



**MULTISTATE TAX COMMISSION**

*Maximizing the synergies of multi-state tax cooperation*

**To: MTC UDITPA Section 1 workgroup**

**From: Sheldon H. Laskin, MTC Counsel**

**Date: August 18, 2015**

**Subject: Future course of work for this workgroup**

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At its meeting in Spokane, the MTC Uniformity Committee considered the following questions regarding the future course of work for the UDITPA Section 1 regulations workgroup. The Committee's decision regarding each question immediately follows that question.

1. Should the five-year rule for transitioning property from apportionable to non-apportionable income be maintained considering the statutory change? Committee decision: Yes.
2. Should certain reserved language within the Determination of a Unitary Business portion of the regulations be maintained considering the passive holding company regulation has not been promulgated? Committee decision: No.
3. Should the draft regulations include lists of income which are or are not receipts? Committee decision: Items that are not receipts should be listed. Items that are receipts should not be listed. In addition, the workgroup should consider cross referencing additional receipts that are not treated as receipts under Section 17.
4. Is it appropriate for the Section 18 language to be removed at this time, pending new Section 18 regulations to reflect the changes to market based sourcing in Section 17, as well as the elimination of the functional test for receipts? Committee decision: While the Committee is not yet ready to appoint a workgroup to draft Section 18 regulations, this workgroup should continue to identify issues that need to be addressed under Section 18 and to formulate suggestions for addressing those issues.
5. Are additional definitions required; i.e., "hedging," "securities," "non-apportionable receipts," etc.? Committee decision: Yes. I am attaching a proposed definition of "hedging" that the

Illinois Revenue Department is currently considering. If anyone has any relevant definitions based on your statute or regulations, please send them on.

Furthermore, apart from the Uniformity Committee's decisions, this work group should continue to examine all references to "gross receipts" and "trade or business" in the regulations to see if those regulations properly reflect the changes in the model statute.

I suggest the following approach to the work going forward.

First, address the issues of additional definitions and items of income to be excluded from the term "gross receipts."

Second, scrub the regulations for outdated references to "gross receipts" or "trade or business."

Simultaneously with this work, the workgroup should identify issues to be addressed under Section 18.

Finally, the workgroup should draft suggestions to address the Section 18 issues that it previously identified.

We can discuss the most appropriate framework for our work going forward during Thursday's call. In addition, we should discuss the possibility of recruiting new members of the workgroup. Come prepared with suggestions for additional members.

Thank you for your valuable work on this project.