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**NATIONAL ACTIVE AND RETIRED FEDERAL EMPLOYEES**

**MARYLAND FEDERATION**

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October 15, 2020

Senator James Rosapepe  
Vice Chair, Senate Budget & Taxation Committee  
3 West Miller Senate Building  
11 Bladen Street  
Annapolis, MD 21401

Dear Senator Rosapepe:

My name is Paul Schwartz and I am the Chair of the State Legislative Committee of the Maryland Federation of the National Active and Retired Federal Employees (NARFE). (I believe you are familiar with another NARFE/MD member, Bill Ferguson, Laurel Chapter 422 – no not the Senate Leader.) We have been advocates of legislation to permit Maryland taxpayers to decouple their federal and state tax returns. Currently, as you know, that is not allowed under Maryland law. During last year’s legislative session, Senator Anthony Serafini sponsored Senate Bill 486, “An Act concerning Income Tax – Itemized Deductions,” which would allow an individual to itemize deductions to compute Maryland taxable income whether or not that individual itemizes deductions on that individual’s federal income tax return.

As you are aware, the necessity for this legislation was caused by the federal tax changes in 2017, which made it advantageous for many taxpayers to not itemize on their federal returns. However, if they chose to do this, it disqualified them from taking itemized deductions on their Maryland tax returns. NARFE/MD strongly supported the aforementioned bill as it represented a major step towards bringing tax fairness to Maryland taxpayers. This view is also supported by the Maryland Association of Certified Public Accountants.

Unfortunately, as you know, both Senate Bill 486, and its counterpart in the House, HB 788, sponsored by Delegate William Wivell, failed to move out of either the Senate Budget & Taxation Committee or the House Ways & Means Committee. The primary reason for failure was the fiscal note that incorrectly projected an average loss of some \$118 million in revenue to Maryland for each year from FY 2021 to FY 2024. The problem with the fiscal note is that it seems to be based entirely on the false assumption that all Maryland taxpayers who had previously taken the standard deduction on their state returns would all choose to go back to itemizing on their state returns if allowed to decouple their return from their federal returns. This, of course, is a false assumption since the federal tax plan of 2017 eliminated many of the deductions that Maryland taxpayers had previously deducted on their previously filed state tax returns. Since neither bill supported re-instituting any of those previously eliminated deductions, many, if not most, Maryland taxpayers would not be in position to avail themselves of decoupling and would continue to take the standard on their state returns along with their federal returns.

Think about the logic, or, rather illogic, of the reasoning behind the fiscal note. If there are no longer the deductions, is it reasonable to assume that all of the taxpayers who jumped from itemizing on their state returns to taking the state standard because of the federal plan all of a sudden go back to itemizing on their state return if they no longer have the tax deductions to deduct? I can assure you the answer is no. The assumption that some 690,000 Maryland taxpayers would jump back to itemizing on their state return after taking the state standard as a result of the federal tax plan is the entire basis of the fiscal note. That \$118 million price tag of decoupling only makes a sliver of sense if the calculation includes adding back the eliminated deductions, which neither bill does.

The only victims of not allowing decoupling are those Maryland taxpayers who itemized on their state returns and still have enough deductions to continue to itemize on their state returns even if they must forego the newly increased federal standard deduction. That only helps the federal government and has no impact on state revenue since itemizing before decoupling and itemizing with decoupling does not change state revenue.

That is the argument I provided to Robert Rehrmann of Legislative Services, as well as to Alexandra Hughes, Chief of Staff to Speaker Adrienne Jones. Ms. Hughes assured me that my arguments would be considered if a new fiscal note is to be created.

The problem and the reason for my letter to you is that without a Senate bill for the upcoming session, there would be no opportunity to reconsider and, one hopes, revise the fiscal note, which is the primary, maybe only, reason, for the failure of Senator Serafini's bill to make its way out of the Budget & Taxation Committee.

In your role as Vice Chair of that committee you certainly would be a perfect sponsor of this very important legislation, which would take a step toward tax fairness but with minimal impact on the Maryland treasury.

Please consider sponsoring this bill. Remember, there are Maryland taxpayers who itemized before decoupling and will continue to itemize after decoupling and that represents no change to

state revenue. Decoupling would, however, allow these taxpayers to avail themselves of the increased federal standard deduction while they continue to itemize on their state returns. It is for these taxpayers that your legislation is so critical.

A properly done fiscal note should include cost data that is based on just those taxpayers who would benefit from the increased federal standard deduction even if it means taking the lower state standard deduction in lieu of a more beneficial itemization on the state return. This certainly is a smaller segment of the population than all taxpayers who moved from itemizing to taking the state standard as indicated in the fiscal note. This calculation would provide an accurate cost analysis and would certainly be drastically lower than the estimate in the current fiscal note of some \$118 million.

We recognize that it is fruitless to re-introduce the same bill again this year as long as there is no change to the fiscal note. That is why I am also requesting that you seek a review of the fiscal note based on the arguments presented in this letter. My understanding is that it is not uncommon for a sponsor to question the conclusions in a fiscal note and ask for such a review.

It is clear that a reworking of the fiscal note is justified and a revised fiscal note would provide for a successful re-introduction of last year's decoupling bill.

Thank you so much for your consideration of my request.

Sincerely,

*Paul K. Schwartz*

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