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Nevada Legislature
Assembly Committee on Taxation
{ Sent Via E-Mail }

Re: Comments in Support of A.B. 281 – Commerce Tax Filing Changes

Dear Chair Neal and Members of the Committee:

On behalf of the Council On State Taxation (COST), I am writing in support of A.B. 281, which would repeal the separate Nevada Commerce Tax return filing requirement for business entities with Nevada gross revenues of \$4 million or less. A.B. 281 would instead require each exempt business entity to file an exemption certificate with its business renewal registration. Because this bill would significantly decrease the administrative burden on business entities that otherwise have no Nevada Commerce Tax obligation, COST supports this legislation.

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. Many of COST's members do a significant amount of business in Nevada.

A.B. 281 Promotes Administrative Efficiency

Since the Commerce Tax was implemented in 2015, COST has monitored and provided insight to its members regarding the administrative compliance requirements required by the State. During this process, our membership has had certain concerns with the implementation of the Commerce Tax. One of the concerns raised by our membership was the return filing requirement for business entities that fall below the \$4 million threshold, which are not otherwise subject to the Commerce Tax. As multijurisdictional business entities, our members often file 100 plus state and local income/excise tax returns. The requirement to file a return where an entity is not subject to tax is simply an administrative burden, taking up time and resources for no apparent reason. Further, the collection of such returns is an administrative burden for the Department of Taxation, which is required to process these returns without the benefit of collecting any revenue for the State. Thus, COST strongly supports A.B. 281, which would elevate an administrative burden on both business entities as well as the State.

Additional Recommendations

COST also urges this Committee to consider two other proposed technical corrections to the Commerce Tax as part of this legislation. First, some COST members have struggled with the tax year currently used for the Commerce Tax. Specifically, Nevada Code § 363C.200 defines the “tax year” as “the 12-month period beginning on July 1 ending on June 30 of the following year.” Most taxpayers, however, account for their operations on a fiscal year, which in most cases does not align with Nevada’s “tax year.” Thus, to compute the Nevada Commerce Tax, most taxpayers are required to use information from two fiscal years. Many taxpayers have found it difficult to accurately compute the tax by the due date of the original return because they are required to prepare and file their Commerce Tax return prior to the closing of their books for financial accounting purposes. To illustrate, for the 2015-16 Commerce Tax-tax year, calendar year taxpayers were required to file their returns on or before August 15, 2016, which is four and a half months prior to the end of their fiscal year. This results in some taxpayers needing to file an amended return (or refunds) to “true-up” their Nevada Commerce Tax taxable income.

To address this, we propose that the following changes be considered as part of this legislation:

- Change the current “tax year” concept to a “privilege year” from July 1 to June 30.
- Allow each taxpayer to make an irrevocable election to base its tax for each privilege year on gross receipts during its fiscal year ending during the privilege year instead of gross receipts for the privilege year. See attached example A (Texas uses a similar approach for its franchise/margins tax).
- The tax for all taxpayers would still be reported and paid by August 15 each year.
- This change could be effective for taxpayers to report their tax for the privilege year ending June 30, 2018.
- Tax Department should be given rule making authority to address taxpayers making this election and subsequently having a change to their fiscal year ending date to be revenue neutral to both the taxpayer and the State.

The next issue identified by some of our membership is the requirement that entities that are part of the same federal consolidated tax group are required to make separate remittances and file separate Commerce Tax returns. Thus, we urge this Committee to consider providing an option for a federal consolidated group subject to the Commerce tax to have all members of that group elect to make one remittance using a single return that has schedules for the group to report and calculate the Commerce Tax liability for all taxable members of the group. The tax would still be separately calculated for each group member using each member’s receipts and tax rate. Therefore, this method would not impact the overall Nevada Commerce Tax liability owed by each taxable member.

Conclusion

A.B. 281 eases the administrative burdens imposed on businesses being required to file returns when no tax is due; therefore, COST strongly supports the legislation. In addition, we ask this Committee to consider the additional issues and solutions identified above as part of this bill.

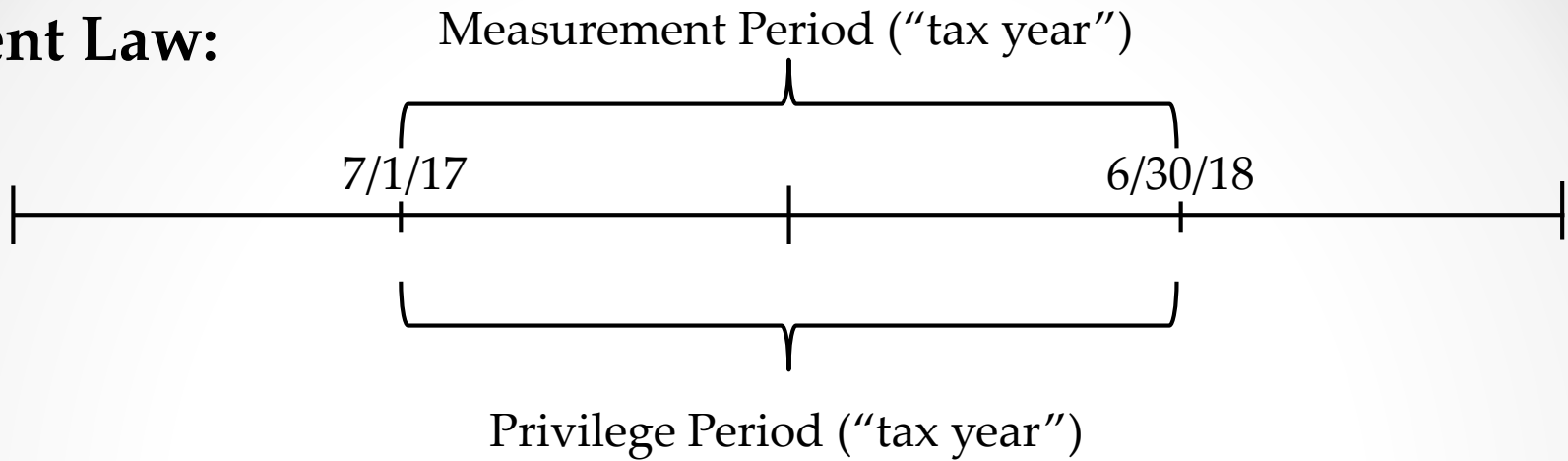
Each of these proposed technical corrections would significantly streamline taxpayer compliance and the Department of Taxation's administration of the Nevada Commerce Tax, which is likely to increase compliance overall.

Sincerely,

A handwritten signature in black ink, appearing to read "Nikki E. Dobay". The signature is fluid and cursive, with a large initial "N" and a long, sweeping tail.

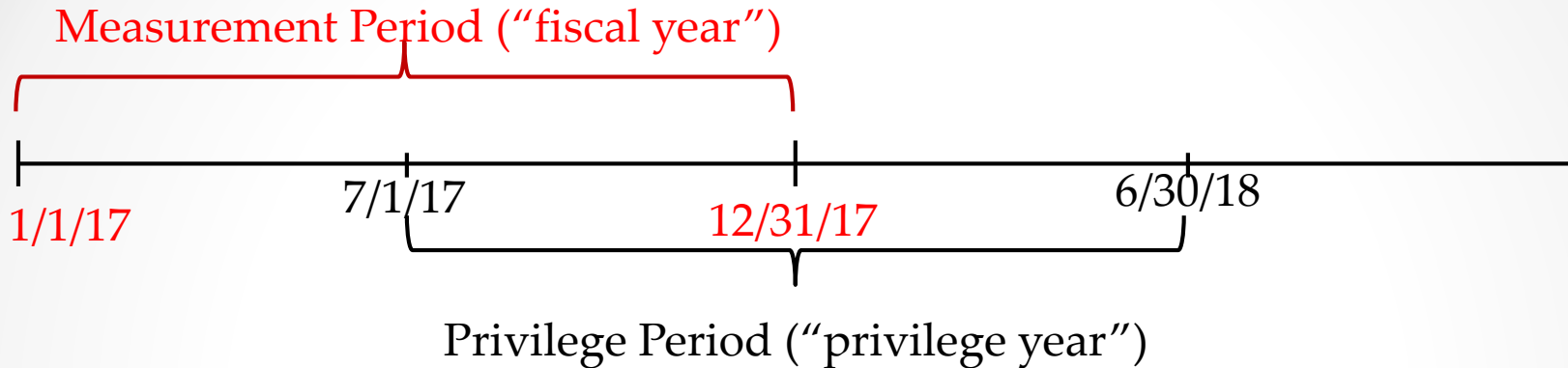
Nikki E. Dobay

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

Current Law:

- Assumes a taxpayer with a calendar fiscal year (ending 12/31)
- Problem: The taxpayer must use gross receipts from two different fiscal years

Proposal:



- Change “tax year” to “privilege year”
- Give taxpayers an irrevocable option to pay tax for the privilege period based on gross receipts for the “fiscal year” ended during the “privilege year”
- If taxpayer ceases doing business on June 30, 2018, taxpayer will only be liable for gross receipts received through the end of the “measurement period” (e.g., 1/1/17 – 12/31/17)
- Benefits:
 - Same cadence for returns and state fiscal year
 - Assuming stable revenue streams, would have minimal impact to State and taxpayers