

## *Multistate Tax Commission*



TO: PPWG – UNIFORMITY COMMITTEE LIAISON GROUP  
MEMBERS

FROM: ALAN H. FRIEDMAN, MODERATOR

SUBJECT: UNITARY BUSINESS DEFINITIONS

DATE: MAY 26, 1999

Below are the minutes of the teleconference of the PPWG – Liaison Group held on May 26, 1999. Look for an e-mailed or faxed copy of an updated version of the Three Unities Test by Monday, May 31<sup>st</sup>.

Minutes of Teleconference Meeting of  
PPWG – Uniformity Committee Liaison Group on  
Definitions of Unitary Business  
May 26, 1999

On May 26, 1999, the PPG-Uniformity Liaison Group met by teleconference to review the most recent draft (Draft of May 13, 1999) of the proposal for the Three Unities Test for a Unitary Business. An excellent and valuable discussion was had on the issues set forth in the Moderators memorandum of May 19th. Subject to the possibility that further business input might suggest otherwise, the Group addressed the following concepts to be set forth in the next draft as follows:

1. The ownership requirement should deal solely with the ownership necessary for combination purposes and that a simply stated “more than 50%” ownership by an entity be stated as the test for combination purposes. Additionally, the concept of control or the lack thereof should be relevant on a case-by-case basis to determine the existence or lack thereof only to the remaining issues of unity of operations and use.
2. California’s approach to calculating the percentage of indirect ownership will be followed, subject to further business input. That approach finds that a company (X Company) that owns 80% of Y Company, which, in turn, owns 70% of Z Company, is treated, for unitary combination

purposes, as owning 70%, not 56% of Z Company.

3. The existence of “arms-length” pricing of services or goods provided to or among commonly owned companies is not relevant to a determination of unity, but the absence of “arms-length” prices is relevant.
4. The absence of discounts or other benefits received through the use of common purchases or other activities shared by commonly owned entities is not relevant to a determination of unity, but the existence of such discounts or other benefits is relevant.
5. The types of commonly shared activities between or among entities that is relevant to a determination of unity should be more directly related [or necessary] to the conducting of the income-producing activities. The example used was the joint purchase of letterhead as not being sufficiently connected to the income-producing activities.

The three Subgroups are to teleconference on June 2, 1999. At that time, members are to review the new changes made to the draft (which I will attempt to get out to you on Monday, May 31<sup>st</sup>). Additionally, the Subgroups are asked to review and refine the illustrations set forth in the current draft (May 13<sup>th</sup>).