Income & Franchise Tax Uniformity Subcommittee

DRAFT Model Statute Applicable to
Pass-through Entities Owned By Entities That Do Not Pay Corporate Income Tax
For Discussion Purposes Only
July 15, 2010

ALTERNATIVE DRAFT 1
Insurance Companies and Other Entities

When 50 per cent or more of the capital interests or profit interests in an entity that would otherwise be treated as a partnership or disregarded entity for purposes of \[insert applicable state tax or taxes] \] is owned, directly or indirectly, by an ownership entity, including an insurance company but excluding an entity that is recognized as a non-profit entity under Section 501 of the Internal Revenue Code, that is not of a type subject to \[insert applicable tax or taxes under \[insert state statute\]] the net income \[or alternative tax base\] that passes through to such ownership entity shall be taxed to the partnership or disregarded entity as if the partnership or disregarded entity were a corporation subject to tax under chapter \[insert state statute\]. To the extent applicable, income that is taxable to the partnership or disregarded entity pursuant to this section, and any related tax attributes and activities, shall be included and taken into account in a combined report filed under \[insert state statute\].

ALTERNATIVE DRAFT 2
States List of Applicable Entities

When 50 per cent or more of the capital interests or profits interest in an entity that would otherwise be treated as a partnership or disregarded entity for purposes of \[insert applicable state tax or taxes] \] is owned, directly or indirectly, by \[state is to insert a list of the entity types that are not subject to income tax and that state wants to cover under this statute, with a citation to the tax statute applicable to each entity type\], the net income \[or alternative tax base\] that passes through to such ownership entity shall be taxed to the partnership or disregarded entity as if the partnership or disregarded entity were a corporation subject to tax under chapter \[insert state statute\]. To the extent applicable, income that is taxable to the partnership or disregarded entity pursuant to this section, and any related tax attributes and activities, shall be included and taken into account in a combined report filed under \[insert state statute\].