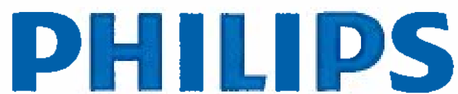

June 16, 2015

Honorable Mark Hass, Chairman
Committee on Senate Revenue &
Finance
Oregon State Legislature
900 Court Street NE
Salem, Oregon 97301

Re: *SB 61 and -2/-3 Amendments*

Dear Chairman Hass and Members of the Committee:

Philips North America (Philips), whose parent company Royal Philips is headquartered in the Netherlands, urges opposition to S.B. 61 and the -2 and -3 amendments, proposals that would expand the state's tax haven list. Labeling any country as a tax haven is arbitrary and misaligns with global and U.S. tax norms. I urge you to oppose tax haven list policy because it positions Oregon as a far less competitive location for foreign direct investment (FDI), jeopardizing future job creation from globally-headquartered companies like Philips.

Royal Philips is a diversified health and well-being company that has been operating in the Netherlands since 1891 – nearly 125 years. It is mistaken to suggest that we are incorporated there for tax avoidance purposes by including that country on the state's tax haven list. Royal Philips is operating in the Netherlands because that is where we were founded and that is one of multiple countries, including the U.S., where we conduct legitimate business operations, including product manufacturing, research and development, supply chain streamlining, and new customer acquisition.

Philips is not alone in investing in Oregon. U.S. subsidiaries of global companies employ over 46,000 people in the state. These jobs are in important sectors like research and development, senior management, and manufacturing, resulting in average salaries more than 33 percent higher than economy norms. These are the very jobs states seek to attract, but which are put at risk because of this legislation.

Philips opposes the tax haven blacklist policy for a number of reasons.

First, this blacklist approach assumes Philips is an abusive tax evader because we operate in these deemed countries. However, the fact that Philips is incorporated in one of these countries does not suggest that we are practicing tax avoidance. On the other hand, we are most likely located in these nations for countless, legitimate business purposes, like manufacturing, engaging in research and development, streamlining a supply chain, or reaching new customers. Unfortunately, this policy fails to distinguish between legitimate corporate actors and tax evaders, offers no safeguards, and imposes punitive taxation to all unitary firms in these countries, which is alarming and arguably unconstitutional.[1]

As Philips expands globally, we frequently acquire or merge with other companies and startups. What happens if my company acquires a legitimate business operating in Bermuda or Guatemala? Suddenly, we will face punitive taxation in Oregon because of a calculated business decision that has nothing to do with tax evasion.

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[1] See *Japan Lines, Ltd. V. Los Angeles County*, 441 U.S. 434 at 450 (1979).

Additionally, the -2 Amendments and -3 Amendments fail to solve our concerns because neither set of solutions would carve out legitimate business transactions. There is no tax treaty carve out nor arms-length and business purpose test, norms seen in state international state tax policies across the country. Further, we urge the Committee to adopt "effectively connected income" language, the standard used the by the Internal Revenue and Service and numerous states as a threshold to tax income of non-U.S. companies.

The -2 and -3 Amendments would require the Department of Revenue to recommend additions to the tax haven country list every two year. This could potentially subject the legislature to the same debates in future years – like the state witnessed this year with Switzerland and the Netherlands.

No other state except Montana has a tax haven list, and Montana ranks dead last of all states in total job creation from foreign direct investment. Additionally, in the past two years, every other state has rejected bills that would adopt the tax haven blacklist policy approach—except Oregon. Rhode Island is the only other state that enacted tax haven legislation into law during this period, but they used a criteria test instead of the blacklist approach and, most importantly, built in safeguards to protect legitimate business transactions.

Simply put, S.B. 61 and the -2 and -3 Amendments would continue to damage the state's reputation among potential foreign investors like Philips who may be looking to invest and expand operations. These policies are discriminatory tax policies that fail to distinguish legitimate business activities from abusive transactions.

Thank you for your consideration of this important issue for Philips and the broader international business community.

Sincerely,

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