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To: Uniformity Sales and Use Tax Subcommittee
From: Roxanne Bland, Counsel
Date: October 26, 2007
Subject: Proposed Model Audit Sampling Statute and Regulation

At its August 2007 meeting, the Executive Committee accepted without comment the recommendation made by the Hearing Officer that the proposed model audit sampling statute and regulation be referred back to the Uniformity Committee for further consideration. The Hearing Officer believes that the suggested amendments to the proposal, if adopted, would effectively transform it into something quite different from what the Uniformity Committee originally recommended to the Executive Committee for the public hearing process. Questions have also been raised concerning the legal evidentiary use of the audit results using the judgmental and probability sampling techniques.

The Hearing Officer's first recommended change to the proposal is to create a new Section 1 that defines the judgmental, probability and statistical sampling techniques. The definitions for judgmental and probability sampling techniques were taken from (Freund and Williams, *Dictionary/Outline of Basic Statistics*, Dover Publications, 1991), and the definition for statistical sampling from the International Standards on Auditing 530 developed by the International Federation of Accountants.¹

The Hearing Officer's second recommended change is that Section 2, regarding when the use of sampling techniques is appropriate, be revamped in its entirety. Rather than vague terms like "voluminous" or "insufficient", section 2 would provide a mathematical criteria for determining when the use of audit sampling techniques is appropriate, and further provides a procedure for the department to follow in initiating the use of such techniques.

On referral back to the Committee, the Hearing Officer suggests that the Committee consider the following questions:

1. As a general matter, does the Committee believe that the revised proposal reflects the intent of the original? If not, should the original intent be reconsidered or should the

¹ <http://www.taxadmin.org/fta/pub/sample.pdf>

proposal be revised? Recall that the Uniformity Committee was originally requested by the Audit Committee to craft a model statistical sampling authorization statute. In the course of its deliberations, the Uniformity Committee decided to expand the scope of its mandate to include other types of common sampling techniques, and further decided to expand the scope of the project to include the development of a model regulation to accompany the model statute.

2. Section 1, Definitions—should a definition for the random sampling technique be included?

3. If the judgmental sampling technique is of limited evidentiary value in a judicial/quasi-judicial proceeding contesting audit results, should these nevertheless be included? Should their use be limited to certain situations?

