



**Peter Franchot**  
*Comptroller*

**David Roose**  
*Director*  
*Bureau of Revenue Estimates*

March 1, 2012

Honorable Martin O'Malley  
Governor of Maryland  
State House  
Annapolis, Maryland 21404

Honorable Thomas V. "Mike" Miller, Jr.  
President of the Senate  
State House  
Annapolis, Maryland 21404

Honorable Michael E. Busch  
Speaker of the House  
State House  
Annapolis, Maryland 21404

Dear Governor, President and Speaker:

This report is the fourth in a series of five annual reports required by Chapter 3 of the 2007 Special Session of the General Assembly, as modified by Chapter 177 of the 2008 Session, on Maryland's corporate income tax and the revenue effects of possible corporate income tax changes. Included in this report is the initial estimate of the impact of combined reporting for tax year 2009, as well as estimates for two other possible corporate income tax changes.

The estimates for the revenue changes from combined reporting are subject to the same caveats contained in the October 1, 2009 report from the Comptroller:

- these are estimates of the revenue impact for tax year 2009 only, not for future years;
- certain assumptions were made regarding the structure and details of the combined reporting—different assumptions could lead to different results; and
- it is assumed that the introduction of combined reporting would not have affected taxpayer behavior.

Tax year 2009 reports show that under the Joyce method of apportionment, corporate income tax revenues would have been \$80.7 million lower than they actually were. Under Finnigan, revenues would have been \$56.1 million lower. The tax liability of corporate groups in the finance and insurance, manufacturing, and utility industries would have been almost \$75 million lower under Joyce, while the retail and wholesale trade industries and accommodation and food services industries would have paid about \$17.3 million more in tax. The attached tables provide detail by both size of corporate group and by industry for tax year 2009.

Letter to Honorable Martin O'Malley  
Thomas V. "Mike" Miller, Jr., and  
Michael E. Busch  
March 1, 2012  
Page 2

The number of responses to the corporate reporting requirements has fallen about 25% from tax year 2008 to 2009. While it is the case that corporate groups have merged, stopped doing business in Maryland through any entity, or gone out of business, the drop in responses appears to be much greater than can be explained by those circumstances. A thorough analysis of those corporate groups reporting for both tax year 2008 and 2009 along with those who reported for tax year 2008 only supports the finding of a second consecutive year of revenue losses from combined reporting relative to separate entity reporting.

The gross receipts of those groups that filed a report for 2008 but not 2009 were 18% of total receipts; for tax year 2008 they showed a net increase of \$5.8 million under Joyce, out of a \$53.9 million loss overall. For those groups filing a report in both years, the revenue loss under Joyce was \$59.8 million in tax year 2008, increasing to \$84.5 million in tax year 2009. Corporate profits increased 9% in 2009 after the largest two-year decline on record; it appears that part of the reason for a larger loss in 2009 is just that—increasing profits of separate entities in Maryland provided a larger base for losses of other members of the group to offset, whether the members had nexus with Maryland or not. To the extent these other members do have nexus, this largely represents an acceleration of recognition of the losses.

The corporate information reporting also allows the estimation of two other potential changes to the corporate income tax—adoption of the throwback rule and 100% allocation of nonoperational income to Maryland. Corporate income is typically apportioned to the states in which a corporation does business, as measured by some combination of receipts, property and payroll. However, income can be earned in states in which a corporation does not have nexus (generally a state in which sales are made but in which the corporation has no payroll or property), and which is therefore not taxed by that state. The throwback rule brings this "nowhere income" back to the state in which the goods were produced or from which they were shipped.

The tax year 2009 corporate reporting data indicate that 138 entities would have had \$3.0 billion of income from sales made into states in which they do not have nexus thrown back to Maryland. After apportioning that income and accounting for losses, corporate income tax revenues would have been \$96.5 million higher, with 114 entities paying higher tax. If sales to the federal government were also thrown back to Maryland, an additional \$5.3 billion would have been thrown back, and corporate income tax revenues would have increased a further \$49.4 million. The actual revenue increase had the throwback rule been in effect would have been greater, barring behavioral changes, as single-entity corporations and non-corporate entities were exempt from these reporting requirements.

Generally, income from the regular course of business is apportionable. Certain non-business income, however, is only taxable by the state in which the income-producing assets are managed, usually the state of domicile. This income cannot be taxed by other states. Maryland law, however, apportions away much of this type of non-business income which no other state has the authority to tax. If 100% of nonoperational income were allocated to Maryland, corporate income tax revenues would have increased at least \$14.3 million.

Letter to Honorable Martin O'Malley  
Thomas V. "Mike" Miller, Jr., and  
Michael E. Busch  
March 1, 2012  
Page 3

Again, this increase is probably understated due to the fact that single-entity corporations and non-corporate entities did not fall under these reporting requirements. As nonoperational income results from extraordinary transactions, by definition, it can be expected to be volatile. The estimate for 100% allocation of nonoperational income for tax years 2006, 2007, and 2008 was \$21.5 million, \$6.4 million, and \$84.7 million, respectively, demonstrating the volatility.

Further information on combined reporting can be found at the Maryland Business Tax Reform Commission's website, <http://btrc.maryland.gov/>. If you have any questions or concerns, please do not hesitate to contact me at 410-260-7450.

Sincerely,



David. F. Roose  
Director, Bureau of Revenue Estimates

cc. Comptroller Peter Franchot  
Len Foxwell  
Linda Tanton

**Tax Year 2009 Estimated Impact of Combined Reporting**  
**Joyce Method of Apportionment**  
By Group Maryland Modified Income

Group Maryland Modified Income	Winners			Losers			No Change	Total	
	#	\$	Average	#	\$	Average	#	#	\$
Non-Taxable	563	(116,957,898)	(207,740)	0	0	0	1,003	1,566	(116,957,898)
Under \$500,000	100	(525,958)	(5,260)	146	335,523	2,298	49	295	(190,436)
\$500,000 to \$999,999	34	(360,487)	(10,603)	36	393,940	10,943	11	81	33,453
\$1,000,000 to \$4,999,999	147	(2,570,625)	(17,487)	134	2,045,081	15,262	22	303	(525,544)
\$5,000,000 to \$9,999,999	75	(2,130,468)	(28,406)	74	2,645,574	35,751	16	165	515,106
\$10,000,000 to \$24,999,999	113	(7,017,229)	(62,099)	103	2,070,630	20,103	12	228	(4,946,599)
\$25,000,000 to \$99,999,999	174	(17,159,819)	(98,620)	180	16,316,850	90,649	19	373	(842,969)
\$100,000,000 to \$249,999,999	85	(25,969,538)	(305,524)	107	20,397,847	190,634	7	199	(5,571,691)
\$250,000,000 to \$499,999,999	25	(3,604,894)	(144,196)	46	10,667,763	231,908	4	75	7,062,870
\$500,000,000 to \$999,999,999	17	(8,646,190)	(508,599)	40	28,489,483	712,237	1	58	19,843,293
\$1,000,000,000 and Over	29	(29,908,222)	(1,031,318)	39	50,744,746	1,301,147	1	69	20,836,524
<b>Total</b>	<b>1,362</b>	<b>(214,851,328)</b>	<b>(157,747)</b>	<b>905</b>	<b>134,107,437</b>	<b>148,185</b>	<b>1,145</b>	<b>3,412</b>	<b>(80,743,892)</b>

*Bureau of Revenue Estimates  
Comptroller of Maryland  
March 1, 2012*

**Tax Year 2009 Estimated Impact of Combined Reporting**  
**Finnigan Method of Apportionment**  
 By Group Maryland Modified Income

Group Maryland Modified Income	Winners			Losers			No Change	Total	
	#	\$	Average	#	\$	Average	#	#	\$
Non-Taxable	563	(116,957,898)	(207,740)	0	0	0	1,003	1,566	(116,957,898)
Under \$500,000	98	(525,672)	(5,364)	151	337,727	2,237	46	295	(187,944)
\$500,000 to \$999,999	33	(358,486)	(10,863)	38	394,932	10,393	10	81	36,446
\$1,000,000 to \$4,999,999	141	(2,556,628)	(18,132)	144	2,096,282	14,558	18	303	(460,346)
\$5,000,000 to \$9,999,999	72	(2,109,307)	(29,296)	79	2,673,222	33,838	14	165	563,915
\$10,000,000 to \$24,999,999	104	(6,912,395)	(66,465)	117	2,433,785	20,802	7	228	(4,478,610)
\$25,000,000 to \$99,999,999	159	(16,549,066)	(104,082)	203	18,197,891	89,645	11	373	1,648,825
\$100,000,000 to \$249,999,999	73	(25,085,817)	(343,641)	121	23,494,490	194,169	5	199	(1,591,327)
\$250,000,000 to \$499,999,999	20	(2,867,994)	(143,400)	55	13,001,225	236,386	0	75	10,133,231
\$500,000,000 to \$999,999,999	15	(8,257,663)	(550,511)	42	30,767,317	732,555	1	58	22,509,654
\$1,000,000,000 and Over	23	(27,318,951)	(1,187,780)	45	60,016,327	1,333,696	1	69	32,697,376
<b>Total</b>	<b>1,301</b>	<b>(209,499,877)</b>	<b>(161,030)</b>	<b>995</b>	<b>153,413,199</b>	<b>154,184</b>	<b>1,116</b>	<b>3,412</b>	<b>(56,086,679)</b>

*Bureau of Revenue Estimates  
 Comptroller of Maryland  
 March 1, 2012*

**Tax Year 2009 Estimated Impact of Combined Reporting**  
**Joyce Method of Apportionment**  
By Predominant Industry, Measured by Payroll, of Group

Industry	Winners			Losers			No Change	Total	
	#	\$	Average	#	\$	Average		#	\$
Agriculture	4	(112,327)	(28,082)	4	59,043	14,761	0	8	(53,284)
Mining	6	(2,249,300)	(374,883)	5	70,385	14,077	13	24	(2,178,915)
Utilities	15	(17,647,992)	(1,176,533)	9	732,586	81,398	15	39	(16,915,406)
Construction	39	(1,893,596)	(48,554)	26	546,484	21,019	47	112	(1,347,112)
Manufacturing	350	(41,295,721)	(117,988)	200	16,955,950	84,780	256	806	(24,339,771)
Wholesale Trade	95	(10,736,660)	(113,017)	97	13,539,746	139,585	54	246	2,803,086
Retail Trade	79	(11,464,629)	(145,122)	67	23,819,078	355,509	61	207	12,354,448
Transportation and Warehousing	57	(3,034,175)	(53,231)	33	1,940,207	58,794	44	134	(1,093,969)
Information	95	(14,771,967)	(155,494)	46	4,906,332	106,659	68	209	(9,865,636)
Finance and Insurance	148	(48,048,182)	(324,650)	83	14,745,856	177,661	150	381	(33,302,327)
Real Estate and Rental and Leasing	62	(5,646,258)	(91,069)	48	6,132,399	127,758	130	240	486,141
Professional, Scientific and Technical Services	195	(26,346,111)	(135,108)	130	26,334,269	202,571	124	449	(11,842)
Management of Companies	71	(17,966,756)	(253,053)	50	9,439,045	188,781	77	198	(8,527,711)
Admin. Support, Waste Mgmt., and Remediation Svcs.	50	(3,223,280)	(64,466)	37	2,153,561	58,204	25	112	(1,069,719)
Educational Services	13	(1,388,363)	(106,797)	6	313,682	52,280	2	21	(1,074,681)
Health Care and Social Assistance	40	(6,647,308)	(166,183)	20	7,562,824	378,141	22	82	915,516
Arts, Entertainment, and Recreation	3	(6,302)	(2,101)	7	261,410	37,344	6	16	255,108
Accommodation and Food Services	23	(1,510,959)	(65,694)	22	3,605,045	163,866	28	73	2,094,086
Other Services	15	(591,501)	(39,433)	14	987,836	70,560	20	49	396,335
Misreported	2	(269,939)	(134,969)	1	1,700	1,700	3	6	(268,239)
<b>Total</b>	<b>1,362</b>	<b>(214,851,328)</b>	<b>(157,747)</b>	<b>905</b>	<b>134,107,437</b>	<b>148,185</b>	<b>1,145</b>	<b>3,412</b>	<b>(80,743,892)</b>

**Tax Year 2009 Estimated Distributional Impact of Combined Reporting**

**Joyce Method of Apportionment**

By Predominant Industry, Measured by Payroll, of Group

Industry	Winners		Losers		No Change	Total	
	#	\$	#	\$	#	#	\$ Change
Agriculture	0.3%	0.1%	0.4%	0.0%	0.0%	0.2%	-34.5%
Mining	0.4%	1.0%	0.6%	0.1%	1.1%	0.7%	-86.5%
Utilities	1.1%	8.2%	1.0%	0.5%	1.3%	1.1%	-89.5%
Construction	2.9%	0.9%	2.9%	0.4%	4.1%	3.3%	-14.3%
Manufacturing	25.7%	19.2%	22.1%	12.6%	22.4%	23.6%	-18.9%
Wholesale Trade	7.0%	5.0%	10.7%	10.1%	4.7%	7.2%	9.4%
Retail Trade	5.8%	5.3%	7.4%	17.8%	5.3%	6.1%	17.5%
Transportation and Warehousing	4.2%	1.4%	3.6%	1.4%	3.8%	3.9%	-14.4%
Information	7.0%	6.9%	5.1%	3.7%	5.9%	6.1%	-26.2%
Finance and Insurance	10.9%	22.4%	9.2%	11.0%	13.1%	11.2%	-36.5%
Real Estate and Rental and Leasing	4.6%	2.6%	5.3%	4.6%	11.4%	7.0%	4.4%
Professional, Scientific and Technical Services	14.3%	12.3%	14.4%	19.6%	10.8%	13.2%	0.0%
Management of Companies	5.2%	8.4%	5.5%	7.0%	6.7%	5.8%	-30.1%
Admin. Support, Waste Mgmt., and Remediation Svcs.	3.7%	1.5%	4.1%	1.6%	2.2%	3.3%	-8.9%
Educational Services	1.0%	0.6%	0.7%	0.2%	0.2%	0.6%	-20.6%
Health Care and Social Assistance	2.9%	3.1%	2.2%	5.6%	1.9%	2.4%	7.6%
Arts, Entertainment, and Recreation	0.2%	0.0%	0.8%	0.2%	0.5%	0.5%	107.4%
Accommodation and Food Services	1.7%	0.7%	2.4%	2.7%	2.4%	2.1%	45.1%
Other Services	1.1%	0.3%	1.5%	0.7%	1.7%	1.4%	40.1%
Misreported	0.1%	0.1%	0.1%	0.0%	0.3%	0.2%	-67.1%
<b>Total</b>	<b>100%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>-15.2%</b>

\* All percentages are a share of that respective column's total, except the Total \$ Change column which is the change in that industry's liability

*Bureau of Revenue Estimates  
Comptroller of Maryland  
March 1, 2012*

**Tax Year 2009 Estimated Impact of Combined Reporting**

**Finnigan Method of Apportionment**

By Predominant Industry, Measured by Payroll, of Group

Industry	Winners			Losers			No Change	Total	
	#	\$	Average	#	\$	Average		#	\$
Agriculture	4	(112,327)	(28,082)	4	74,719	18,680	0	8	(37,608)
Mining	6	(2,249,287)	(374,881)	5	101,558	20,312	13	24	(2,147,729)
Utilities	14	(17,630,548)	(1,259,325)	10	754,228	75,423	15	39	(16,876,320)
Construction	39	(1,886,737)	(48,378)	26	547,105	21,043	47	112	(1,339,631)
Manufacturing	327	(37,809,476)	(115,625)	237	27,305,970	115,215	242	806	(10,503,507)
Wholesale Trade	91	(10,578,295)	(116,245)	103	15,364,777	149,173	52	246	4,786,483
Retail Trade	79	(11,428,985)	(144,671)	70	24,308,571	347,265	58	207	12,879,586
Transportation and Warehousing	56	(3,032,370)	(54,149)	34	2,039,091	59,973	44	134	(993,279)
Information	88	(14,513,252)	(164,923)	54	6,774,479	125,453	67	209	(7,738,773)
Finance and Insurance	139	(47,700,067)	(343,166)	96	16,393,820	170,769	146	381	(31,306,247)
Real Estate and Rental and Leasing	62	(5,646,165)	(91,067)	49	6,218,694	126,912	129	240	572,529
Professional, Scientific and Technical Services	186	(25,964,051)	(139,592)	140	28,057,849	200,413	123	449	2,093,797
Management of Companies	66	(17,898,806)	(271,194)	56	10,249,769	183,032	76	198	(7,649,037)
Admin. Support, Waste Mgmt., and Remediation Svcs.	49	(3,157,731)	(64,443)	38	2,277,562	59,936	25	112	(880,169)
Educational Services	13	(1,353,377)	(104,106)	6	454,241	75,707	2	21	(899,136)
Health Care and Social Assistance	40	(6,428,743)	(160,719)	20	7,574,495	378,725	22	82	1,145,751
Arts, Entertainment, and Recreation	3	(5,982)	(1,994)	7	261,410	37,344	6	16	255,427
Accommodation and Food Services	23	(1,510,309)	(65,666)	22	3,634,571	165,208	28	73	2,124,263
Other Services	14	(323,956)	(23,140)	17	1,018,590	59,917	18	49	694,634
Misreported	2	(269,413)	(134,706)	1	1,700	1,700	3	6	(267,712)
<b>Total</b>	<b>1,301</b>	<b>(209,499,877)</b>	<b>(161,030)</b>	<b>995</b>	<b>153,413,199</b>	<b>154,184</b>	<b>1,116</b>	<b>3,412</b>	<b>(56,086,679)</b>

## Tax Year 2009 Estimated Distributional Impact of Combined Reporting

### Finnigan Method of Apportionment

By Predominant Industry, Measured by Payroll, of Group

Industry	Winners		Losers		No Change	Total	
	#	\$	#	\$	#	#	\$
Agriculture	0.3%	0.1%	0.4%	0.0%	0.0%	0.2%	-24.3%
Mining	0.5%	1.1%	0.5%	0.1%	1.2%	0.7%	-85.3%
Utilities	1.1%	8.4%	1.0%	0.5%	1.3%	1.1%	-89.3%
Construction	3.0%	0.9%	2.6%	0.4%	4.2%	3.3%	-14.2%
Manufacturing	25.1%	18.0%	23.8%	17.8%	21.7%	23.6%	-8.1%
Wholesale Trade	7.0%	5.0%	10.4%	10.0%	4.7%	7.2%	16.0%
Retail Trade	6.1%	5.5%	7.0%	15.8%	5.2%	6.1%	18.2%
Transportation and Warehousing	4.3%	1.4%	3.4%	1.3%	3.9%	3.9%	-13.1%
Information	6.8%	6.9%	5.4%	4.4%	6.0%	6.1%	-20.5%
Finance and Insurance	10.7%	22.8%	9.6%	10.7%	13.1%	11.2%	-34.3%
Real Estate and Rental and Leasing	4.8%	2.7%	4.9%	4.1%	11.6%	7.0%	5.2%
Professional, Scientific and Technical Services	14.3%	12.4%	14.1%	18.3%	11.0%	13.2%	3.5%
Management of Companies	5.1%	8.5%	5.6%	6.7%	6.8%	5.8%	-27.0%
Admin. Support, Waste Mgmt., and Remediation Svcs.	3.8%	1.5%	3.8%	1.5%	2.2%	3.3%	-7.3%
Educational Services	1.0%	0.6%	0.6%	0.3%	0.2%	0.6%	-17.2%
Health Care and Social Assistance	3.1%	3.1%	2.0%	4.9%	2.0%	2.4%	9.5%
Arts, Entertainment, and Recreation	0.2%	0.0%	0.7%	0.2%	0.5%	0.5%	107.5%
Accommodation and Food Services	1.8%	0.7%	2.2%	2.4%	2.5%	2.1%	45.8%
Other Services	1.1%	0.2%	1.7%	0.7%	1.6%	1.4%	70.2%
Misreported	0.2%	0.1%	0.1%	0.0%	0.3%	0.2%	-67.0%
<b>Total</b>	<b>100%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>-10.6%</b>

\* All percentages are a share of that respective column's total, except the Total \$ Change column which is the change in that industry's liability

*Bureau of Revenue Estimates  
Comptroller of Maryland  
March 1, 2012*