



# Tax Executives Institute, Inc.

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

Re: Proposed NCCUSL Revision of UDITPA

Dear Mr. Trost:

On behalf of Tax Executives Institute, I write about the pending project of the National Conference of Commissioners on Uniform State Laws (NCCUSL) to re-write the Uniform Division of Income for Tax Purposes Act (UDITPA).

## BACKGROUND

Tax Executives Institute is a voluntary, non-profit association of corporate and other business executives, managers, and administrators who are responsible for the tax affairs of their employers. TEI was organized in 1944 under the laws of the State of New York and is exempt from taxation under section 501(c) (6) of the Internal Revenue Code (26 U.S.C.). The Institute is dedicated to promoting the uniform and equitable enforcement of the tax laws, reducing costs and burdens of administration and compliance to the benefit of both the government and taxpayers, and defending the Commerce Clause and other constitutional rights of business taxpayers. TEI has more than 7,300 members who represent approximately 3,200 of the leading corporations in the United States, Canada, Europe and Asia. TEI's members represent a cross-section of the business community whose employers are, almost without exception, engaged in interstate commerce.

## THE NCCUSL UDITPA PROJECT

In May 2007, TEI attended a stakeholders meeting in Washington, D.C. sponsored by NCCUSL on a possible revision of UDITPA. Recent press reports suggest that the Institute's attendance at the meeting has been construed by NCCUSL as support for the project. That is regrettable because it is simply not the case. Indeed, the Institute has not previously expressed *any* view on the viability or efficacy of the UDITPA revision. Thus, while our members are keenly interested in the project because of its potential effect on their state tax obligations, TEI at present cannot support the project.

Experience teaches that projects to promote state and local tax uniformity, whether initiated by NCCUSL, the Multistate Tax Commission, Federation of Tax Administrators, or *ad hoc* groups of interested parties (such as the National Tax Association's Communications and Electronic Commerce Tax Project), have limited success. The uniformity landscape is strewn with the remnants of incomplete or failed uniformity efforts, because of a multiplicity of factors, including state economic and budgetary pressures, geographic and demographic considerations, interstate or transnational competitive concerns, and concerns of state sovereignty.

Against this background, TEI has significant doubts about the viability of this project. Consistent with NCCUSL's own criteria, the probability of success must be fully considered before proposing or considering model acts. TEI recommends that NCCUSL suspend its effort to revise UDITPA until after such a review. That said, TEI will continue to monitor this project and, as appropriate, offer its views to NCCUSL on particular issues.

Thank you for the opportunity to share our views on the UDITPA revision project. Please contact Timothy J. McCormally, TEI's Executive Director or Eli J. Dicker, TEI's Chief Tax Counsel, both on 202.638.5601 if you would like to further discuss this matter.

Sincerely yours,

TAX EXECUTIVES INSTITUTE, INC.



By:

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Robert J. McDonough  
International President

cc: Martha Lee Walters, President  
Michael Houghton, Chair, Committee on Scope and Program  
National Conference of Commissioners on Uniform State Laws