MARYLAND Association of COUNTIES

House Bill 564

Income Tax – Subtraction Modification and Credit – Creation of a Qualifying Business Enterprise

MACo Position: **OPPOSE**

Date: February 26, 2013

To: Ways and Means Committee

From: Andrea Mansfield

The Maryland Association of Counties (MACo) **OPPOSES** HB 564. This bill would provide tax incentives for the sale or transfer of controlling interest, or the investment in a business that results in the accelerated growth, enhanced capacity, or creation of a small business, minority-owned business, woman-owned business, or certified service-disabled veteran-owned business in Maryland. The tax incentives would take the form of a subtraction modification or a tax credit.

Maryland currently offers many financing and tax credit programs to encourage the growth of small, minority-owned business in the State. HB 564 is designed to provide another tool for this purpose. However, MACo is concerned with the fiscal effects of this legislation. Whereas, the total amount of the tax credit specified by the bill may not exceed what is appropriated in the State budget, no cap of any type is specified for the subtraction modification. A person selling or transferring a controlling interest in a business would be able to subtract the full amount of the sale or interest from their adjusted gross income. This subtraction modification would also apply to a person who sells an interest in the business and the income is considered to be compensation for the person's ongoing involvement in the business.

MACo reads the bill to apply not only to taxation of formal corporations subject to corporate income taxes, but also to comparable corporate structures (LLCs or subchapter S corporations) that divert gains through the income of shareholders or members. To this extent, the broad tax preferences afforded under HB 564 would erode county income tax yields, potentially very meaningfully.

Based on a study by the Regional Economic Studies Institute (RESI) of Towson University, the State would forfeit $23.6 million in capital gains tax revenue. This loss of revenue would also affect local governments through the local income tax. It is estimated that the counties would forfeit approximately $12 million in local income tax revenue.

Counties have faced economy-driven fiscal challenges in recent years, with county revenue woes expected to continue as property assessments remain in decline. Reductions in State aid, cost shifts, and other funding mandates have placed additional burdens on counties. Legislation that could have further negative effects on county revenue would make it difficult for counties to continue managing their budgets and providing needed services.

For these reasons, MACo urges the Committee to give HB 564 an **UNFAVORABLE** report.