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Honorable Marc Snyder, Chair
Honorable Junie Joseph, Vice Chair
House Finance Committee
Colorado General Assembly

Re: COST Supports H.B. 23-1277 – Reporting Federal Tax Adjustments and One-Month Filing Extension

Dear Chair Snyder, Vice Chair Joseph, and Committee Members:

On behalf of the Council On State Taxation (COST), we are writing in support of H.B. 23-1277, which takes several steps to improve the fairness and efficiency of Colorado's tax administration.

COST is a non-profit 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, many of which directly do business in Colorado. COST's objective is to preserve and promote the equitable and non-discriminatory state and local taxation of multijurisdictional business entities.

We highlight two problems that this bill correctly addresses, detailed below.

COST Policy Position on Reporting Federal Tax Changes

House Bill 23-1277 primarily addresses the reporting of federal partnership tax changes but consistently applies the same principles to all taxpayers.[1] The COST Board of Directors has adopted a formal policy position for reporting federal tax changes, which provides:

> *State reporting of federal tax changes imposes a significant compliance burden on multijurisdictional companies. A fair and efficient state procedure for reporting federal tax changes should include: 1) a clear definition of what constitutes a "final determination" that triggers a state reporting requirement; 2) a minimum period of at least 180 days (or six months) to report such changes to the state; 3) conformity to the Multistate Tax Commission model statute for reporting and payment of partnership*

[1]Adoption of federal partnership audit changes is an issue raised in COST's "Best and Worst of State Tax Administration – COST Scorecard on State Tax Appeals & Procedural Requirements," available at: https://www.cost.org/globalassets/cost/state-tax-resourcespdf-pages/cost-studies-articles-reports/admin-scorecard-final-dec-2019.pdf.

> *audit adjustments, 4) the ability to make advanced payments before a "final determination" triggers the filing responsibility for an amended return; and 5) a limitation on issues open for adjustment to those items that are altered as a result of the federal change (after the normal statute of limitations has expired).*[2]

The bill incorporates the Multistate Tax Commission's (MTC) consensus model legislation[3] which COST and other interested parties worked on to address a federal law change in 2015 that significantly modified the procedures for the Internal Revenue Service to audit and process tax changes for all partnership tax return years beginning on and after January 1, 2018.

Among this bill's administrative benefits are a *de minimis* provision and a provision allowing partnerships to make estimated payments to the Department of Revenue (Department) when a partnership is under a federal audit. The legislation also provides the Department and a partnership the ability to mutually agree to use an alternative reporting and payment method, which will provide flexibility to deal with unique circumstances in some partnerships' reporting and payment of federal tax changes to the State.

COST Policy Position on One-Month Filing Extensions

House Bill 23-1277 also provides an additional month to file corporate income tax returns in Colorado. Prior to a federal law change, a Colorado corporate income tax return was due one month after the federal return. A 2015 law change, however, extended the federal due date by one month, which means that the Colorado return and the federal return are now due on the same date. This bill would fix this problem by restoring Colorado's due date to one month after the federal return due date.

The COST Board of Directors has adopted a formal policy statement outlining the need for fair, efficient, and customer-focused tax administration. Regarding the timing of the state corporate tax return filing, the policy statement provides:

> *The state's corporate income/franchise tax return due date should be at least 30 days after the federal tax return due date. Further, the state's corporate income/franchise tax return due date should be automatically extended with the granting of a federal extension. Extending state due dates assists taxpayers in their efforts to file correct returns based on complete federal return information. Although corporate taxpayers often file a single consolidated federal return, the adjustments necessary to generate the multitude of state tax returns required are complex and time-consuming. To ease administrative burdens, an automatic state extension should only require attaching a copy of the federal extension with the state return to qualify.*[4]

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[2] COST's policy position on this issue is available at: https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-policy-positions/cost-federal-tax-changes-rar-policy-oct-2019.pdf.
[3] The MTC model legislation is available at: http://www.mtc.gov/getattachment/Uniformity/Adopted-UniformityRecommendations/Model-RAR-Statute.pdf.aspx?lang=en-US.
[4] COST's policy position on this issue is available at: https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-policy-positions/fair-efficient-and-customer-focused-tax-administration.pdf.

The issue is particularly problematic given the complexity of calculating and apportioning corporate income to a state. Because state returns are based on federal returns and cannot in practice be completed until the federal returns are filed, COST and the Tax Executives Institute for the last five years have asked state tax administrators in states where state corporate tax filing deadlines coincide with the federal extended return deadline to provide penalty relief for late return filing (but not late payment) as long as returns are filed within one month of the federal due date.

This bill provides a permanent fix to this recurring issue by simply providing a one-month extension to the Colorado filing deadline for corporate returns from the federal extended deadline. Making this change will both enhance the accuracy of state returns filed by taxpayers and ease the administrative burdens imposed on the Department by reducing the number of amended returns filed due to the concurrent filing deadlines.

Conclusion

For these reasons, we strongly support H.B. 23-1277 and urge the Committee to approve the bill.

Respectfully,

Stephanie T. Do

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