DRAFT

Date: January 8, 2020

To: Members, Senate Governance and Finance Committee

From: Peter Blocker, Vice President of Policy

Subject: OPPOSITION to SB 37 (Skinner), as amended on April 3, 2019

The California Taxpayers Association and the organizations listed in this letter oppose SB 37, a tax increase that – for businesses with net income at or above $10 million – would change the flat corporate tax rate of 8.84 percent (10.84 percent for banks and financial corporations) to a varying tax rate based on the salaries of each corporation's chief executive officer (CEO), chief operating officer (COO), or highest paid employee, and other its employees.

For taxable years beginning on and after January 1, 2020, and for companies with net income of at least $10 million, SB 37 would increase the corporate tax rate by at least 25 percent, and then adjust the rate ranging from 10.84 percent to 14.84 percent (12.84 percent to 16.84 percent for financial institutions), based on each corporation's "compensation ratio." The bill also would increase the tax rate by 50 percent – to a maximum of 22.26 percent (24.26 percent for banks and financial corporations) – for corporations that have a specified decrease in full-time employees in the United States while increasing the number of contracted and foreign full-time employees.

We oppose this legislation for the following reasons:

Creates the Highest Corporate Tax in the United States. SB 37 would more than double the state's corporate tax rate for some employers. California's existing corporate income tax rate already is the highest among the Western states and one of the highest in the nation. The potential 22.26 percent rate proposed by this measure would be the highest in the United States, and higher than the average rate imposed by countries in Asia and the European Union. This would create a huge incentive for California businesses to take their jobs and operations to other states.

Creates a Competitive Disadvantage for Employers Who Stay in California. Higher corporate tax rates discourage investment and put companies doing business in California at a tremendous competitive disadvantage. The corporate tax rate is one of many factors that businesses consider when determining where to make investments. A higher corporate tax rate in combination with California's already high cost of doing business will cause companies to reduce investment in the state and will discourage businesses from expanding to California. A thriving economy is the best source of growing revenue for important government programs, but by chasing jobs away, this proposal would hurt rather than help.

A 2017 study by the Washington, D.C.-based Tax Foundation found that the corporate tax falls predominantly on labor, which the group estimates bears at least 70 percent, if not all, of the burden. At some point, a tax increase on business impacts individuals through less economic growth, lower wages, higher prices, fewer jobs or decreased returns in retirement accounts.

Higher Taxes Are Unnecessary. California already has sufficient revenue to provide additional funding to programs that benefit the middle class. The Legislative Analyst's Office stated in its review of the governor's proposed 2019-20 budget that under current revenue and spending estimates, and assuming the Legislature makes no additional budget commitments, the state would end the 2019-20 fiscal year with $18.01 billion in total reserves. With the state bringing in surplus revenue under the existing tax structure, it simply is unnecessary to impose one of the largest tax increases in California history, targeted directly at companies that employ California workers and fuel the state's economy.

Executive Pay Already Is Subject to Tax Limits. A publicly held corporation generally is not allowed a deduction for compensation in excess of $1 million paid to any covered employee (chief executive officer and four other highest paid officers) under IRC Sec. 162(m). The magnitude of deductions being forfeited by public corporations for the sake of executive compensation is in the billions, effectively increasing these companies' tax liabilities and decreasing corporate profits.

For the foregoing reasons, the organizations listed below strongly oppose SB 37.

Sincerely,

California Taxpayers Association
Advanced Medical Technology Association
Bay Area Council
Biocom

Building Owners and Managers Association of California
California Bankers Association
California Business Properties Association
California Forestry Association
California Independent Petroleum Association
California Life Science Association
California Manufacturers & Technology Association
California Railroads
California Retailers Association
Chamber of Commerce Alliance of Ventura and Santa Barbara Counties
Family Business Association of California
International Council of Shopping Centers
Kern County Taxpayers Association
NAIOP of California, the Commercial Real Estate Development Association
National Federation of Independent Business
Orange County Business Council
Orange County Taxpayers Association
San Gabriel Valley Economic Partnership
Santa Maria Valley Chamber of Commerce
Securities Industry and Financial Markets Association
Silicon Valley Leadership Group
Solano County Taxpayers Association
TechNet
Valley Industry and Commerce Association
West Coast Lumber & Building Material Association

cc: The Honorable Nancy Skinner, California State Senate