

Nevada Department of Taxation
Workshop on SB 483 from the 2015 Legislative Session
Testimony from the American Resort Development Association (ARDA)
July 7, 2015

- Good morning, Erin McMullen with R&R Partners on behalf of the American Resort Development Association, more commonly known as “ARDA.”
- ARDA is the national trade association for the timeshare industry, and some of their members include Wyndham Vacation Ownership, Diamond Resorts International, Marriott and Disney Vacation Club.
- The issue I would like to raise on behalf of the industry is in Sec. 70(4) of SB 483, which allows employers to take a credit for its MBT in an amount equal to 50% of the amount of commerce tax paid by that employer.
- Under that provision, it is possible for many of ARDA’s members as they are currently structured corporately would not be able to take advantage of the 50% credit, despite the fact that they will be paying large sums of MBT and Commerce Tax.
- By way of background, let me explain why this is an issue for our members.
 - A business, for the purposes of federal income tax, may be a consolidated group of entities that nominates one entity to be the payroll entity, and another to be the operating entity. Only the payroll entity would have the MBT liability as the employer (while not generating any revenue) and the operating entity would be making the revenue, and therefore subject to the commerce tax (while not having any MBT liability).
 - Consequently, because the payroll entity and the operating entity are considered separate entities under SB 483, the business would not be able to take advantage of the credit under Section 70, despite the fact that the business is paying both taxes.
- While we understand that the intent of SB 483 and the Commerce Tax is to allow Nevada to capture additional tax revenues from those companies that do not pay a significant share of the MBT and provide some relief to those companies that have high tax liability under both the MBT and Commerce Tax, we simply wanted to raise this issue to see if there was a way to clarify through regulation or guidelines that entities with MBT liability can use Commerce Tax credits generated by entities under common control (with the caveat that the separate entities must only generate liability for either the MBT or Commerce tax, as opposed to both, to avoid any chance for double-credits.
- This is an issue of basic unfairness resulting from corporate structure—if employees and sales are within one company, they pay the tax and get the credit. Yet if they are split, they still generate the same amount of revenue and pay the same MBT but cannot get the credit.
- We believe many other companies and industries will have this same issue, and I think some of them are even here today to offer their comments as well,

so just wanted to put it on the record for you to consider when developing the regulations.

- Happy to answer any questions, and thank you in advance for your consideration.