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VIA EMAIL
The Honorable Ann Cummings, Chair
The Honorable Mark A. MacDonald, Vice-Chair
Vermont Senate Committee on Finance

Re: COST Supports House Bill 954, Sections 17 and 18

Dear Chair Cummings, Vice-Chair MacDonald, and Members of the Committee,

On behalf of the Council On State Taxation (COST), I am writing in support of the provisions for reporting federal adjustments in House Bill 954 (H. 954), Sections 17 and 18. Section 17 would extend the time for a Vermont taxpayer to report any Vermont income tax adjustments resulting from an amended federal income tax return from 60 to 180 days. Section 18 would provide a Vermont corporate income taxpayer with an automatic extension of the deadline for filing its Vermont corporate income tax return to one month after the extended date for filing its federal corporate income tax return. Enacting these Sections would demonstrate Vermont's commitment to fair and balanced tax administration that is sensitive and attuned to the practical hurdles with tax compliance.

About COST

COST is a nonprofit trade association consisting of approximately 550 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. COST has a significant number of members that own property, have employees, and make substantial sales in Vermont and report Vermont corporate income taxes.

Support for H. 954, Section 17

In 2019, the Multistate Tax Commission (MTC) working with business stakeholders updated its 2003 model legislation that addresses the reporting of federal changes (MTC Model). Specifically, the updated model was developed in conjunction with COST, the American Institute of Certified Professional Accountants (AICPA), and other groups.[1]

All states with corporate and/or individual income taxes can improve their processes for taxpayers to report federal audit changes. While a limited number of states have attempted to address the new federal partnership audit regime, those states can still more closely align their laws to comport with the MTC Model. COST has worked proactively with a broad array of interest groups to incorporate this model into state laws around the country. Although some state tax administrators focus only on incorporating the revised federal partnership audit practices, a critical component of the MTC Model is improving the audit adjustment process for all taxpayers and states for a "win-win" result.

[1] Model Uniform Statute for Reporting Adjustments to Federal Taxable Income and Federal Partnership Audit Adjustments, available at: http://www.mtc.gov/getattachment/Uniformity/Adopted-Uniformity-Recommendations/Model-RAR-Statute.pdf.aspx?lang=en-US.

One of the most important features of the MTC Model is that it enhances fairness by establishing at least 180 days for taxpayers to report federal adjustments to a state. Providing at least 180 days for taxpayers to report federal changes affords them sufficient time to effectively comply with resulting state income tax reporting requirements.

The COST Board of Directors has adopted a formal policy position for reporting federal tax changes. 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 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).*

Section 17 aligns with the MTC Model as well as COST's formal policy position regarding the timeframe to report federal tax changes by extending the number of days to report a federal income tax adjustment from 60 days to 180 days. As such, COST strongly supports the adoption of Section 17.

Support for H. 954, Section 18

Similarly, Section 18 will both ease compliance for corporate taxpayers and reduce the administrative burden on the Vermont Department of Taxes. Specifically, this Section automatically gives a corporate taxpayer one month after its extended federal corporate filing deadline to file its Vermont corporate income tax return. Section 18 recognizes the importance (and practicality) of fair, efficient and customer-focused tax administration as it provides a permanent fix to the recurring issue that has percolated since the extended federal corporate filing deadline was extended to October 15 beginning with tax year 2017. October 15, however, coincides with most extended state corporate income tax return due dates.

The COST Board of Directors has also adopted a formal policy statement outlining fair, efficient, and customer-focused tax administration. Regarding the timing of the state corporate tax return filing, the policy statement provides:

> *The state's corporate income/franchise tax return due date should be at least 30 days after the federal tax return due date. Further, the state's corporate income/franchise tax return due date should be automatically extended with the granting of a federal extension. Extending state due dates assists taxpayers in their efforts to file correct returns based on complete federal return information. Although corporate taxpayers often file a single consolidated federal return, the adjustments necessary to generate the multitude of state tax returns required are complex and time-consuming. To ease administrative burdens, an automatic state extension should only require attaching a copy of the federal extension with the state return to qualify.*

Although Vermont currently provides an additional 30 days beyond the extended federal corporate filing deadline, such extension is not automatic—taxpayers must apply for the extension and receive approval from the Department of Taxes. Section 18 would fix this by providing this extension automatically. This gives corporate taxpayers necessary certainty and eases the administrative burden of reporting federal and Vermont corporate income taxes. Like Section 17, it aligns with COST's formal policy on this issue. Thus, COST strongly supports these efforts as well.

Adopting Sections 17 and 18 Would Significantly Improve Vermont's Tax Administration Scorecard Grade

In December 2019, COST released a scorecard evaluating "The Best and Worst of State Tax Administration."[2] The Tax Administration Scorecard graded states on their respective state tax appeals processes and administrative practices. Like other COST scorecards, it is meant to help improve tax administrative systems which will ultimately increase compliance. The Tax Administration Scorecard objectively evaluates state statutes and administrative rules that govern the state tax administration and appeal of state tax matters. COST's scorecards are ultimately directed at policymakers, who are in the best position to make improvements through statutory changes. In the Tax Administration Scorecard, COST considers the following categories related to procedural elements not related to the state tax appeals process:

- Even-handed statutes of limitations for refunds and assessments;
- Equalized interest rates on refunds and assessments;
- Due dates for corporate income tax returns at least one month beyond the federal due date, with an automatic extension of the state return due date based on the federal extension;
- Adequate time to file a protest before an independent dispute forum;
- Reasonable and clearly defined procedures for filing amended state income/franchise tax returns following an adjustment to a taxpayer's federal corporate tax liability; and
- Transparency in the form of published letter rulings (redacted) and administrative/tax tribunal decisions.

Considering these factors collectively as well as those related to the State's tax appeals process, Vermont received a "C" grade. If Sections 17 and 18 are enacted, however, Vermont's grade would improve significantly.

Conclusion

COST strongly supports Sections 17 and 18 in H. 954 as they will improve Vermont's national reputation for fair, efficient and customer-focused tax administration. We commend the proponents of these sections who have prioritized the urgency of these issues and urge this Committee to support these sections as well. Please contact me with any questions.

Respectfully,

Stephanie T. Do

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

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[2] Available at: https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-studies-articles-reports/admin-scorecard-final-may-2020.pdf.