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May 5, 2026

Via Email

Senator Celina Villaneuva, Chair
Senator Mark L. Walker, Vice Chair
Senator Donald P. DeWitte, Minority Spokesperson
Senate Revenue Committee
Illinois General Assembly

Re: COST Opposes Repeal of 80/20 Rule - SB 3486

Dear Chair Villaneuva, Vice Chair Walker, Minority Spokesperson DeWitte, and Members of the Committee:

On behalf of the Council On State Taxation (COST), I am writing in opposition to Senate Bill 3486. SB 3486 proposes substantial and far-reaching amendments to the Illinois Corporate Income Tax Act, including fundamental changes to combined reporting by eliminating the long-standing exclusion for unitary group members with 80 percent or more of their business activity outside the United States. The change would effectively adopt worldwide combined reporting by subjecting a broad range of foreign affiliates—many with minimal or no Illinois connections—to Illinois taxation. This is a reversal of a tax policy that has stood for 44 years and raises significant concerns related to fairness, administrability, economic competitiveness, and enhanced legal risks.

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 multistate and multinational business entities. Many COST members have operations in Illinois that would be negatively impacted by this proposed legislation.

The Water's Edge Election Must Be Retained

COST's Board of Directors has adopted a policy position on State Corporate Income Tax Filing Methods that sets forth the importance of respecting the use of the water's-edge return in states that use the unitary combined reporting method:

The water's-edge return should exclude domestic "80/20" companies and all foreign domiciled entities except unitary foreign entities with in-state nexus, to the extent of their effectively connected income.¹

¹ COST's policy position is available at <http://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-policy-positions/state-corporate-income-tax-filing-methods-policy-statement-final.pdf>

For more than four decades, Illinois has excluded from unitary business groups those members whose business activity is at least 80 percent outside the United States. This rule has consistently provided a clear, objective, and administrable standard that prevents the over-inclusion of foreign operations that lack a meaningful economic nexus with Illinois. SB 3486 would remove this exclusion thereby requiring the inclusion of foreign affiliates with minimal or no operational connection to Illinois. This change amounts to a substantial expansion of Illinois's taxing authority over global corporate entities and in effect is an end run around the formal adoption of a mandatory worldwide combined reporting regime. The enactment of SB 3486 would make Illinois an outlier as no state or country in the world has adopted a combined reporting tax scheme that requires the inclusion of worldwide income.²

The adoption of this approach is inconsistent with widely accepted principles of state taxation. This expansion of Illinois's reach over worldwide income increases the likelihood of double taxation resulting in constitutional concerns under both the Due Process and Commerce Clauses and protracted legal disputes. Additionally, the expansion of the tax base to include worldwide income will increase compliance costs and uncertainty, especially for multinational businesses with foreign operations. This expansion will not only impact multinational taxpayers, but also the Department of Revenue that will be faced with additional audit complexities and litigation risks.

The existing 80 percent standard has long served as a reasonable tax regime that aligns the tax base with actual economic activity within the United States. Eliminating the 80/20 provision and replacing it with broad mandatory inclusion rules that are untethered from meaningful nexus with Illinois undermines both fairness and sound tax administration. SB 3486 will increase the cost and complexity of operating in Illinois at a time when states are actively competing for capital investment, headquarters locations, and high-quality jobs. Thus, sunseting the 80/20 exclusion will negatively impact Illinois's economic competitiveness as companies reconsider locating new facilities or expanding operations in the State due to the unpredictability and aggressiveness of the proposed corporate income tax regime.

Conclusion

SB 3486 raises serious concerns under established constitutional principles, departs from long-standing state policy, and creates material risk of economic and legal disruption. For these reasons COST respectfully urges this Committee to reject SB 3486.

Sincerely,



Marilyn A. Wethekam

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

² Alaska requires the use of worldwide combined reporting for certain oil and gas companies.