



# TAX EXECUTIVES INSTITUTE, INC.

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July 16, 2015

His Excellency Charlie Baker  
Governor of the Commonwealth of Massachusetts  
State House  
Boston, MA 02133

Via U.S. Mail and facsimile: (617) 727-9725

## **Re: Tax Executives Institutes Opposes the Repeal of Massachusetts FAS 109 Deduction**

On behalf of Tax Executives Institute, Inc. (TEI), I am writing to request that you veto the Legislature's proposal to eliminate the FAS 109 deduction in the fiscal 2016 budget (Bill H3650). The FAS 109 deduction was adopted as part of Massachusetts' combined reporting regime in 2008 and was designed to mitigate the financial reporting impact for publicly-traded companies whose net deferred tax liabilities increased as a result of the shift to combined reporting. The Legislature's proposal to eliminate the deduction, after having postponed it for the past five years, upsets the settled expectations of taxpayers and harms businesses with capital-intensive operations.

TEI was founded in 1944 to serve the professional needs of business tax professionals. Today, the organization has 56 chapters in North and South America, Europe, and Asia, including Massachusetts. Our nearly 7,000 individual members represent 3,000 of the largest companies in the world.<sup>1</sup> As in-house tax professionals who advise

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<sup>1</sup> TEI is a corporation organized in the United States under the Not-For-Profit Corporation Law of the State of New York. TEI is exempt from U.S. Federal

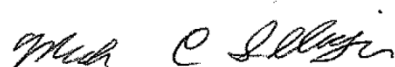
their companies regarding the tax consequences of various transactions and business decisions, TEI's members have a significant interest in promoting sound tax policy and the fair and efficient administration of the tax laws, at all levels of government.

The Legislature's proposal to eliminate the FAS 109 deduction violates these basic tenets. For a tax system to be fair, taxpayers must be able to rely upon existing legislation when making business decisions about their operations and expansion opportunities. While it is within the Legislature's purview to change tax laws, taxpayers must be able to rely upon the Legislature's representations. Massachusetts' shift to combined reporting caused an increase in many publicly-traded companies' net deferred tax liabilities for financial statement purposes because it required taxpayers to re-compute the expected future tax liability attributable to the difference between the book and tax basis of various assets for financial reporting purposes. The Legislature thus incorporated a prorated FAS 109 tax deduction as part of its combined reporting legislation to mitigate the financial reporting implications of that net deferred tax liability increase over a seven year period, beginning in 2012. *See, e.g.,* Mass. Tech. Info. Rel. 09-8. The Legislature has repeatedly deferred the implementation of this FAS 109 deduction in its budget proposals and now seeks to eliminate this deduction entirely in the fiscal 2016 budget. Eliminating this deduction will adversely impact businesses with capital-intensive operations, complicate their financial reporting obligations, break the promise made to the business community and undermine the Commonwealth's credibility with its taxpayers. TEI thus urges you to veto the proposed repeal of the FAS 109 deduction.

If you have any questions regarding this letter, please do not hesitate to contact Pilar Mata, Tax Counsel, for TEI at [pmata@tei.org](mailto:pmata@tei.org) or (202) 464-8346.

Sincerely yours,

TAX EXECUTIVES INSTITUTE, INC.



Mark C. Silbiger  
*International President*