September 16, 2022

The Honorable Gavin Newsom
Governor, State of California
1021 O Street, Suite 9000
Sacramento, CA 95814

RE: Support for Signing into Law SB 851

Dear Governor Newsom:

The American Institute of Certified Public Accountants (AICPA) supports Senate Bill 851 (SB 851) and encourages you to sign SB 851 into law. This bill, which has significant implications for taxpayers across the country, makes an important modification to California's elective pass-through entity tax (PTET) framework.

As states consider and implement PTET frameworks, the AICPA has been working to support our CPA members across the country effectively apply the new tax policies and assist taxpayers disproportionately affected by the current federal limits on individual state and local tax deductions. Additionally, the AICPA has been working with stakeholders across the country to ensure that the various state PTET frameworks are administrable, sufficiently accessible to eligible taxpayers, and effectively provides the meaningful tax relief as intended by the state. We have found that when appropriately structured and administered, these are effective strategies to provide the meaningful tax relief as intended by the Legislature and the Administration. Importantly these PTET frameworks are essentially revenue neutral policies that are the rare "win-win" for states and their taxpayers.

Specific to California's PTET framework, the clarification of the interplay of credits derived from the PTET with existing taxpayer credits resulting from the Other State Tax Credit ("OSTC") is critical to ensuring that taxpayers that opted into the framework are not unfairly faced with double taxation. Additionally, it removes a substantial barrier that would otherwise preclude many taxpayers from opting into the PTET and the tax relief it affords. This is a small, but critical modification for the PTET to work as intended.

We applaud California's quick response to address this issue when it was first noted following the initial implementation of PTET framework. Unfortunately, we understand that the adjustments to the credit ordering did not sufficiently address the underlying issue because corresponding changes were not made to the tax code governing the calculation of the OSTC.

SB 851 corrects this error and makes the necessary technical modifications so that the PTET can be appropriately factored into the OSTC calculation as was initially intended. If not fixed, California would be an outlier amongst the states that have a PTET framework, and it would have significant adverse implications for California taxpayers that have tax obligations across the nation.

AICPA supports SB 851 and its refinement of a PTET framework that will provide meaningful tax relief benefiting many taxpayers. We respectfully request your signature to advance an effective and administrable PTET framework that can greatly assist taxpayers and small businesses. Thank you for consideration of our comments.

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The AICPA is the world's largest member association representing the CPA profession, with more than 421,000 members in the United States and worldwide, and a history of serving the public interest since 1887. Our members advise clients on federal, state and international tax matters and prepare income and other tax returns for millions of Americans. Our members provide services to individuals, not-for-profit organizations, small and medium-sized businesses, as well as America's largest businesses.

We appreciate your consideration of our request and welcome the opportunity to discuss this request further. If you have any questions, please contact Marta Zaniewski, AICPA Vice President of State Regulatory and Legislative Affairs, at (202) 591-0908, or Marta.Zaniewski@aicpa-cima.com; or me at (601) 326-7119 or JanLewis@HaddoxReid.com.

Sincerely,

Jan Lewis, CPA
Chair, AICPA Tax Executive Committee