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Dylan B. Waits
Tax Counsel
(202) 484-5226
dwaits@cost.org

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Senator Jared Olson, Chair
Representative Art Washut, Chair
Wyoming Judiciary Committee

Re: Unless all State and Local Taxes and Fees are Excluded - COST Opposes S.F. 0092 (False Claims Act)

Dear Chairs Olsen and Washut, and Members of the Committee:

On behalf of the Council On State Taxation (COST), I respectfully submit this testimony requesting an amendment to S.F. 0092 to exclude all state and local taxes and fees. Absent such an amendment, COST opposes this bill. The proposed False Claims Act (FCA) bill only includes a limited sales tax bar. However, this proposed FCA bill fails to include a bar for other state and local taxes and fees that are already adequately subject to audit by the State's Department of Revenue and local taxing authorities.¹ This omission would allow FCA lawsuits on non-sales tax state and local tax issues.

About COST

COST is a nonprofit trade association based in Washington, DC. COST was formed in 1969 as an advisory committee to the Council of State Chambers of Commerce and today has an independent membership of approximately 500 major corporations engaged in interstate and international business. COST's objective is to preserve and promote the equitable and nondiscriminatory state and local taxation of multijurisdictional business entities. Many COST members conduct business in Wyoming.

False Claims Acts Should Exclude State and Local Taxes

The COST Board of Directors adopted a formal policy position supporting the exclusion of state and local taxes from FCAs.² That policy position states:

Tax agencies should be the sole entities that administer and enforce state and local tax laws. It is inappropriate for persons or governmental entities outside the tax agency to initiate civil suits claiming under collection or underpayment of a tax (false claims act suits).

The consistent, equitable and effective administration and enforcement of tax laws is the responsibility of tax agencies. Allowing private parties to intervene in the administration, interpretation, or enforcement of tax and fee laws usurps the authority of a state's tax agencies.

¹ COST takes no position on this legislation if it is revised to exclude all state and local taxes.

² COST policy position on FCA's is available at: <https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-policy-positions/cost-fcapolicy-statement-final.pdf>

The insertion of private parties into the administration of the tax and fee laws creates uncertainty that is likely to result in inequitable treatment of taxpayers, which ultimately will increase costs to consumers purchasing products from those taxpayers.

Wyoming should follow the federal model or states like California which have a FCA statutory exclusion for all state and local taxes. One way to exclude state and local taxes from the proposed False Claims Act is to amend Section 1-44-103(d)(ii) by expanding the FCA bar to all the State's and local taxes and fees from the proposed FCA legislation in S.F. 0092 (*e.g.*, not limited to the State's sales tax).

COST's Major Concerns with False Claims Acts for Tax and Fee Disputes

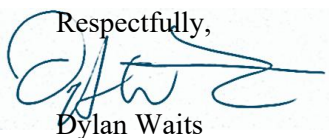
There are three primary reasons for not allowing private individuals to challenge Wyoming's state and local tax laws (and fees) using an FCA suit:

- First, tax issues are complicated. The DOR (and local tax agencies) employ experts capable of dealing with complex tax and fee issues, many of which are nuanced and subject to degrees of interpretation. Wyoming's taxing authorities should control the overall administration of their tax laws, as opposed to third parties driven by their own financial interests.
- Second, applying the proposed FCA to tax and fee matters makes it difficult, if not impossible, for tax agencies to effectively administer tax and fee issues, including the development of cases for litigation and the resolution of tax disputes.
- Third, allowing the proposed FCA to apply to both state and local taxes and fees will make Wyoming less attractive for businesses to conduct their operations. Allowing private parties to assert their interpretation of Wyoming's state and local tax and fee laws will create havoc, confusion, and additional anxiety for both taxpayers and the tax agencies.

Conclusion

For the foregoing reasons, COST strongly urges the members of the Committee to reject S.F. 0092 if the bill is not amended to include a complete FCA state and local tax and fee bar.

Respectfully,



Dylan Waits

cc: COST Board of Directors
Patrick J. Reynolds, COST President & Executive Director