

# **Louisiana Tax Institute**

## **Meeting Minutes**

October 30, 2017

### **I. Call to Order**

The meeting of the Louisiana Tax Institute was called to order at 10:12 a.m. on October 30, 2017 in the Labelle Room located on the ground floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

### **II. Roll Call**

A) The following Members were confirmed as present:

- Jaye Calhoun
- Cade Cole
- Brandon Decuir
- Jason Decuir
- Kimberly Robinson
- Steven Sheffrin

B) Approval of Meeting Minutes from September 29, 2017 meeting: Mr. Decuir moved that the minutes be approved as distributed. This motion was seconded by Dr. Sheffrin. The minutes were approved as distributed.

### **III. Agenda Topics**

A) Presentation on federal partnership audits and the impact on state revenue department by Helen Hecht, General Counsel, Multistate Tax Commission, Nikki Dobay, Senior Tax Counsel, Council On State Taxation, and Fredrick Nicely, Senior Tax Counsel, Council On State Taxation

Mr. Nicely began the presentation by providing background information on federal adult adjustments, the impact they have at the state level, and how states benefit from them. He also discussed issues specific to federal audits such as:

- Federal (IRS) audits can take years – audits generally extend beyond normal federal and state statute of limitations
- IRS audit issues are often resolved at different times, with some issues creating refunds and others creating liabilities
- Multistate Tax Commission has a Model Statute for states – requiring taxpayers to report federal audit adjustments

- The time to report federal audit adjustments to states varies widely - ranges from no set date to one year
- Opportunities for enhancement
- The events triggering the reporting of federal audit adjustments vary widely and include the following:
  - Definition of final determination varies
  - Some States require adjustments to be reported as settled – serial reporting
  - Other States only require reporting after all adjustments are final
- The method to report federal audit adjustments varies widely and include the following:
  - Full amended return
  - Other state specific notice requirements (*e.g.*, simplified amended return or other written notification)
  - State specific spreadsheet or template
- The new federal partnership audit process made by the Bipartisan Budget Act of 2015

Ms. Hecht began her portion of the presentation by outlining the phases of the federal partnership audit process. The complexities associated with this process were identified. The need for simplification of the process was also discussed. The three phases that were outlined are:

- Phase I: Partnership audit
- Phase II: Modification period
- Phase III : Partnership pays or pushes out

The following items were identified as state effects and what states need to address:

- How to treat amended federal returns taxpayers may file during the modification period
- How to treat partnerships that elect to pay the tax at the federal level
- Whether to allow different treatment at the state level
- Can partnerships simply file amended returns (entity returns along with any composite or withholding returns) and K-1s for partners and have partners file amended returns for the reviewed year
- Other issues – allocation and apportionment of federal adjustments
- How to collect tax owed when the liability will have occurred years earlier and the partnership may be defunct or partners may have moved from the state.

Ms. Dobay provided information on the new federal partnership audit rules and state implications. MTC’s ongoing “Partnership Project”, new and proposed

legislation, the draft model legislation, tiered partnership issues, assessments, estimated payments and other model provisions were also discussed.

Following the presentation, members asked questions about the timeline for formal endorsements of the draft from groups that are involved.

#### B) Discussion of combined reporting

After Ms. Pierre opened the discussion on combined reporting, members briefly discussed the presentations that have been presented during previous Tax Institute meetings. Ms. Robinson clarified the overall task of the Tax Institute in regards to combined reporting.

Members agreed that a report would be produced and presented to the legislature. The report will contain recommendations of the best practices that should be put into place in the event that the legislature decides to move forward with combined reporting. Members agreed that what the state has to gain or lose if it decides to move forward with combined reporting should be covered in the report.

The charge of the HCR 11 Taskforce was discussed. Issues that need to be addressed were identified as the pros and cons of combined reporting and the revenue side.

Timing was also discussed. Findings of the Tax Institute are due by January of 2019. Questions were also presented add back statute and regulations.

#### C) Recodification of the Sales Tax Law project

Ms. Martin provided an overview and clarification of information that was provided during the October 30, 2017 meeting in regards to the recodification project.

Members will email any information and/or requests for further information on the recodification project to Ms. Patterson. Members also discussed the probability of the project being presented during a non-fiscal session.

### IV. Other Business

#### A) Next meeting scheduled for November 13, 2017

Topics for consideration:

- Items to include or overall perspective of report on combined reporting

- HCR 11 Report - Discussion on reports due and deadlines for each
  - Combined Reporting
  - Franchise Tax recommendations
  - Sales Tax Recodification
- Current status of corporate franchise taxes in Louisiana
- December meeting

B) Potential dates for December meeting are December 11<sup>th</sup> and 13<sup>th</sup>. Members will select the date during the November meeting.

## **V. Adjournment**

The meeting was adjourned at 11:42 a.m.