FOURTH

ANNUAL REPORT

MULTISTATE TAX COMMISSION

For the Fiscal Year
of
July 1, 1970—June 30, 1971

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Boulder, Colorado 80302

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PURPOSE OF THE MULTISTATE TAX COMMISSION:

To bring even further uniformity and compatibility to the tax laws of the various states of this nation and their political subdivisions insofar as those laws affect multistate business, to give both business and the states a single place to which to take their tax problems, to study and make recommendations on a continuing basis with respect to all taxes affecting multistate businesses, to promote the adoption of statutes and rules establishing uniformity, and to assist in protecting the fiscal and political integrity of the states from federal confiscation.

October 31, 1971

To the Honorable Governors and State Legislators of Member States of the Multistate Tax Commission:

I respectfully submit to you the fourth annual report of the Multistate Tax Commission.

This report covers the fiscal year beginning July 1, 1970 and ending June 30, 1971.

Respectfully submitted,

Eugene F. Corrigan
Executive Director

MULTISTATE TAX COMMISSION

OFFICERS

Charles Mack, Chairman
State Director of Revenue,
Oregon

Byron Dorgan, Vice Chairman
State Tax Commissioner,
North Dakota

Ewing Little, Treasurer
Chairman, State Tax Commission,
Idaho

EXECUTIVE COMMITTEE MEMBERS

Allison Green
State Treasurer,
Michigan

Vernon Holman
Chairman, State Tax Commission,
Utah

James McDonald
State Director of Revenue,
Kansas (Immediate Past Chairman,
Multistate Tax Commission)

William Peters
State Tax Commissioner,
Nebraska

The three officers are also members of the Executive Committee. Terms of the above officers and committee members end June 30, 1972.

Executive Director . . . . .Eugene F. Corrigan

Commission Office . . . . .1909 - 26th Street
Boulder, Colorado 80302
Phone: (303) 447-9645

MULTISTATE TAX COMMISSION MEMBERS REPRESENTING PARTY STATES OF THE MULTISTATE TAX COMPACT

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State of Alaska

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Commissioner of Revenue
State of Arkansas

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Department of Revenue
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Commissioner of Revenue
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Director
Department of Revenue
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†George Kinnear
Director
Department of Revenue
State of Washington

E. S. MacClean
Chairman
State Board of Equalization
& Tax Commission
State of Wyoming

* Former member of MTC Executive Committee
** MTC Chairman, January 1970 - June 1971
† MTC Chairman, June 1967 - January 1970

REPORT OF THE CHAIRMAN
OF THE
MULTISTATE TAX COMMISSION
FOR THE YEAR ENDING JUNE 30, 1971

by
CHARLES H. MACK

I. INTRODUCTION

The Multistate Tax Commission continues to serve as a forum for action concerning state taxation of interstate commerce. In doing so, it provides participating states with a most important bird's-eye view of interstate taxation matters. No longer must the states deal independently with problems of mutual import.

The interstate business world has long operated in the nation's common market from a national overview; whereas the states, hampered by artificial jurisdictional and statutory barriers, have had to operate separately and unilaterally. This situation no longer prevails. The states are finding that they can cooperate at the operational level and effect a mutual strengthening of their administrative capabilities.

The Commission's joint audit program has already provided ample evidence of the desirability of attacking interstate problems on a broad multistate basis. The first few months of the corporate income tax joint audit program have already shown that unusual audit productivity and improved taxpayer compliance can result from such cooperation among the states.

Both taxpayers and member states should increasingly benefit from all of the activities of the Multistate Tax Commission. This Report seeks to chronicle those activities for fiscal 1971.

II. MEMBERSHIP

The membership of The Multistate Tax Commission has continued to grow.

During the fiscal year ending June 30, 1971, Indiana enacted the Multistate Tax Compact, effective July 1, 1971, thereby raising to twenty-one the number of regular member states.

In addition, the states of Georgia, Minnesota and Ohio became associate member states during the year. The letter of request for associate membership from Ohio's Governor Gilligan arrived on the same day as did a letter from New

York's Governor Rockefeller withdrawing his state from associate membership. The memberships of Georgia, Minnesota and Ohio raised the total number of associate member states to fifteen.

Thus the total number of regular member and associate member states of the Multistate Tax Commission on July 1, 1971, was thirty-six, an increase of two over the previous year. Five other states have also attended Commission meetings during the year.

III. STATE TAXATION OF INTERSTATE COMMERCE—Continued*

A. Background

As the Multistate Tax Commission's Third Annual Report went to press in late 1970, a drafting team was engaged in seeking to reduce to writing an alternative to the Ad Hoc Proposal.* The product of that effort was submitted to the Multistate Tax Commission at its October 12-14 meeting in Denver. That product was known as "The Plan."

B. The Plan

The Plan did not, because of time limitations under which the drafting team operated, address itself to administrative matters. Substantive provisions, however, received full attention.

The Plan incorporated many of the Ad Hoc provisions. Among the significant differences were the following:

1) While both the Plan and the Ad Hoc Proposal provided a uniform ceiling for apportionment, the Plan established a ceiling for the tax base to which the apportionment ceiling would apply. This was accomplished by defining net income by reference to the Internal Revenue Code's definition of "taxable income," subject to certain adjustments. The ceiling thus established by the Plan would not be a mandatory one but would provide a maximum taxable amount which the states could not exceed.
2) Whereas the Ad Hoc Proposal excluded interaffiliate dividends from taxable income only in instances wherein combination of reports or consolidation of returns was actually effected, the Plan eliminated interaffiliate dividends whether or not combination or consolidation is effected. It also eliminated from the taxable base so-called "Subpart F" income, i.e., "deemed dividends" from controlled foreign corporations under the provisions of Subpart F of the Internal Revenue Code. 100% of so-called "portfolio dividends" from non-affiliated corporations would still remain in the taxable base.

   The business community raised substantial objections to the latter provision for three reasons:

   a) Many foreign subsidiaries do not qualify as affiliates because the foreign nation will not allow American corporations to own the required 80% of stock (see 3 below);
   b) The Plan makes no provision for foreign tax credits (it would probably not be feasible to allow such credits at the state level); and

* See Third Annual Report of the Multistate Tax Commission.

c) The Plan makes no provisions for the 85% "dividends received" exemption allowed by the Internal Revenue Code. Many businessmen and some state tax administrators believe that all dividends should be excluded from the tax base, as is the case in Massachusetts. Others would apparently agree to the 85% exemption.

3) The Plan discarded the Ad Hoc Proposal approach to combination, and substituted an "affiliated corporation" test within the meaning of Section 1563 of the Internal Revenue Code. This is basically a flat 80% ownership or control test.

4) The Plan discarded the Ad Hoc Proposal's "Resolution of Disputes" provisions. Those provisions had been devised primarily to cope with the many and complicated disputes which were expected to result from the Ad Hoc Proposal's provision restricting "combination."* With the latter provision having been rejected, the drafting team considered the former to be unnecessary.

5) The Plan applied to gross receipts taxes the sales and use tax jurisdictional standard of the Ad Hoc Proposal rather than the Public Law 86-272 standard which the Ad Hoc Proposal had applied to gross receipts taxes.

6) The Plan rejected the Ad Hoc Proposal's application of the Public Law 86-272 income tax jurisdictional standard to capital stock taxes. The Plan did not suggest any alternatives but reserved consideration of that subject until later.

7) The Plan would eliminate a "negligible factor" from the 3-factor income tax apportionment formula. A negligible factor is defined as one the denominator of which is less than 10% of one-third of the corporation's net income. This provision has precedent in Massachusetts' corporate income tax statute. It is premised on the position that the inclusion of such a factor could result in the mis-attribution of income.

8) The Plan locates sales to the federal government in the state of origin unless the destination is in one of the 50 states or the District of Columbia. The Ad Hoc Proposal attributed such sales strictly on a destination basis.

9) The Plan eliminated the applicability of the 3-factor apportionment formula to pipeline companies.

10) The Plan added a so-called "circuit-breaker" condition to the Public Law 86-272 corporate income tax jurisdictional standard. The effect of this provision would be to subject a corporation, for a taxable year, to the jurisdiction of a state into which its gross sales during that year exceeded $300,000, if the corporation's total gross sales for each of three preceding years exceeded $2,000,000.

C. Revised Plan

Extensive debate at the October meeting resulted in a decision to refer The Plan back to the drafting team for certain revisions. The drafting team quickly incorporated suggested changes into a new document which became known as the "Revised Plan." This was published on November 20, 1970. Copies are available at the Commission office upon request.

*"Combination" is an auditing procedure under which a state looks beyond a business' corporate veil to determine the income tax liability of a corporate member of an affiliated group of corporations.

The main changes which the Revised Plan made in the substantive provision of the original Plan were:

1) It applied the proposed corporate income tax jurisdictional standard to capital stock taxes.
2) It left open the question of whether the apportionable base should be the same for all states or should be determinable by each state on the basis of its own statutes; but, by leaving the question open, it really opted for the latter alternative.
3) It added a limitation on the period of time within which a taxpayer may claim, under the first section of the Sales and Use Taxes title, a refund for use tax paid.
4) It included in taxable income those amounts which are deductible under Section 164 (a)(3) of the federal Internal Revenue Code for state and local taxes and excess profits taxes.
5) It reinstated the applicability of the 3-factor formula to private pipeline companies.
6) It made a few technical changes of wording.

Upon publication of the Revised Plan, all interested parties were invited to submit commentary and proposed alternative provisions which were then to be considered by the Commission at its January 1971 meeting.

The January meeting, which took place in Washington, D.C., was heavily attended by businessmen who expected the states to commit themselves to The Plan or some version of it. But they failed to take into account the basic nature of the proposal and the reasoning which had caused it to be developed.

The states have consistently objected to the enactment of any federal legislation which would restrict the authority of the states to administer their own tax programs. Indeed, when New York suggested, at the October 1970 meeting, that the Commission was headed on a different course with respect to other federal legislation, namely H.R. 10634, the Commission was quick to establish its continuing opposition to that legislation by a unanimous vote.

The Ad Hoc Proposal and its derivative, the Revised Plan, had evolved out of concern that pending restrictive federal legislation might someday be enacted into law. Those tax administrators who participated in the deliberations out of which these documents evolved did so in an attempt only to provide a less objectionable alternative should the Congress ever decide to move into the field of state taxation of interstate commerce. This fact has been reiterated time and again, not only in meetings of the Commission, but in the deliberations themselves; and it has been emphasized in reports of the Commission. The Commission's December 1970 newsletter summed up the problem when it referred to the "dilemma of the states in seeking to find constructive alternatives to pending federal legislation without actually encouraging the enactment of federal legislation of some type."

When the Commission member state tax administrators convened at the January meeting, then, there appeared to be general agreement that the Revised Plan represented as good a compromise alternative as could be produced, but that the states should not formally approve it for fear that such a vote would be interpreted as an invitation for Congress to act. Subsequent events have indicated that such an interpretation is exactly what the business community would have sought from Congress.

Consequently, in succeeding months the member states have concentrated on reaching agreement among themselves as to how best the Multistate Tax Commission may serve the purposes of contributing to and improving state tax administration with respect to interstate commerce. Developments in the area of corporate income tax rules and regulations have dramatically demonstrated this fact, as will be seen in E. below.

D. Federal Bills Pending before the Senate Finance Committee

In 1965, as a result of a long congressional study of state taxation of multistate business, the so-called Willis Subcommittee* issued its voluminous report to which reference was made in the Multistate Tax Commission's Third Annual Report (page 2). The recommendations which were made in that subcommittee report were soon incorporated into bill form for congressional consideration.

Portions of the bill appeared to be extremely restrictive on the states; and the states, therefore, demanded some changes. The business community objected to other aspects of the bill. Over succeeding years, several derivative bills, each of which reflects certain changes requested by either the states or certain groups in the business community, have been introduced into Congress. Several are currently awaiting hearings before the Senate Finance Committee. They include:

H. R. 1538 (The Rodino Bill). This bill includes provisions which would require the states to use a two-factor apportionment formula with respect to businesses having incomes of one million dollars or less. Further, it would restrict the income tax jurisdictional reach of the states with respect to such "small' businesses. It would also restrict the gross receipts tax and the sales and use tax jurisdictional reach of the states with respect to all businesses.

S. 317 (The Ribicoff Bill). This bill is identical to the Rodino bill except that:

1) It would eliminate the one million dollar limitation, thereby extending to big business the restrictive jurisdictional advantages which the congressional subcommittee has suggested only for small corporations (The resulting state revenue losses would be disastrously large.); and
2) It would also prohibit combination (See footnote, page 3). Most states object that to deny a state the right to look to a total business enterprise and to compel the state to restrict its view to only a portion of that enterprise because of corporate fractionalization would unreasonably restrict the application of a state's tax statutes to all income attributable to activities carried on in that state. The corporate complications of modern business dictate that the states remain free to cope with corporate complexities in modern fashion.

S. 1210 (The Cranston-Tunney Bill). This bill deals only with sales and use taxes. Although it contains substantial similarities to the sales and use tax provisions of the Rodino and Ribicoff bills, it seeks to ameliorate the restrictive jurisdictional aspects of those bills. It has the support of many states which seek, by such support, to discourage support for the Rodino and Ribicoff Bills.

S. 1883 (The Consent Bill). This bill would confer congressional consent upon the Multistate Tax Compact. This once and for all would dispose of the contention which is made in some quarters that the Compact is violative of the so-called "Compact Clause" in Section 10 of Article I of the Federal Constitution. Those critics maintain that all interstate compacts require the consent of Congress. Although legal scholars dispute this contention, such congressional consent would end the debate. Furthermore, congressional approval would encourage all states to participate in the Commission's activities.

The Rodino Bill and The Ribicoff Bill continue to serve as convincing reminders that "unless the states move . . . and continue to move . . . to solve their

*The Special Subcommittee On State Taxation Of Interstate Commerce of The Committee On The Judiciary of The House Of Representatives of The United States Congress.

problems (involving state taxation of multistate businesses) independently and cooperatively, the Federal government will act and then it will be too late for the states."*

Since all of these bills pertain to the same subject, state taxation of multistate business, the Senate Finance Committee intends to conduct hearings on all at the same time. However, that committee continues to be so occupied with other matters that it has not yet scheduled hearings on these bills. Meanwhile, the Multistate Tax Commission continues to make progress toward resolving, at the state level, problems with which the various federal bills seek to deal at the federal level. The Commission's corporate income tax Rules and Regulations are a case in point.

E. Rules and Regulations

In mid-1968, the Commission's Rules and Regulations Committee addressed itself to writing regulations under Article IV of the Multistate Tax Compact. That Article consists, in its entirety, of the Uniform Division of Income for Tax Purposes Act (UDITPA). Even though UDITPA had first been enacted more than a decade earlier, no interpretive regulations had ever been written.

In drafting the proposed regulations over a period of nearly three years, the committee worked in close coordination with a similar committee of the National Association of Tax Administrators (NATA). The Chairman of the Commission's committee was also a member of the NATA committee. Therefore, the regulations proposed by the two committees were virtually identical when they were proposed in early 1971. Copies of the regulations proposed by the MTC committee are available at the Commission's office.

Four states adopted the proposed regulations within a few weeks after their publication. The Commission's Bylaws, however, provide for hearings on proposed regulations before adoption by the Commission. Those hearings were held in Denver in April. The main contentions of witnesses pertained to distinctions between "business" and "non-business" income.

The proposed regulations tended to treat most corporate income as business income which would be apportioned among the states on a formula basis. Only that income which is incidental and completely unrelated to the corporation's regular trade or business was treated as non-business income, which would be allocated to the state of commercial domicile. Under those proposed regulations, the latter type of income would be mainly incidental investment income derived from temporarily idle funds.

Those business representatives who testified at the hearings generally objected that the proposed regulations treated as business income much income which, in their opinion, should be treated as non-business income. On the other hand there was testimony from representatives of state tax offices to the effect that the purpose of business corporations is to produce income. These representatives contended that the proposed regulations should be changed to reflect this position.

The hearing officer's report largely accepted the latter contention. In the regulations which he recommended in his report for adoption by the Commission, a corporation's income is characterized as apportionable income if it is income arising from transactions and activities in the regular course of the taxpayer's trade or business. Thus, all activities which are dependent upon or contribute to

* Report of Chairman George Kinnear, October 28, 1969; Second Annual Report, Multistate Tax Commission, p. 7.

the operations of the taxpayer as a whole give rise to apportionable income; and only that income which is attributable to occasional, isolated, unusual or sporadic activity of the taxpayer and which is not relied upon in the conduct of the trade or business is characterized as being allocable, rather than apportionable, income.

The hearing officer's report was submitted to the June 1971 meeting of the Commission in Seattle. At the Commission's next meeting, in Miami Beach in September, the hearing officer's recommendations were adopted without dissent. The regulations thusly adopted are available at the Commission's office upon request.

The Commission remained somewhat dissatisfied with the fact that the Multistate Tax Compact and, therefore, the regulations still left open the possibility that some income might be treated as allocable or non-business income. Therefore, the Commission unanimously passed a resolution that a research and study program be implemented by the Chairman to determine how best to eliminate the possibility that any income would be treated as non-business income. The Chairman subsequently appointed a committee which is currently addressing itself to this program.

The corporate business community has expressed extreme displeasure with the Commission's adoption of the hearing officer's recommendations and of the above resolution. This seems to be based not on objection to the apportionment concept, but on objection to the possible inclusion of dividend income and foreign income in the income tax base to be apportioned among the states. The corporations maintain that all dividend income which they receive should be exempt, since it has usually already been subjected to taxation when earned by the declaring corporations. They further maintain that all foreign income, by its very definition, has been earned outside the United States and, therefore, beyond the boundaries of every state so that no part of it should be attributable to any state by means either of apportionment or of allocation.

Even though some states individually do agree presently with these contentions, they wish to remain free to change their position should they ever desire to do so. Consequently, every state appears to be unwilling to be prohibited from including in its apportionable corporate income tax base either dividend income or foreign income.

On the other hand, most of the member states would include no more than 15% of intercorporate dividend income in their corporate income tax apportionable base, thereby remaining consistent with federal dividend taxation policy.

The adopted regulations make no reference to dividends or foreign income. Each state which adopts the regulations remains free to determine the extent to which it will tax that corporate income tax base portion which formulary apportionment attributes to that state. Indeed, each state remains free to exempt dividends entirely, if it so chooses.

IV. CONGRESSIONAL ASPECTS

A. Senate Bill S.2289

The Commission's Third Annual Report detailed the background of Senate Bill S.2289, a bill which would make it illegal to assess certain properties in interstate commerce, such as railroads, at a different level of value or at a different tax rate than other property generally.

As that Report went to press, the bill had passed the Senate with amendments suggested by the Commission. The term of Congress ended without the

House having acted on the bill. It has been re-introduced into the Congress in 1971 as Section 203 of Senate Bill S. 2362.

B. H. R. 10634

The Commission's Third Annual Report discussed the course of S.2044 and H.R. 10634 in the Congress. Just after the Report went to press, H.R. 10634 was passed by the House; shortly thereafter it was amended in the Senate to reflect in the federal bill a position which the Commission had found acceptable as proposed uniform state legislation. The bill passed as amended and was awaiting consideration by a conference committee of the two houses of Congress at the time of the Commission's October 1970 meeting.

At that meeting, New York's delegate expressed serious concern over the fact that the Senate amendments were much more restrictive upon the states than had been true in the case of the original bill; and that the amended version interfered with the right of the states to impose tax upon the income of, and to collect this tax from, employees; whereas the original bill only limited the ability of the states to impose withholding responsibilities upon employers. Even though the bill still applied primarily to operating employees of interstate carriers, it would have established a dangerous precedent for Congress to apply the liability limitation concept to other types of employees. New York was particularly conscious of the significance of such a possibility: such an extension of the liability limitation concept could result in New York's ultimately losing substantial amounts of badly-needed revenues which it is currently collecting from nonresident individuals who earn income in New York.

In response to New York's request, the Commission unanimously approved a resolution expressing opposition to H.R. 10634. Chairman James McDonald then appointed a committee to contact members of the congressional conference committee which was to consider the bill. The MTC committee journeyed to Washington in November and requested the elimination of all reference to tax liability in the bill. On December 2, the conference committee reported the bill out after having complied with the request of the MTC committee. The bill was subsequently enacted in the form reported out of the conference committee.

V. AUDIT ACTIVITIES

In October of 1970, the Commission obtained the services of an Audit Coordinator who then proceeded to develop a joint auditing program. The program contemplated the performing of audits with, or on behalf of, several states at the same time so that one examination of a corporation's books and records would suffice for the audit purposes of the several participating states.

The corporate income tax part of the program was ready for implementation early in 1971. On March 1, corporate income tax audit offices were opened in New York City and Chicago, with one auditor operating out of each of the two offices.

The Commission pursued the joint audit program into the sales and use tax and gross receipts tax fields when it added an auditor to its New York office for those types of taxes on October 1, 1971. Present indications point to a need for further expansion of the program in early 1972.

Although the program is young, it already has produced tangible benefits for participating states; and it has helped in revealing how willing the states are to adjust their positions in order to promote uniform and equitable treatment of taxpayers. While one purpose of a joint audit is to ensure that a corporation is being consistent in its representations to the various states, another equally important purpose is to protect the taxpayer against multiple taxation. It is apparent that time and improved communications will solve the problem.

Two major problems exist with respect to the program to date. One is that it has proven to be difficult to establish a smooth flow, from participating states to the Commission, of the background information which is necessary prior to making the audit. The other is that many of the large corporations have sought to prevent the Commission and its auditors from performing audits of those corporations. Indications are that several member states intend to meet this challenge to the program by resorting to their respective courts in the near future, if necessary.

The successful implementation of the program should eventually ease compliance problems for corporations by means of better communication between the taxpayers and the states, as well as between the states themselves. It should also create a better atmosphere between the states and taxpayer corporations as the states become more confident that the corporations are complying fully with the state tax statutes.

VI. PERSONAL INCOME TAX

In mid-1970, the tax administrators of Washington and Oregon referred to the Multistate Tax Commission a problem involving taxation of the income of non-resident employees.

Washington does not impose a personal income tax. Oregon has for many years imposed such a tax.

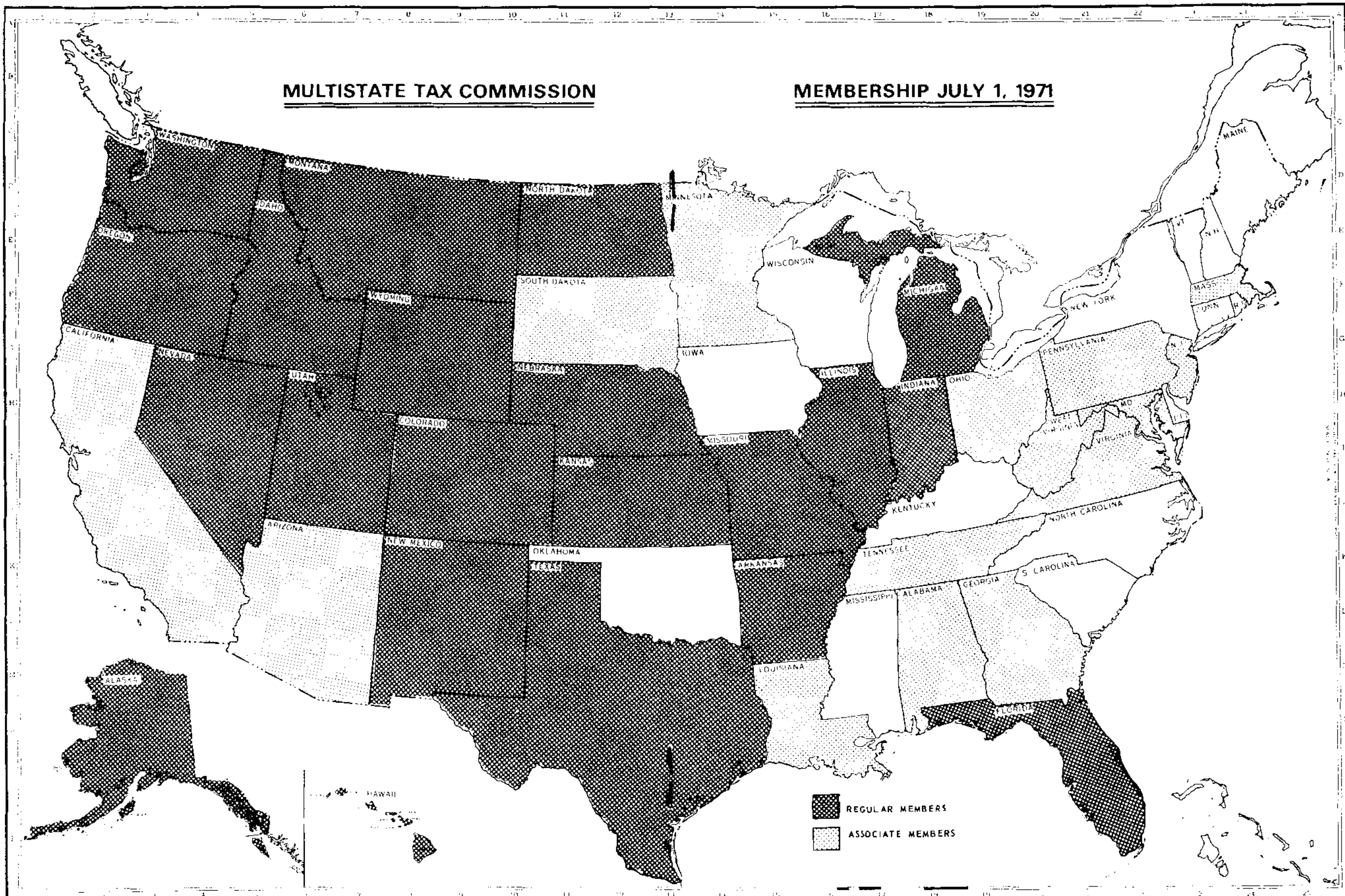
In 1969, in an effort to simplify its statutes, Oregon amended its law to tie it in with the federal Internal Revenue Code. In doing so, it adopted federal definitions and federal elections. Therefore, a taxpayer who itemized deductions for federal income tax purposes was also required to itemize for Oregon income tax purposes; but the taxpayer was not allowed to include deductions which were attributable to other states. Thus, for example, a Washington resident working in Oregon could not take deductions for home mortgage interest, property taxes, sales tax, medical expenses and contributions attributable to Washington. The result was that a Washington resident was required to pay more tax to Oregon on his earnings there than would have been the case had he been an Oregon resident earning the same amount of income in Oregon.

The Multistate Tax Commission was asked to recommend a means by which Washington taxpayers might be treated fairly at the same time that the revenue interests of the state of Oregon are protected. A committee was appointed, met several times and, early in 1971, communicated its recommendations to Oregon and Washington.

The committee recommended that "states which have adopted federal 'taxable income' as their base point for determining an individual's liability should provide that non-residents apportion an amount equal to the federal personal exemption plus federal itemized deductions or optional standard deduction (if elected) in the proportion which the individual's adjusted gross income as modified earned within the particular state bears to his total adjusted gross income as modified."

The Oregon Revenue Department immediately recommended amendatory legislation to accomplish this result; and the legislature enacted it into law on September 9, 1971, effective for tax years beginning after December 31, 1970.*

* This amendment was enacted subject to a condition unrelated to the tax problem.


MULTISTATE TAX COMMISSION
MEMBERSHIP JULY 1, 1971
WASHINGTON
MONTANA
NORTH DAKOTA
IDAHO
OREGON
WYOMING
SOUTH DAKOTA
WISCONSIN
MICHIGAN
NEW YORK
MAINE
N.H.
MASS.
CONN.
CALIFORNIA
NEVADA
UTAH
NEBRASKA
IOWA
ILLINOIS
INDIANA
OHIO
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MD
VIRGINIA
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MISSOURI
KANSAS
KENTUCKY
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ARIZONA
NEW MEXICO
OKLAHOMA
TEXAS
ARKANSAS
TENNESSEE
S. CAROLINA
MISSISSIPPI
ALABAMA
GEORGIA
LOUISIANA
FLORIDA
ALASKA
HAWAII
REGULAR MEMBERS
ASSOCIATE MEMBERS

This result demonstrated the role which the Multistate Tax Commission can play in resolving tax problems among the states.

VII. GENERAL

As 1971 draws near a close, the Commission is exploring new problems and new solutions.

A. Airlines

An Airline Formula subcommittee was established in September 1971. Its task is to determine what type of apportionment formula appears most reasonable for use with respect to airlines. Other formula subcommittees are expected to be appointed in future months to make similar studies and recommendations with respect to other types of businesses, e.g., financial institutions, motor carriers, railroads and water carriers.

B. Motor Fuel

The Commission is continuing to watch the motor fuel tax field closely in the expectation that the Commission may soon be in a position to make a major contribution to solving problems in that field. There appears to be increasing agreement among the states upon a uniform numbering system for motor carriers and their vehicles. This type of a system is a necessary prerequisite to effective cooperation among the states in that field.

C. Railways and Public Utilities

An organization of railways and public utilities has recently expressed interest in the Commission's becoming involved in property taxation as it affects those areas of business. The property tax committee has been expanded for the purpose of giving serious consideration to this possibility.

D. Contractors Rules and Regulations

The construction contracting industry presents problems in the corporate income tax field which are peculiar to its particular type of business. Accordingly, the Rules and Regulations Committee has, from its very inception, specified that the general corporate income tax rules and regulations to be adopted by the Commission with respect to multistate businesses would not necessarily be applicable to the construction contracting industry; but that separate and additional rules and regulations would need to be devised for that industry.

Consequently, a Contractor Rules and Regulations subcommittee has been appointed consisting of state members and members of business contracting firms. It is currently studying a draft of proposed contractor rules and regulations.

VIII. CONCLUSION

The directions which the activities of the Multistate Tax Commission will take will continue to depend upon the needs of the states and their taxpayers. The Commission's ability to resolve problems depends solely upon the desires of participating states. The attitude of those states has been most constructive to date. There is every reason to believe that it will continue to be so.

As more states become members of the Commission and participate in its activities, better and broader solutions to aggravating problems can be expected – all to the benefit of the states as a group and to the totality of their citizenry.

MULTISTATE TAX

COMPACT ENACTMENTS

The Multistate Tax Compact has been enacted as a uniform law by the twenty-one states as shown below:

State	*Effective Date*
Kansas	April 20, 1967
Washington	June 8, 1967
Texas	June 13, 1967
New Mexico	June 19, 1967
Illinois	July 1, 1967
Florida	August 4, 1967
Nevada	August 4, 1967
Oregon	September 13, 1967
Missouri	October 13, 1967
Nebraska	October 23, 1967
Arkansas	January 1, 1968
Idaho	April 10, 1968
Hawaii	May 7, 1968
Colorado	July 1, 1968
Wyoming	January 24, 1969
Utah	May 13, 1969
Montana	July 1, 1969
North Dakota	July 1, 1969
Michigan	July 1, 1970
Alaska	July 1, 1970
Indiana	July 1, 1971

ASSOCIATE MEMBER STATES

The Commission has made provision for associate membership by Section 13 of its bylaws, as follows:

13. Associate Membership

(a) Associate membership in the Compact may be granted, by a majority vote of the Commission members, to those States which have not effectively enacted the Compact but which have, through legislative enactment, made effective adoption of the Compact dependent upon a subsequent condition or have, through their Governor or through a statutorily established State agency, requested associate membership.

(b) Representatives of such associate members shall not be entitled to vote or to hold a Commission office, but shall otherwise have all the rights of Commission members.

Associate membership is extended especially for states that wish to assist or participate in the discussions and activities of the Commission, even though they have not yet enacted the Compact. This serves two important purposes: (1) it permits and encourages states that feel they lack knowledge about the Commission to become familiar with it through meeting with the members, and (2) it gives the Commission an opportunity to seek the active participation and additional influence of states which are eager to assist in a joint effort in the field of taxation while they consider or work for enactment of the Compact to become full members.

The following are associate members at this time:

Alabama*
Arizona
California
Georgia
Louisiana
Maryland
Massachusetts
Minnesota
New Jersey
Ohio
Pennsylvania
South Dakota
Tennessee
Virginia
West Virginia

* Compact enacted in Alabama but not effective unless and until the United States Congress enacts legislation specifically giving its consent for the States to enter into this Compact.

COMMENTARY ON THE COMPACT

by The Honorable Daniel J. Evans – 1967

"State government in our great Federal system is probably the most unique, enduring and worthwhile contribution of this Nation to the art of government. It is a system, however, that in recent years has seemed to be so wedded to the past as to be unable to solve the problems of the present, much less meet the challenges of the future. The basic question is whether state government can survive as a credible force and a full participant in the Federal system. To this question, my answer is an emphatic yes.

"This is no time either for the states to engage in self-flagellation over their past inadequacies nor for the resources of the resurgent states to be rejected because of their former failures or the easy acceptance of outworn patterns of government."

"State governments are unquestionably on trial today. We have been derelict in the past in meeting our basic obligations, and this has both required and encouraged intervention by the Federal government. I believe it is possible for state government to reassume its rightful responsibilities–but only if we have the administrative capacity, the laws, the money and the willingness to carry out our share of the governmental process.

"If we are not willing to pay the price, if we cannot change where change is required, if we cannot prepare and carry out the programs so necessary to the conduct of expanding state affairs–if these things are not possible, then we have only one remaining recourse, and that is to prepare for an orderly transfer of our remaining responsibilities to the Federal government."

DANIEL J. EVANS
Governor, State of Washington
1965 -

MULTISTATE TAX COMMISSION

COMMITTEES

UNIFORM LEGISLATION COMMITTEE

DAVID SARVER, Illinois, CHAIRMAN
Wade Anderson, Texas
John Blackmon, Georgia
Owen Clarke, Massachusetts
Theodore W. deLooze, Oregon
William Dexter, Washington
James Hamilton, California
Al Hausauer, North Dakota
Wilbur Lavelle, California
Edward Landerkin, New Jersey
Rich Roesch, Michigan
Arthur Roemer, Minnesota
James Willis, Colorado
Vincent Yakowicz, Pennsylvania

Business Resource Members:
J. J. Bischoff, TWA
Donald Bishop, Texaco Oil
James Devitt, Marcor
Dale Hale, Allegheny Air Lines
Russell Hendricks, Procter & Gamble
Lloyd Kennedy, Shell Oil
Tom Miller, Gulf Oil
Steve Nemeth, Republic Steel
Paul O'Brien, Coca Cola
John Parenti, Eastern Airlines
James Peters, AT&T
Ray Slater, U.S. Steel
William Spangler, 3M
John Tockston, United Air Lines

Air Line Formula Subcommittee

VINCENT YAKOWICZ, Pennsylvania, CHAIRMAN
John Blackmon, Georgia
Owen Clarke, Massachusetts
James Hamilton, California
Edward Landerkin, New Jersey
Wilbur Lavelle, California

Business Resource Members:
J. J. Bischoff, TWA
Dale Hale, Allegheny Air Lines
John Parenti, Eastern Air Lines
John Tockston, United Air Lines

RULES AND REGULATIONS COMMITTEE

THEODORE W. deLOOZE, Oregon, CHAIRMAN
- Hal Crandall, Illinois
- Allen Curtis, Tennessee
- Al Hausauer, North Dakota
- John Klee, California
- Wardlow Lane, Texas
- Robert L. Miller, Idaho
- William Reed, Kentucky
- Melvin Soong, Hawaii

Business Resource Members:
- Russell L. Hendricks, Procter & Gamble
- Steve Nemeth, Republic Steel
- Dennis Tischler, TRW

Contractor Regulations Subcommittee

JOHN KLEE, California, CHAIRMAN
- Allen Curtis, Tennessee
- Hal Crandall, Illinois
- William Reed, Kentucky

Business Resource Members:
- Richard H. Guimares, M. W. Kellogg Co.
- Robert E. Matson, Bethlehem Steel
- Hugh C. McMahon, Peter Kiewit Sons Co.
- Frank H. Roberts, Pillsbury, Madison & Sutro
- Carl C. Straub, Morrison-Knudsen Co.
- Dennis G. Tischler, TRW
- John W. Werner, Chicago Bridge & Iron

AUDIT POLICY COMMITTEE

BYRON DORGAN, North Dakota, CHAIRMAN
- J. D. Dotson, California
- Sidney Glaser, New Jersey
- Chandler Hewell, Georgia
- Kent Kalb, Nebraska
- Fred O'Chesky, New Mexico
- James T. McDonald, Kansas
- Arthur Roemer, Minnesota
- Howard Vralsted, Montana

JOINT AUDITS COMMITTEE – CORPORATE INCOME

ROBERT KESSEL, North Dakota, CHAIRMAN
- Fred Boetsch, Alaska
- Jerry Foster, Montana
- F. Nolan Humphrey, Arkansas
- David Jones, Missouri
- Thure Lindstrom, Jr., Oregon
- James McBride, Nebraska
- Frank Medlin, Idaho
- Tracy Neese, Illinois

JOINT AUDITS COMMITTEE – SALES & USE TAX

HOWARD JOHNSON, Indiana, CHAIRMAN
- Harry Jury, Michigan
- Robert Kessel, North Dakota
- Harvey McNutt, Wyoming
- Bernard Miller, Illinois
- Robert Munzinger, Washington
- Gale Norris, Missouri
- Tomotaru Ogai, Hawaii
- Harry O'Riley, Kansas
- Leon Postawko, Nevada
- Homer Ross, Idaho

SALES AND USE TAX COMMITTEE

ED TVEDEN, Washington, CHAIRMAN
- Stuart W. Connock, Virginia
- R. Earl Franz, Minnesota
- Sidney Glaser, New Jersey
- Chandler Hewell, Georgia
- Lewis A. Jones, Texas
- Ewing H. Little, Idaho
- E. S. MacClean, Wyoming
- Harry O'Riley, Kansas
- Charles Otterman, California
- Brian L. Wolfberg, Illinois

Business Resource Members:
- Frank Buehler, Kroger
- George Lundin, Chicago Bridge & Iron

PROPERTY TAX COMMITTEE – COMMUNICATIONS & TRANSPORTATION CORPORATIONS

JOSEPH T. BURLINGAME, Arkansas, CHAIRMAN
- Byron Dorgan, North Dakota
- Ronald Dwyer, Kansas
- Robert Hynes, Illinois
- Robert Kennedy, Arizona
- Edward Koncel, Illinois
- Max Kerr, Utah
- Robert McSwain, Alabama
- Vernon Miller, Montana
- William Peters, Nebraska
- Arthur Roemer, Minnesota
- Rich Roesch, Michigan
- Ronald Welch, California
- James Witzel, Ohio
- Al Ward, Maryland

Business Resource Members:
- Thomas J. Dame, Peoples Gas & Electric Co.
- Larry Edlin, Louisville & Nashville RR
- Martin S. Handler, Southern California Edison Co.
- H. A. Knudsen, Burlington, Northern RR
- Arnold Weber, Southern Pacific Co.
- David N. West, United Air Lines

COMMENTARY ON THE COMPACT

by George Kinnear – 1969

"In this modern day of ours, when power, authority, business and commercial activities, and all the functions of national life are shifting more and more rapidly across state lines, and more and more often calling for decisions and problem-solving that do not fit neatly into existing political-geographic compartments, the need has become imperative to meet these new situations with new techniques and new agencies."

"We are attempting to establish a medium whereby the states, exercising their independent authority, can effectively work together in those areas where modern business techniques call for quicker, more efficient state response to their problems."

"The Multistate Tax Compact offers the most exciting promise for progress in the field of taxation. Its possibilities for good are unlimited. It is not a new mechanism for dominating the states, but rather an association to stimulate action, state by state, by providing the necessary information which is not now available regarding many important problems; and by providing a vehicle for cooperative state action."

GEORGE KINNEAR
First Chairman, Multistate Tax Commission
June 1967 - January 1970

APPORTIONMENT OF 1971-1972 BUDGET

State	*Revenues Under Compact	% of Total	**Apportioned Share of 10%	**Apportioned Share of 90%	Total Share of 1971 - 1972 Budget
Alaska	$ 52,413,446	.5870	$ 1,000	$ 1,103.56	$ 2,103.56
Arkansas	185,904,719	2.0844	1,000	3,918.67	4.918.67
Colorado	342,216,489	3.8371	1,000	7.213.75	8,213.75
Florida	681,419,548	7.6419	1,000	14,366.77	15,366.77
Hawaii	282,318,503	3.1662	1,000	5,952.46	6,952.46
Idaho	97,946,456	1.0985	1,000	2,065.18	3,065.18
Illinois	1,947,049,608	21.8353	1,000	41,050.36	42,050.36†
Indiana	605,720,109	6.7930	1,000	12,770.84	13,770.84
Kansas	267,939,729	3.0049	1,000	5,649.21	6,649.21
Michigan	1,557,129,607	17.4626	1,000	32,829.69	33,829.69
Missouri	516,292,661	5.7901	1,000	10,885.39	11,885.39
Montana	48,466,750	.5436	1,000	1,021.97	2,021.97
Nebraska	130,454,912	1.4631	1,000	2,750.63	3,750.63
Nevada	54,720,221	.6138	1,000	1,153.94	2,153.94
New Mexico	148,308,000	1.6633	1,000	3,127.00	4,127.00
North Dakota	60,859,918	.6826	1,000	1,283.29	2,283.29
Oregon	262,495,314	2.9439	1,000	5,534.53	6.534.53
Texas	904,127,596	10.1395	1,000	19,062.26	20,062.26
Utah	175,400,836	1.9671	1,000	3,698.15	4,698.15
Washington	564,853,000	6.3347	1,000	11,909.24	12,909.24
Wyoming	30,967,448	.3474	1,000	653.11	1,653.11
Totals	$8,917,004,870	100.0000	$21,000	$188,000.00	$209,000.00

*For fiscal year ending June 30, 1970

**10% in equal shares; 90% on basis of tax revenue.

†$5,889.84 of this assessment is to be paid out of the Reserve for Prepaid Assessment; the actual net assessment to Illinois will be $36,160.52.

BUDGET PERFORMANCE REPORT

For Fiscal Year

July 1, 1970 - June 30, 1971

	Budget	Actual	Actual Over (Under) Budget
Payroll	$128,000.00	$ 87,053.15	$(40,946.85)
Employees' Insurance	2,000.00	2,641.84	741.84
Employees' Retirement	5,000.00	---	(5,000.00)
Staff Travel	27,000.00	16,928.16	(10,071.84)
Commission Members' Travel	5,000.00	2,002.96	(2,997.04)
Relocation Expenses	4,500.00	3,130.62	(1,369.38)
Other Travel Expenses	1,500.00	225.02	(1,274.98)
Bonds & Insurance	200.00	259.00	59.00
Office Rental	8,100.00	8,498.00	398.00
Office Supplies & Expenses	3,000.00	3,381.50	381.50
Freight & Postage	8,000.00	3,939.06	(4,060.94)
Printing & Duplicating	8,750.00	10,650.39	1,900.39
Telephone & Telegraph	5,000.00	6,051.63	1,051.63
Books & Periodicals	2,200.00	2,951.23	751.23
Advertising	1,500.00	1,710.24	210.24
Miscellaneous	---	1,114.26	1,114.26
Conferences & Committee Meetings or Hearings	2,000.00	1,345.26	(654.74)
Professional Fees & Other Contract Services Including Electronic Data Processing	8,000.00	3,289.90	(4,710.10)
Office Furniture	3,000.00	1,127.47	(1,872.53)
Office Equipment	5,000.00	606.71	(4,393.29)
Contingency Account	12,250.00	---	(12,250.00)
TOTALS	$240,000.00	$156,906.40	$(83,093.60)

JOHN M. BYRNE & COMPANY
CERTIFIED PUBLIC ACCOUNTANTS

METROPOLITAN BUILDING · SUITE 660 · DENVER, COLORADO 80202 · 303/892-1641

MEMBER
AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS
COLORADO SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS
NATIONAL ASSOCIATION OF ACCOUNTANTS

September 2, 1971

Multistate Tax Commission
1909 26th Street
Boulder, Colorado

Gentlemen:

We have examined the balance sheet of Multistate Tax Commission at June 30, 1971, and the related statements of revenue and incurred expense, changes in fund balances, and source and application of cash funds for the year then ended. Our examination was made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

During the year ended June 30, 1971, Multistate Tax Commission adopted a modified accrual method of accounting thereby recognizing liabilities incurred but unpaid at June 30, 1971. Also, at June 30, 1971, fixed assets and depreciation accumulated from date of acquisition were recorded on the books of Multistate Tax Commission. We concur in respect to the aforesaid changes. As a result of the accounting changes, operations for the year ended June 30, 1971, include expenses incurred during the preceding year which were unpaid at the close of such year.

In our opinion, subject to the exceptions stated in the foregoing paragraph in respect to operations, the accompanying balance sheet and the statements of revenue and source and application of cash funds present fairly the financial position of Multistate Tax Commission at June 30, 1971, and the results of its operations for the year then ended in conformity with generally accepted accounting principles.

Respectfully submitted,

John M. Byrne & Company

MULTISTATE TAX COMMISSION
Balance Sheet
June 30, 1971

Assets

Current Assets:		
Cash		$ 20,272.46
Certificates of Deposit		140,000.00
United States Treasury Bills (At Cost)		38,829.50
Total Current Assets		199,101.96
Fixed Assets:		
Office Furniture and Equipment	$ 13,404.48	
Less: Accumulated Depreciation	2,142.50	
Total Fixed Assets		11,261.98
Other Assets:		
Expense Account Advances, Employees	300.00	
Deposits	740.00	
Total Other Assets		1,040.00
Total Assets		$211,403.94

Liabilities and Fund Balance

Current Liabilities:		
Accounts Payable		$ 4,452.49
Withheld Payroll Taxes Payable		1,922.94
Total Current Liabilities		6,375.43
Fund Balance:		
Investment in Fixed Assets (Net)	$ 11,261.98	
Reserve for Employees' Retirement	15,876.69	
Reserve for Prepaid Assessment	20,889.84	
Reserve for Contingencies	85,000.00	
Unappropriated Fund Balance	72,000.00	
Total Fund Balance		205,028.51
Total Liabilities and Fund Balance		$211,403.94

MULTISTATE TAX COMMISSION

Statement of Revenue and Incurred Expense
For the Year Ended June 30, 1971

Revenue:		
Assessments, Member States		$195,246.44
Interest:		
United States Treasury Bills	$ 12,023.45	
Certificates of Deposit	5,750.00	
Total Interest		17,773.45
Miscellaneous		1,832.82
Total Revenue		214,852.71
Incurred Expense:		
Salaries	87,053.15	
Employees' Insurance	2,641.84	
Staff Travel	16,928.16	
Commission Members Travel	2,002.96	
Relocation Expense	3,130.62	
Other Travel	225.02	
Bonds and Insurance	259.00	
Office Rent*	8,498.00	
Office Supplies	3,381.50	
Postage and Freight	3,939.06	
Printing	10,650.39	
Telephone and Telegraph	6,051.63	
Books and Periodicals	2,951.23	
Advertising	1,710.24	
Miscellaneous	1,114.26	
Conferences, Committee Meetings and Hearings	1,345.26	
Accounting Fees	2,025.00	
Consulting Fees	1,114.00	
Other Contract Services	150.90	
Total Incurred Expense		155,172.22
Excess of Revenue Over Incurred Expense		$ 59,680.49

*Multistate Tax Commission leases its primary office facilities at Boulder, Colorado under the terms of a lease agreement expiring May 31, 1974. Monthly lease rental under the agreement amounts to $575.00.

MULTISTATE TAX COMMISSION

Statement of Source and Application of Cash Funds
For the Year Ended June 30, 1971

Source of Cash Funds:		
Operations, Excess of Revenues Over Incurred Expense		$ 59,680.49
Cost of United States Treasury Bills Matured or Sold		336,262.05
Certificate of Deposit Matured		10,000.00
Accounts Payable, June 30, 1971		4,452.49
Increase in Withheld Payroll Taxes Payable:		
Balance, June 30, 1971	$ 1,922.94	
Balance, June 30, 1970	840.03	
Increase in Withheld Payroll Taxes Payable		1,082.91
Total Source of Cash Funds		411,477.94
Application of Cash Funds:		
United States Treasury Bills Purchased	242,026.44	
Certificates of Deposit Purchased	150,000.00	
Purchase of Office Furniture and Equipment	2,580.68	
Advance Office Rental Deposits	315.00	
Employees' Expense Account Advances	300.00	
Total Application of Cash Funds		395,222.12
Excess of Source of Cash Funds Over Application of Cash Funds		16,255.82
Cash Balance, June 30, 1970		4,016.64
Cash Balance, June 30, 1971		$ 20,272.46

MULTISTATE TAX COMMISSION
Statement of Changes in Fund Balances
For the Year Ended June 30, 1971

	Reserve for Employees' Retirement	*Reserve for Prepaid Assessment*	*Reserve for Contin-gencies*	*Unappro-priated Fund Balance*
Balance, June 30, 1970	$ 5,000.00	$ -0-	$100,000.00	$31,241.72
Add:				
Excess of Revenues Over Incurred Expense				59,680.49
Airline Deposit in Prior Year				425.00
	5,000.00	-0-	100,000.00	91,347.21
Deduct: Office Furniture and Equipment Purchased				2,580.68
	5,000.00	-0-	100,000.00	88,766.53
Intra-Account Transfers:				
	10,876.69			(10,876.69)
		15,000.00	(15,000.00)	
		5,889.84		(5,889.84)
Balance, June 30, 1971 ...	$15,876.69	$20,889.84	$ 85,000.00	$72,000.00