Mandatory Unitary Combined Reporting will make Pennsylvania less competitive

In this time of global financial crisis, a competitive business climate that leads to jobs and investment must be our primary goal. The best way to close the state's budget shortfall is to grow the economy by increasing jobs and expanding investment.

One change to Pennsylvania business taxes suggested in recent years, by Governor Rendell and others would have far-reaching and harmful effects on large and small employers, with the certain result of lost investment and jobs in Pennsylvania: Mandatory Unitary Combined Reporting.

Instead of imposing burdensome new taxes and associated requirements on businesses, the most effective single step that Pennsylvania can take to improve our business climate is to improve the uncompetitive corporate net income (CNI) tax. The 9.99% rate is second-highest in the nation, it includes a sales apportionment factor of 70% when other states have moved to 100%, and PA imposes a cap on net operating loss carryforwards, only one of two states to do so. These changes would enable PA employers to hire and invest more in Pennsylvania.

Here are just a few reasons why mandatory unitary combined reporting will make Pennsylvania less competitive for business investment:

Combined reporting discourages investment in Pennsylvania.

- Pennsylvania's high CNI rate is already a big red flag warning businesses away from the state.
- Mandatory unitary combined reporting would create a further disincentive for global companies to operate in Pennsylvania, leading to a certain loss of investment, economic growth and jobs.
- We need to give job creators compelling reasons to stay in, or come to, Pennsylvania, rather than another reason to leave the state.
- It would discourage new businesses from locating here because it would expose their income in other states and countries to Pennsylvania business taxes.

Industries such as manufacturing, business services and trade will experience tax increases under mandatory combined reporting.

- Mandatory combined reporting would result in a major tax increase for key industry sectors.
- The manufacturing, business service and trade industries would see net increases in their tax liabilities of more than $8 million, $20 million and $53 million, respectively.
- Some individual firms that would pay 50% or even 100% more in businesses taxes under mandatory combined reporting, enough to force a decision to move jobs and operations to another state.

Combined reporting creates uncertainty in revenue forecasts and collection and will result in increased administration and litigation costs for the Commonwealth.

- Substantial details remain unclear as to how combined reporting would be instituted. California, the first state to impose combined reporting, has unresolved taxpayer disputes that are literally decades old.

- This tax law change would take away the predictability of tax compliance by creating uncertainty - and resulting litigation - about how the Department of Revenue will choose to view a company's activities in other states and even countries. The Department of Revenue would need to hire additional auditors and provide them with substantial training in order to institute this type of tax change, further increasing the size of Pennsylvania's state government.

In these times, a competitive business climate must be our first goal.

- Pennsylvania has the second highest CNI tax rate in the country. To make Pennsylvania more competitive in these difficult times, the most effective single step that the Governor and the General Assembly can take is to improve the uncompetitive CNI tax by raising the sales factor apportionment, removing the cap on net operating loss carryforwards and lowering the rate. These changes would encourage Pennsylvania employers to create jobs and invest more in Pennsylvania.

Pennsylvania businesses pay $23 billion in taxes.

- There are hundreds of thousands of businesses – large and small in our state. They already pay more than $23.4 billion per year in state and local taxes, in addition to innumerable state fees. Taxes paid by employers represent about 42% of all state and local taxes collected in the Commonwealth.

- About half of the 120,000 C-corporations registered in Pennsylvania that are subject to the CNI do not do not pay state or federal taxes each year, either because they have lost money or because they are inactive corporations.

- When compared to other states – even states that have enacted combined reporting – Pennsylvania's proportion of corporations that do not pay the CNI is typical.

<u>There is no "Delaware loophole."</u>

- Companies that have holding companies in other states comply with established Pennsylvania law for paying their business taxes. If a company does not comply with the law, there are established penalties.

- Replacing this law with new, unclear, mandatory combined reporting regulations does not guarantee higher tax revenues from businesses located here. It would promise confusion, litigation, potentially reduced collections and a clear signal that Pennsylvania does not provide a competitive business climate.