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March 25, 2013

The Honorable Phil Barnhart, Chairman
Members of the House Revenue Committee

RE: COST Opposition to House Bill 3161

Mr. Chairman and Members,

I am writing to express the Council On State Taxation's (COST) strong opposition to House Bill 3161. House Bill 3161 would eviscerate taxpayer privacy by requiring any corporation doing business in Oregon to file a statement with the Secretary of State's Office disclosing extensive information regarding the corporation's confidential tax information and make that information publicly available. COST has adopted a policy statement against disclosing confidential taxpayer information that is attached for your consideration.

About COST

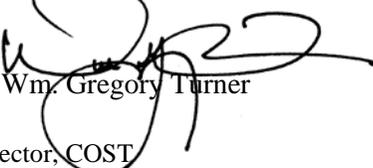
COST is a nonprofit trade association based in Washington, DC. COST was formed in 1969 as an advisory committee to the Council of State Chambers of Commerce and today has an independent membership of nearly 600 major corporations engaged in interstate and international business. COST's objective is to preserve and promote equitable and nondiscriminatory state and local taxation of multijurisdictional business entities.

**Disclosure of Individual Taxpayer Information
Does Not Serve Public Policy Analysis**

Regardless of the state tax policy at issue, its efficacy has nothing to do with the tax return information of any individual taxpayer. The disclosure of individual taxpayer information serves only as a tool to facilitate misleading and uninformed public harassment of individual taxpayers. If the Legislature desires an objective and fair analysis on the benefits or costs of any state tax policy, they have expert resources available with a broad array of data that can provide policy makers with meaningful analysis and evaluate the entire spectrum of taxpayers that may influence whether a tax policy is good or bad for the state as a whole. There is simply no need for disclosure of individual taxpayer information to facilitate a fair and objective analysis of any state tax policy.

COST respectfully urges the Committee to reject HB 3161.

Cordially,



Wm. Gregory Turner

cc: COST Board of Directors
Douglas L. Lindholm, President & Executive Director, COST
J.L. Wilson, Vice President, Gov't Affairs, Associated Oregon Industries



Confidentiality of Taxpayer Information

Policy Position

Position: *Taxpayers have a justifiable expectation of privacy. State departments of revenue audit business taxpayers on a regular basis to ensure that all relevant tax laws are appropriately enforced; releasing specific business tax returns or information from those returns to the public would serve no policy purpose.*

Explanation: The proposition that confidential tax returns should be made available for public inspection so that the public can determine whether a business is paying its “fair share” is fundamentally wrong. The determination of one’s “fair share” of taxes is inherently subjective. A taxpayer’s tax liability is determined by law, not by subjective criteria. The public’s right to set appropriate levels of taxation for different groups is through the lawmaking power of its elected representatives. Those laws, once made, must be fairly interpreted and enforced.

Because tax laws are inherently complex, every state has a dedicated agency of specialists to ensure that tax laws are fairly interpreted and enforced. If lawmakers are concerned that those laws are not being correctly administered, the appropriate response is proper oversight of the tax agency and not disclosure of confidential taxpayer information. If, however, the legislative branch is concerned that certain classes of taxpayers are inappropriately taxed, it can and should ask the executive branch for aggregate information on that class of taxpayers.

From an empirical perspective, having legislators or the public examine specific tax returns is not useful in formulating policy. When such disclosures have been made in past, they have generally been counter-productive due to the lack of public understanding of the complexities of corporate income taxes, especially as they apply to multistate business entities. For example, in New Jersey, tax return information was used to allege that “Public Company A” employed thousands of workers and earned significant income but was paying the State’s minimum tax. In fact, those employees worked for and those profits were earned by a subsidiary of the public company; that subsidiary paid a substantial amount of tax to the state. Furthermore, such disclosures of confidential information make public trade secrets and other sensitive information that can be used by competitors—including competitors not located in the state and subject to the state’s tax system. Thus, taxpayers will be disadvantaged to the extent that they must disclose information that is then available to their competitors.

In 2000, the United States Congress Joint Committee on Taxation completed an exhaustive review of taxpayer confidentiality. The Committee concluded:

Taxpayers have a justifiable expectation of privacy in the extensive information they furnish under penalty of fine or imprisonment....Our tax system is based on voluntary compliance. Many observers believe that the degree of voluntary compliance is directly affected by the degree of confidentiality given the information that is provided to the IRS.

If returns and return information were publicly available, it would invite a variety of intrusions into a taxpayer’s privacy. Business competitors could use the information to gain economic advantage....A lack of confidentiality could also facilitate the use of return information for political gain.

Federal Treatment of Tax Returns: The general rule of §6103 of the Internal Revenue Code (IRC) is that tax returns and tax return information are confidential and not subject to public disclosure.

State Treatment of Tax Returns: The IRC contains a provision prohibiting the sharing of federal tax return information with a state or local government unless the state or local government is likewise required to protect the information.