

Talking Points on States Adopting
the MTC Model Statute on Partnership Audits

Why this issue is important to CPAs

- Many CPAs and their clients are structured as partnerships and operate in many states.
- Many CPAs also assist partnership clients with tax planning, structuring operations, and tax compliance and audits.
- Because most states have not yet adopted the [model uniform statute](#) for reporting adjustments to federal taxable income and federal partnership audit adjustments under the new federal [Bipartisan Budget Act of 2015](#) regime, CPAs and their clients could face complications and burdensome compliance challenges.
- Without all states adopting the model statute to provide uniformity and a comprehensive solution for reporting federal audit changes to the states, CPAs that operate or have partnership clients in multiple states will have significant compliance burdens from the inconsistent requirements across states for reporting their federal audit adjustments to state tax authorities.

Why state tax authorities and policy makers should support and adopt the model statute

- It is important for states that have not yet enacted the partnership audit model legislation to enact the model statute now because the new federal regime is now in place and in order for a state to collect its share of liabilities flowing from the IRS partnership audit and not face substantial legal and administrative concerns, each state will need to adopt the model statute. Without passing the model statute, a state likely will not have the ability to collect its share of additional taxes as a result of an IRS audit of a partnership under the new federal regime.
- IRS partnership audits under the new regime could begin in late 2020, and the IRS likely could complete those audits in 2021.
 - The new federal regime will centralize the IRS's ability to audit, assess and collect underpayments directly from a partnership at the entity level (instead of only able to assess and collect from each individual partner).
- In January 2019, the Multistate Tax Commission (MTC) adopted (and in November 2020 included a technical correction to) a [model uniform statute](#) for reporting adjustments to federal taxable income and federal partnership audit adjustments.
 - The AICPA and other organizations helped develop and supported the MTC model statute. The other organizations included Council on State Taxation (COST), Tax Executives Institute (TEI), the ABA Section of Taxation's State and Local Tax Committee, the Institute for Professionals in Taxation (IPT), and the Energy Infrastructure Council (EIC) (formerly Master Limited Partnership Association (MLPA)).

- The model statute:
 - Provides uniformity;
 - Incorporates the changes needed for states to conform to the new federal regime in a manner that considers state tax issues and best approaches;
 - Establishes more uniform standards for reporting all federal audit adjustments for all taxpayers to state level tax authorities;
 - Addresses significant changes made to federal audit procedures by the new federal regime that impact state specific issues, such as residency and apportionment; and
 - Addresses many of the concerns of taxpayers and practitioners, as well as the state tax authorities.

- As of December 3, 2020, nine states have passed legislation regarding partnership audits based on the MTC model statute - California, Georgia, Iowa, Missouri, Kentucky, Ohio, Oregon, Virginia, and West Virginia. Five states have passed partnership audits legislation that likely will need to be amended to follow the MTC model statute - Arizona, Hawaii, Indiana, Maine, and Rhode Island.

- AICPA developed and shared with state CPA societies a [position paper](#) and [one pager](#) on the issue and is available as a resource to state CPA societies as they assist state policy makers in developing legislation and rules that follow the model statute.

- If the model statute is not yet enacted in a state, the state should consider adopting the MTC model statute as soon as possible.

As of: December 3, 2020