

From: Toby Malara
Sent: Tuesday, September 01, 2009 1:45 PM
To: comment, cotce
Cc: Michael Robson; speaker.bass@assembly.ca.gov; senator.steinberg@senate.ca.gov
Subject: California Staffing Professionals and the American Staffing Association Comments to the Commission on the 21st Century Economy

Dear Mr. Ibele:

Please find attached a public comment letter submitted by the California Staffing Professionals and the American Staffing Association for the Commission's review.

If you have any questions or require any additional information, please do not hesitate to contact me.

Thank you

Toby Malara, Esq.
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Alexandria, VA 22314-3675

The American Staffing Association promotes legal, ethical, and professional practices for the \$86 billion U.S. staffing industry. ASA members account for 85% of U.S. staffing industry sales and operate more than 15,000 offices throughout the nation. Some 2.7 million Americans go to work for U.S. staffing companies every business day. Founded to promote flexible employment opportunities and ensure the quality of staffing services, ASA has been the voice of the U.S. staffing industry since 1966. Members provide a wide range of employment services and solutions, including temporary and contract staffing, recruiting and permanent placement, outplacement and outsourcing, training, and human resource consulting. ASA and its affiliated chapters promote the interests of the industry through legal and legislative advocacy, public relations, education, and the establishment of high standards of ethical conduct.

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September 1, 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

Dear Chairman Parsky:

The American Staffing Association and California Staffing Professionals commend the Commission on the 21st Century Economy for the work it has done over recent months to improve California's tax structure.

Our associations represent an industry that employed over 1.2 million temporary and contract workers in California in 2007 and therefore we have a significant stake in the Commission's recommendations. We would like to take this opportunity to express our particular concerns with the proposed Business Net Receipts Tax (BNRT).

The business of staffing firms is to provide jobs. We employ people and assign them to provide a wide range of services to our clients. Accordingly, payroll and payroll-related costs make up the great majority of our gross receipts. Since staffing industry profit margins are notoriously small, the proposed BNRT would force staffing firms to increase their charges to clients which would result in reduced demand for staffing services and a loss of jobs in California.

To address these concerns, we respectfully request that the Commission include in its recommendations to the governor and the legislature regarding the BNRT that staffing companies be allowed to exclude from the tax base the payroll and payroll-related costs—including wages and salaries, employment taxes, and workers' compensation insurance—of the workers they assign to clients. In other words, the tax should be imposed only on a staffing firm's gross profit.

There is a sound tax policy rationale for excluding a staffing firm's payroll and payroll-related costs: As a value added tax, the BNRT is intended to tax the value a business adds to its production of products and services. The charges made by a staffing firm to its clients for the services provided include the payroll and payroll-related costs of the workers assigned. But the value-added portion of the charge is only the service of recruiting, screening, employing, and assigning the workers. Payroll and payroll-related costs are inputs—effectively "pass-through" costs—that do not add value and therefore should be excluded from the tax base subject to the BNRT, so that only the portion of a staffing firm's charge over and above its payroll and payroll-related costs is taxed.

Simply put, taxing the non-value added pass-through employment costs is a tax on employment. Such a tax will impede job creation at a time when California needs to do all it can to encourage job growth. Staffing companies provide flexible employment opportunities for hundreds of thousands of Californians every day as well as a bridge to permanent employment. In 2007, over 400,000

American Staffing Association

California temporary workers bridged to permanent jobs. The dramatic increase in costs that would result if pass-through employment costs are not excluded from BNRT receipts will significantly reduce those job opportunities.

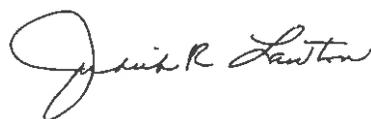
Other states that have recently enacted net receipts taxes (i.e., Michigan and Texas) recognized the potential for discouraging employment and explicitly excluded pass-through employment costs from taxable receipts. Similar exclusions are allowed under the Pennsylvania sales tax and the Virginia Professional and Occupational License tax. To protect California jobs, we urge the Commission to take a similar approach.

If you have any questions, please contact Toby Malara at 703-253-2027.

Sincerely,



Edward A. Lenz
Senior Vice President and General Counsel
American Staffing Association



Judy Lawton
President
California Staffing Professionals