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July 9, 2019

Joint Revenue Committee

Re: COST Letter in Opposition to H.B. 220—Corporate Income Tax on Large Retailers

Dear Chairman Senator Case, Chairman Representative Zwonitzer and Committee Members:

Please find attached a letter submitted to the Joint Committee on Corporations, Elections & Political Subdivisions on February 13, 2019 on behalf of the Council On State Taxation (COST). In addition to the submission of this letter, I testified in person in opposition to H.B. 220 at the hearing before that Committee on February 14, 2019.

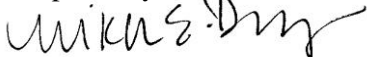
As discussed in COST's letter and my testimony before the committee, COST does not oppose corporate income taxes generally. Rather, COST's mission is to preserve and promote equitable and nondiscriminatory state and local taxation of multijurisdictional businesses. H.B. 220, however, is facially discriminatory because it imposes a corporate income tax solely on two industries (retailers (as identified by NAICS 44 and 45) and accommodation and food services providers (as identified in NAICS 72)) that have 100 shareholders or more. If Wyoming were to adopt the tax contemplated in H.B. 220, it would be an outlier. Although states may limit their corporate income taxes to corporate entities specifically, none impose such specific industry or number of shareholder limitations.

In addition, the idea behind this bill is flawed. Essentially, it rests on a significant misunderstanding that this would not be a "new" tax for those impacted industries based on the concept of "throwback." As discussed in more detail in the attached letter, throwback is a multifaceted issue that hinges upon the tax laws of other states and how a taxpayer's particular facts and circumstances interact with those laws. As a result, the proposal is not only discriminatory on its face, but it further discriminates against certain impacted taxpayers depending on their facts and circumstances. In either case, the tax contemplated in H.B. 220 is bad tax policy and should be jettisoned.

We urge this committee to reject the proposal put forth in H.B. 220. We welcome the opportunity to engage further in a conversation regarding tax reform in Wyoming and urge you to continue to engage in an open dialog on this issue—always taking into consideration the principals of sound tax policy, which instruct us to promote certainty, fairness, transparency, and ease of administration and compliance.

Please do not hesitate to reach out if you have any further questions regarding the issues discussed above or in the attached letter.

Respectfully,



Nikki E. Dobay

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