

June 24, 2020

Senate President Peter Courtney
House Speaker Tina Kotek
Joint Committee on the First Special Session of 2020
Oregon State Capitol
900 Court Street NE
Salem, Oregon 97301

Sent via email

Re: Statutory Corrections to the Corporate Activity Tax (H.B. 4202)

Dear Senate President Courtney, House Speaker Kotek, and Members of the Committee,

On behalf of the Smart Growth Coalition and Council On State Taxation (C.O.S.T.), we are writing to express our support for the statutory corrections to the corporate activity tax (C.A.T.) contained in H.B. 4202. Our organizations previously provided technical comments to the House Revenue Committee and Oregon Department of Revenue (“Department”) regarding these corrective actions. In lieu of repeating those comments, we are including them as enclosures for the official record and, instead, focusing our comments on the critical need for this legislation.

Upon passage of the C.A.T. in 2019, taxpayers and practitioners discovered statutory ambiguities relating to the apportionment of the statutory subtraction, filing requirements for larger taxpayers, and filing periods. These provisions represent the underpinnings required for every taxpayer to calculate the tax, and, thus, pose significant administrative and compliance obstacles without clarification.

During the 2020 session, we worked closely with a technical working group to identify and recommend corrective measures to simplify the Department’s administrative and taxpayers’ compliance burdens. Together with the Department and Legislative Revenue Office, we agreed to a series of statutory corrections designed to resolve the known ambiguities.¹ These corrections clarify the process for apportioning the statutory subtraction,² allow filing groups to exclude affiliated foreign entities with no activity attributable to Oregon,³ and allow taxpayers to use their most recent federal fiscal year information for computing the subtraction.

¹ For an in-depth summary of the legislative and policy history for these corrective measures, see Nikki E. Dobay and Jeff Newgard, “Oregon C.A.T. Part II: Fixes Still Needed to Ease Administration,” *Tax Notes State*, April 27, 2020.

² See Nikki Dobay, Valerie Sasaki, and Catherine Yao, “Comments to the Oregon Department of Revenue,” May 26, 2020.

³ See Jeff Newgard, “Comments to the House Committee on Revenue,” February 11, 2020

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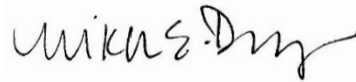
While inherently technical, these provisions provide crucial statutory guidance for implementing the C.A.T. Without resolving the ambiguities, the Department and taxpayers will struggle to comply with the statutory and regulatory requirements of the tax, slowing the collection of revenues and increasing the exposure to tax litigation.

For these reasons and the reasons expressed in our technical comments enclosed with this letter, we encourage you to support H.B. 4202. If you have any questions, please contact us.

Sincerely,



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

Enclosures (11)

1. Nikki Dobay, "Oregon C.A.T. Part I: Legislative Fixes Needed for Administration," *Tax Notes State*, January 13, 2020
2. Nikki Dobay, Comments to the House Revenue Committee, February 5, 2020
3. Jeff Newgard, Comments to the House Revenue Committee, February 11, 2020
4. Nikki Dobay, Comments to the House Revenue Committee, February 11, 2020
5. Nikki Dobay and Jeff Newgard, "Oregon C.A.T. Part II: Fixes Still Needed to Ease Administration," *Tax Notes State*, April 27, 2020
6. Nikki Dobay, Comments to the Oregon Department of Revenue, May 26, 2020
7. Jeff Newgard, Comments to the Oregon Department of Revenue, May 26, 2020
8. Nikki Dobay, Valerie Sasaki, and Catherine Yao, "Comments to the Oregon Department of Revenue," May 26, 2020.
9. Paul Jones, "Groups Urge Changes to Oregon Gross Receipts Tax Regulations," *Tax Notes Today State*, June 1, 2020
10. Daniel Tay, "Orgs Say Proposed Oregon Corp. Tax Rules Violate State Statute," *Law 360 Tax Authority*, May 29, 2020
11. Nikki Dobay, Email to Oregon Department of Revenue, June 12, 2020