



**Peter Franchot**  
*Comptroller*

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*Director*  
*Bureau of Revenue Estimates*

March 1, 2013

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:

As required by Maryland Tax-General Article Section 10-402, I am submitting this report on the impact of the change in the apportionment of income of manufacturing corporations from a three-factor formula of property, payroll and double-weighted sales to a single-factor formula consisting solely of sales. The change to the single-factor apportionment formula for manufacturers was adopted under Chapter 633, Acts of 2001, applicable to tax years beginning on or after January 1, 2001.

Our analysis finds that tax year 2010 corporate income tax revenues for corporations that were required to file the information report were about \$21.4 million lower with the single factor apportionment than they would have been under the three-factor apportionment. In 2009, revenues were about \$5.9 million lower. This loss in tax year 2010 equates to a reduction of about 13.8% of the \$154.3 million tax year liability of all manufacturers and agricultural corporations (excluding refiners, who are exempt from using a single-sales apportionment), and about 2.7% of the total corporate income tax liability.

It should be noted that a small number of corporations greatly affect the net difference of \$21.4 million due to higher Maryland modified income. The top ten companies with the greatest liability decrease under the single-sales calculation account for \$23.9 million of the loss of revenue. On the other hand, the 10 companies with the greatest liability increase account for \$12.7 million of the offsetting revenue gain for the State. Without the changes associated with these 20 corporations, the net impact of the single-factor apportionment for manufacturers for tax year 2010 would have been a revenue loss of approximately \$10.0 million.

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This report represents information gathered from those corporations who returned Form 500MC through February 2013. The 500MC is used to gather tax information for multistate manufacturing corporations with more than 25 employees in order to help determine the effect of single sales and three-factor apportionment on these companies. Information from corporate income tax returns is based on returns processed through December 6, 2012, for tax year 2010. Because the 2011 tax return filing deadline for corporations that file on a fiscal year basis has not yet been reached, the tax return data from tax year 2011 is not yet complete. For this reason, the tax year 2011 analysis will be included in the 2014 report.

I hope you find this report informative. If you should have any questions or concerns regarding this report, please do not hesitate to contact me at 410-260-7450.

Sincerely,

A handwritten signature in cursive script, appearing to read "Andrew M. Schaufele".

Andrew M. Schaufele

Attachment

cc. Honorable Peter Franchot  
Len Foxwell  
David F. Roose

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**SINGLE SALES FACTOR APPORTIONMENT FOR  
MANUFACTURING CORPORATIONS  
TAX YEAR 2010**

Chapter 633, Acts of 2001 (Maryland Tax-General Article Section 10-402), altered the determination of how income of a manufacturing corporation that does business in Maryland and other states is allocated to Maryland for purposes of income taxation. Prior to enactment of the law, income was apportioned based on how much property, payroll and sales (double-weighted) were in Maryland relative to the whole. Under the new law, manufacturers' income is apportioned to Maryland based solely on the ratio of sales in Maryland to total sales. The change to a single-factor formula of sales reduces income tax liability for corporations with a relatively large presence in the State. Tax liability decreases when the average of the property and payroll factors is greater than the sales factor, and increases when the average is less than the sales factor.

Corporations with North American Industry Classification System (NAICS) codes 11 and 31 through 33 are required to attach a 500 MC to their return. Industries in NAICS code 11 are Agriculture, Forestry, Fishing and Hunting; the following manufacturing industries are included in codes 31 through 33:

311 Food	326 Plastics and Rubber Products
312 Beverage and Tobacco Products	327 Nonmetallic Mineral Products
313 Textile Mills	331 Primary Metals
314 Textile Product Mills	332 Fabricated Metal Products
315 Apparel	333 Machinery
316 Leather and Allied Products	334 Computer and Electronic Products
321 Wood Products	335 Electrical Equip., Appliances, & Components
322 Paper	336 Transportation Equipment
323 Printing and Related Support Activities	337 Furniture and Related Products
324 Petroleum and Coal Products	339 Miscellaneous
325 Chemicals	

A total of 1,705 corporations, with relevant NAICS codes, filled out a 500MC in tax year 2010, 237 more than in tax year 2009. Based on information reported on 2010 corporate income tax returns, federal taxable income reported on all 5,085 non-refiner manufacturing and agricultural returns totaled \$63.5 billion; excluding negative values, total federal taxable income for those corporations was \$131.9 billion. After statutory addition and subtraction modifications, positive Maryland modified income apportioned to Maryland using the single-factor formula totaled \$1.9 billion. The total tax liability on all 2010 returns of manufacturing (excluding refiners) and agricultural corporations as they were filed and processed was \$154.3 million. Of the 5,085 returns filed by manufacturing corporations, 3,225 – or 63.4% – were unaffected by

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the change to the single-factor apportionment formula because they were not multi-state (1,525), or had no positive Maryland modified income (1,700).

For the 1,705 corporations that returned the information report, Form 500MC, tax liability increased by more than \$10 under the single-sales formula for 350 corporations at an average of \$55,438. For 233 corporations, tax liability declined by more than \$10 by an average of \$174,926. The remaining 1,122 corporations saw no significant change in tax liability between the two apportionment calculations.

Based on the information reported by the corporations who returned Form 500MC, the change from the three-factor method of apportionment to a single-factor method resulted in a revenue loss of \$21.4 million for the State for tax year 2010, compared with a loss of nearly \$5.9 million for the for tax year 2009. This represents a decrease of 13.8% in the total 2010 tax liability of the non-refiner manufacturing and agricultural sectors, and about 2.7% of the total corporate income tax liability.

The attached tables provide the revenue impact of the law change by three-digit NAICS code. Several industry codes were combined to avoid the disclosure of confidential tax information. The majority of the manufacturing industries saw a decrease in tax liability under the single-sales calculation. The largest net decrease (approximately \$4.9 million) occurred within industry codes 110-115 & 339: Agriculture, Forestry and Logging, Fishing, Hunting & Trapping, Support Activities for Agriculture and Forestry, and Misc. Manufacturing. This is most likely due to the fact that the companies in these industries have a greater share of property, plant and equipment in Maryland than other manufacturing industries and that they were among the more profitable sectors. This group also includes a large number of the firms that filed a 500MC and had taxable income at approximately 17.8% of the total. The industry grouping with the only net *increase* in tax liability under the single-sales formula was industry code 333, Machinery. The net increase was just over \$0.5 million; this group makes up 10.4% of the companies with positive taxable income that reported.

In addition to requesting tax and other financial data, Form 500MC also included two questions. For the first, which asked if the corporation was headquartered in Maryland, 124 corporations responded in the affirmative, and reported that their tax liability was \$23.6 million lower under the single-sales regime. The second question asked "at any time after 2000, was Maryland sales transferred from the manufacturing company to a non-Maryland sales/distribution company?" To that question, 26 corporations answered affirmatively, reporting a reduction in tax liability of about \$0.6 million for tax year 2010.

It should be noted that the \$21.4 million revenue loss provided in this report is not the actual impact of single-sales apportionment for manufacturing corporations since those corporations with fewer than 25 employees are not required to file the information report. For the tax year 2001 and 2002 reports, the information needed to calculate the impact for all corporations was required to be reported on page two of the corporations' Maryland tax returns

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and the reported revenue loss estimates included all of those corporations. It should also be noted that the change from a three- to a single-factor formula not only affects the apportionment of income by corporations, but also affects the apportionment of income by multi-state subchapter-S corporations with one or more nonresident shareholders, partners or members. While certain data is captured from returns of pass-through entities, the return is primarily for informational purposes and is not tied in an automated manner to the returns of its shareholders, partners or members where the calculation of tax liability is made. For this reason, the revenue impact from the change in apportionment formulas for this group cannot be determined.

NAICS Group	Total Positive Taxable Income			Change in Tax Liability						
	# Returns	Maryland Using:		#	Increase		Decrease		No change	Net Change
		Single-Factor	3-factor		\$	\$	#	\$		
311-316 Food, Beverage & Tobacco, Textile Mills, Textile Product Mills, Apparel, Leather & Allied Products	191	358,789,806	375,584,639	52	11,712,016	31	(13,097,604)	108	(1,385,588)	
321-322 & 337 Wood Products, Paper, Furniture Product	109	11,174,133	16,025,219	20	289,558	11	(689,773)	78	(400,215)	
323-324 Printing & Related Support Activities, Pet	66	19,944,352	28,344,309	7	161,406	11	(854,401)	48	(692,995)	
325 Chemicals	187	78,052,073	121,942,223	31	909,640	42	(4,400,697)	114	(3,491,057)	
326 Plastics & Rubber Products	56	1,891,927	4,825,462	10	45,932	8	(287,949)	38	(242,017)	
327 Nonmetallic Mineral Products	64	3,894,048	8,393,692	5	55,049	9	(426,275)	50	(371,226)	
331 Primary Metals	40	4,772,594	25,288,263	7	50,160	8	(1,742,701)	25	(1,692,542)	
332 Fabricated Metal Products	149	18,339,976	24,078,823	27	366,963	18	(840,429)	104	(473,466)	
333 Machinery	178	34,116,485	27,596,953	55	967,502	21	(429,640)	102	537,862	
334 Computer & Electronic Products	175	90,195,115	132,394,215	30	1,104,360	14	(4,585,784)	131	(3,481,424)	
335 Electrical Equip., Appliances, & Components	104	40,957,115	78,962,647	19	477,794	10	(3,613,257)	75	(3,135,463)	
336 Transportation Equipment	83	24,403,358	43,585,960	17	721,818	14	(2,304,389)	52	(1,582,571)	
110-115 & 339 Agriculture, Forestry and Logging, Fishing, Hunting & Trapping, Support Activities for Agriculture and Forestry, Misc. Manufacturing	303	297,045,818	356,935,539	70	2,541,225	36	(7,484,945)	197	(4,943,720)	
<b>Total</b>	<b>1,705</b>	<b>983,576,800</b>	<b>1,243,957,943</b>	<b>350</b>	<b>19,403,423</b>	<b>233</b>	<b>(40,757,844)</b>	<b>1,122</b>	<b>(21,354,421)</b>	