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September 19, 2022

Senator Scott Hutchinson, Chair
Senator Jimmy Dillon, Minority Chair
Pennsylvania General Assembly
Senate Finance Committee

Via E-mail

Re: COST Supports S.B. 1315: No CNIT Nexus From Partial Remote Workers

Dear Chair Hutchinson, Minority Chair Dillon, and Members of the Committee:

On behalf of the Council On State Taxation (“COST”), I am writing in support of S.B. 1315, which would allow Pennsylvanians to work remotely in the State for their out-of-state employers for part of the year without imposing Pennsylvania Corporate Net Income Tax (CNIT) obligations on their employers.

COST is a nonprofit trade association based in Washington, DC. COST was formed in 1969 as an advisory committee to the Council of State Chambers of Commerce and today has an independent membership of over 500 major corporations engaged in interstate and international business. COST’s objective is to preserve and promote the equitable and nondiscriminatory state and local taxation of multijurisdictional business entities. Many COST members are out-of-state corporations with no in-state activities in Pennsylvania prior to the COVID-19 pandemic. These businesses would like to provide their Pennsylvania-based employees flexible work-from-home arrangements without incurring CNIT obligations that they did not have prior to the pandemic.

In recognition of the COVID-19 pandemic’s business restrictions, the Department of Revenue stopped enforcing CNIT nexus rules on an out-of-state corporation if the corporation’s in-state activities were limited to its employees working from home temporarily due to the pandemic.¹ But the guidance ended and is no longer effective after June 30, 2021.² Since then, the tax law existing prior to the pandemic governs, generally imposing Pennsylvania’s CNIT on an out-of-state corporation with employees working remotely in Pennsylvania (with limited exceptions to activities protected by Public Law 86-272).³

¹ *Telework During the COVID-19 Pandemic*, Pennsylvania Department of Revenue, <https://www.revenue.pa.gov/COVID19/Telework/Pages/Telework-During-COVID19.aspx>.

² *Telework Guidance*, Pennsylvania Department of Revenue, <https://www.revenue.pa.gov/COVID19/Telework/Pages/default.aspx>.

³ *Id.*

This abrupt reversion to prior law is inconsistent with changes to the workforce that have been adopted by many businesses since the COVID-19 pandemic to facilitate workers, including Pennsylvania residents, that want to work remotely for part of the work week. Senate Bill 1315 addresses these new realities—which did not end on June 30, 2021—by providing greater flexibility and opportunity for Pennsylvanians that want to take advantage of flexible work structures that do not require them to commute to their out-of-state employers’ offices every day. Under S.B. 1315, an out-of-state business would not have a Pennsylvania CNIT obligation if its only in-state activity is having employees who work remotely in the State less than 50% of their annual work hours. This legislation is beneficial to the State both by affording its residents flexible work arrangements, and by keeping talented Pennsylvanians from moving out of the State to avoid incurring new CNIT obligations for their employers.

For the foregoing reasons, COST urges members of the committee to please vote in favor of S.B. 1315.

Sincerely,



Stephanie Do

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