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Oregon State Legislature
House Committee on Revenue

Via e-mail

Re: COST Opposes H.B. 2099 and H.B. 2077

Dear Chairman Barnhart and Members of the Committee:

On behalf of the Council On State Taxation (COST), I am writing to oppose H.B. 2099, a bill to expand the list of purported “tax haven” jurisdictions, and H.B. 2077, a bill to require publication of confidential taxpayer information. COST is a nonprofit trade association consisting of approximately 600 multistate 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.

H.B. 2099 – COST Opposes the Bill as Introduced, and Amendments “-4”, “-6”, and “-9”. COST Supports the “-8” Amendment. When I appeared before this Committee on April 2, I was joined by Evan Hoffman of the Organization for International Investment (OFII). Evan provided this Committee with a reasonable alternative to the harmful tax haven “blacklist” approach employed by Oregon today. Amendment “-8” reflects this reasoned alternative, removing the “blacklist” of nations and instead seeking to ensure Oregon receives the revenues to which it is entitled. Importantly, under the blacklist approach, 1) countries are arbitrarily targeted, but income shifting to non-listed countries is not addressed; and 2) taxpayers still have the opportunity to control which affiliates are included on the return, since a unitary relationship is required. The tax haven blacklist approach is not an “automatic” inclusion, and the Department is still required to audit returns and assert a unitary relationship under the blacklist approach.

Amendment “-9” continues and expands this flawed approach by adding some, but not all, of the nations recommended by the Department of Revenue, and further giving the Department of Revenue *carte blanche* to include other nations on audit at its discretion, without limitation for income effectively connected with the U.S. or any other of the reasonable limitations to properly reflect Oregon income. Amendment “-9” takes a bad case scenario and makes it worse, both in terms of taxpayer fairness and certainty. COST respectfully requests that the Committee reject Amendment “-9” and instead approve Amendment “-8.” For more

information on the harmful effects of state “tax haven” regimes such as that currently in place in Oregon, please see COST’s policy statement on the issue.¹

H.B. 2077 – COST Opposes the Bill as Introduced and Proposed Amendments. COST has consistently warned against violating taxpayer confidentiality under the guise of transparency. H.B. 2077 would make certain taxpayer return information public record, to the benefit of no one. Rather than inform the public policy debate, H.B. 2077 would mislead both legislators and the public into thinking that businesses do not pay substantial taxes, when in fact business pay substantial taxes, especially in areas other than the corporate income tax. The corporate income tax is the most volatile state revenue stream because of business cycles and intended tax code features. If the Legislature is concerned that certain classes of taxpayers are inappropriately taxed, it should ask the executive branch for aggregate information for that class of taxpayers. Showing that a specific taxpayer did not pay corporate income tax for a given year – because of loss carryovers, current year profitability, tax credits, or some other reason – is not going to help the policy debate. In fact, it will likely harm the debate, as the reason for the taxpayer’s Oregon income tax liability will likely not be apparent or understood from the information disclosed. Amendments to limit disclosure to “the largest 100 taxpayers” underscore the fruitless, punitive, and arbitrary nature of this proposal. COST respectfully requests the Committee to reject proposed amendments to H.B. 2077 and the underlying bill. For more information on why corporate tax return information is considered confidential and should not be subject to publication, please see COST’s policy statement on the issue.²

Sincerely,



Ferdinand Hogroian

cc: COST Board of Directors

¹ Available at http://www.cost.org/uploadedFiles/About_COST/Policy_Statement/COST%20State%20Tax%20Haven%20Policy%20Statement%20Final%204%2016%2015.pdf.

² Available at http://www.cost.org/uploadedFiles/About_COST/Policy_Statement/ConfidentialityOfTaxpayerInformation.pdf.