January 3, 2019

Members of the Kentucky General Assembly:

The business community continues to be concerned about the impact of the last-minute addition of a Mandatory Unitary Combined Return (MUCR) filing requirement to the tax reform package enacted during the 2018 session. Over the past several months this coalition has been active in educating policymakers about the unintended consequences of MUCR. The coalition is very much concerned that MUCR will hinder job creation and investment in Kentucky.

We were not afforded an opportunity to engage in discussions or bring our concerns to the attention of policymakers when the provision was adopted during the final days of the 2018 legislative session. While the full tax package did make some important improvements to Kentucky's tax code, including reducing the income tax rate, those improvements do not offset the challenges, such as the cost, MUCR creates. **We continue to urge lawmakers to repeal the MUCR provision as quickly as possible to avoid the unintended consequences and to provide the business community with certainty regarding their tax filing requirements for 2019.**

Mandatory Unitary Combined Reporting (MUCR) Implications

MUCR Negatively Impacts Kentucky Economic Growth: One consequence of MUCR is its potential negative impact on Kentucky's economy by hindering investment and job creation. From 1982 through 2006, job growth was six percent higher in states without MUCR than in states with it, according to a study conducted by Ernst & Young. The enactment of MUCR in House Bill 487 makes Kentucky an outlier in the southeast region of the country and puts the Commonwealth at a competitive disadvantage when competing to attract new business from both international and domestic-based companies. Five of the seven states that border Kentucky—Tennessee, Indiana, Ohio, Missouri, and Virginia— do not have a MUCR requirement in their law. Among the southeastern states, only West Virginia and now Kentucky require MUCR. Beyond that, the new mandate also violates the principles of bilateral tax treaties and will hurt Kentucky's international competitiveness.

Kentucky continues to compete for economic opportunities and is making progress by adopting pro-growth policies. Kentucky set records for economic investment and value of exports in 2017. In a recent economic report published by the Kentucky Chamber, most regions of Kentucky have seen population, employment, and wage growth since the recession. Kentucky is outcompeting several of its surrounding states, but such economic growth will be stymied by tax law changes such as MUCR that put Kentucky at a disadvantage relative to other surrounding or similar states. This disadvantage is especially apparent when comparing Kentucky to Indiana and Tennessee, which have outperformed the Commonwealth on wage and job growth since the recession.

MUCR Increases Complexity for Taxpayers and Tax Administrators: MUCR mandates an entirely new and burdensome corporate income tax reporting structure for corporations doing business in Kentucky. Experience in other states illustrates the inherent complexity and subjectivity in defining a "unitary" group, leading to increased volatility in the revenue stream. MUCR increases complexity and creates new distortions in assigning income to different states in which a company operates. The new mandate is complex and causes unnecessary and significant compliance costs for both corporate taxpayers and tax administrators. The determination of what constitutes a "unitary" group has been the basis of prolonged litigation in several states.

MUCR is a Business Tax Increase: Despite other changes to Kentucky's tax code passed during the 2018 legislative session, the net effect for many businesses investing in Kentucky is a significant tax increase.

Our Request

We support the continuation of the option for corporations doing business in Kentucky to elect to file a unitary return or an affiliated group return, but strongly oppose the new mandate for combined reporting. Based on the information provided above, we respectfully request the General Assembly act to prevent MUCR from taking effect next year by repealing this new statutory mandate. Doing so will allow Kentucky's economy to fully realize the benefits of the tax reform package adopted in 2018. Thank you for your consideration of this matter. We would be pleased to have the opportunity to meet with you and to provide further information regarding MUCR and why we believe it is a bad policy for Kentucky.

Sincerely,

MUCR Repeal Coalition Members