



September 8, 2009

Mr. Gerald Parsky, Chair
Commission on the 21st Century Economy
c/o State of California Department of Finance
915 L Street, 8th Floor
Sacramento, California 95814

RE: Maritime Industry Concerns With A Business Net Receipts Tax

Dear Chairman Parsky:

The Pacific Merchant Shipping Association (PMSA) respectfully offers comments and concerns on behalf of California's maritime industry with regard to the Business Net Receipts Tax (BNRT) proposal currently before the Tax Commission. PMSA represents marine terminal operators and ocean carriers doing business at all of California's public ports, and represents roughly 90% of all containers that are moved through our ports.

As you may recall from the BNRT Workshop in San Francisco, we were pleased with the "Preliminary Overview" document's release, would further survey our members regarding their initial concerns about the implementation of the BNRT, and that we would address and expand upon our issues prior to final action by the Commission. We appreciate the opportunity to do so in this letter.

We have a general concern as a major labor employer with the imposition of the BNRT, along with several specific maritime and port industry issues that are of specific concern to us as this major tax change is implemented. Our industry employs one of the highest paid blue collar unionized workforces in North America, and PMSA's member companies support a longshore labor payroll where with total wages and benefits in California are well in excess of \$1.5 billion. As such, the imposition of a "labor tax" through the BNRT is troubling. Instead of having their workforce costs being treated as a deductible expense for the marine terminals and ocean carriers hiring longshore labor, industry will instead be paying a premium on its labor expenses.

For many marine terminal operators, this may mean the difference between profitability and unprofitability; as one of our members put it, the BNRT "promises to have devastating consequences for the entire industry." As made very clear in the BNRT workshops, there will be winners and losers from the adoption of this tax plan in place of the traditional corporate income tax – and, at first blush, we are unfortunately among those who will be made worse off.

As such, we would ask you to avoid placing additional tax burdens on California's maritime trade without first reviewing the true economic costs, and dynamic state revenue impacts that will result, from the imposition of the BNRT.

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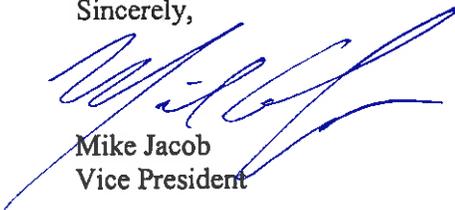
In addition, we have several specific issues with respect to BNRT implementation, should this proposal be endorsed by the Commission. As marine terminal operators are tenants of public agency port authorities, we are concerned that any proposal adopted make clear that rent and lease payments to public agencies acting in a proprietary capacity be treated as deductible and equivalent to rents paid to private parties. As you may recall, we raised this concern at the BNRT Workshop at UCSF, and we were very pleased by the positive reception that this tax parity treatment received from the Commissioners. This letter memorializes those comments, and we anticipate that there will be parity in the treatment of rent whether paid to private or public landlords in whatever final documentation accompanies a BNRT proposal, if any is adopted by the Commission. We appreciate your positive treatment of this request.

Another specific concern that we would like to bring to your attention, although not an issue that we addressed during the BNRT Workshop, has to do with the maintenance of the current allocation methodology applied to the income of entities involved in "sea transportation." We would respectfully request that the allocation of "income," as currently implemented by the Franchise Tax Board through 18 CCR 25101, continue to apply to any proposed allocation of "net receipts" such that receipts only are assigned to California in relation to the time that a ship actually spends in California waters.

PMSA is also a signatory to the California Chamber of Commerce's letter regarding this proposal, which raises a number of general business operations and impacts questions regarding the BNRT. We also look forward to those questions and concerns being addressed to the business community at-large.

Thank you for your consideration of our concerns and questions, and please do not hesitate to contact me if you should have any questions or need further information regarding this or any other maritime matter.

Sincerely,



Mike Jacob
Vice President

cc: Advocation, Inc.
KP Public Affairs
Shaw/Yoder/Antwih