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Adding that TruGreen, by its own admission, is not an agricultural business, Welch contended that the appellate court's "analysis is sound and logical when one examines the statute as a whole and avoids picking words out of context."

In a dissenting statement joined by Chief Justice Elizabeth T. Clement and Justice Brian K. Zahra, Justice David F. Viviano argued that the statute does not mention agricultural production and that the appellate court "ignored the current text of the statute and read into the statute a previous requirement that is no longer in the statute."

Viviano added that "there is simply no textual basis for the Court of Appeals' conclusion that even though the Legislature removed all references to agricultural production from the text, the Legislature nevertheless meant to retain such a limitation."

But Welch argued in her concurring statement that "the words of the statute and their origin both point to the correct meaning of the phrase 'things of the soil,' which is the meaning adopted by the Court of Appeals."

Welch stated in a footnote that the dissent's interpretation of "things of the soil" would expand the use tax exemption to every lawn care and landscaping business in the state and create a sales tax exemption for those businesses.

The taxpayer in *TruGreen LP v. Department of Treasury* (Docket No. 163515) is represented by John Bursch of Bursch Law PLLC and Daniel L. Stanley of Honigman LLP. ■

MINNESOTA

Minnesota Senate Shelves Worldwide Combined Reporting Proposal

by Emily Hollingsworth

The Minnesota Senate has withdrawn its support for a controversial proposal to impose mandatory worldwide combined reporting and is seeking alternative measures to replace the revenue stream.

During a May 9 conference committee meeting on omnibus tax bill H.F. 1938, Senate Taxation Committee Chair Ann Rest (DFL) said the Senate is considering other revenue-raising options after withdrawing support for the proposal to require worldwide combined reporting of corporate income from unitary businesses on May 6.

"We have been consulting with the House and the Department of Revenue, and we're working on alternative revenue sources," Rest said at the meeting.

The worldwide combined reporting proposal was approved by the Senate along with the other provisions of its version of H.F. 1938 on a narrow 34–33 vote May 2, after two amendments to modify or repeal the provision were ruled out. The provision was also approved under the House's version of the omnibus tax bill, which was passed April 27. The Senate had passed H.F. 1938 with amendments, but the House refused to concur with the changes and requested a conference committee.

The worldwide combined reporting provision, applied to corporate income of unitary businesses, would be a departure from the state's method of allowing corporations to elect to use a water's-edge basis when filing their corporate income tax returns, which allows them to exclude foreign entities. The DOR had estimated that worldwide combined reporting could generate $104 million in revenue in fiscal 2024, $348 million in fiscal 2025, $354 million in fiscal 2026, and $364 million in fiscal 2027.

According to Rest, two alternative measures to replace the expected revenue have been floated. The first would create a tax on intangible assets held by offshore subsidiaries (similar to the federal taxation of global intangible low-taxed

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income), and the second would phase out itemized deductions for taxpayers above an income threshold. Rest clarified that the options weren't yet proposals and that she looks forward to working with the House and the DOR to consider other revenue measures.

The worldwide combined reporting provision remains in the House omnibus tax bill, meaning that the provision and other proposed revenue-raising measures will remain under discussion with the conference committee in the coming days.

Support for Worldwide Combined Reporting

Lawmakers and organizations such as the Council On State Taxation oppose mandatory combined reporting, expressing concern that the requirement is administratively complex and would reduce state economic competition. However, recent letters, including from eight tax law professionals and the Coalition for a Prosperous America, expressed support for the proposal, arguing that many of the concerns are misguided.

In their May 9 letter, the professors contended that while administrative adjustments would occur, there isn't evidence that the transition would be "especially onerous," particularly for taxpayers that elect to use worldwide combined reporting "when they record losses abroad that have the effect of reducing their US tax liabilities." They said the disappearance of worldwide combined reporting among states in the 1980s was because of national and international pressure, not from flaws in the reporting method itself.

The letter was written by Darien Shanske of the University of California Davis School of Law; Reuven S. Avi-Yonah of the University of Michigan School of Law; Howard A. Chernick of the CUNY Graduate Center; Kimberly A. Clausing of the University of California, Los Angeles, School of Law; David Gamage of the Indiana University Bloomington's Maurer School of Law; Hayes R. Holderness of the University of Richmond School of Law; Erin Scharff of the Arizona State University's Sandra Day O'Connor College of Law; and Kirk Stark of the UCLA School of Law.

The professors, in response to concerns that the reporting requirement would burden smaller businesses, suggested implementing a worldwide combined reporting threshold that would apply only to businesses or corporations whose incomes are above the threshold.

The letter also responded to arguments that the requirement would blunt the state's economic competitiveness, contending that corporations that choose to leave Minnesota wouldn't truly lower their corporate taxes in the state because the tax is based on the location of a company's sales not on its residence in the state. The measure could also benefit local businesses by "ensuring a level playing field between multinational and Minnesota-based companies," the letter continued.

A May 10 letter from the nonprofit Coalition for a Prosperous America also supported the worldwide combined reporting measure, saying that removal of the water's-edge reporting method would curb corporate profit shifting.

"Multinationals are especially adept at gaining a tax advantage by profit shifting to subsidiaries in low-tax jurisdictions," the letter said. "A move to eliminate the water's edge combined reporting would remove one of the most effective profit-shifting techniques deployed in U.S. states that have moved to a sales-based formulary apportionment system to allocate income for tax purposes." ■

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