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September 2, 2020

Senate Committee on Finance
Michigan Senate
Via E-mail

Re: COST Supports S.B. 1035 – Partnership Reporting of Federal Tax Adjustments

Dear Chair Runestad, Vice Chair Nesbitt, and Members of the Committee:

I am writing on behalf of the Council On State Taxation (“COST”) in support of S.B. 1035. This legislation addresses the reporting of federal partnership tax changes, which is an issue raised in COST’s “Best and Worst of State Tax Administration – COST Scorecard on State Tax Appeals & Procedural Requirements.”¹ This legislation incorporates the Multistate Tax Commission’s (MTC) model legislation 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.

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 approximately 550 major corporations engaged in interstate and international business, many of which directly conduct business in Michigan. COST’s objective is to preserve and promote the equitable and nondiscriminatory state and local taxation of multijurisdictional business entities.

COST Policy Position on Reporting Federal Tax Changes

The COST Board of Directors has adopted a formal policy position for reporting federal tax changes.² That policy position provides:

State (and local) 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 audit adjustments, 4) the ability to make advanced payments before a “final

¹ COST’s Administrative Scorecard is available at: <https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-studies-articles-reports/admin-scorecard-final-dec-2019.pdf>.

² The policy statement on “Reporting Federal Tax Changes” 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>.

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).

S.B. 1035 conforms to COST’s policy statement for partnerships by adopting the MTC model legislation³ for reporting federal partnership tax changes, including a *de minimis* provision and providing partnerships with the ability to make estimated payments to Treasury when a partnership is under a federal audit. The legislation also provides Treasury and a partnership the ability to mutually agree to use an alternative reporting and payment method, which will provide flexibility to Treasury to deal with unique circumstances in some partnerships’ reporting and payment of federal tax changes to the State.

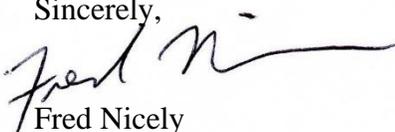
Future Improvement to Reporting Federal Adjustments

While S.B. 1035 conforms to the MTC model for reporting federal changes for partnerships, unfortunately conformity to that model is limited to partnerships. This Committee is urged to continue to work on future improvements to follow both the COST policy position and the MTC model for all taxpayers, allowing 180 days to report changes to the State. Currently, Michigan only allows 120 days. Clarification on what constitutes the trigger date for taxpayers to report changes, the “final determination date,” is also needed and should follow the MTC model’s definition of a final determination for individual and corporate income taxes. Additionally, the estimated payment process included in this legislation for partnerships should apply to all taxpayers. Lastly, while both the individual income tax (\$500) and this legislation implementing a *de minimis* provision for partnership adjustments (\$25), a corresponding *de minimis* provision should also be enacted for corporations when reporting federal income tax adjustments.

Conclusion

For the reasons discussed above, COST urges this Committee to support S.B. 1035. Please let me know if you have any questions.

Sincerely,



Fred Nicely

cc: COST Board of Directors

Douglas L. Lindholm, COST President & Executive Director

³ The MTC Model legislation is available at: <http://www.mtc.gov/getattachment/Uniformity/Adopted-Uniformity-Recommendations/Model-RAR-Statute.pdf.aspx?lang=en-US>.