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September 25, 2015

VIA FACSIMILE 775-684-2020

Deonne E. Contine
 Executive Director
 State of Nevada
 Department of Taxation
 1515 College Parkway, Suite 115
 Carson City, NV 89706

Re: Workshop on Proposed Regulations issued at 6:00 p.m. on
 September 24, 2015 relating to Trusts

Dear Ms. Contine,

As noted in my letter to you dated July 6, 2015, which has been made part of the record on the initial workshop relating to the Commerce Tax, I have been a licensed CPA in the State of Nevada for almost 40 years, a licensed attorney for over 35 years, and have an advanced law degree, an LL.M. in Taxation from New York University's Graduate School of Law. My law practice is concentrated in the estate planning area with emphasis on trusts, business entities, business succession, and the like. With that as background, I wholeheartedly support and echo all of the comments outlined by Robert E. Armstrong, Esq. of McDonald•Carano•Wilson in his letter to you of August 12, 2015. I would urge that the Department seriously consider and include many of the clarifying points that are contained in Mr. Armstrong's letter.

Before delving into some specifics with respect to the proposed regulations regarding trusts issued late last night, for the record I would like to note that over the past 20+ years, Nevada has done an admirable job in adopting cutting edge legislation in the area of trusts, business entities, retail trust companies and family trust companies. The combination of these has attracted a number of businesses and families in the wealth management areas. Nevada has been in a horse race with other states including Alaska, Wyoming, Delaware, New Hampshire, and Florida to attract this type of business and these families. When they come to Nevada they use retail trust companies to assist in the management of their wealth and/or private family trust companies created under NRS Chapter 669A, either licensed or unlicensed. They often establish

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family offices in Nevada providing employment to Nevada citizens with non-polluting, high paying jobs in the wealth management arena. Because of the nature of the income, and the definition of passive income under the Commerce Tax, many of these structures will not be subject to the Commerce Tax. However, any requirement for these families to report levels of gross income received will have a chilling effect on Nevada's ability to not only attract others but also to retain those families that are already here. Thus, we would encourage that these passive entities not be required to report their gross income.

Now for some specific points:

1. Owning, Maintenance and Management of Intangible Assets. Section 11 of the proposed regulation seeks to include trusts whose activities are "confined to owning, maintenance and management of intangible assets of which the trust is the legal owner" is a needed and helpful clarifying provision to the Commerce Tax. We applaud the Department for including this. That said, we would urge the Department to broaden it. Many trusts use holding companies or other business entity vehicles to own various classes of investments. Often times such entities are used to ease the management of such investments, for example when multiple trusts own membership interests in a particular limited liability company. Other times, separate entities are used to encapsulate potential liability from that particular investment within the confines of the limited liability company or other entity owning such investment. The exclusion of a trust's activities from the Commerce Tax should apply to these holding vehicles as well. Accordingly, we would encourage the Department to so broaden Section 11 of the proposed regulation relating to trusts.

2. Section 11 Use of the Term "Confined". The proposed regulation parrots the statutory language as to activities being "confined" to the "owning, maintenance and management of the person's intangible assets." We agree that passive management of a person's investments in the form of stocks, bonds, and other securities should not be subjected to the Commerce Tax. Taken literally, however, one person may own a publicly traded gold fund and fit within this definition, while another who chooses to own gold bullion or gold coins would not. Accordingly, I would encourage the Department to broaden the statutory language from using the term "confined" to something that would not exclude direct ownership of a tangible asset such as gold so that this type of investment activity is not caught by the regulations.

Under Nevada law, a trustee has a fiduciary duty to invest funds to make the assets productive. The trustee is usually guided by the Uniform Prudent Investor Act which requires diversification as one of its guiding principles. The proposed language of the regulation seemingly would prohibit the trustee from direct ownership of cash whether denominated in US dollars or some foreign currency, just as with the direct ownership of gold bullion. Yet the same trustee could escape the regulation by buying an interest in an

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ETF, an exchange traded fund (an intangible asset) that holds gold. Perhaps to remedy this particular paradox, the exclusion could include simply the fiduciary activities of Trustees in Nevada in managing investment assets so long as the Trustee is not actively engaged in a trade or business.

Please contact me with any questions or if I can be of any further assistance.

Respectfully submitted,

A handwritten signature in black ink that reads "Bart Mowry". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

G. Barton Mowry

GBM/km