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VIA EMAIL

Re: COST Letter in Opposition to H.B. 220—Corporate Income Tax on Large Retailers

Dear Majority Leader Barlow and Members of the House of Representatives:

On behalf of the Council On State Taxation (COST), I urge you to vote “no” on House Bill No. HB0220 (H.B. 220), which would impose a corporate income tax on certain large retailers and accommodation and food service providers. The pace at which this bill is being pushed through the House raises serious concerns over the lack of transparency in the legislative process, as there has been almost no debate on the imposition of a completely new tax in the State. Not only does H.B. 220 violate principles of sound tax policy, which instruct us that a tax should be fair and broad based, the proposal discriminates against large corporate taxpayers in the two enumerated industries. Although COST does not oppose corporate income taxes generally, we are strong advocates for the equitable and nondiscriminatory taxation of multijurisdictional businesses. H.B. 220 at its core is antipodal to that mission and should be rejected.

About COST

COST is a nonprofit trade association based in Washington, D.C. COST was formed in 1969 as an advisory committee to the Council of State Chambers of Commerce, and today COST has an independent membership of approximately 550 major corporations engaged in interstate and international business representing every industry doing business in every state. COST members conduct substantial business in the state of Wyoming, employ a substantial number of Wyoming citizens, and own extensive property within the State. Again, COST’s objective is to *preserve and promote the equitable and nondiscriminatory state and local taxation of multijurisdictional business entities*—a mission steadfastly maintained since our formation.

H.B. 220 Violates Principles of Sound Tax Policy and is Discriminatory

If passed, H.B. 220 would impose a seven percent corporate income tax on retailers, with NAICS of 44 and 45, and accommodation and food service providers, with NAICS of 72, that have a more than 100 shareholders. Legislation that targets not only a very narrow set of industries and large taxpayers violates the principles of sound tax policy. These principles, as set forth in *Guiding Principles of Good Tax Policy: A Framework for Evaluating Tax Proposals*, promote certainty, fairness, transparency, and ease of administration and compliance with


tax legislation.¹ Effectuating sound tax policy reinforces taxpayers' confidence in a voluntary compliance system, which is based on clear, transparent rules and the expectation that both the taxing agency and taxpayers will respect them. *See, e.g., Mut. Sav. Life Ins. Co. v. United States*, 488 F.2d 1142, 1145-46 (5th Cir. 1974). ("A taxpayer has the right to rely upon the Government's Regulations and their published illustrations. Treasury Regulations having the force and effect of law are binding on tax officials, as well as taxpayers.").

The imposition of a corporate income tax solely on two industries and taxpayers with 100 shareholders or more is arbitrary and unfairly singles out a narrow group of businesses to bear the burden of a new tax. Again, COST does not oppose the imposition of a general corporate income tax, but strongly opposes unfair and inefficient taxes such as the proposal in H.B. 220. Further, the discriminatory nature of H.B. 220 raises the potential for litigation. The U.S. Constitution requires Equal Protection under the law, and the imposition of a tax upon a narrow few industries seems ripe for a challenge under this legal principle.

Conclusion

Based on the foregoing, COST strongly urges members of the Wyoming House of Representatives to vote no on H.B. 220.

Respectfully,



Nikki E. Dobay

cc: COST Board of Directors
Douglas L. Lindholm, COST President & Executive Director

¹ American Institute of Certified Public Accountants, *Guiding Principles of Good Tax Policy: A Framework for Evaluating Tax Proposals* (March 2001) (issued by the Tax Division of the American Institute of Certified Public Accountants making recommendations that certain principles guide proposals for tax legislation).