



Uniform Law Commission

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

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For Immediate Release:

National Law Group Revising Important State Tax Law ULC Revising the Uniform Division of Income for Tax Purposes Act

February 13, 2008 — The Uniform Law Commission (ULC) has appointed a new drafting committee to revise the Uniform Division of Income for Tax Purposes Act, an important state law that provides a method for dividing income between states for tax purposes. The planned revisions will be the first time that the ULC has reviewed this Act since it was promulgated in 1957 and amended in 1966. The Act has been adopted by 25 states, and a number of others have effectively done so by joining the Multistate Tax Commission.

The Uniform Division of Income for Tax Purposes Act (UDITPA) deals solely with the allocation and apportionment of income of multi-state businesses. UDITPA does not itself impose a tax on net income; it merely provides a single, equitable standard for determining the portion of a corporation's aggregate net income from multi-state business activities which may be subjected to income tax by each of the states in which a corporation does business.

Stated most simply, the purpose of the original act was to ensure that no more than 100% of the business net income of any corporation or other taxable entity doing business in more than one state should be subject to taxation by all of the states in which it does business.

There have been vast changes in America's business landscape since the UDITPA was first drafted, and the newly-formed drafting committee will engage in a comprehensive review of the act.

The drafting committee to revise UDITPA is chaired by Charles A. Trost of Nashville, Tennessee. Mr. Trost is a member of the law firm of Waller Lansden; his practice focuses on state and federal tax law and tax litigation. He has been recognized for more than 10 years for his work in the area of state tax law in *The Best Lawyers in America* (Woodward White, Inc.), as well as *Business Tennessee's* list of the "Top 101 Lawyers in Tennessee." He has written extensively on tax matters, notably Hartman & Trost, *Federal Limitations on State and Local Taxation 2d.*, which he edited and revised.

Richard Pomp and Prentiss Willson will serve as the committee's co-reporters. Professor Pomp is the Alva P. Loisel Professor of Law at the University of Connecticut School of Law. In addition, he has been a Distinguished Professor in Residence, Chulalongkorn Law School, Bangkok, Thailand, and a Visiting Scholar at the University of Tokyo Law School and at Harvard Law School. From 1981 to 1987, Prof. Pomp was Director of the New York Tax Study Commission, a period during which New York restructured its personal and corporate income tax and created an independent tax tribunal. He is the co-author of a leading casebook on state taxation.

Mr. Willson has nearly 40 years of extensive practice in the area of state and local taxation. Most of that practice was at Morrison & Foerster LLP, where he was head of the firm's State and Local Practice Group and also served as managing partner of the San Francisco office. In 1988 he moved to Ernst & Young LLP as National Director of State and Local Tax Practice and Procedure. He retired from full-time practice in 2002, but continues to consult and to represent clients on state and local tax matters. He is a frequent panelist at continuing education programs throughout the country and has taught at Stanford Law School, University of San Francisco Law School, and at the Golden Gate University Graduate School of Taxation.

Other members of the drafting committee include: William R. Breetz, Jr., Hartford, Connecticut; Robert J. Desiderio, Albuquerque, New Mexico; Steven G. Frost, Chicago, Illinois; Michael C. Geraghty, Anchorage, Alaska; Dale G. Higer, Boise, Idaho; Ann I. Park, Los Angeles, California; and Daniel Robbins, Los Angeles, California.

American Bar Association Advisors to the drafting committee are Ethan D. Millar of Atlanta, Georgia, and Stephanie Lipinski Galland of Washington, DC.

The first meeting of the drafting committee will be in Chicago on May 30-31, 2008, and all interested parties are encouraged to attend. The committee will discuss policy issues to be considered in preparing a first draft of the Revised Act. One of the first of such policy issues is whether the approach should be a narrow one limited to revising the existing issues embedded within UDITPA (e.g. Section 17), or, alternatively, whether the entire approach for apportioning income should be revisited. In addition, the question of whether other issues such as combination, nexus, or the need for uniform procedural approaches (e.g. uniform protest periods, "pay to play" rules) should be addressed as part of the revision will be considered. A paper framing the relevant issues will be prepared by the Co-Reporters and will be made available to the public on the ULC's website [www.nccusl.org] at least 30 days prior to the May meeting. Comments and suggestions are solicited and should be submitted to the committee well in advance of the meeting. Written comments should be sent via email to kristina.shidlauski@nccusl.org and katie.robinson@nccusl.org and must contain the name and address of the sender and the name of the organization that is represented. Comments may also be mailed to the UDITPA drafting committee c/o the ULC at 111 N. Wabash Ave., Suite 1010, Chicago, IL 60602.

The Uniform Law Commission, now in its 117th year, comprises more than 350 practicing lawyers, governmental lawyers, judges, law professors, and lawyer-legislators from every state, the District of Columbia, Puerto Rico and the U.S. Virgin Islands. Uniform law commissioners are appointed by their states to draft and promote enactment of uniform laws that are designed to solve problems common to all the states.

After receiving the ULC's seal of approval, a uniform act is officially promulgated for consideration by the states, and legislatures are urged to adopt it. Since its inception in 1892, the ULC has been responsible for more than 200 acts, among them such bulwarks of state statutory law as the Uniform Commercial Code, the Uniform Probate Code and the Uniform Securities Act.

Information on the UDITPA drafting process or on any other uniform act can be found at the ULC's website at www.nccusl.org.

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