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February 14, 2024

Senator Guy Guzzone, Chair  
Senator Jim Rosapepe, Vice Chair  
Budget and Taxation Committee  
Maryland General Assembly

**Re: Concerns with Senate Bill 679, Disclosure of Tax Information – Tax Compliance Activity and Binding Data Use Agreements**

Dear Chair Guzzone, Vice Chair Rosapepe, and Members of the Committee:

I am writing on behalf of the Council On State Taxation (“COST”) to express concerns with certain provisions of Senate Bill 679 (“S.B. 679”) and respectfully suggest some modifications. First, we believe the bill should provide more restrictions as to the parties allowed to receive confidential taxpayer information; confidentiality of taxpayer information is a bedrock tax policy principle that should be maintained to the greatest extent possible. Next, if any confidential information is shared, the protocols established by information sharing agreements with the IRS and other taxing authorities should also apply. Finally, any party receiving confidential taxpayer information should not be paid on a contingent-fee basis.

**About COST**

COST is a nonprofit trade association consisting of over 500 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. Many of COST’s members conduct a significant amount of business in Maryland.

**Confidentiality of Taxpayer Information**

The COST Board of Directors has adopted a formal policy position regarding confidentiality of taxpayer information. That position is:

*Taxpayers have a justifiable expectation of privacy. State departments of revenue audit business taxpayers on a regular basis to ensure that all relevant tax laws are appropriately enforced; releasing specific business tax returns or information from those returns to the public would serve no policy purpose.<sup>1</sup>*

<sup>1</sup> COST’s policy statement is available at: <https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-policy-positions/confidentialityoftaxpayerinformation.pdf>.

As currently drafted, the bill would allow taxpayer information to be disclosed to “a person or governmental entity for the purpose of assisting the comptroller in tax compliance activity.” If the intent of the bill is to allow the Comptroller to share information with the IRS and other state taxing authorities, we respectfully suggest the bill should restrict the disclosure to those specific parties. We further suggest that the bill specify that all protocols outlined in exchange-of-information agreements with the IRS and other state taxing authorities be followed.

### **Contingent Fee Arrangements Undermine Equitable Tax Administration**

The COST Board of Directors has adopted a formal policy statement opposing government utilization of contingent fee arrangements in tax audits and appeals. The policy statement provides:

*When States and localities contract with third parties for tax audits, audit selection using data analytics, and appeals services, several concerns arise, including: 1) Lack of Governmental transparency in their administration of the law, including disclosure of amounts paid to third parties. 2) Risk of divulging taxpayer confidential information. Third parties should be subject to the same penalties as government employees if handling taxpayer confidential information. 3) Creating incentives to distort the tax system for private gain. Contingent-fee arrangements jeopardize the neutral and objective weighing of the public’s interest, and instead create a direct economic interest for the third party in the outcome of the services rendered.<sup>2</sup>*

If the intent of the bill is to allow disclosure of information beyond the IRS and other state taxing authorities, we believe that any party to whom tax information is disclosed, 1) should be subject to the same penalties as employees of the Comptroller’s office, and 2) should not be paid on a contingent-fee basis.

### **Conclusion**

For the reasons outlined above, we recommend that you do not adopt S.B. 679 as currently drafted.

Respectfully,



Patrick J. Reynolds

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

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<sup>2</sup> COST’s policy statement is available at: <https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-policy-positions/government-utilization-of-third-parties-in-tax-audits-and-appeals---final.pdf>.