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McGinness, Mike Senator

From: Guy Hobbs [guy@hobbsong.com]
Sent: Tuesday, April 08, 2003 11:29 AM
To: mmcginness@sen.state.nv.us
Cc: bcoffin@sen.state.nv.us; jneal@sen.state.nv.us; stiffany@sen.state.nv.us; aoconnell@sen.state.nv.us; rtownsend@sen.state.nv.us; DRhoads@sen.state.nv.us
Subject: SB 492

Chairman McGinness and members of Senate Taxation:

I am writing to you in regards to SB 492, which seeks to impose a tax on gross revenue that a direct broadcast satellite television company derives from sales to subscribers in this state.

This question of parity with regard to how cable versus satellite broadcast providers are taxed in Nevada was brought before the Governor's Task Force on Tax Policy this past year. With your permission, I would like to provide you and the other members of Senate Taxation with an excerpt from the Task Force report which addressed this situation as representative of challenges that technological advancements impose upon tax policy. The excerpt is provided as follows:

"Nevada is not alone in its susceptibility to changes in technology affecting the performance of its tax system. Examples of this include shifts away from hard asset based technologies toward those that rely less upon physical assets located specifically located within the traditional boundaries of a taxing entity. A more specific example of this trend includes the movement toward wireless versus hardwire communications, including both telecommunications and broadcast services.

Using broadcast services as an example, the shift from a technology that previously relied upon hard assets that were physically located within specific taxing jurisdictions (i.e., cable) toward a technology that more generally relies upon airspace (i.e., satellite) has created some challenges for taxing authorities. When assets are specifically located within a jurisdiction, the value of the assets can be appraised, apportioned and taxed, with the proceeds of the tax being returned to the entities in which the assets are located. When this is less the case, the application of traditional taxing methods may become less effective. In this example, both the application of property tax and franchise tax may be at issue.

More importantly, the difficulty in assessing taxes upon providers of similar services that use different technologies to provide the service can lead to serious questions of fairness in the application and impact of taxation. This, in turn, can lead to issues of uniformity and equity of taxation within similar industries. Such a situation was raised during the deliberations of the Task Force, where it was noted that providers of cable television services are assessed a five percent franchise tax upon the billed charges to customers, which is in turn passed through to their customers. Providers of satellite broadcast services, who are direct competitors to cable providers, are not assessed the franchise tax (and, thus, do not have a need to pass the cost of the assessment along to customers). As a result, pricing to customers of cable versus satellite systems can be impacted, creating concerns as to whether the tax system favors one type of provider versus another.

The Task Force did not recommend a particular remedy for the example noted above, but did express concern that continued changes in technology will inevitably lead to more and more similar situations in the future. The Task Force believes that a very high premium should be placed upon fairness and equity of taxation, and that no competitive advantage should be created for providers of similar goods and services within a similar industry. Thus, the Task Force recommends that the situation noted above be addressed by the Legislature. Further, it is recommended that the Legislature review the tax policies of the State to determine whether other potential inequities, caused by shifts in technology, exist."

The above comments, as excerpts from the Task Force report, are respectfully provided for your consideration.

EXHIBIT S Committee on Taxation

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