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Committee on Taxation  
Kansas State Legislature

*Sent Via E-mail*

**Re: COST Supports H.B. 2553 Federal TCJA Decoupling Provisions**

Dear Chair Steven Johnson, Vice Chair Les Mason, Ranking Minority Member Jim Gartner, and Members of the Committee:

On behalf of the Council On State Taxation (COST), I submit this written testimony in support of H.B. 2553, legislation which appropriately decouples Kansas from several significant corporate tax base expansion provisions of the federal Tax Cuts and Jobs Act (TCJA). These include global intangible low-taxed income (GILTI) under IRC § 951A, interest expense limitation under IRC § 163(j), and contribution to capital under IRC § 118.<sup>1</sup> This legislation will place Kansas in an equal or better position as its neighboring states to both retain and attract new business to the State<sup>2</sup> and mitigate the unintended tax increase consequences of the TCJA to Kansas business taxpayers.

**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’s members conduct a significant amount of business in Kansas.

**Impact of Federal TCJA is Different at State Tax Level**

One of the goals at the federal level with the enactment of the TCJA was to significantly cut the federal corporate income tax rates from 35% to 21% (forty percent reduction), which more closely aligns the U.S. corporate tax rate to that of other developed countries. However, the TCJA was not just about rate reduction; it also contained several significant tax base expanders to raise additional revenue, imposed primarily to offset the revenue loss from the tax rate reduction (e.g., \$324 billion over a 10-year period from international tax reform provisions, of which GILTI is a significant component). State corporate income tax rates, of

<sup>1</sup> COST also strongly supports the bill decoupling from IRC § 162(r), which impacts a subset of COST’s financial industry membership.

<sup>2</sup> Of the four states surrounding Kansas, Colorado, Iowa, and Nebraska (legislation pending, L.B. 123, to decouple), include GILTI in their tax base. Oklahoma does not generally include GILTI in its tax base.

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course, do not automatically change because Congress enacted federal corporate income tax cuts. However, use the federal tax code as the starting point to determine taxable income. Thus, the impact of the TCJA for states like Kansas that automatically pick up federal income tax base changes is an arbitrary and inadvertent tax increase. H.B. 2553 is a significant step in the right direction to address this unintended tax increase imposed on companies doing business in Kansas.

#### **Decoupling from GILTI (IRC §951A)**

With this legislation, Kansas joins two other states, Nebraska and Utah, that are currently considering legislative proposals to exclude GILTI from the tax base. Most states, including those that make up 83% of the population of states with corporate income taxes, have decoupled in whole or 95% from GILTI. Decoupling also removes potential constitutional issues with how the expanded income tax base from GILTI is apportioned to Kansas. By decoupling from GILTI, Kansas is appropriately removing an arbitrary federal tax code provision that would ultimately harm Kansas' businesses competing both in interstate and international commerce, without advancing any compelling tax policy goal for the State.

#### **Interest Expense Limitations (IRC §163(j)) and Contribution to Capital (IRC §118) Decoupling**

Like GILTI, the interest expense limitations from the TCJA and taxability of certain contributions to capital are also TCJA tax base expanders. Decoupling from the interest expense limitations and taxation of some capital contributions will help improve Kansas' economic environment by not penalizing businesses making significant investments in Kansas. Decoupling will also avoid implementation of potentially complex administrative rules that have not yet been finalized by the Internal Revenue Service.

#### **Conclusion**

H.B. 2553 decouples Kansas from the most significant TCJA tax base expansion provisions that unintentionally increase Kansas' business income tax base (with no corresponding tax rate decrease that occurred at the federal level). COST urges this Committee to act and favorably support this legislation. Please feel free to contact us with any questions regarding COST's position in this area.

Sincerely,



Fred J. Nicely

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