



Federation of Tax Administrators

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July 8, 2008

Mr. Charles A. Trost, Esq.
Waller Lansden Dortch & Davis, PLLC
511 Union Street, Suite 2700
Nashville, TN 37219-1760

Dear Mr. Trost:

I am writing on behalf of the Federation of Tax Administrators Board of Trustees to indicate our support for the review of the Uniform Division of Income for Tax Purposes Act (UDITPA) that is being undertaken by the National Conference of Commissioners on Uniform State Laws (NCCUSL). FTA is the association of the principal tax administration agencies in the 50 states, D.C., New York City and Puerto Rico. The Board endorsed the NCCUSL reviews at its June 2008 meeting.

FTA is not unmindful that representatives of some members of the business community have expressed serious doubts about the NCCUSL effort and have argued that it should be discontinued. We believe those concerns are misplaced and unconvincing. By contrast, the FTA Board believes there are two inescapable truths that argue that the NCCUSL review of UDITPA should continue and that, in so doing, it will benefit states and the business community.

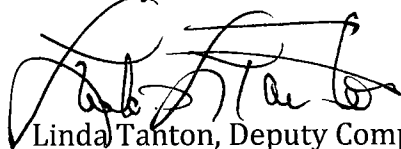
First, UDITPA is a 50-year old statute. No one can realistically deny that the nature of multistate business has changed in significant ways since its adoption in 1957. As a result, there are several features of UDITPA that have been shown through litigation or the difficulties states have faced in applying them to 21st century interstate commerce that cry out for examination. We would point particularly to the "cost of performance" rule for assigning receipts from the sale of other than tangible personal property, the difficulty in applying the gross receipts definition to receipts from the treasury function of modern corporations, and the issues involved in appropriately applying the discretionary authority for alternative apportionment accorded to state tax administrators in Section 18 of the 1957 version of UDITPA. Each of these pieces of UDITPA has proved problematic as states have tried to apply them to 21st century circumstances, and they would each benefit from a re-examination by NCCUSL.

Second, even if NCCUSL should decide not to review UDITPA, states will be required to address the issues identified above (and others) if they desire to have a corporation income tax that is effective and efficient in meeting its intended statutory purpose in today's commercial world. Given this axiom, the FTA Board believes it would be beneficial and appropriate to have a body with the expertise and neutral viewpoint of NCCUSL examine UDITPA and offer its best judgment on the appropriate resolution of the important matters. That is, to have NCCUSL gather a body of knowledge on the important issues in UDITPA and offer its best, unbiased judgment on how they should be addressed by states seems to us to make an important contribution to effective, fair and equitable tax administration.

To suggest, as some have, that NCCUSL should not undertake this sort of review because all states may not adopt the result, seems to us to be short-sighted and to smack of burying one's head in the sand. The simple truth is that the issues will need to be addressed by states whether NCCUSL moves forward or not. We believe that the interests of simplification, uniformity, compliance and effective tax administration will be served best if NCCUSL carries out the UDITPA revision project on which it has embarked.

Thank you for the opportunity to comment on this important topic. Please feel free to contact Verenda Smith, interim FTA Director, or me if you have questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Linda Tanton', written over a horizontal line.

Linda Tanton, Deputy Comptroller
State of Maryland and
President, Federation of Tax Administrators