



NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

April 4, 2013

Joe Huddleston
Executive Director
Multistate Tax Commission
444 North Capitol Street, NW
Washington, D.C. 20001

Terie T. Norelli
Speaker
New Hampshire House
President, NCSL

Patsy Spaw
Secretary of the Texas Senate
Staff Chair, NCSL

William Pound
Executive Director

Dear Mr. Huddleston:

We appreciate the continued participation of the Multistate Tax Commission (MTC) at meetings of the National Conference of State Legislature's (NCSL) Executive Committee Task Force on State and Local Taxation. We also appreciate MTC's efforts to establish a transparent process through which elected state policymakers and the taxpaying public can have meaningful input before the organization decides to engage in a policy project and as any project progresses.

In December of 2012, the NCSL task force sent the MTC a letter that outlined our concerns with the "Partnership or Pass-Through Entity Income Ultimately Realized By An Entity That Is Not Subject to Income Tax" MTC project and requested that work on the project be terminated. However, as MTC has continued its work, we once again ask that work on the project be halted as we feel it has policy implications that could impact the continued state regulation of the business of insurance.

The genesis of this project was a proposal from an employee of a state Department of Revenue who raised concerns that insurance companies might be using investments in pass-through entities for tax avoidance purposes. However, as you are aware, insurance companies and their investment activities are already subject to extensive state regulation. Moreover, the gross premium tax system imposed by almost all states on the insurance industry is one of the oldest forms of state business taxation, and it is a system over which the states have greater control than any other form of business taxation. This established system has also proved to be a reliable revenue stream for states during economic downturn, unlike state corporate income tax receipts, which are vulnerable to decline during recession.

The MTC's proposal to subject insurance company investment income generated through pass-through entities to the general corporate income tax not only threatens this settled system of taxing the insurance industry, but it also has negative implications for state regulation of the insurance industry as a whole. We are unaware of any state having enacted a proposal similar

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to that being considered by the MTC, nor have we heard from any legislator asking for model legislation to tax these investments. Due to the lack of interest of state elected officials in this project, whose support is necessary for passage of any legislation in a state, we again respectfully request that you set aside further action on this project.

Thank you for your consideration of our request. If you have questions or would like additional information, please contact us or Neal Osten, in NCSL's Washington office at neal.osten@ncsl.org.

Sincerely,



Senator Pam Althoff, Illinois
Co-Chairs, NCSL Executive Committee Task Force on State and Local Taxation



Delegate Shelia Hixson, Maryland
Co-Chairs, NCSL Executive Committee Task Force on State and Local Taxation