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May 8, 2020

VIA EMAIL

The Honorable Paul Marquart, Chair
The Honorable Dave Lislegard, Vice Chair
The Honorable Greg Davids, Ranking Minority Member
Minnesota House Committee on Taxes

Re: COST Opposes Reporting of Federal Adjustments in H.F. 3389; Supports Provisions in S.F. 3654; and Supports Conformity to IRC 163(j) Changes in Federal CARES Act

Dear Chair Marquart, Vice Chair Lislegard, Ranking Member Davids, and Members of the Committee,

On behalf of the Council On State Taxation (COST), I am writing to oppose the provisions for reporting adjustments in H.F. 3389, Article 2, which fail to adequately address issues with respect to all taxpayer types reporting federal tax adjustments. COST encourages you to replace the provisions in H.F. 3389, Article 2 with the more comprehensive federal tax change reporting provisions used in S.F. 3654. In addition, COST encourages you to conform Minnesota's tax law with the modified version of IRC 163(j) enacted as part of the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act.¹

About COST

COST is a nonprofit trade association consisting of approximately 550 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 has a significant number of members that own property, have employees, and make substantial sales in Minnesota.

Opposition to H.F. 3389, Article 2

H.F. 3389 selectively incorporates some provisions of the Multistate Tax Commission (MTC) model legislation for taxpayers to report federal tax adjustments; however, it fails to comprehensively apply the MTC model to all taxpayers required to report federal tax adjustments. The deviations from the MTC Model in H.F. 3389, as compared to the provisions of S.F. 3654, would impede fair and efficient reporting of federal tax adjustments, administratively hamper the Department in its collection process, and create additional compliance burdens for taxpayers.

Support for S.F. 3654

S.F. 3654 comports with MTC model legislation² and incorporates input from over twenty states in an effort to improve general reporting of federal tax changes and to address issues specific to new federal audit procedures effective for many partnerships beginning with tax years after December 31, 2017. S.F. 3654 reflects the unified interest of state tax administrators, the MTC, and interested parties representing taxpayers, including COST.

¹ P.L. 116-136 (2020). The CARES Act increased Adjusted Taxable Income from 30% to 50%.

² More information on the MTC model is available at: <http://www.mtc.gov/Uniformity/Project-Teams/Partnership-Informational-Project>.

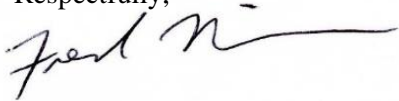
Conformity to IRC 163(j) Changes in Federal CARES Act

The federal CARES Act increases the percentage threshold of deductible business interest from 30 percent to 50 percent of adjusted taxable income for tax years 2019 and 2020, and provides more flexibility in making the 2020 calculation.³ The U.S. Congress made this change to facilitate cash flow and liquidity for taxpayers that need to increase corporate debt to stay afloat during the COVID-19 economic crisis. This Committee should conform Minnesota's law by updating to the new IRC 163(j) provision. Currently, over two-thirds of the states have updated to the more taxpayer favorable interest expense limitation rules in the CARES Act, or impose no restrictions on business interest expense deductions. Minnesota, unfortunately, is not one of those states.

Conclusion

COST urges the Committee to modify H.F. 3389, Article 2, and replace it with the provisions in S.F. 3654. In addition, either in this bill or through similar legislation, Minnesota should conform to IRC 163(j) as modified in the federal CARES Act. Please contact me with any questions.

Respectfully,



Fredrick J. Nicely

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

³ For more information on this, see Karl Frieden and Stephanie Do, *State Tax Conformity to Key Taxpayer-Favorable Provisions in the CARES Act*, 96 Tax Notes State 303 (Apr. 20, 2020) (article attached).