

Testimony of Chris Sullivan

- Who I am?
 - Shareholder at Rath, Young, Pignatelli, P.C.
 - Focus on Taxes for 20+ years
 - New England System
 - Served on Apportionment Committee in NH
 - VTAB in Vermont
 - Admitted in NH, MA, and VT
 - Personal Capacity Only
- Should Vermont continue to overweight the sales factor, leading to the ultimate adoption of Single Sales Factor?
 - **Likely a matter of when, not if, for many reasons including New England competitiveness and economic development in the WFH new realities.**

Competition—A Timely Example

- Beyond dispute now that states compete for jobs, property, and talent
 - U Maine billboards across New England
 - Incentives to travel to another state for certain products
- Massachusetts Taxation of NH Residents
 - For commuters, “days in, days out” calculation
 - This is also “apportionment”, for personal income tax!
 - Mass—promulgates rule that sources all income to Mass even through people are working from home
 - U.S. Supreme Court Original Jurisdiction
- Unique Opportunity as WFH becomes longer term reality
- Caveat: Tax is not the only factor—workforce availability, energy costs, alignment with brand, education and health care

Competition

- Vermont and NH--Fantastic place to live, work, and play.
- Must Choose Policies to Ensure Competitiveness
- Robust economic future in part, depends upon:
 - Retaining youth population that grows up (and stays or returns here)
 - Recruiting entrepreneurs from other states that are attracted to outdoor lifestyle, less traffic, great place to raise a family and participate in community (WFH Accelerates This!)
 - Mix of home grown jobs and industries and some “big hitters”
 - Vermont and NH cannot afford to be significant outlier on issues that will harm the ability to attract some large companies to have significant operations in our state.
 - Given New England and national landscape, belief that Single Sales Factor is one of those key issues
 - Originally, apportionment formulas were uniformly equally weighted property, payroll and sales
 - “Jobs Penalty” versus benefits and revenue from other taxes

Significant Apportionment Trend--SSF

- **Arkansas**
- **California**
- **Colorado**
- **Connecticut**
- **District of Columbia**
- **Delaware**
- **Georgia**
- **Iowa**
- **Illinois**
- **Indiana**
- **Kentucky**
- **Louisiana**
- **Maryland (2022)**
- **Massachusetts (some)**
- **Maine**
- **Michigan**
- **Minnesota**
- **Mississippi**
- **Missouri**
- **Nebraska**
- **New Hampshire (2022)**
- **New Jersey**
- **New York**
- **North Carolina**
- **Oregon**
- **Pennsylvania**
- **Rhode Island**
- **South Carolina**
- **Texas**
- **Utah**
- **Wisconsin**

Recent Trends and NE States

- Combined Reporting
 - VT ahead of the curve (2006)
 - MA (2009), RI (2015), CT (2016)—Note: (Maine and NH 1986)
 - Now all New England states
- Lack of Uniformity (2010's)
 - Cost of Performance versus Market-Based Sourcing
 - Equally Weighted Three Factors versus Single Sales Factor
 - An emerging uniformity in the 2020's?
- Market Based-Sourcing
 - Massachusetts led the most recent charge in 2014
 - Vermont (2020) and New Hampshire (2021) last two in New England
 - Now all New England States

Recent Trends and NE States

- Single Sales Factor
 - Prior to 2015, just MA (some) and ME in New England
 - As of 2022, Vermont becomes the potential outlier
 - Delaware did the phase-in approach you are considering
 - Be aware of MBS effects on SSF
- Pure Unitary or Separate Combined
 - In unitary system, all of the income is combined
 - Shouldn't all of the other tax attributes be combined as well?
 - Chopping up NOL's, netting capital gains, credits in silos
 - Joyce and Finnigan--Related to "Throwback"
- Beware of Negative Competitive Effects from Aggressive Taxation of Foreign Source Income
 - VT and NH tax 100% of foreign unitary dividends
 - MA (5%), CT (approx. 10%), RI (0-20%), ME (50%)