

CHECKLIST – Referral of Issues from the Executive Committee:

1. COST's comments regarding the Sec. 17 provision governing change in the method of receipts sourcing used originally -

- Hearing Officer Report pages 10 & 11 – Issue 1, and page 16 recommending adding “subject to” language
- COST letter of May 10, page 2 reiterating support for its original suggestion not adopted by the Hearing Officer
- **NOTE – The Committee voted to adopt the hearing officer’s recommendation to add at the beginning of subparagraph (C): “The provisions contained in this Reg. IV.17.(a)(7)(C) are subject to Reg. IV. 17.(a)(7)(B).”**

2. COST's suggestion and the Hearing Officer alternative to address prospective change in the method of receipts sourcing -

- Hearing Officer Report pages 11 & 12 – Issue 2, and recommended deletions on page 16
- COST letter of May 10, page 2
- Draft Minutes of the June 2 call – Michael Fatale’s response to the Hearing Officer’s recommended deletions
- **NOTE – The Committee voted to reject the hearing officer’s recommended changes. The Committee also voted that its first preference would be to ask the Executive Committee to approve the language as drafted. (It agreed to return to the issue of alternative language for further discussion). The Committee voted that as an alternative to its preferred recommendation, which was to retain the language as drafted, that the language be changed as follows:**

“Taxpayer Authority to Change a Method of Assignment on a Prospective Basis. ~~In filing its original return for a tax year, a taxpayer may change its method of assigning its receipts under Reg. IV.17, including changing its method of approximation, from that used on previous returns. However, the taxpayer may only make this change for purposes of improving the accuracy of assigning its receipts consistent with the rules set forth in Reg. IV.17, including, for example, to address the circumstance where there is a change in the information that is available to the taxpayer as relevant for purposes of complying with these rules. Further, a~~ A taxpayer that seeks to change its method of assigning its receipts must disclose, in the original return filed for the year of the change, the fact that it is has made the change ~~and must retain and provide to the [tax administrator] upon request documents that explain the nature and extent of the change, and the reason for the change.~~ If a taxpayer fails to adequately disclose the change ~~or retain and provide the required records upon request,~~ the [tax administrator] may disregard the taxpayer’s change and substitute an assignment method that the [tax administrator] determines is appropriate.”

3. COST's suggestion concerning the percentage threshold for using billing address

- Hearing Officer Report page 12 recommending no change
- COST letter of May 10 reiterating support for its suggestion

- **NOTE – The Committee voted to report to the executive committee that the uniformity committee had considered this issue and the comments, as well as the hearing officer’s report, and recommended that the provisions in question be retained as drafted.**

4. COST’s comments with respect to the provision sourcing receipts from production intangibles

- Hearing Officer Report pages 12 & 13 and recommendation for clarifying change, page 17
- COST letter of May 10 reiterating support for original comments
- **NOTE – The Committee voted to accept the hearing officer’s recommendation as summarized in his report.**

5. The HO recommendations in response to the letter of Ben Miller

- Hearing Officer Report pages 14 & 15, and 17 & 18 recommending changes
- **Note – The Committee voted to accept the hearing officer’s recommendation as summarized in his report.**

6. The ABA suggestion to include a mediation provision

- Hearing Officer Report page 13 & 14 recommending no change
- Staff Memo RE: Referral of Issues from the Executive Committee pages 4 & 5 summarizing comments of the ABA asking for reconsideration
- **Note – The Committee voted to accept the hearing officer’s recommendation that no provision for mediation be included in the draft.**

Following this, we expect to address the additional issues of: 1) whether to provide a regulation including hedging receipts in “receipts” and sourcing under Section 17; 2) whether to source interest and dividend income under Section 17; and 3) whether to delay finalizing amendments to Sections 1 and 17 until work on Section 18 is complete. See as a reference, Staff Memo RE: Referral of Issues from the Executive Committee starting at page 9.

NOTE – The Committee approved a motion with respect to issue 1 (of the additional issues) as follows: To recommend to the Executive Committee that the issue of whether to include hedging receipts and where to source them if included not be addressed in Sec. 1 or 17 regulations since the amendment to Art. IV, Sec. 1 (definition of “receipts”) explicitly excluding receipts from hedging, and that the response to the Executive Committee also include a comment that the Uniformity Committee would, instead, consider this issue under Sec. 18 regulations.

With respect to issue 3, the committee approved a motion to report to the Executive Committee that there should be no delay in the adoption of regulations for Sec. 17 and Sec. 1 pending the adoption of Sec. 18 regulations.

With respect to issue 2, the committee approved two motions as follows:

- **To recommend to the Executive Committee that dividends be treated as excluded from the receipts factor and language be included in these draft regulations to clarify this conclusion (under Sec. 1 or Sec. 17 as appropriate).**

- **That we recommend to the Executive Committee that interest is excluded under Sec.s 1 and 17 and also that language be included in these regulations (including Sec. 2 and Sec. 15), as appropriate, to clarify this.**