

## Multistate Tax Commission Uniformity Projects Update



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78<sup>th</sup> Federation of Tax Administrators Annual Meeting  
June 7, 2010  
Atlanta, Georgia

## Uniformity Program

- The Commission promotes uniformity in state taxation of interstate business by developing model statutes and rules under the direction of the Uniformity Committee
- The Uniformity Committee is composed of representatives from all member states
- The process is designed to maximize input from states and interested parties at nearly every stage

## Uniformity Process

- Proposal initiated by or assigned to Uniformity Committee
- Uniformity Committee develops proposal, with input from relevant interest groups
- Uniformity Committee proposal considered by Executive Committee
- Public Hearing
- Hearing Officer Report considered by Executive Committee
- Bylaw 7 Survey of Affected Commission States
- Proposal Considered for Adoption by Commission at Annual Business Meeting

3

## Uniformity Projects

### Pending Bylaw 7 Survey

- Tax Collection Responsibilities of Accommodations Intermediaries
- Amendments to Model Reg. IV (UDITPA) Section 18
- Repeal - Principles Governing State Transactional Taxation of Telecommunications (Passed)
- Repeal – Guideline on Applicability Sales/Use Tax to Sales of Computer Software

4

## Proposed Model Reg IV.18

Article IV.18. permits a departure from the allocation and apportionment provisions of Article IV only in limited and specific cases. ~~Article IV.18. may be invoked only in specific cases where unusual fact situations (which ordinarily will be unique and non-recurring) produce incongruous results under~~ where the apportionment and allocation provisions contained in Article IV produce incongruous results.

## Uniformity Projects

Under Development at Uniformity Committee

- Model Mobile Workforce Withholding Statute
- Amendments to Compact Art. IV (UDITPA)
- Model Sales & Use Tax Notice and Reporting Statute

## Uniformity Projects, cont.

Under Development at Uniformity Committee

- Review of Model Combined Reporting Statute Tax Havens Provision
- Model Statutes for Telecommunications Transaction Tax Centralized Administration
- Non-Corporate Income Taxpayers
- Model Add-back Statute to Address Captive REITs
- Amendments to Model Financial Institutions Apportionment Rule

7

## Model Mobile Workforce Withholding Statute

- Expedited in response to H.R. 2110,
  - both withholding and IIT exemption
  - Reciprocity
  - 20 day threshold
  - No income from other sources
  - Exceptions for high income key employees, athletes, entertainers, construction workers, prominent persons
  - Employer safe-harbor from penalty
- After public hearing, returned to Uniformity Committee for further consideration

## Amendments to Compact Art. IV

- Section 17 sourcing for all but TPP
  - Top priority
  - States moving away in non-uniform manner
- Definition of “sales”
- Definition of “business income”
- Factor weighting
- Clarification of section 18 authority

## First draft - revised §17

- Receipts from:
  - Services to location of delivery; if delivery location is not “readily determinable,” then to location of customer’s office from which service was ordered; if neither location is “readily determinable,” then to customer’s billing address. Note that location of delivery need not be taxpayer’s customer’s location (i.e., drop-ships sourced to location of customer’s customer).
  - Intangibles to location of use (same as UDITPA allocation for non-business receipts from intangibles)
  - TPP lease; Real Property sale or lease to location of property
- Sourcing is not “all or nothing,” rather single receipt can be sourced pro-rata to multiple states.
- Throw out if sale is non-nexus or not “readily determinable” under the rule

10

## Model Sales & Use Tax Notice and Reporting Statute

- Policy Issues
  - Who should be required to file?
  - Notice – what, when, to whom?
  - Reporting – what, when, to whom?
  - Penalties?
  - Other administrative?