



December 16, 2008

Christa Bleyleben
Executive Director, Office of International Trade and Investment
State Transportation Building
10 Park Plaza, Suite 4510
Boston, MA 02116

Dear Ms. Bleyleben:

I am writing to inform you of a tax issue that will significantly impact the ability of the State of Massachusetts to attract foreign direct investment and to request a discussion with you on this issue at your earliest convenience.

The Organization for International Investment (www.ofii.org) is a business association of over 150 U.S. operations of companies based abroad (e.g. Nestle, Philips, GlaxoSmithKline). A number of our members have major operations in Massachusetts; companies based abroad employ over 173,000 people in the state, nearly 6% of the total private sector workforce.

Our concerns stem from Massachusetts' new unitary combined reporting law that would effectively eliminate the existing treaty carve out in the statute for interest and royalty payments made by a company operating in Massachusetts to certain foreign affiliates. If unaddressed, the result would be significant double taxation on legitimate business transactions made between OFII member companies and their affiliates and parent companies located abroad (between Massachusetts and the home country).

Massachusetts currently provides for a tax deduction for royalties and interest paid to a related party in another country as long as there is a bilateral treaty in place between the United States and the home country of the company receiving such income. According to Proposed Regulation 830 CMR 63.32B.1 issued by the Department of Revenue (DOR), the combined reporting statute would override the clear respect and distinction current state law makes for the treaty protection of cross-border payments.

This extraterritorial application of Massachusetts law is out of step with international rules, federal tax rules and other state rules. This extraordinary assertion of international tax authority makes Massachusetts stand out among the fifty states in terms of discriminatory treatment of foreign investors. As such, I am sure you understand that this will negatively impact your efforts to recruit international businesses to locate or expand in the state.

Given this issue's material impact on many OFII members, we have informed all our member companies to suspend consideration of new investment and expansion in Massachusetts until we have had an opportunity to discuss the issue with you and your colleagues at the DOR. OFII has submitted comments to the DOR requesting a change to the regulations. Those comments and our membership list are attached with this letter.

I would very much like to discuss this issue with you. Please let me know when we can arrange a conference call in the near term. I can be reached at 202-659-1903 or nmclernon@ofii.org to discuss.

Sincerely,

A handwritten signature in blue ink, appearing to read "Nancy McLernon". The signature is fluid and cursive, with the first name "Nancy" being more prominent than the last name "McLernon".

Nancy McLernon
President & CEO
Organization for International Investment (OFII)