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May 12, 2021

VIA EMAIL

The Honorable Liz Krueger, Chair
The Honorable Thomas O'Mara, Ranking Member
New York Senate Finance Committee

Sent Via E-mail

Re: COST Opposes Unsound Property Tax Valuation Proposal in Senate Bill S5715

Dear Chair Krueger, Ranking Member O'Mara, and Members of the Committee:

On behalf of the Council On State Taxation (COST), we are opposed to Senate Bill S5715, which targets properties used for commercial purposes, including retailers, and imposes a special valuation methodology that differs from how other properties are valued in New York. Additionally, the proposed legislation likely violates the State's Constitution and statutory uniformity requirements. Accordingly, we respectfully urge this Committee to reject this unfair and discriminatory real property valuation proposal.

About COST

COST is a nonprofit trade association consisting of over 500 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's members conduct a significant amount of business in New York and its membership seeks to continue to have all business property in the State valued in a fair and equitable manner.

Fair and Equitable Property Tax System

The COST Board of Directors has adopted the following formal policy statement on Fair and Equitable Property Tax Systems:¹

State and local property tax systems must be fairly administered, and tax burdens equitably distributed among taxpayers. A property tax system that is inefficient or that disproportionately falls upon business is not equitable and will negatively impact a state's business tax climate.

Specifically related to valuation methodology, the policy statement provides as follows:

¹ COST's Policy Statements are available at: <https://www.cost.org/state-tax-resources/cost-policy-positions/>.

A statewide valuation methodology that is conducted in accordance with Uniform Standards of Professional Appraisal Practice (USPAP) and updated on a regular basis to factor in changes in value, including depreciation and all forms of obsolescence, should be utilized.

General Concerns with the Legislation

This legislative proposal would unwisely alter New York's property tax law by placing restrictions on the use of the comparable sales valuation method requiring comparable properties to be similar to current use and fall within the same market segment. Restricting the use of the comparable sales valuation method, a restriction which is not contemplated in the Uniform Standards of Professional Appraisal Practice (USPAP) guidelines, is inappropriate. COST encourages the Legislature to continue to allow all appraisers to follow USPAP guidelines and not restrict the use of the comparable sales approach. This is important given that many commercial property values nationally have been adversely impacted by COVID-19. It is especially true for retail sales facilities hurt by growing Internet retail competition and the COVID-19 pandemic restrictions, with customers increasingly purchasing goods on the Internet rather than at brick-and-mortar stores.

Concerns with Restrictions on Comparable Sales Valuations

Appraisers representing both the property owner and the government should have full use of nationally accepted appraisal practices when valuing property to accurately ascertain its "full value" for property tax purposes. This legislation unfairly restricts the use of the comparable sales valuation method, especially compared to commercial properties located outside of largely populated cities. COST acknowledges that a long-term vacancy or deed restriction can have an impact on how the sale of a comparable property is used; however, those issues can already be addressed by the appraisers when they conduct their appraisals.

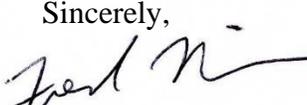
Conflict with New York's Law and Constitution

This proposed legislation also will lead to assessments exceeding the full value, violating the State's Constitution—Article XVI, Section 2, and will violate the State's uniformity requirements—Section 305, Real Property Tax. This will unnecessarily lead to protracted litigation, imposing significant burdens on both assessors and the property owners.

Conclusion

For the reasons set forth above, COST believes the valuation restriction to use the comparable sales valuation method in the proposed legislation should be rejected. Doing so would also prevent potential challenges to the proposed changes under the State's Constitution and statutory provisions. Please feel free to contact us with any questions regarding COST's position.

Sincerely,


Fredrick J. Nicely


Stephanie T. Do

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