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March 31, 2017

VIA EMAIL TO: Karen.Spilka@masenate.gov and Brian.Dempsey@mahouse.gov

Karen E. Spilka, Chair
Brian S. Dempsey, Chair
Joint Committee on Ways and Means
General Court of the Commonwealth of Massachusetts

Re: HB1

Dear Chair Spilka, Chair Dempsey, and Members of the Committee:

On behalf of the Council On State Taxation (COST), I am writing to urge you to remove Outside Section 34, relating to the daily remittance of sales tax by payment processors, from HB1. Currently, the Department of Revenue (“DOR”) receives one payment per month per retailer. If Outside Section 34 is passed, the DOR would receive a daily payment from multiple payment processors for each retailer, potentially resulting in hundreds or thousands of payments per month for each retailer. No other state currently uses this method of sales tax collection, so the systems necessary for all parties to comply do not exist. Retailers, payment processors, banks, and the DOR would need to build the systems necessary to accurately remit, track and reconcile those payments. The costs of doing so, most of which would be recurring, are simply not worth the one-time revenue boost to the Commonwealth.

About COST

COST is a nonprofit trade association based in Washington, DC. COST has an independent membership of approximately 600 major corporations engaged in interstate and international business. COST’s objective is to preserve and promote equitable and nondiscriminatory state and local taxation of multistate business entities.

One-Time Revenue Benefit

By receiving sales tax revenue earlier, Massachusetts will experience a one-time revenue boost, accelerating 13 months of revenue into a 12-month fiscal period. This is purely a “timing” difference – no new sales tax revenue will be collected by the Commonwealth

Costs to Retailers, Payment Processors, and Banks

No state currently requires daily remittance by payment processors. So, to implement this unprecedented change to sales tax collection procedures, new systems would need to be developed and implemented for the information flow between retailers, payment processors, and banks. Payment processors do not currently collect information on the amount of tax due on each transaction; they only know the total charge for each transaction. At a minimum, the payment processors would need to gather additional information on the tax amount of each Massachusetts sale and the retailer's taxpayer ID. Not all current card processing hardware can handle the increased information flow, and new hardware would be required. To the extent current hardware can handle the increased information flow, new software upgrades would still be required.

Moreover, each retailer, large and small, will need to implement new systems to track and reconcile all the payments. Hundreds of payment processors exist in the market today, and a single retailer may use multiple payment processors. Currently, a retailer need only track the single monthly payment it makes to the DOR; if this measure passes it will need to reconcile potentially hundreds or thousands of payments made on its behalf by payment processors. Many of the increased hardware, software, and personnel costs would be recurring costs for payment processors and retailers.

Costs to Massachusetts

The DOR currently receives one payment per month from each retailer. If Section 34 is passed, the DOR would receive multiple payments each day from multiple payment processors for each retailer. The DOR will need to develop a system to track and reconcile each payment and properly credit payments to specific retailers. The DOR will also have to develop a system for tracking subsequent events, for instance, properly crediting a retailer for merchandise returns and transaction chargebacks for which the sales tax was already remitted by payment processors.

Another cost will be incurred if the Commonwealth is required to pay any third party for the use of the so-called "real-time" tax remittance process. A company attempting to sell the idea in other states claimed to have a patent on the process and sought remuneration of 0.25% of sales taxes collected.

Conclusion

COST urges the Joint Committee on Ways and Means to remove Outside Section 34, relating to the daily remittance of sales tax by payment processors, from HB1. The systems are simply not currently available to efficiently implement this process – as evidenced by the fact that no other state has adopted this measure. The costs to build and maintain a system to comply with the provision, many of which are recurring costs, are not worth the one-time revenue boost to the Commonwealth. If you have any questions or would like to discuss further, please do not hesitate to contact me.

Sincerely,



Patrick J. Reynolds
Senior Tax Counsel

CC: Members of the Joint Committee on Ways and Means
COST Board of Directors
Douglas Lindholm, COST President & Executive Director