

ATTORNEYS AT LAW  
**TUCKER, FLYER & LEWIS**

A PROFESSIONAL CORPORATION

1615 L STREET, N.W.

SUITE 400

WASHINGTON, D.C. 20036-5612

(202) 452-8800

FACSIMILE: (202) 429-3231

PETER M. BLOOM  
(202) 429-7416

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**BY FACSIMILE**

Mr. Michael Mazerov  
Multistate Tax Commission  
444 N. Capital Street, N.W.  
Suite 425  
Washington, D.C. 20001-1538

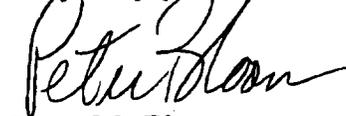
Dear Mike:

The following are my comments concerning the definition of "common carrier" in the draft guideline.

I find the draft guideline ambiguous in one important respect, and that is whether there is (or should be) a distinction between a "common carrier" and a "contract carrier." Such a distinction could produce an undesirable result: if Quill Corporation (which otherwise does not have substantial nexus with the state) transports goods by U.P.S. (a common carrier) into North Dakota, substantial nexus is not produced; if it chooses a contract carrier to transmit the same goods, substantial nexus may exist. If that is the implication of the draft guideline, only those misfortunate enough to use a contract carrier would be affected; these definitions would become a trap for the unwary tax planner. We will have arrived at a very formalistic and unsatisfying result.

I find nothing in the language of either Bellas Hess or Quill to sanction such a result. I interpret the "common carrier" language in those opinions (although the opinions do not define them) not to distinguish common carriers from contract carriers, but rather to distinguish *any* carrier which is unaffiliated with the shipper from one who is not. Accordingly, I would conflate the definitions of "common carrier" and "contract carrier" contained in the draft guideline.

Very truly yours,



Peter M. Bloom