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March 22, 2017

Chairman Chuck Hufstetler
Senate Finance Committee
Georgia General Assembly

Via E-mail

Re: COST Support for H.B. 93 (Interest on Refunds)

Dear Chairman Hufstetler and Members of the Committee:

On behalf of the Council On State Taxation (COST), I am pleased to offer comments supporting H.B. 93. As passed by the House, H.B. 93 would address an inequity adopted by regulation last year by providing for payment of interest on sales and use tax overpayments made by direct payment permit holders. COST urges the Committee to approve this legislation providing interest equity for taxpayers.

About COST

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. COST members provide significant investment in Georgia, with many of the purchases contributing to that investment made under direct payment permit authority.

Fairness in Interest Payment

The COST Board of Directors has adopted a formal policy statement outlining fair, efficient, and customer-focused tax administration. Regarding the payment of interest, the policy statement provides:

Interest rates are meant to compensate for the time value of money and should apply equally to both assessments and refund claims. Failure to equalize interest rates diminishes the value of the taxpayer's remedy of recovering tax monies to which it is legally entitled.¹

¹ COST's policy statement is available at:
http://www.cost.org/uploadedFiles/About_COST/Policy_Statement/FairEfficientAndCustomerFocusedTaxAdministration.pdf.

Applying the policy statement, COST “grades” the states regularly for elements of good tax administration. In our most recent Scorecard on Tax Appeals & Procedural Requirements (issued in December 2016), Georgia received a grade of B-, down from a B in the previous Scorecard. We noted specifically in the Scorecard:

While Georgia ... [enacted] legislation (H.B. 960) to reduce the State’s artificially high interest rate on both tax deficiencies and overpayments (from 12 percent to the prime rate plus 3 percent), the Department of Revenue, by rule, is seeking to deny interest on refunds to direct-pay permit holders.²

Thus, COST recognizes the good work that has been done to date to bring the payment of interest in the State more in line with the time value of money, but cites the Department of Revenue’s wrongful policy of denying interest to a class of taxpayers (direct payment permit holders) that are licensed and fulfilling their tax payment obligations to the State. The General Assembly determines the rate and timing of interest imposition and payment, not the Department of Revenue. COST’s comments to the Department of Revenue last year detail the policy wrongs and perverse incentives that result from penalizing direct payment permit holders by denying interest.³

COST applauds H.B. 93’s provisions that would address this inequity and provide interest on overpayments by direct payment permit holders. While the legislation limits interest where the tax liability is overpaid by 20 percent or more in any period, it allows a good faith exception upon a showing by the taxpayer. COST will monitor the Department’s fairness in applying the exception for purposes of future evaluations in COST’s Scorecards.

In future legislation, COST encourages the Committee to consider further enhancements to Georgia’s economic competitiveness by examining simplifications and fairness in the administration of exemptions. Specifically, Georgia is no longer in compliance with Section 317 of the Streamlined Sales and Use Tax Agreement, which requires member states to use uniform exemption certificate procedures. These provisions lower compliance costs and increase certainty for business taxpayers, and have been adopted in nearly half the states.

COST appreciates the opportunity to provide this Committee with testimony supporting H.B. 93. COST supports this effort to remedy an inequitable regulation denying interest to direct payment permit holders.

Sincerely,



Ferdinand Hogroian

² COST’s Scorecard on Tax Appeals & Procedural Requirements (The Best and Worst of State Tax Administration, December 2016) is available at: <http://www.cost.org/WorkArea/DownloadAsset.aspx?id=94726>.

³ See COST’s Letter to Commissioner Lynnette Riley, Georgia Department of Revenue, May 4, 2016, available at <http://www.cost.org/WorkArea/DownloadAsset.aspx?id=93006>.

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