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February 6, 2020

Senator Ben Chipman, Chair
Representative Ryan Tipping, Chair
Committee on Taxation
Maine State Legislature

Sent Via E-mail

Re: COST Opposes Unsound Property Tax Valuation Proposal HP 1456 / LD 2045

Dear Chairs Chipman and Tipping, and Members of the Committee:

On behalf of the Council On State Taxation (COST), I am writing to express concern with HP 1456 / LD 2045, legislation that would impermissibly target certain retail properties to use a special “just valuation” methodology. This legislation inequitably targets retail properties for potential valuation increases by requiring special valuation methods that do not apply to all other properties. Additionally, the proposed legislation potentially violates the State Constitution’s uniformity clause. Accordingly, the Committee should reject this unfair and discriminatory real property valuation proposal.

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 Maine and its membership seeks to continue to have business property in the State valued using “just valuation” pursuant to 36 MRS §701-A, without this proposed amendment.

Fair and Equitable Property Tax System

The COST Board of Directors has adopted the following formal policy statement on Fair and Equitable Property Tax Systems:¹

State and local property tax systems must be fairly administered, and tax burdens equitably distributed among taxpayers. A property tax system that is inefficient or that disproportionately falls upon business is not equitable and will negatively impact a state’s business tax climate.

¹ COST’s Policy Statements are available at: <https://www.cost.org/state-tax-resources/cost-policy-positions/>.

And specifically related to valuation methodology, the policy statement provides as follows:

A statewide valuation methodology that is conducted in accordance with Uniform Standards of Professional Appraisal Practice (USPAP) and updated on a regular basis to factor in changes in value, including depreciation and all forms of obsolescence, should be utilized.

General Concerns with the Legislation

This legislative proposal, based primarily on local tax assessors' fears, would unwisely alter Maine's property tax law to bar appraisers, representing either side, from valuing retail properties (stores over 20,000 square feet) using the same valuation practices that apply to other business properties in Maine. The limitation for the property to be valued (based on "current use" when occupied) could inappropriately restrict an entire class of comparable properties to determine the fair market value of retail properties. This restriction would likely restrict the use of the comparable sales valuation method, a restriction not contemplated in the Uniform Standards of Professional Appraisal Practice (USPAP) guidelines. The proposal is simply an attempt to artificially increase the valuation of select retail properties in Maine. COST encourages the Legislature to continue to allow all appraisers to follow USPAP guidelines and not restrict the use of certain methods based on a "current use" valuation practice. This is important given retail store property values nationally have been adversely impacted by the growth of the internet; that is, customers are increasingly purchasing goods on the internet rather than at brick and mortar stores.

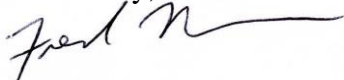
Concerns with Restrictions on Comparable Sales Valuations

Appraisers representing both the property owner and the government should have full use of nationally accepted appraisal practices when valuing property to accurately ascertain its "full value" for property tax purposes. This legislation unfairly restricts select retail properties from valuation methods applied to all other business properties in the State. COST acknowledges that a long-term vacancy or deed restriction can have an impact on how the sale of a comparable property is used; however, those issues can be addressed by the appraisers when they conduct their appraisals. This proposed legislation also potentially violates the State's uniformity clause—Article IX, Section 8, of Maine's Constitution.

Conclusion

For the reasons set forth above, COST believes the valuation policies in the proposed legislation should be rejected. This would also prevent potential challenges to the proposed changes under the State's uniformity clause. Please feel free to contact me with any questions regarding COST's position in this area.

Sincerely,



Fredrick J. Nicely

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