



MULTISTATE TAX COMMISSION

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Working Together Since 1967 to Preserve Federalism and Tax Fairness

June 29, 2009

Commissioner Dale Higer
Chair, UDITPA Study Committee
Uniform Law Commission
111 N. Wabash Ave., Suite 1010
Chicago, IL. 60602

Re: Support for Review of the Uniform Law Commission's UDITPA

Dear Chairman Higer:

The Multistate Tax Commission, an organization of state officials responsible for tax administration in forty-seven states and the District of Columbia, encourages your committee to adopt its tentative recommendation or, preferably, to recommend a review of UDITPA. Over the last fifty years, thirty-six states have enacted all or substantial parts of UDITPA. The Act has held up well, but there is universal agreement that certain provisions are no longer workable. Many UDITPA states are now in various stages of amending these provisions. Of course, the legislatures in those states will choose the amendments that are right for them. But it is appropriate for ULC to provide model UDITPA amendments. Indeed, ULC may perceive a responsibility to provide model amendments in cases where, as here, its Act has been significantly relied upon by states and is clearly in need of change.

We recognize that the committee has received four letters opposing its tentative recommendation, from Stephen Kranz, ALEC, the NCSL task force on State and Local Taxation of Communications and Electronic Commerce, and COST. For COST, opposition is based not on satisfaction with the status quo, but on a perceived inability to achieve uniformity of state tax statutes through any forum other than Congress. This perception is on a collision course with the goals of ALEC and the NCSL task force, who oppose the project as a threat to state tax sovereignty.

As COST explains so well in its letter, deteriorating uniformity is perhaps the greatest risk to state tax sovereignty today. This risk is not an abstraction. For eight years states have fought back federal legislation that would dramatically restrict their jurisdiction to tax a business at all (most recently, H.R. 1083, Business Activity Tax Simplification Act of 2009). Proponents of the legislation have argued the legislation is needed to shield business from the cost and inefficiency of dealing with increasing variations in state tax laws, including nexus and apportionment provisions.

If there is to be any hope of sustaining the level of uniformity achieved through the original UDITPA, states will need to have model amendments they can consider as they update their UDITPA statutes. By providing a basis for uniformity, the model amendments will bolster, and in no way threaten, state tax sovereignty. State legislatures retain complete control over whether they adopt all, some, or none of the proffered model.

The ULC is the appropriate forum to develop these models and will enable the broadest participation. We urge the Committee to recommend the project continue.

Sincerely

Joe Huddleston
Executive Director
Multistate Tax Commission
Washington, DC