



My name is Jason Judd, and I appreciate the opportunity to testify on behalf of the Service Employees International Union and our 30,000 members in Maryland.

SEIU also strongly supports combined reporting, and we urge the Commission to recommend it to the General Assembly. We expect a tax system that is fair, and that means ending a practice that allows some of the biggest and most sophisticated companies in the world to push their share of taxes onto Maryland families and small businesses.

I want to focus on two issues tonight. First, should tax credits and operating losses be shared among members of a unitary combined group?

The answer depends on whether we adopt the Finnigan or Joyce method and whether we are talking about credits and net operating losses earned before or after combined reporting begins.

Under Finnigan, the state is effectively treating the entire unitary group as a single taxpayer. So it is reasonable to allow net operating losses realized and corporate tax credits earned after the adoption of combined reporting can be claimed in the future by any member of the group that was a member at the time they were earned.

But Joyce treats each member of the combined group as a separate taxpayer. So Nexus determinations and throwback rules are made on a corporation-by-corporation basis. Combined reporting is used to calculate the individual liability of each member of the group.



Credits and net operating losses also remain with the member of the group that generated them. That makes sense.

But what about pre-combined reporting losses and credits? Those losses and credits—assuming carry-forwards are allowed—should only be claimable by the member that earned them. That's only fair.

They are still claimable, but—with respect to timing—there is no reason to give corporations a windfall by allowing those credits to be used sooner than they would otherwise be.

Credits are supposed to create incentives for specific investments, like research and development. We should not allow them to be used to offset the tax liability of corporations that had nothing to do with the investments that the credit is supporting.

The same logic applies to operating losses incurred before the adoption of combined reporting. There should be no windfalls. Those losses can be carried forward, but only by the member of the group that earned them.

Allowing losses to be used by other members of the group could have a huge and unpredictable impact on corporate tax revenues.

So back to your question, Should we "Disallow the effect of activity of non-nexus members prior to the start of combined reporting?" The short answer is, Yes.

The second issue on your list I want to talk about is the effective date of combined reporting. We all understand that the less urgently the revenue is needed, the more time we have for implementation.



We argue that an effective date of January 1 following enactment of combined reporting will work. If the General Assembly enacts combined reporting in April 2011, it can become effective for corporate tax years starting January 1, 2012.

Two points here. One, a 2012 corporate tax return—with the filing extensions to which all corporations are entitled—is not due until October 2013. That leaves nearly two years for the implementation work to be completed.

Two, New York enacted combined reporting retroactively to the beginning of the year in which it was enacted. There was little outcry and the state's corporate tax system hardly ground to a halt.

Congress routinely makes significant changes in the corporate tax system that go into effect only a few months after they are enacted. And corporations make it work. Many of the biggest multistate and multinational corporations with the most complicated tax returns are already complying with combined reporting in other states. They would be well-equipped to comply if Maryland joins that group.

Maryland's lack of combined reporting is helping erode our tax base. SEIU's members and working families are bearing the brunt. They feel daily the pain of cuts in public services.

They also expect a tax system that is fair, and that means holding our biggest corporations accountable when they use our tax code against the interests of Maryland.

Thank you again for the opportunity this evening to contribute.