COST
Council On State Taxation

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VIA EMAIL
The Honorable Paul Marquart, Chair
The Honorable Dave Lislegard, Vice Chair
The Honorable Greg Davids, Ranking Minority Member
Minnesota House Committee on Taxes

Re: COST Opposes Reporting of Federal Adjustments in H.F. 3389; Supports Provisions in S.F. 3654

Dear Chair Marquart, Vice Chair Lislegard, Ranking Member Davids, and Members of the Committee,

On behalf of the Council On State Taxation (COST), I am writing to oppose the provisions for reporting adjustments in H.F. 3389, Article 2, which has serious defects for taxpayers to report federal tax adjustments, and encourage you to replace those provisions with legislation pending in the Senate, S.F. 3654. In contrast to H.F. 3389, Article 2, S.F. 3654 provides a fair and equitable procedure to improve the reporting of federal adjustments to the Minnesota Department of Revenue (Department).

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 Minnesota.

Opposition to H.F. 3389, Article 2

H.F. 3389 selectively incorporates some provisions of the Multistate Tax Commission (MTC) model legislation for taxpayers to report federal adjustments; however, it contains major deviations that would impede fair and efficient reporting of federal tax adjustments. A significant deviation in H.F. 3389, similar to legislation contained in H.F. 2169 last year, would impose impractical requirements for a partnership to know the residency status of all indirect partners (*e.g.*, a partner in a partnership that has an ownership interest in the audited partnership) for the partnership to remit the tax.

This requirement to know the residency of all indirect individual partners is unfair and counterproductive. It would severely restrict a partnership's ability to report and pay a federal partnership tax adjustment because the audited partnership would have difficulty ascertaining the residency of all its indirect partners (*e.g.*, due to confidentiality concerns and/or sheer number of indirect partners). As a result, partnerships with tiered partnership structures will need to push the federal tax adjustments out to their partners to pay. This will administratively burden the Department in its collection process and create more work for the partners to comply.

Support for S.F. 3654

S.F. 3654 comports with the MTC model legislation[1] that over twenty states have worked on to address improvements to the general reporting of federal changes along with issues specific to new federal audit procedures effective for many partnerships beginning with tax years after December 31, 2017. S.F. 3654 reflects the unified interest of the state tax administrators, the MTC, and several interested parties representing taxpayers, including COST.

Conclusion

COST urges the Committee to modify H.F. 3389, Article 2, and replace it with the provisions in S.F. 3654. Please contact me with any questions.

Respectfully,

Fred N

Fredrick J. Nicely

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

[1] More information on the MTC model is available at: http://www.mtc.gov/Uniformity/Project-Teams/Partnership-Informational-Project.