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February 27, 2017

Nevada Legislature  
Senate Revenue and Economic Development

Via E-Mail

**RE: Testimony in Support of Senate Bill 99**

Dear Chairman Ratti and Members of the Committee:

On behalf of the Council On State Taxation (COST), I am writing in support of Senate Bill 99. Currently, Nevada law requires a taxpayer to pay an assessment in full or enter into a payment plan prior to seeking a judicial appeal of a final order from the Nevada Tax Commission. S.B. 99, however, would lower that payment threshold from 100 percent of the delinquency to 25 percent. Because COST believes that there should be no prepayment or “pay-to-play” requirement for a taxpayer to appeal a tax assessment, COST strongly supports S.B. 99. Although it does not provide 100 percent relief to taxpayers, S.B. 99 is a step in the right direction.

COST is a nonprofit trade association consisting of approximately 600 multistate corporations engaged in interstate and international business. COST’s objective is to preserve and promote equitable and nondiscriminatory state and local taxation of multijurisdictional business entities.

The COST Board of Directors has adopted a formal policy statement advocating for independent tax tribunals, which includes not having a prepayment requirement on the first appeal from a revenue agency’s tax assessment.<sup>1</sup> That policy statement position is:

*No Prepayment Requirement – Taxpayers should not be required to post bond or pay a disputed tax prior to an initial hearing before an independent tribunal. More than 60% of the states grant taxpayers at least a de novo hearing on the validity of the assessment, in front of an independent arbiter, before payment of the tax is required. It is unfathomable that taxpayers would be denied a fair hearing before being deprived of property (i.e., disputed taxes). It is inherently inequitable to force a taxpayer to pay an assessment, often based on the untested assertions of a single auditor or audit team, without the benefit of a hearing before an independent trier of fact. Free access to an independent hearing without having one’s property confiscated is especially important*

<sup>1</sup> See COST Policy Statement:

[http://cost.org/uploadedFiles/About\\_COST/Policy\\_Statement/IndependentTaxAppealsTribunals.pdf](http://cost.org/uploadedFiles/About_COST/Policy_Statement/IndependentTaxAppealsTribunals.pdf).

*in those states that fail to provide refunds timely (or at all) even after disputes are resolved in the taxpayer's favor.*

Requiring an assessment to be paid in full to appeal limits a taxpayer's access to an independent tribunal and hinders the State's ability to provide fair tax administration. It is inherently inequitable to force a taxpayer to pay an assessment, often based on the untested assertions of a single auditor or audit team, without the benefit of a hearing before an independent trier of fact. Free access to an independent hearing without having one's property confiscated is especially important in those states that fail to provide refunds timely (or at all) even after disputes are resolved in the taxpayer's favor. Nevada's Tax Commission is not considered an independent tax tribunal by COST, and taxpayers currently must pay 100 percent of the tax (or enter a payment plan) prior to reaching independent review. Although S.B. 99 does not completely remove the "pay-to-play" requirement, it significantly decreases the burden on taxpayers and, as such, is a step in the right direction.

COST has evaluated states' administration of taxes for over fifteen years. In COST's most recent "Best and Worst of State Tax Administration" Scorecard, Nevada received a "D+" grade and is ranked among the bottom six states.<sup>2</sup> In that Scorecard, we specifically noted Nevada's prepayment or "pay-to-play" requirement to appeal a final order of the Nevada Tax Commission. The lowering of the "pay-to-play" threshold to only 25 percent of an assessment as provided by S.B. 99 would be a step in the right direction. It would increase Nevada's grade on the Scorecard and make Nevada a more fair place to conduct business.

Accordingly, COST respectfully urges members of the committee to vote "yes" on Senate Bill 99.

Sincerely,



Nikki Dobay

cc: COST Board

Douglas L. Lindholm, COST President & Executive Director

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<sup>2</sup> See COST's 2016 Administrative Scorecard at: <http://cost.org/WorkArea/DownloadAsset.aspx?id=94726>.