The Commonwealth of Massachusetts
Department of Revenue
Rulings and Regulations Bureau
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AMY PITTER
COMMISSIONER

MICHAEL T. FATALE
CHIEF

March 12, 2013

Loretta King
444 North Capitol Street, NW, Suite 425
Washington DC 20001

Re: Public Hearing on Proposed Amendments to Multistate Compact Article IV

Dear Ms. King:

I am writing in support of the Multistate Tax Commission's (MTC) proposed amendments to the model multistate tax compact that would explicitly source receipts from "other than sales of tangible personal property" using a market approach for purposes of sales factor apportionment as applied in the context of the corporate income tax. The rule to be amended as set forth in the Compact and currently in use in many states, which is dependent upon determinations as to "income producing activity" and "costs of performance," has proven to be generally unworkable and often-times distortive in practice. For example, the current rule often serves merely to duplicate a state's property or payroll factor and not to reflect a corporation's in-state market, contrary to the intention behind the rule. In contrast, the proposed rules would address taxpayer questions that arise in this area by fostering state tax equity and state tax uniformity.

The Governor of this state has proposed legislation that would revise this state's sales factor apportionment statute as applied for corporate income tax purposes to include rules that are similar to those being considered by the MTC. Those state proposals have looked to the work that has previously been done by the MTC as part of this project, and further legal developments in this state would benefit from the adoption of the MTC amendments.

The proposed MTC amendments include rules that would, for sales factor purposes, source proceeds received from the license of intangible property based upon the in-state use of such property. These proposed MTC amendments resemble rules that are currently used in this state, and I specifically support the MTC effort to include such rules in the MTC proposals.

Very truly yours,

Amy Pitter
Commissioner of Revenue

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