



Delivered Via Email

November 11, 2025

Ms. Helen Hecht
Uniformity Counsel
Multistate Tax Commission
444 North Capitol Street, Suite 425
Washington, DC 20001-1538

Re: Revised White Paper, Sourcing Income in Complex Structures

Dear Ms. Hecht:

The Energy Infrastructure Council (“EIC”) is pleased to submit this letter to provide comments for your consideration on the Recommendations dated September 17, 2025 (the “Recommendations”) related to the Revised White Paper on Sourcing Income in Complex Structures. We understand that the Multistate Tax Commission (MTC) State Tax of Partnership project intends to move forward with the potential drafting of state model rules related to the Recommendations. We would appreciate consideration of the enclosed comments prior to the finalization of any model rules to the extent possible.

The EIC is a non-profit trade association committed to advancing the interests of companies that build and operate essential energy infrastructure and related activities. EIC addresses core public policy issues critical to investment in America’s energy infrastructure. Formerly the Master Limited Partnership Association, EIC is also the nation’s only trade association representing master limited partnerships (also known as publicly traded partnerships, “MLPs”). For more than three decades, the association has represented the interests of MLPs in Washington, D.C. and the states.

EIC is providing comments here on certain of the Recommendations identified below by their numbering in the September 17, 2025, version. EIC reserves the right to amend these comments or provide additional commentary throughout the remainder of the MTC Partnership Project.

Considerations:

Recommendation 3: Adopt the following sourcing framework for sourcing partnership income:

- e. Partners will source their share of items determined by the partnership (or the partner) to be apportionable income either by:
 - i. Applying the partnership's apportionment factors to those items, or
 - ii. Using blended apportionment.

Recommendation 3 Comment: Please provide additional details on when apportionable income would be properly sourced based on option i (the partnership's apportionment factors) rather than option ii which utilizes the blended apportionment approach. Is there a scenario in which a taxpayer could be required to utilize two separate apportionment calculations to isolate apportionable income first received from a partnership and then second on its own entity level activity? State reporting regimes, and tax forms, may need to be significantly altered to allow this reporting to be traceable if so.

Recommendation 4: Use absolute value of distributive share for determining the share of partnership factors to include in the partner's apportionment factor when blending.

Recommendation 4 Comment: The requirement to utilize a distributive share calculation in all scenarios leads to potential distortion of apportionment factors at the partner level. The model workbook published by the MTC Partnership Project workgroup utilizes an absolute value approach in calculating the numerator and denominator of distributive income for purposes of this ratio. This approach ensures 100% of the state apportionment factors are reported to partners and avoids overreporting issues to the extent only certain partners receive positive shares of taxable income.

However, in complex partnership structures this approach could distort the amount of apportionment factors received by each partner when compared to their practical ownership of the project.

For instance, certain partners may receive significant amounts of deductions, compared to the partnership in total, during a period which drives their income into a loss while others are positive. These expense allocations do impact the partner's ultimate tax liability but do not represent any additional operational ownership in the partnership that would be expected to drive additional factor representation to that partner. Alternatively, certain partners may receive preferred or gross receipt allocations only in a partnership. The utilization of an absolute value model would drive potentially significant amounts of apportionment factor values to these partners without any increased practical ownership of the partnership when compared to other ownership ratios (capital or 704(b)). Finally, state modifications, including depreciation adjustments, could significantly alter the distributive share factor calculations if these are not considered on a state-by-state basis causing the allocations to be inconsistent with the amount of income ultimately sourced to the state.

Additionally, the inclusion of states which utilize a 3-factor apportionment formula could drive additional nuance into these considerations. As a partner's share of distributive income changes throughout the year, the partner would now potentially receive apportionment factors which do not calculate the same ultimate apportionment percentage as the partnership due to differences in the average property factor in particular. This outcome could drive confusion to partners and to state taxing authorities when tracing activity throughout tiered partnership structures.

We recommend the inclusion of other optional approaches for determining the share of partnership factors to include in the partner's apportionment factor when blending rather than one default approach. Each partnership may have unique circumstances that require the utilization of different but still reasonable approaches to distribute these factors in an economically rational approach.

Recommendations 6/7/8:

6. Consider a special rule for sourcing mandatory allocations of built-in gains or losses attributed to the contributing partner—at least in some situations

7. Consider how related-entity transactions not eliminated by blended apportionment may affect the sourcing of income and adopt special rules—including add-back statutes and transfer-pricing authority.

8. States may also need anti-abuse rules, similar to those adopted by the federal government, to prevent abusive income shifting

Recommendations 6/7/8 Comments

We recommend that the above recommendations apply within the broader context of anti-abuse rules and not within the default provisions for all partnerships. The default inclusion of these special rules increases complexity within reporting regimes for taxpayers and taxing authorities without clear rationale in all cases. These activities may be undertaken as part of the normal course of business without any regard to the partner and partnership relationship.

Utilization of special sourcing rules for mandatory allocations of built-in-gains or losses could create new complicated sourcing provisions for not only the contributing partner but also the partnership generally and other partners if some portion of the state income is removed from the tax base before allocations to other partners.

Similarly, related entity transaction elimination may overly complicate the partnership and partners' apportionment calculations while moving the apportionment data at the ultimate taxpayer level away from the true context of the partnership's business activities. There are common and standard operations between partnerships and their partners operating as independent entities that may reasonably be expected to properly impact the apportionment factors of the partnership and its partners without approaching any tax abuse provisions.

Recommendations 9/10:

9. When adopting more detailed rules, states should also consider limitations or exceptions that may simplify the application of state sourcing requirements to partnership income where there is little chance of abuse and where this would reduce compliance burdens.

10. Many states will also need to adopt more detailed partnership information reporting rules and forms to ensure partners have necessary information to source their distributive share.

Recommendations 9/10 Comments:

We appreciate and support the inclusion of these recommendations. Please consider adding additional details related to simplifying principles that may be applied under recommendation 9 to ease compliance burdens on taxpayers when there is little chance of abuse. Recommendation 10 appears to be extremely important as state taxing authorities will need to develop and issue tax reporting forms, instructions, and informal guidance to support any new tax rules adopted related to these sourcing requirements.

The EIC greatly appreciates the opportunity to provide these. If you have any questions about our comments, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Lori E. L. Ziebart", with a long horizontal line extending to the right.

Lori E. L. Ziebart
President & Chief Executive Officer
Energy Infrastructure Council