COST
COUNCIL ON STATE TAXATION

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April 28, 2011

VIA EMAIL

The Honorable Rick Snyder
Governor, State of Michigan

The Honorable Brian Calley
Lt. Governor, State of Michigan and President, Michigan Senate

The Honorable Randy Richardville
Majority Leader, Michigan Senate

The Honorable Jase Bolger
Speaker, Michigan House of Representatives

Re: In Support of FAS 109 Relief in House Bill 4362

Dear Governor Snyder, Lt. Governor Calley, Majority Leader Richardville and Speaker Bolger:

I am writing to express the Council On State Taxation's (COST) concern with legislation to reform Michigan's business tax system (House Bill 4362). Specifically, COST is concerned with the lack of a provision in the business tax reform package to address the negative financial statement impact of the legislation on many publicly traded companies.

Financial Accounting Standards Statement No. 109, Accounting for Income Taxes ("FAS 109"), requires all public companies to report the impact of the proposed tax reform package in the quarter in which the new law is enacted. COST urges you to adopt provisions to provide relief from FAS 109 resulting from the transition to a new tax system analogous to the relief granted in 2007 with the passage of the Michigan Business Tax ("MBT").

COST respects the strong desire to simplify Michigan's business tax code as part of the reform process, including limiting tax credits and other tax preferences. A deduction to ameliorate the negative consequence of the proposed tax reform on publicly-traded companies' financial statements would be, by definition, a temporary provision to address an issue solely related to the transition from one type of business tax system to another. It would not be a permanent part of the new tax code.

About COST

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 nearly 600 major 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.

Policy Position Regarding the Consequences of Significant Tax Law Changes on Financial Reporting

The COST Board of Directors has adopted a formal policy position addressing the consequences of significant tax law changes on financial reporting. That position is:

> *When enacting significant corporate tax law changes, states must mitigate the immediate and negative impact of those changes on a company's financial reporting. While it is evident that companies may experience a change in their actual tax liability as a result of some tax law changes, the financial impact of having to immediately recognize additional tax expense for financial reporting purposes is not always evident.*

COST's full policy statement on this issue, which includes helpful examples of the potential impact of significant tax law changes on financial reporting, is attached to this letter.

FAS 109 Relief is a Necessary Component of Major Tax Reform

FAS 109 requires that a public company adjust its financial statements in the quarter of enactment of any new state income tax legislation to account for the impact of the legislation on its deferred income taxes (e.g., net operating losses that may be deducted in future tax years). If the business tax reform package is enacted without provisions to address the impact of FAS 109, many companies conducting business in Michigan will be required to significantly reduce the earnings reported to shareholders and the general public. By providing a provision to address FAS 109 in this legislation, similar to the provision enacted as part of the MBT, these negative consequences can be avoided.

The 2007 MBT legislation included a provision allowing taxpayers relief from a current adjustment to earnings. The relief came in the form of a deduction with delayed start date and that was spread out over a number of years. A similar provision could be inserted into the current tax reform package, and it can be crafted in a way such that it would have no immediate impact on Michigan's tax collections. The provision would avoid the unintended negative consequence of the tax reform package of requiring many businesses that operate and employ workers in Michigan to report a reduction in current earnings. In other words, the provision would provide immediate financial statement relief—eliminating the problem created by the business tax reform package as currently drafted—while having an implementation date sufficiently far in to the future to avoid any near-term budgetary impact on the state.

Conclusion

As noted previously, Michigan recognized the impact of business tax reform on publicly traded companies' financial statements when adopting the MBT in 2007. Other states that have adopted significant business tax reforms in recent years, including Ohio, Massachusetts and Texas, have also included FAS 109 relief as part of their tax reform packages. COST urges you to incorporate a similar provision into Michigan's current tax reform package. We would be pleased to share with you legislative language to ameliorate the negative financial statement impact that will otherwise occur as a result of the enactment of the tax reform package.

Yours truly,

Joseph R. Crosby

cc: COST Board of Directors
Douglas L. Lindholm, President & Executive Director, COST
Richard K. Studley, President & CEO, Michigan Chamber of Commerce