Centre for International Corporate Tax Accountability and Research

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via email
Committee on Taxes
Minnesota House of Representatives

RE: Support for HF2883 to require worldwide combined reporting

Dear Chair Aisha Gomez and Members of the Committee,

My organization, the Centre for International Corporate Tax Accountability & Research (CICTAR), strongly supports HF2883 and the inevitable movement in Minnesota – and other US states – to worldwide combined reporting. This is a common-sense reform back to the original intent and design of the state-level combined reporting system, which correctly treats large corporations as consolidated entities rather than the as separate entities to be taxed at the entity level. By eliminating the water's edge exemption, only utilised by the largest multinational corporations, Minnesota will create a more level playing field for the vast majority of small and medium-sized businesses that don't have access to offshore tax havens in order to legally cheat state, federal and global tax systems.

The water's edge exemption allows multinational corporations, who can most afford it, to avoid the obligation to fund Minnesota's safety net and essential public services like all other businesses and individuals in the state. This is inherently unfair, expands inequality and undermines the integrity of Minnesota's state tax system. This corporate loophole needs to closed as soon as possible to raise revenue for essential public services and ensure that the largest and most profitable corporations operating in Minnesota are required to pay a fair share for services and infrastructure like others already do.

CICTAR knows from current research in California, and public information from the Franchise Tax Board, that less than 2% of company income tax filers in the state utilize the water's edge exemption. The same is likely true in Minnesota and the reform will have no impact on the overwhelming majority of businesses. In California, if not ended, the use of the water's edge exemption will result in a loss of an estimated $5 billion in revenue by 2024. This is the largest loss of revenue from company income tax payments in the state and grossly unfair. This estimate for California is significantly above the estimate in the 2019 Institute of Taxation and Economic Policy (ITEP). The April 10 estimate from the Minnesota Department of Revenue is also based on the ITEP report and most likely lower than the projected revenue increases for Minnesota, which begin at $104 million in 2024 and rise to nearly $364 million in 2027. This is hundreds of millions in annual revenue that can, and should, be used to benefit the people of Minnesota and level the playing field for all businesses.

We note that the Council on State Taxation's (COST) letter opposing this common-sense and overdue reform states that no other US state or country utilizes mandatory worldwide combined reporting to calculate all corporate income taxes. However, Alaska does use combined worldwide reporting for all companies operating in the oil and gas sector, the largest sector in the state's economy. Alaska's use of combined worldwide reporting was recently challenged in federal court, but once again the courts rejected the challenge. Bills to end the water's edge loophole are introduced in many state legislatures every year and continually opposed by COST, whose officers represent many of the world's largest and most aggressive tax dodging multinationals.

Globally, there is a trend towards requiring increased transparency and tackling multinational tax dodging. The global tax reforms at the OECD, supported by the Biden administration, also include a provision that examines the largest global corporations as consolidated entities for the calculation of corporate income taxes. Last week, the Australian government released draft legislation to require all multinationals to publicly disclose tax payments and other basic financial information on a country-by-country basis. This legislation is expected to be implemented in July and moves in front of similar reforms already scheduled for implementation at the European Union level.

The COST letter opposing HF2883 states that this legislation "would place Minnesota at a huge competitive disadvantage among states and would send a warning flag… that the state is a hostile environment…." On the contrary, this legislation levels the playing field for all businesses operating in Minnesota and brings the state in line with global trends to tackle multinational tax avoidance that steals much needed funding for essential public services. Other states will undoubtedly pass legislation to eliminate the water's edge exemption and/or move to full worldwide combined reporting in the coming years. Minnesota has an opportunity to lead the way.

Ultimately, CICTAR supports global reforms to tax multinational corporations as consolidated or "unitary" entities rather than as separate entities where profits can be easily and artificially shifted to where they are taxed the least, or not at all. The combined reporting system in Minnesota (and 26 other US states), with the elimination of the water's edge loophole, is a potential model for future global reforms. In essence, the water's edge loophole allows the world's largest multinational corporations to stash money in offshore tax havens so that it is excluded from the calculation of taxes owed at the state level. This is the primary reason why many of the largest multinationals pay little or no corporate income tax in Minnesota or other states.

We urge the Committee to pass this legislation and close this loophole. The business and people of Minnesota deserve better. Other states are sure to follow Minnesota's leadership on this important issue. We are prepared to answer any question and provide additional information, if needed.

Sincerely,

Jason Ward

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