



March 22, 2017

Dear Honorable Members of the Pennsylvania General Assembly:

On behalf of our over 130 members – including nearly all statewide and regional business groups, small businesses and Fortune 500 companies – the CompetePA Coalition has been representing the business community on corporate tax issues for more than ten years. Our businesses and organizations have come together to advocate a pro-growth agenda that will create jobs, spur economic development and put the Commonwealth in a competitive position relative to other states and nations.

In order to establish this pro-growth agenda, our coalition believes one of the most important things the state can do is fully lift the cap on the usage of Net Operating Loss Carryforwards (NOLs). Pennsylvania is one of only a handful of states in the nation that caps the amount of net operating losses (NOLs) a company can offset against its current corporate net income. For cyclical companies – like manufacturers and high-growth start-ups – that means effective tax rates in Pennsylvania are several times higher than in competing states. This current, uncompetitive policy puts the Commonwealth at a high disadvantage for business growth and investment.

While we understand that the Pennsylvania Supreme Court may soon be considering the NOL issue via *Nextel v. Commonwealth of Pennsylvania*, and while we further understand the revenue implications of fully lifting the cap immediately, our coalition proposes to eliminate the dollar cap and institute a revenue neutral percentage cap on NOLs for FY 2017-18. We understand from the Department of Revenue that 44 percent is the revenue neutral percentage. We are concerned with any proposal that would eliminate the hard dollar cap and do nothing to increase the percentage-based cap as an offset. In addition to this fix, we also strongly support a multi-year phase-out to the NOL cap to help improve our competitive position.

With regard to proposals on combined reporting and the reduction of the Corporate Net Income (CNI) tax rate, CompetePA does support a reduction of the CNI tax rate. However, we oppose linking it to any other change in tax policy. With the current budgetary complexities with reducing the CNI rate immediately, we look forward to ongoing discussions with legislators and the administration to work together to reduce this uncompetitive rate in the near future.

Instituting Mandatory Unitary Combined Reporting (MUCR) would have a broad range of negative consequences on Pennsylvania's economic climate. MUCR creates complexity and uncertainty for businesses, and it has been proven that it is not the panacea some claim it to be. In fact, in a recent article written by former combined reporting *proponent* David Brunori, he reports that of the last six states to implement combined reporting, five did not yield the expected revenue growth, and in some cases states *lost* revenue. To read this article in its entirety, please see the attached document.

As you know, we have one of the least competitive corporate tax environments in the country. In 2017, the Commonwealth ranked 44th out of 50 states in the Tax Foundation's Corporate Tax Rank¹; only six states were listed as having a worse corporate tax environment. Leading to these results are Pennsylvania's 9.99

¹ <http://taxfoundation.org/article/2017-state-business-tax-climate-index>

percent CNI tax (the highest non-graduated rate in the country), and the fact that we are one of only a few states that caps annual usage of NOL carryforwards.

For Pennsylvania to be nationally and globally competitive, we must have a pro-growth tax plan that attracts new companies to locate here and encourages those already here to expand their operations.

CompetePA remains committed to working with lawmakers to enact responsible policies that will help make Pennsylvania a leader in job growth and economic opportunity. In order to do this we urge you to consider our 2017 policy priorities to lift the cap on NOLs and oppose combined reporting, as you move through the budget process.

Sincerely,

The CompetePA Coalition

[Membership List – Attached]

[Article: *Rethinking Combined Reporting, the Worst Idea of the Year, and Unicorns in Kentucky* – Attached]