



March 11, 2020

The Honorable Anne Kaiser  
Chair, Ways and Means Committee  
Maryland General Assembly  
House Office Building, Room 131  
6 Bladen St., Annapolis, MD 21401

The Honorable Guy J. Guzzone  
Chair, Budget & Taxation Committee  
Maryland State Senate  
Miller Senate Office Building, 3 West Wing  
11 Bladen St., Annapolis, MD 21401

**Re: Opposition to Carried Interest Tax Increase Legislation (House Bill 439 and Senate Bill 216)**

Dear Chair Kaiser and Chair Guzzone:

On behalf of the American Investment Council (“AIC”), I am writing to respectfully oppose HB 439 (Del. Mosby) and SB 216 (Sen. Pinsky). This legislation represents a massive discriminatory tax increase that will drive financial services businesses and their high-paying jobs out of Maryland. It will also discourage risk capital that fuels many leading industries in the state.

The AIC is an advocacy, communications, and research organization established to advance access to capital, job creation, retirement security, innovation, and economic growth by promoting responsible long-term investment. Our members are the world’s leading private equity and growth capital firms united by their commitment to growing and strengthening the businesses in which they invest. If this misguided legislative proposal is enacted, it will dramatically impede private equity and venture capital from investing in Maryland jobs, industries, and workers. It will also harm the businesses that Maryland’s universities and colleges are incubating.

Specifically, this legislation will add a 17% surtax on top of the current state income tax for carried interest capital gains. Without even including various local add-on taxes, this legislation will result in a 22.75% state income tax rate on carried interest in Maryland – a tax rate borne by no other category of income earned by any Maryland worker. This legislation is a punitive tax against returns on long-term investments made by private equity and venture capital. Carried interest capital gains are realized only by those investment partners who succeed in delivering substantial returns to their limited partner investors, who include state pension funds. It does not warrant punitive and discriminatory treatment. Under Maryland law, carried interest capital gains is already taxed at the same rates as ordinary income. Moreover, this legislation would also apply the 17% surtax to management fee income and other “investment management services” income that are already taxed as ordinary income at the federal and state levels. When considering federal and state taxes together, without even including various local add-on taxes, the proposed tax increase would drive rates on that income higher than 60%.

Maryland benefits enormously by having significant private equity and venture capital firms headquartered in the state and also through private equity and venture capital investments throughout the state. From 2013 to 2018, private equity invested nearly \$50 billion to help grow and strengthen 490 Maryland businesses and employ 148,000.<sup>1</sup> In 2018 alone, private equity provided \$10 billion in wages & benefits to Maryland constituents and \$17 billion in value added to the Maryland economy.<sup>2</sup>

Notably, Maryland pensions also benefit from private equity. With 192,000 members, Maryland State Retirement and Pension System has \$54 billion in assets under management and \$7.6 billion invested in private equity. Private equity is the top performing asset for Maryland's pension, net of fees and carried interest.<sup>3</sup> As noted by Andrew C. Palmer, Chief Investment Officer for the pension, "The System's returns reflect strong performance of private equity assets and nominal fixed income assets along with positive but more modest returns in the remainder of the asset classes. Private equity provided 13.7%, net of all fees and expenses and continues to be the best performing asset class for the System." This investment in private equity is particularly important to the System given the aggregate portfolio returned only 6.46% percent, net of fees, on all investments for the 2019 FY despite the System's 7.45% assumed actuarial return rate.<sup>4</sup>

This legislation will put private equity funds, venture capital funds, hedge funds, and other investors in Maryland at a competitive disadvantage with their out-of-state rivals and these in-state firms will be forced to leave in order to remain competitive. If passed, Maryland will be uncompetitive with New York, California, Nevada, Texas, and other states in the battle for top-quality investment talent. Maryland investment firms have been an integral part of Maryland's economic success. However, these firms and their managers do not have to be located in Maryland, nor do they have to invest in Maryland businesses.

Tech sector hubs like Seattle, Washington and Austin, Texas have no income tax. The consequences of this legislation are that Maryland-based funds will suffer under this measure making these firms unable to compete with firms based outside the state. A significant number of financial services businesses – and their high-paying jobs – will

---

<sup>1</sup> <https://www.investmentcouncil.org/private-equity-at-work/in-your-state/#maryland>

<sup>2</sup> See EY's Economic Contribution of the US Private Equity Sector in 2018 Study, Table 3, *available at* <https://thisisprivateequity.com/>

<sup>3</sup> <https://sra.maryland.gov/sites/main/files/file-attachments/2019-srps-cafr-web.pdf?1579628546>

<sup>4</sup> <https://sra.maryland.gov/post/maryland-state-retirement-pension-system-earns-646-investments-fy-2019>

leave Maryland. This will shrink the tax base, produce less growth and revenue, and threaten Maryland's tech and bio-tech sectors.

Finally, we believe strongly that not only would Maryland not receive the estimated \$45 million per year in additional revenue the proponents of the bill predict, but also the state and localities will lose much if not all of the substantial \$1.1 billion per year in tax revenue those individuals and firms are now paying.<sup>5</sup>

The AIC submits that it is counter-productive for Maryland to impose a punitive tax on carried interest and other investment management services income and we urge you to reject HB 439 and SB 216.

Respectfully submitted,



Jason Mulvihill  
Chief Operating Officer & General Counsel  
American Investment Council

cc: Members of the Maryland State Assembly, State Senate, and Governor Larry Hogan

---

<sup>5</sup> See EY's Economic Contribution of the US Private Equity Sector in 2018 Study, Table 6, *available at* <https://thisisprivateequity.com/>