

March 18, 2025

Honorable Senator Rest and members of the Senate Tax Committee  
328 State Capitol  
Saint Paul, Minnesota 55155

Dear Senator Rest and members of the Senate Tax Committee:

Thank you for the opportunity to share our concerns on SF 2374, specifically the provision listing accounting services as a service subject to sales tax.

As a CPA and member of the Minnesota Society of Certified Public Accountants and the Twin Cities Tax Professionals I would like to set out some of the concerns we have with this bill.

As time is at a premium during the Senate Tax Committee meeting, I thought I would prepare this letter to let you know some of the concerns we have with the bill as there may not be time to address them during testimony.

**Additional costs to those that can least afford it**

The additional sales tax cost will not be borne by the tax professionals. It will be passed onto the consumers. Adding additional unnecessary costs to consumers in today's economy does not make sense.

Lines 16.17 to 16.19 of the bill attempt to mitigate the cost to some of the people that can least afford the additional cost to tax compliance by exempting tax preparation costs used to claim the Minnesota child tax credit or the Minnesota working family credit. This leaves the question of whether it is the entire preparation fee that is excluded from tax or does the cost of just preparing the forms to claim the Minnesota Working Family Credit or Minnesota Child Tax Credit? The bill is not clear.

Even worse off are taxpayers who claim the Minnesota Renters Credit. According to the Minnesota Department of Revenue there are about 300,000 renters who claim the renters credit each year. To claim this credit, they must file a Minnesota income tax return. Many of these people will have to file a Minnesota income tax return solely to claim the renter's credit.

- Should seniors and other renters people bear this additional sales tax costs as well as the cost of filing a return to claim their renters refund credit?
- If you will exclude the renter's credit from sales tax, is it the entire return or just the cost of the renter's credit form?

If you exclude returns with the working family credit, the child tax credit, and the renter's credit, there are likely other groups that would like to be excluded. Where do you draw the line?

## **What is an accounting service?**

Many people believe that accountants still look like the green-eyeshade wearing tax preparer in the Norman Rockwell painting. Those days are long gone. It is the exception and not the rule for people to walk to their local tax preparation, office bring in their information, and walk out with a completed income tax return. With the changing tax structures and continued revision to the tax rules it is difficult to define an accounting service in this bill.

Here is an example of how difficult it is to determine taxable accounting services according to this bill.

- Line 16.15 states that services provided to a trade or business are not subject to sales tax
- Lines 16.16 and 17 state that accounting services include, but are not limited to,
  - Audits
  - Bookkeeping
  - Financial statement preparation
  - Payroll
  - Income tax preparation services

Audits, bookkeeping, financial statement preparation, and payroll services are almost exclusively done for a trade or business so if you combine lines 16.15 to 17 it says:

- Accounting services include but are not limited to income tax services prepared for individuals.

Tax professionals often offer consulting services that impact people at some of their most stressful times. Is there an intent to tax these if they are performed by a CPA?

- When people get tax notices they assume they are going to jail
- When people are getting a divorce their world has fallen apart and now have to file a tax return when they have never done it in their life as it was the other spouses job
- When someone dies a tax professional is often an early contact and has to lead them through times when they truly have no idea what's next for them
- When someone loses their job they have lost their sense of identity but we have to help guide them on what to do with their retirement assets

The accounting service definition of income tax preparation services is one that would work well for the green-eyeshade wearing tax preparation service. But if you want to include other services we need to know what services you intend to define as taxable sales as there is no clear definition nor guidance. To ask any business to properly comply without proper guidance is not good tax policy.

## **Imposing a tax on tax compliance?**

Our tax system is based on voluntary compliance. In an ever changing and more complex tax system it is difficult for people to properly complete income tax returns. Because of the changes and complexity many people seek out a tax professional to help them with tax compliance.

This bill would tax people on voluntarily fulfilling their income tax obligations. As a concept, this does not seem fair. You should not want to increase the cost of voluntary tax compliance.

A sales tax on tax preparation will encourage more people to do returns on their own. While this may seem fine on the surface, it means that there will be more unintentional errors on returns. This generates additional correspondence from MNDOR to address these errors. It also does not align with the MNDOR goal of collecting the correct tax – no more or no less.

### **What is a trade or business?**

The definition of a trade or business is not as clear as it may seem. Because of changes within the tax system and entity structures there are more trades and businesses that are within an individual income tax return.

Examples of businesses within an individual return include

- Sole proprietors
  - Everything from side gigs to businesses with over \$1,000,000 of revenue
  - These are filed on a Schedule C
- Real estate renters
  - Everything from the upstairs of a duplex to people with many rental apartment buildings
  - These are filed on a Schedule E
- Farmers
  - Be it a family farm or a crop share
  - These are filed on a Schedule F or a Form 4835

We appreciate that the bill acknowledges that keeping track of accounting services provided to businesses is not the same for every accounting service provider. Lines 16.29 and 30 state that the accounting service provider must have records identifying whether the services were purchased by a trade or business using reasonable and verifiable standards. There is no guidance on what is reasonable or verifiable. If there is a dispute that would put the service provider at risk for the sales tax that was not charged so it is important that clarification be set out otherwise there will be inadvertent non-compliance issues and providers should not be penalized for inadvertent compliance issues.

Another issue is whether completing a Minnesota estate (Form M706) or a Minnesota estate or trust income tax return (Form M2) is considered performing services for a trade or business

- These returns are filed with and audited by the Minnesota Business tax section at Minnesota Department of Revenue so would they be considered a business return?

### **How do Minnesota accounting professionals remain competitive?**

Information is sent electronically via portals rather than paper files. Minnesota firms of all sizes do work for clients around the country. A sales tax on services will put local Minnesota businesses at a competitive disadvantage against businesses performing the same services for the same clients outside of Minnesota.

Accounting firms outside of Minnesota may have economic nexus with Minnesota; however, this does not mean that they will comply with the sales tax rules, especially one that imposes a sales tax on a service that almost no other state defines as taxable.

Minnesota accountants will follow these new sales tax rules because we are here and we are aware of the rules. Non-Minnesota accountant will likely not follow the rules either because they are unaware of them or because they choose not to follow them.

### **What is the tax rate?**

Determining the tax rate for a service seems simple but in practice it is difficult.

This sounds simple but try and determine the tax rate if:

- The taxpayer is a Minnesota resident for much of the year but they winter in Florida
  - When we are doing work for them they are in Florida not Minnesota
- The taxpayer files a joint return but one lives in Minnesota and one lives in California
  - Do you allocate the fee between the states?
- The taxpayer lives in Minneapolis but picks up their return at a St Paul office
  - What if the office were in Hudson?
- If the preparer were in Minnesota and the taxpayer were in Wisconsin would the taxpayer be exempt from sales tax?

These and other examples show why the complexity of taxing services that can be performed anywhere is a difficult task.

### **Obstacles to compliance**

Even if we know the rate, how do we comply?

Our income tax preparation software is not tied to a POS system like a retail store. It is very sophisticated software that has a single purpose – calculating income tax returns.

Now we have to determine what is and is not taxable as there are exclusions from many subsets of services. Then we need to determine the rate which may vary depending upon the location of the client.

This gets quite complex.

With this increased complexity comes other solutions such as adding sales tax to all services performed by accounting personnel. This is not the intent of the bill but the cost of complying may be too great to have a different cost-effective solution.

### **Summary**

Placing a sales tax on accounting services is not wise:

- It taxes people on tax compliance and penalizes them for seeking professional help to comply with ever increasingly complex tax laws.
- There are increased costs to renters. New filing requirements now require a Minnesota income tax return to claim the renter's credit.
- The scope and rules are unclear which makes compliance difficult. Complexity in determining which services are taxable and how to apply the tax creates unnecessary confusion and increases the risk of noncompliance.

- It puts Minnesota businesses at a competitive disadvantage. Minnesota businesses, especially small firms that focus on individual returns, will lose business to out of state competitors.

Thank you for your time and attention.

Todd Koch, CPA