Michael J. McIntyre, Paull Mines, and Richard D. Pomp, “Designing a Combined Reporting Regime for a State Corporate Income Tax: A Case Study of Louisiana,” 61 *Louisiana Law Review* 699-761 (2001).

Summary

This article presents a plan for revitalizing the Louisiana corporate income tax through the adoption of a combined reporting regime. Our plan would require affiliated companies engaged in a unitary business in the State to pay their Louisiana income tax based on an apportioned share of their combined income. Combined reporting is the only effective way for any state to impose a fair and uniform corporation income tax on multistate and multinational enterprises and to gain or maintain control over its own tax base. The current Louisiana corporate income tax is subject to abuse through tax planning techniques that are very familiar to members of the tax-avoidance community. California and other states that have adopted combined reporting have demonstrated that combined reporting fairly and effectively responds to most of these common tax avoidance techniques.

Part II, below, discusses the potential benefits inuring to Louisiana from adopting a combined reporting regime. Those benefits are not mere speculation. California has been operating a combined reporting system successfully for nearly seven decades. In brief, the benefits are a uniform treatment of corporate groups without regard for differences in their organizational structure, a strong bulwark against the use of tax-haven jurisdictions to avoid state taxation, a significant reduction in administrative burdens on the tax department and on complying taxpayers, and the removal of the competitive disadvantage currently imposed on local firms that are unable to engage in cross-border tax-avoidance.

In Part III, we address some basic issues in the design of an effective combined reporting regime. One of the important features of combined reporting is the use of a formula to apportion the unitary business income of a unitary enterprise between Louisiana and the rest of the relevant universe. Louisiana already uses formulary apportionment in its current corporate tax system. To operate a combined reporting regime, however, Louisiana must apply that formula not to the separate income of each corporation but to the combined income of a corporate group engaged in a unitary business in Louisiana. Yielding to political realities, we recommend that Louisiana offer companies a water’s edge election that would allow them to exclude from their combined report the income derived by certain foreign affiliates that do not have an obvious close tie to the unitary business conducted in Louisiana.

Part IV addresses a variety of technical issues that Louisiana should address when adopting a combined reporting regime. We offer our views on how those issues should be resolved, drawing, when appropriate, on the experience of other combined-reporting states. Some of these issues relate to potential transition problems. Other issues relate to practical problems of assessing and collecting a tax from corporations operating in Louisiana on income that is computed by reference to the combined income of a unitary group.