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Senator Julian Cyr, Assistant Majority Whip
Senator Peter Durant, Assistant Minority Leader
Senator Rebecca Rausch
Representative Christine Barber
Representative Michael Finn
Representative Kenneth Sweezey

Via Email

Re: COST Supports Sections 22A–22D of H.5518 — Rolling Stock Exemption

Dear Members of the Conference Committee:

On behalf of the Council On State Taxation (COST), I submit these comments to express COST's strong support for the inclusion of Sections 22A–22D of H.5518 in the final Conference Committee report on the environmental bond bill, which would exempt the rolling stock of common carriers from Massachusetts sales and use tax. COST commends the House for recognizing that the taxation of rolling stock used in commerce is inconsistent with sound tax policy principles. Additionally, we respectfully encourage the Conference Committee to consider expanding the exemption to apply to all rolling stock used in business operations as the underlying tax policy rationale supporting the exemption is not unique to common carriers.

About COST

COST is a nonprofit trade association representing over 450 multistate and multinational companies engaged in interstate and international business, many of which have significant business operations in Massachusetts. COST's objective is to preserve and promote the equitable and nondiscriminatory state and local taxation of multijurisdictional business entities.

A Rolling Stock Exemption Is Fair and Efficient Tax Policy

COST has long advocated for fair and efficient tax administration. The COST Board of Directors has adopted a formal policy addressing the administration of state taxes.[1] That policy position provides:

> *Fair, efficient and customer-focused tax administration is critical to the effectiveness of our voluntary system of tax compliance. A burdensome, unfair, or otherwise biased administrative system negatively impacts tax compliance and hinders economic competitiveness.*

[1] See https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-policy-positions/fair-efficient-and-customer-focused-tax-administration---revised-feb-2024---final.pdf

Massachusetts's current treatment of interstate rolling stock differs significantly from that of most states. The different treatment creates substantial compliance challenges for businesses operating multistate fleets. Determining tax exposure based on where equipment is purchased, domiciled, garaged, maintained, or temporarily operated results in complex recordkeeping requirements, and taxpayer uncertainty that leads to disputes and potential protracted litigation The proposal in H.5518 would provide a clear exemption reducing administrative burdens for both taxpayers and the Department of Revenue. Additionally, it would align Massachusetts with the prevailing state tax treatment of interstate rolling stock.

Uniformity is important for property that regularly crosses state lines. Consistency among jurisdictions allows businesses to make investment and operational decisions based on commercial considerations rather than conflicting state tax rules. The current Massachusetts policy places the Commonwealth at a competitive disadvantage because most states provide either a complete exemption for rolling stock or substantially more favorable treatment. This competitive disadvantage was noted in a Northeastern University study that the elimination of the sales tax on rolling stock in the Commonwealth could bring in an additional $15.9 million from growth of the trucking industry in Massachusetts.[2]

Additionally, the proposal advances broader public policy objectives by creating a more competitive tax treatment that would encourage transportation companies to expand their Massachusetts operations. Thus, giving rise to increased economic activity in the Commonwealth.

Sales Taxation of Business Inputs Is Unsound Tax Policy

Sales taxes should apply only to final personal consumption and not to business inputs. The COST Board of Directors adopted a formal policy position opposing the imposition of sales taxation on business inputs.[3] That policy position provides:

> *Imposing sales taxes on business inputs violates several tax policy principles and causes significant economic distortions. Taxing business inputs raises production costs and places businesses within a State at a competitive disadvantage to businesses not burdened by such taxes. Taxes on business inputs, including taxes on services purchased by businesses, must be avoided.*

Massachusetts's imposition of use tax on rolling stock, a business input, specifically violates the tax policy principles of neutrality, equity, simplicity, and transparency and causes economic distortion. This distortion results primarily from tax pyramiding. Pyramiding occurs when multiple layers of tax are embedded in the cost of goods and services before they ever reach the final consumer. These hidden taxes result in an effective tax rate that exceeds the statutory sales and use tax rate and varies depending on the number of taxable business transactions involved in producing or distributing a product. The result is neither transparent nor neutral and can influence business investment and operational decisions in ways unrelated to economic efficiency. Inevitably, the economic burden of taxes on business inputs shifts to consumers through higher prices or to labor through lower wages and fewer jobs. To put it simply, although this tax is a direct tax on businesses, those businesses pass much of that cost to the Commonwealth's citizens through higher prices. The underlying tax policy rationale supporting the exemption is not unique to common carriers: direct taxation of business inputs increases the cost of doing business and embeds hidden taxes throughout the economy.

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[2] See Transportation Association of Massachusetts (TAM) fact sheet, "TAM fact sheet on current rolling stock tax," 1/6/2021; available at: TAM fact sheet on current rolling stock tax - Transportation Association of Massachusetts.
[3]See https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-policy-positions/sales-taxation-of-business-inputs.pdf

Conclusion

COST urges the Conference Committee to preserve the proposed exemption to both eliminate an unsound tax policy that discourages economic investment in the Commonwealth and advance broader public policy objectives by creating a more competitive tax treatment. If feasible, we recommend that the exemption be broadened to fully exempt all rolling stock used in business operations from the sales and use tax. Such an approach would align Massachusetts with the prevailing state tax treatment of interstate rolling stock.

Thank you for your consideration of COST's comments. We appreciate the Committee's efforts and would be pleased to provide any additional information that may be helpful.

Respectfully,

Leonore Heavey

Leonore F. Heavey

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