

October 10, 2018

Helen Hecht
General Counsel
Multistate Tax Commission
444 N. Capitol Street, N.W., Suite 425
Washington, D.C. 20001

Re: Model Uniform Statute for Reporting Adjustments to Federal Taxable Income and Federal Partnership Audit Adjustments

Dear Ms. Hecht:

Minnesota appreciates the thoughtful work of the uniformity committee thus far and the opportunity to provide written comment as part of the hearing process which allows many stakeholders and states to share their perspectives on this work.

We ask that you consider the possible addition of two author's notes to the model language to promote compatibility with significant portions of our tax systems.

Economic Substance

We note the workgroup considered a variety of anti-abuse approaches and an anti-abuse provision discussion draft is posted on the workgroup site. Such a provision, however, is not included in the proposed model. References to anti-abuse discussion is included in at least two staff reports dated April 3, 2018 and July 9, 2018. Ultimately, an option was proposed in the staff report dated June 15, 2018, and made available in the model that could be used to allow the partnership-pays election only for those partnerships with nexus within the state.

While we appreciate the draft option, in our review it seems the model as drafted is best suited for states with an economic substance doctrine codified or in common law. Economic substance doctrines are in place in a number of states to ensure that transactions have a business purpose other than for the sole purpose of avoiding taxation. Potential for the kinds of abuse discussed throughout the Partnership Workgroup process may be less of a concern for states with an economic substance doctrine since it could be determined that a particular structure or partnership-pays election was designed purely to avoid taxation. States without an economic substance doctrine would not have that safeguard.

We ask the model reflect an author's note, alerting states without an economic substance doctrine to consider enacting economic substance through the legislative process or otherwise amending the model as necessary.

Potential Revenue Impact

As it is currently written the model language may change the amount of tax owed compared to current law in certain states. If a partnership elects to pay state tax on behalf of its partners, in many cases it would pay the tax calculated in a different manner than the amount calculated if the original returns had

been filed correctly. It remains uncertain the extent to which the amount of tax may be different and whether the difference would have an impact on any particular state's forecast.

To ensure revenue agencies in each state are aware of this question, we ask the model reflect an author's note alerting state research analysts to the potential revenue impact of what is otherwise a model of administrative practice.

Thank you for your consideration.

Sincerely,



Cynthia Bauerly
Commissioner