	21	NY
Marriott		■	■	■	■		■	■	■	■	■	■		■	■	■		■	■	■		■	■	18	
Mars Super Markets Inc																								0	
Marshalls [TJX Co.-s]			■	■		■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	20	MA
Maxim Healthcare	■	■	■	■			■	■	■	■	■	■		■	■	■		■	■	■		■	■	18	
McCormick & Co. Inc.		■	■																■					3	
McDonald's	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	23	IL
Medimmune Inc. [AstraZeneca]		■	■				■			■						■								5	
MI Acquisition Corporation																								0	
Millenium Health and Rehab Ctrs																								0	
MV Contract Transportation	■	■	■	■			■	■		■	■					■		■	■	■			■	13	CA
Nordstrom	■	■	■	■	■		■	■			■	■				■		■	■	■				13	
Northrop Grumman Corp.	■	■	■	■	■		■	■		■	■	■		■	■	■	■	■	■	■		■		18	
OS Restaurant Services, Inc		■	■	■	■		■	■	■	■	■	■	■	■	■	■			■	■	■	■	■	19	
Panera Bread Co		■	■	■			■	■		■	■	■		■		■		■	■					12	
Perdue Farms Inc.																								0	

FIGURE 1 Continued

Most Large Maryland Employers Are Already Subject to Combined Reporting in Other States

Maryland Employer [Parent Corp.]	AK	AZ	CA	CO	HI	ID	IL	KS	ME	MA	MI	MN	MT	NE	NH	NY	ND	OR	TX	UT	VT	WV	WI	#	HQ
Petsmart		■	■	■		■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	21	AZ
PNC Bank		■	■				■	■			■		■			■		■	■				■	10	
Quest Diagnostics	■	■	■	■		■	■	■	■	■	■	■	■	■	■	■		■	■	■	■	■	■	21	
Ranstad US	■	■	■	■			■			■	■	■			■	■		■	■				■	13	
Riderwood/Oak Crest/Charlestown [Erickson]				■			■	■		■	■								■					6	
Rite Aid			■	■		■			■	■	■				■	■		■		■	■	■		12	
Royal Farms Stores																								0	
Ruby Tuesday		■	■							■	■				■	■			■			■	■	9	
Safeway	■	■	■	■	■		■				■		■					■	■					10	CA
Science Applications Int'l Corp. (SAIC)	■	■	■	■	■	■	■	■		■	■	■	■	■	■	■		■	■	■		■	■	21	
SDH Services East LLC [Sodexo]	■	■	■	■	■		■	■		■	■	■	■	■	■	■	■	■	■	■	■	■	■	21	
Securitas Security Services	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■		■	■	■		■	■	21	
Severstal Sparrows Point								■			■	■							■			■		5	
Shoppers Food Whs [SuperValu]		■	■	■		■	■	■	■	■	■	■	■		■	■	■	■	■	■	■	■	■	20	MN
Solo Cup Operating Corp.			■			■	■			■									■					5	IL
Southern Management Corp																								0	
Southwest Airlines Co.		■	■	■		■	■			■	■	■		■	■	■		■	■	■			■	15	TX
Staples		■	■	■		■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	21	MA
Starbucks	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	23	
SunTrust		■						■							■	■			■			■		6	
Super Fresh [A&P]										■						■								2	
T. Rowe Price Associates, Inc.			■	■			■			■						■								5	
Target	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	23	MN
Toys "R" Us	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	23	
Under Armour				■																				1	
United Healthcare Management Corp.		■	■	■	■	■	■	■	■	■	■	■		■	■	■		■	■	■			■	18	MN
United Parcel Service	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	23	
Verizon/Wireless [DBA Cellco Ptnp]	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	23	NY
W L Gore & Associates Inc.		■	■																					2	
W R Grace & Co.		■	■				■	■		■						■			■	■			■	9	
Wal-Mart/Sam's Club	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	23	
Wawa																								0	
Weis Markets																■						■		2	
Wells Fargo/Wachovia	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	23	CA
Wendy's		■	■	■	■		■	■	■	■	■	■			■	■		■	■	■		■	■	17	
Westat Research Inc.			■																■					2	
Whiting-Turner Contracting			■	■						■						■			■					5	
Whole Foods Market		■	■	■	■		■	■	■	■	■	■		■		■		■	■	■			■	16	TX

true, it provides further evidence that Maryland would not be harming its economic prospects by enacting this important corporate income tax reform.

Combined Reporting and State Economic Development: Additional Evidence

There is no denying the fact that some large multistate corporations oppose combined reporting. Combined reporting is likely to result in increased corporate income tax payments for corporations that have put aggressive tax shelters in place. Its enactment also sharply limits the ability of large corporations to avoid a state's income tax going forward.

The question, however, is whether the dislike that some multistate corporations harbor toward combined reporting will actually result in harm to the economy of a state that adopts it. Would its adoption by Maryland cause existing corporations to leave the state or reject it as a location for future investments? Would corporations not presently doing business in Maryland be dissuaded from doing so by combined reporting?

The data on the facility location decisions of major Maryland employers discussed above provide significant evidence that the answer to both questions is "no." This conclusion is supported by the job-creation track record of the combined reporting states and by academic studies as well.

Combined reporting states are well-represented among the most economically-successful states in the country. Between 1990 and 2007 (the period spanning the last two U.S. business cycles, measured peak to peak), only eight states that levy corporate income taxes managed to achieve net positive growth in manufacturing employment. Seven of those eight states — Arizona, Idaho, Kansas, Montana, Nebraska, North Dakota, and Utah — had combined reporting in effect throughout the 1990-2007 period.[3] (See Table 1 to the right.) The apparent absence of a negative effect on manufacturing is particularly telling, because manufacturers often are more able than service businesses to move away from their customers in response to what they view as adverse tax policies.

Table 1

7 of 8 States with Net Job Gains Had Combined Reporting (CR) in Effect

Manufacturing Job Change, 1990-2007

North Dakota (CR)	**67.3%**
Idaho (CR)	**26.0**
Utah (CR)	**23.8**
Montana (CR)	**5.1**
Iowa	4.9
Kansas (CR)	**4.8**
Nebraska (CR)	**4.2**
Arizona (CR)	**2.9**
Oregon (CR)	**0.0**
Minnesota (CR)	**0.0**
Texas	-1.4
New Mexico	-2.6
Oklahoma	-3.3
Wisconsin	-4.1
Kentucky	-6.2
Alaska (CR)	**-6.4**
Indiana	-9.2
Louisiana	-10.9
Arkansas	-13.1
Colorado (CR)	**-13.6**
Vermont	-15.9
Georgia	-17.5
Alabama (Median State)	-18.6
New Hampshire (CR)	**-21.2**
Florida	-21.5
Missouri	-23.4
Tennessee	-23.6
California (CR)	**-25.5**
Hawaii (CR)	**-26.1**
Illinois (CR)	**-26.2**
Michigan	-26.2
Ohio	-27.2
Delaware	-27.5
West Virginia	-28.0
South Carolina	-28.1
Virginia	-28.3
Pennsylvania	-30.6
Maryland	-33.5
North Carolina	-34.6
Maine (CR)	**-36.1**
Connecticut	-36.6
Massachusetts	-38.6
New Jersey	-41.2
New York	-43.8
Rhode Island	-46.7

It may seem illogical to acknowledge that some multistate corporations oppose combined reporting yet argue it has no significant impact on where they choose to locate. The apparent contradiction can be easily reconciled, however. All state and local taxes paid by corporations represent less than 2.5 percent of their total expenses on average, and the state corporate income tax represents on average less than 10 percent of that amount — or less than one-quarter of 1 percent of total costs.[4] A state's decision to adopt combined reporting increases that small corporate tax load only modestly.[5] The potential influence on corporate location decisions of state corporate tax policies is simply overwhelmed in most cases by interstate differences in labor, energy, and transportation costs, which make up a much greater share of corporate costs than state corporate income taxes do and often vary more among the states than effective rates of corporate taxation. It comes as no surprise, then, that a study by economists Robert Tannenwald and George Plesko, which measured interstate differences in *overall* state and local tax costs for corporations in a particularly rigorous way, found that there was not a statistically significant (inverse) correlation between those costs and state success in attracting business investment.[6] In other words, higher state and local business taxes did not impede business investment.

Helping Small Businesses

Opponents of combined reporting also ignore potential *benefits* of this policy. Small (often family-owned) corporations doing most or all of their business in the state in which they are located generally do not have the resources to set up "Delaware Holding Companies," "captive REITs," and other tax shelters that exploit the absence of combined reporting in the state.[7] But their large, multistate corporate competitors do. By nullifying the corporate tax savings from aggressive tax-avoidance, combined reporting could benefit Maryland's economy by preventing large out-of-state corporations from under-pricing the state's small businesses or attracting investment capital at a lower cost — thereby letting economic efficiency and not tax planning determine which businesses succeed in the marketplace. Perhaps this phenomenon explains in part why a recent study financed by the federal Small Business Administration found that: "States with more aggressive corporate income taxes, specifically including combined reporting . . . tend to have higher entrepreneurship rates."[8]

Maintaining Services Businesses Need

Finally, the enactment of combined reporting could benefit Maryland's economy by preserving the long-term viability of the corporate income tax. This revenue source makes an important contribution to the ability of the state to finance education, transportation infrastructure, public safety, health care, and other vital services. Businesses need these services to provide a productive, well-trained workforce, to protect their facilities, and to ensure that they can obtain their supplies and transport their products to their customers expeditiously. Numerous economic studies confirm that the quality of these services in particular locations has a significant impact on where businesses choose to invest.[9] Failing to mandate combined reporting could harm the state's economy by allowing the erosion of the state's corporate tax base to continue, squeezing the ability of the state to furnish services that the private sector needs.

Conclusion

Combined reporting is a key tax policy choice needed to ensure that multistate corporations pay their fair share of Maryland income taxes, just as small Maryland businesses must do. Other approaches to nullifying income-shifting, such as asserting taxing jurisdiction over the out-of-state corporation receiving the income or disallowing deductions for royalties paid to out-of-state companies (one method of income-shifting), are controversial and also remain vulnerable to legal challenge because they have never been upheld by the U.S. Supreme Court. In contrast, the legality of combined reporting has twice been upheld by the Court, which found that it is a reasonable and fair strategy for taxing multistate corporations.

This report has presented compelling, Maryland-specific evidence refuting a key objection to mandatory combined reporting — that its enactment will harm the state's economic prospects. However much they may object rhetorically to combined reporting, the vast majority of the state's major employers have willingly submitted and adapted to combined reporting-based income taxes in other states, often in *numerous* other states. Maryland policymakers can confidently join those in a growing number of states that are enacting this critical corporate income tax reform without worry about negative impacts on the state economy.

Appendix: Data Sources

The 120 businesses whose facility locations were investigated for this report were culled from a list of the largest employers in Maryland published annually by the Maryland Department of Labor, Licensing and Regulation.[10] Any *for-profit* business that appeared on either the March 2009 or the March 2010 list was included. Also included were several other corporations identified as among the 150 largest in the state as of 2008 in an October 2010 letter from the Comptroller's office to Maryland State Senator Paul Pinsky.[11]

The two principal sources of information used to identify the states in which the 120 companies studied have facilities were the annual "10-K" reports filed by publicly traded corporations with the Securities and Exchange Commission and the companies' own websites. Every 10-K has a section titled "Properties" in which the corporation describes its major facilities. Although this section sometimes contains a generic description, in the majority of cases specific states are named.

10-K information was supplemented by an examination of company websites. Many companies have a section of their websites listing their locations. For those companies that did not have such a page, it was sometimes possible to use the web pages aimed at assisting prospective employees in finding job openings. Companies often list *all* of their locations on the job vacancy sections of their websites; where they did not, states were included in Figure 1 only if there was a job listing for that state. However, job listings for sales jobs were disregarded because the presence of a corporation's sales personnel in a state does not automatically establish corporate income tax liability for the company as a result of federal Public Law 86-272.

The data presented in this report on the number of states in which Maryland companies and their corporate parents maintain facilities should be viewed as the minimum number of combined reporting states in which they are taxable. States were counted only if it was possible to gather written evidence authored by the company itself that it had a facility in a specific combined reporting state. It is quite possible that the information obtained was incomplete and that the company is subject to corporate income tax in other combined reporting states. For example, one company, Yum Brands, is the franchisor of the Pizza Hut and Kentucky Fried Chicken fast-food chains. In addition to franchising restaurants, it owns many of them directly — which would clearly subject it to corporate income taxation in the states in which they are located. However, because Yum Brands' Form 10-K did not identify those states, it is listed in Figure 1 as having a taxable presence in only three combined reporting states when in reality it is likely subject to a corporate income tax in all 23 combined reporting states. Likewise, it proved impossible to identify one corporation in the list, "M I Acquisition Corporation." The company appears to be a subsidiary of a nursing home chain, possibly one of the others doing business in Maryland and identified in Figure 1. Because no specific information could be obtained, however, it is listed as having no facilities in other combined reporting states.

Finally, it is possible that some of the companies listed in this report are not subject to the Maryland corporate income tax— and would not therefore be affected by the state's adoption of mandatory combined reporting — because they are structured as Limited Liability Companies or have elected to be treated as tax-exempt Subchapter S corporations.

Notes

[1] See: Michael Mazerov, "State Corporate Tax Shelters and the Need for 'Combined Reporting'," Center on Budget and Policy Priorities, October 26, 2007, www.cbpp.org/10-26-07sfp.pdf.

[2] As discussed in the Appendix, some of the locations attributed to companies in this report were based solely on information about job openings posted on corporate websites. In limited circumstances (for example, defense contractor personnel working on military bases), it is possible that the corporation does not own or lease its own building. Nonetheless, the presence of non-sales personnel in the state would subject the corporation to income taxation in that state even in the absence of any company-owned or leased property. In the interest of readability, and because the vast majority of corporate locations identified in this report were confirmed as physical facilities, this report will refer to "facilities" even though in some instances the location might only consist of employees.

A federal law, Public Law 86-272, bars states from imposing their corporate income taxes on corporations whose only presence in a state consists of solicitation of orders for goods by salespeople who work out of their homes or visit from out of state. Accordingly, any job opening whose title even vaguely suggested that the position was sales-related was not used to attribute a taxable presence of the corporation to that state.

[3] Table 1 also indicates that the ninth and tenth best-performing states in manufacturing job growth were also both combined reporting states. Minnesota had the exact same number of manufacturing jobs in 2007 as it had had in 1990; Oregon had a net loss of approximately 100 manufacturing jobs in the same period which in percentage terms rounded down to zero. Table 1 also shows that there were 11 combined reporting states that had better manufacturing job performance than the median state, Alabama, and only 5 combined reporting states that had steeper manufacturing job declines than Alabama.

[4] According to data published by the Internal Revenue Service, corporations deducted $473 billion in federal, state, and local taxes on their 2005 federal tax returns. This amount represented 2.0 percent of total expense deductions of $23.6 trillion. (The data are available at www.irs.gov/pub/irs-soi/05sb1ai.xls.) Since corporations have a strong financial incentive to deduct from their otherwise taxable profit every state and local tax payment for which they are liable, IRS statistics arguably are the most accurate source of information concerning state and local taxes incurred by corporations.

The Council on State Taxation (COST), an organization representing major multistate corporations on state tax matters, has taken issue with using IRS data to evaluate the relative importance of state and local tax costs in influencing corporate location decisions. (See: Joseph R. Crosby, "Just How 'Big' Are State and Local Business Taxes?" *State Tax Notes*, June 20, 2005, pp. 933-935.) Crosby correctly notes that the line-item for taxes deducted on federal returns omits a major category of state and local taxes paid by businesses — sales taxes paid on equipment and supply purchases. (Such taxes are hidden in other expense line-items in the IRS data.) However, as noted above, the line-item also includes a number of *federal* taxes paid by corporations that are deductible on federal returns — such as the federal telecommunications excise tax and unemployment compensation taxes for some corporate employees. If one were to add a reasonable estimate of the omitted state and local sales taxes and subtract a reasonable estimate of the inappropriately-included federal taxes, the resulting estimate for total state and local taxes incurred by corporations might not differ significantly from the $473 billion IRS figure for total deducted taxes.

In fact, COST has commissioned its own estimate of the total amount of state and local taxes paid by businesses. The figure for state fiscal year 2006 is $553.7 billion. (See: Robert Cline, Tom Neubig, and Andrew Phillips (Ernst & Young LLP), "Total State and Local Business Taxes, 50-State Estimates for Fiscal Year 2006," February 2007; available at www.statetax.org/WorkArea/DownloadAsset.aspx?id=67460.) This figure represents the estimated taxes paid by all businesses, not just corporations. But even if one assumed that all of these costs were incurred by corporations and substituted this figure for the IRS data for taxes deducted, it still results in an estimate that state and local taxes represent 2.3 percent of total corporate expenses (of $23.6 trillion) — not significantly different from the 2.0 percent figure arrived at using only the IRS data.

More importantly, COST also takes issue with the use of the $23.6 trillion IRS figure for total corporate expenses used in the denominator. COST argues that the relevant analysis is an examination of the share of total final economic output produced by private businesses that is absorbed by state and local taxes paid by such businesses. COST asserts that using the $23.6 trillion of corporate expenses is inappropriate because that figure includes multiple sales of the same item from (for example) a manufacturer to a wholesaler and then from the wholesaler to a retailer. In contrast, using total U.S. gross state product produced in the private sector (otherwise known as private sector "value-added") measures the value only of final production.

COST's preferred denominator of gross state product produced by private businesses might be appropriate for evaluating the total "burden" of state and local business taxes on final production in the economy. It is inferior, however, in evaluating the issue under discussion here — the role played by state and local corporate tax costs in influencing corporate location decisions as compared to the role played by other corporate expenses for labor, energy, and transportation. For each actor in the supply chain described above (manufacturer, wholesaler, retailer), the influence of state and local tax expenses on its location decisions is determined in relation to the other expenses incurred in its business that also vary among locations. How many times its inputs may have been resold prior to its purchase of them and how many times its outputs may be resold prior to reaching their final purchasers is irrelevant in influencing its location decisions. What is true for the individual economic actors is true for the supply chain as a whole. Thus, the relative importance of state and local taxes in influencing corporate location decisions in the overall economy is best illustrated by looking at those expenses as a share of total corporate expenses, not the total value of final corporate production or value-added.

In sum, it is entirely reasonable to argue that state and local taxes have a relatively minor impact on corporate location decisions because they constitute only 2.3 percent or less of total corporate expenses and their potential influence is overwhelmed by interstate differences in labor, energy, transportation, and other costs of production, which account for almost 98 percent of total corporate production expenses.

[5] The legislation creating the Maryland Business Tax Reform Commission required corporations to file hypothetical or "pro forma" corporate tax returns based on the assumption that combined reporting had been in effect. The Office of the Comptroller has compiled those returns and compared them to the actual tax liability of the corporations for the same years; it concluded that had combined reporting been in effect in 2006, corporate tax liability would have increased either 17 percent or 23 percent, depending upon which of two approaches to combined reporting ("Finnigan" or "Joyce") had been implemented. The comparable figures for tax year 2007 were 13 percent and 20 percent, respectively. See: Letter from David Roose to Governor O'Malley, Senate President Miller, and Speaker Bush, March 2, 2010; www.marylandtaxes.com/finances/revenue/reports/combined/ CR_TY2006_RevisedAnalysis-TY2007_InitialAnalysis.pdf . (The percentage changes for tax year 2006 were calculated based on previously-supplied information that tax year 2006 corporate tax collections totaled $868 million; see: www.marylandtaxes.com/finances/revenue/reports/combined/CR_TY2006_InitialAnalysis.pdf.)

[6] George A. Plesko and Robert Tannenwald, "Measuring the Incentive Effects of State Tax Policies Toward Capital Investment," Federal Reserve Bank of Boston Working Paper 01-4, December 3, 2001.

[7] For a detailed description of some of the tax-avoidance strategies to which non-combined reporting states are most vulnerable, see the source cited in Note 1.

[8] Donald Bruce and John Deskins, "State Tax Policy and Entrepreneurial Activity," November 2006. Available at www.sba.gov/advo/research/rs284tot.pdf.

[9] For a recent comprehensive survey of this literature, see: Jeffrey Thompson, "Prioritizing Approaches to Economic Development in New England: Skills, Infrastructure, and Tax Incentives," Political Economy Research Institute, University of Massachusetts at Amherst, August 2010 (http://www.peri.umass.edu/fileadmin/pdf/published_study/priorities_September7_PERI.pdf).

[10] See: http://www.dllr.state.md.us/lmi/emplists/maryland.shtml. As discussed in Note 2, in a few instances it is possible that the corporation only has employees in a state and does not own or lease a building.

[11] See: http://senatorpinsky.org/site/files/2008_corp_tax_data.pdf.