Sixteenth Annual Report

Multistate Tax Commission

Fiscal Year 1982 - 1983

For the fiscal year of July 1, 1982 -June 30, 1983

COMMISSION OFFICES

Headquarters........................1790 Thirtieth Street, Suite 314
Boulder, Colorado 80301
(303) 447-9645
(800) 525-2647

Eastern Area Audit Office...............25 W. 43rd Street, Suite 204
New York, New York 10036
(212) 575-1820
(800) 682-6969

Midwestern Area Audit Office......30 W. Washington Street, Suite 1000
Chicago, Illinois 60602
(312) 263-3232

Legal Consultant.......................................William Dexter
6049 Atlas Place SW
Seattle, WA 98136
(206) 937-6169

Legislative and Media Consultant.......................James Rosapepe
425 13th Street, NW
Washington, DC 20004
(202) 783-2303

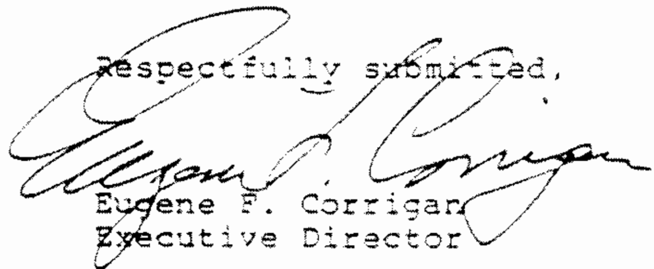
Multistate Tax Commission

November 1, 1983

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

The purpose of the Multistate Tax Commission is to bring even further uniformity and compatibility of 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.

I respectfully submit to you the sixteenth annual report of the Multistate Tax Commission. This report covers the Commission's activities for the fiscal year beginning July 1, 1982 and ending June 30, 1983. It includes a report on receipts, expenditures and operations for that period from Rhode, Scripter & Associates, Certified Public Accountants in Boulder, Colorado.



Respectfully submitted,

Eugene F. Corrigan
Executive Director

Headquarters Office
1790 - 30th Street, Suite 314

New York Audit Office
25 W. 43rd Street, Suite 314

Chicago Audit Office
30 W. Washington, Suite 1000

Contents

Executive Director's Report....................................1

Staff Members..7

Officers and Executive Committee Members.......................9

Committees..10

Tax Administrator Lists.......................................11

--Member States...11

--Associate Member States.....................................14

--Non-Member States...15

Report of Certified Public Accountants........................17

Appendices

Appendix A - UDITPA Adoptions.................................27

Appendix B - Exchange Agreement and Signatory States [Income Tax].................29

Appendix C - Exchange Agreement and Signatory States [Sales and Use Tax].........31

Appendix D - Sales and Use Tax Jurisdiction Limitation Statement..........................33

Appendix E - Sales and Use Tax Exemption Certificate......35

Appendix F - Construction Contractor Regulation...........37

Appendix G - Railroad Regulation..........................55

Appendix H - Airline Regulation...........................61

Executive Director's Report

The *Container* Case

For the MTC, fiscal 1983 was a vintage year capped off by a year-end Supreme Court victory of huge proportions. The June 27 decision in *Container Corp. of America v. Franchise Tax Bd.*, ___ U.S. ___, 103 S. Ct. 2933 (1983), set to rest once and for all any dispute as to the constitutionality of worldwide combined unitary apportionment as applied to a U.S. parent and its foreign subsidiaries. In doing so, it corrected the many misinterpretations of the Court's position which followed the *ASARCO/Woolworth* decisions.

Those decisions have been relegated to the limbo of special fact situations with which the Court are unlikely ever again to be faced. Their sole continuing lesson was foretold in the *Mobil* and *Exxon* cases: no party, whether taxpayer or state, should take an interstate taxation case to court without having introduced into the record a fully developed factual presentation which takes into account the applicability of worldwide unitary apportionment; and no state court should fail to take that factual record fully and explicitly into account in rendering its decision. That state courts remain acutely aware of that lesson was evident in the detailed factual examinations in which the Alaska and Montana Supreme Courts engaged in rendering their decisions in *Earth Resources Co. v. State Dept. of Rev. of the State of Alaska*, 665 P.2d. 960 (1983), and *Russell Stover Candies v. Dept. of Rev. of the State of Montana*, 665 P.2d. 198 (1983). The quality of these decisions provides a basis for thinking that the U.S. Supreme Court's intention to refrain from second-guessing state courts in interstate taxation cases, an intention expressed in *Container*, is a wise one which evidences a well-placed confidence in state supreme courts.

Indirect Effects of *Container*

Political Pressure on White House

Container seems finally to have convinced the big business community of the futility of attacking worldwide combined unitary apportionment in the courts, except in cases which involve foreign parents. Their despair here has caused some business representatives to redouble their efforts in the political arena. Throughout the summer of '83, the Administration was deluged with requests, even demands, not only from American multinationals but from foreign ones and their national governments.

Their purpose was twofold: 1) to get the Administration to file an amicus curiae brief in support of Container's Petition for a Rehearing before the Supreme Court; and 2) to get the Administration to support Mathias/Conable-type federal legislation which would preclude the states from utilizing the worldwide combined unitary apportionment principle and would effectively immunize from state taxation dividends received from foreign corporations. The Administration stood firm against such entreaties. (The Supreme Court subsequently denied the Petition for Rehearing.)

Appointment of "Working Group"

Instead, a Presidential "Working Group" was established. Consisting of members from states (including governors, legislators and tax administrators), major international businesses and the federal government (including representatives of the White House, the Treasury Department and the State Department), its task is to seek to establish a consensus on the basis of which to resolve stated concerns of all affected parties. That is a tall order, given the nature of the problem and the disparity of interests involved. Nevertheless, starting with a November 2 meeting, the Group addressed itself to the task.

MTC Litigation

U.S. Steel

The litigation with U.S. Steel is winding down as the MTC gains victory after victory despite the delaying strategems of the taxpayer. The most recent victory was accorded the MTC by the Ninth Circuit Court of Appeals.

At ultimate issue is the right of the taxpayer to refuse to allow a complete joint audit in an effort to control the manner in which the audit is performed. In refusing to submit certain of its books and records for examination, U. S. Steel created delays; when, as a result, statutes of limitation neared expiration, U.S. Steel refused to agree not to use those expirations as a bar to completing the audit. Consequently, states participating in the audit issued estimated assessments. U.S. Steel then maintained that the issuing of the assessments precluded any further auditing.

On August 31, 1983, the Court of Appeals disagreed. It then remanded the case back to the U.S. District Court for Idaho in Boise for a determination of whether or not U.S. Steel has complied with the latter court's October 16, 1980 order that U.S. Steel submit requested books and records for examination. The District Court has set the matter down for a December 30, 1983 hearing.

This has been an important piece of litigation in that it has established firmly the right of the states to examine those materials which they consider to be needed in order to determine whether any outstanding tax liability on the part of the taxpayer exists. The right to accomplish this through the mechanism of the MTC audit program was confirmed by the U.S. Supreme Court in early 1978. The Idaho case has been important in eliminating any basis for litigation impediments to that program.

Dow

On November 24, 1982, the Oregon Tax Court ordered the taxpayer to make available to the Commission's auditors "any of their account books, papers, records or other documents, including corporate minutes of Dow and its subsidiary and affiliated corporations, for examination to the extent that such examination is material and relevant to the income tax audit by the MTC..." MTC et al. v. Dow Chemical Co., 9 OTR 272 (1982). The court did refuse the MTC's request that, because of the taxpayer's delaying actions, the court toll the statutes of limitation pending the completion of the audit. Calling the MTC's request "understandable," the court said that it "should not read into statutes of limitation an exception which has not been embodied therein by the legislature...." The MTC sought to appeal the latter ruling to the Oregon Supreme Court; but on November 1, 1983, after argument, that court dismissed the appeal on procedural grounds without reaching the merits of the statute of limitation issue. Meanwhile, the audit had been completed.

Committees

Audit

The Audit Committee, under the chairmanship of Horace Gailey of Utah, met four times during the year and has continued to monitor the audit activities of the Commission. It participates in the selection of audits, oversees the manner in which audit policy is implemented and, from time to time, suggests to the Commission any new policy decisions which it may consider to be appropriate. The Committee also encourages the states to support and to follow through on recommendations which result from the performance of audits which have been assigned by those states.

Uniformity

The Uniformity Committee, under the chairmanship of Bob Kessel of North Dakota, also met four times during the year. It continues to consider means by which increased uniformity can be achieved. As a result of its activities, the Commission conducted a hearing on an Airline Regulation in December of 1982 and then adopted the Regulation at its annual meeting in July. That Regulation is appended hereto as Appendix H.

Tax Consistency Task Force

This group met only once during the year. Its consensus appeared to be that true uniformity could best be accomplished through the mechanism of an independent decision making body to which problems could be submitted by states and taxpayers alike for solution. Such a solution would call for consistent treatment of a taxpayer by the various states in which the taxpayer conducts its business; it would also call for consistent treatment of those states by the taxpayer.

Workshop

In December of 1982, the Commission conducted a workshop on Safe Harbor Leases. The some sixty representatives of the states and of the business community reached unanimous agreement that the best approach was that suggested by F. Edward Denniston, Vice President of Taxes for Evans Products Company, of Portland, Oregon.

Publications

The MTC Review

The Commission published two issues of the Multistate Tax Commission Review. Published in the format of a magazine, it contains news and articles pertaining to the Commission and to current interstate taxation matters. It is distributed to the MTC's large mailing list.

MTC Legislative Handbook

The Commission also published a new MTC Legislative Handbook which is designed to be an interstate taxation resource for legislators. The Commission makes it available to legislators upon request.

1983 Handbook on Unitary Apportionment

The Commission published the third edition of the MTC Handbook on Unitary Apportionment in three years. The 1983 edition is the most complete publication of materials on the subject which is available anywhere. It contains a 68-page complete teaching outline which covers the subject in great depth. It also contains a master list of 420 citations to key decisions and pertinent articles. In addition, it contains summaries of 48 important unitary cases, including three which were decided in 1983. The full texts of the decisions in the latter three cases are also included, as well as several model briefs plus reprints of six important unitary apportionment articles which have been published elsewhere during the year. The Handbook is a must for anyone seeking either to teach or to learn about the subject of unitary apportionment.

Conclusion

The Commission has long been a dynamic catalyst for the development and implementation of new ideas and policies aimed at improving the ability of the states to apply their taxes to interstate taxation fairly and effectively. It has also always maintained concern that taxpayers' compliance burdens be reduced to the fullest extent compatible with state tax laws. The Presidential Working Group is currently offering promise of new intellectual input and help in furthering the purposes of the Commission. The prospects for success in the accomplishing of the purposes of the Commission continue to be encouraging.

Staff Members

EXECUTIVE DIRECTOR and ACTING GENERAL COUNSEL

Eugene F. Corrigan became the Commission's first staff member in 1969, after resigning his position as chief counsel of the Illinois Department of Revenue's Chicago office. His prior experience included three years as a Sears, Roebuck tax attorney and ten years with the Illinois Department of Revenue. During the mid-sixties, he was also a partner in the Chicago law firm of Stradford, Lafontant, Fisher & Corrigan. He is a graduate of Princeton University and of John Marshall Law School of Chicago. He offices at the Commission's headquarters in Boulder, Colorado.

ASSISTANT CHIEF COUNSEL and DEPUTY DIRECTOR

Alan H. Friedman has fifteen years of legal experience, including positions as legal counsel with the U.S. Justice Department, the U.S. Senate, and the Colorado Attorney General's office. As First Assistant Attorney General, he supervised the legal representation of Colorado's Governor, Secretary of State, Treasurer and Department of Revenue. Immediately prior to joining the MTC as Deputy Director and Assistant Chief Counsel he served as Deputy Director of the Colorado Department of Revenue.

OF COUNSEL

William D. Dexter had been a litigating attorney for some thirty-five years, the last eight of them as the MTC's General Counsel, when he retired on July 15, 1983. He had previously served as an assistant attorney general in both Michigan and Washington. His major contributions to state and local tax philosophy seemed to receive tacit recognition from the U.S. Supreme Court in the form of the Container decision which that Court issued two weeks before his retirement. That decision ratified the stance which he had long maintained on behalf of the states and the MTC. While he did not participate in the actual argument of that case, his amicus brief in Container as well as his Petition for Rehearing on behalf of Idaho and New Mexico in the ASARCO/Woolworth cases are widely regarded as having had a significant influence on the outcome of Container. Earlier, as a result of his participation in the 1980 Mobil case, the Supreme Court had adopted his argument that the unitary business principle was the key to the constitutional question there, laying the groundwork for this year's Container decision. In 1978, he had won the U.S. Supreme Court case of MTC adv.U.S. Steel, which established the constitutional validity of the MTC for once and for

all. During his career, he had led or had participated in many other important cases for the MTC and its member states in courts around the land. Even after retirement, another victory came his way when, on August 31, 1983, the Ninth District Court of Appeals ruled that the MTC may require the production by U.S. Steel of books and records necessary to complete an audit even though states participating in the MTC audit have issued estimated assessments in order to protect themselves against the expiration of statutes of limitations. He will continue to remain active with the MTC in an Of Counsel capacity which will require a much lower time commitment from him but which undoubtedly will result in no reduction in the diligence with which he devotes himself to MTC and state tax concerns.

AUDIT MANAGER

Eugene B. Fischer joined the Multistate Tax Commission in March, 1981. He is a graduate of the Baruch School of the City College of New York and the Brooklyn Law School. A certified public accountant and a member of the New York State Bar, he served as Director of Taxes at North American Philips, Inc. for three years. Later, after three years in private CPA practice, he rejoined the Philips corporation family as chief tax officer of Polygram Corporation, a position which he held for six years.

Multistate Tax Commission Officers*

Chairman	Kent Conrad (North Dakota)
Vice Chairman	Larry Looney (Idaho)
Treasurer	Vickie Fischer (New Mexico)

Executive Committee Members

Members	Bob Bullock (Texas) Harley Duncan (Kansas) Donna Karnes (Nebraska) Richard King (Missouri)
Ex-Officio	Robyn Godwin (Oregon) Alan Charnes (Colorado Gerald Goldberg (California)

* The three officers are also members of the Executive Committee. Terms of the above officers and committee members end at the annual meeting in 1984. The ex-officio members of the Executive Committee are former Commission chairmen.

Committees

Audit Committee

California	Robert Bonnici, Chairman
Colorado	Frank Beckwith
Kansas	Thomas Sheridan
Minnesota	Gerome Caulfield
North Dakota	Bob Kessel
Oregon	George Weber
Texas	Larry Crawford

Uniformity Committee

New Mexico	Manual Gallegos, Chairman
Alaska	John Mintken
Arkansas	Everett Leath
California	Kendall Kinyon
Colorado	Ted V. Middle
Hawaii	Tomotaru Ogai
Idaho	Frank Medlin
Kansas	Thomas Sheridan
Michigan	Fred Lynch
Minnesota	Gerome Caulfield
Missouri	Ed Molotsky
Montana	Jerry Foster
Nebraska	James Masonbrink
North Dakota	Robert Kessel
Oregon	George Weber
Utah	Donald Bosch
West Virginia	Jon H. Synder

Finance Committee

Colorado	Alan Charnes, Chairman
Kansas	Harley Duncan
Texas	Wade Anderson

Multistate Tax Commission

11/1/83

Representatives of Party States of the Multistate Tax Compact

ALASKA

Member

Robert D. Heath
Commissioner of Revenue
Department of Revenue
Pouch S
Juneau, AK 99811
(907) 465-2300

Alternate

Joseph K. Donohue
Deputy Commissioner
Department of Revenue
Pouch S
Juneau, AK 99811
(907) 465-2302

ARKANSAS

Member

Mahlon A. Martin
Director, Arkansas Department of Finance and Administration
PO Box 1272
Little Rock, Arkansas 72203
(501) 371-2242

Alternate

Glen Mourot
Administrator
Office of Tax Administrator
Arkansas Department of Finance and Administration
PO Box 1272
Little Rock, Arkansas 72203
(501) 371-1626

CALIFORNIA*

Member

Douglas D. Bell
Executive Secretary
Board of Equalization
PO Box 1799
Sacramento, California 95808
(916) 445-3956

Gerald Goldberg**
Executive Officer
Franchise Tax Board
PO Box 115
Rancho Cordova, California 95670-0115
(916) 355-0292

COLORADO

Member

Alan N. Charnes***
Executive Director
Colorado Department of Revenue
1375 Sherman Street
Denver, Colorado 80261
(303) 866-3091

Alternate

Frank Beckwith
Chief of Taxation
Colorado Department of Revenue
1375 Sherman Street
Denver, Colorado 80261
(303) 866-3048

DISTRICT OF COLUMBIA

Member

Jeffrey L. Humber, Jr.
Director of Finance & Revenue
Government of the District of Columbia
Room 4136, Municipal Center
300 Indiana Avenue, N.W.
Washington, DC 20001
(202) 727-6020

Alternate

J. Walter Lund
Associate Director of Income and Business Tax Administration
Government of the District of Columbia
Room 3016, Municipal Center
300 Indiana Avenue, N.W.
Washington, DC 20001
(202) 727-6019

HAWAII

Member

George Freitas
Director of Taxation
Hawaii Department of Taxation
PO Box 259
Honolulu, Hawaii 96809
(808) 548-7650

Alternate

Wallace Aoki
Deputy Director
Department of Taxation
PO Box 259
Honolulu, Hawaii 96809
(808) 548-7562

IDAHO

Member

Larry Looney
Chairman of the Commission
Department of Revenue & Taxation
Idaho State Tax Commission
PO Box 36
Boise, Idaho 83722
(208) 334-4634

Alternate

Darwin L. Young
Commissioner
Department of Revenue & Taxation
Idaho State Tax Commission
PO Box 36
Boise, Idaho 83722
(208) 334-4634

KANSAS

Member

Harley Duncan
Secretary of Revenue
Kansas Department of Revenue
State Office Building
Topeka, Kansas 66625
(913) 296-3041

Alternate

Thomas Sheridan
Chief, Audit Division
Kansas Department of Revenue
State Office Building
Topeka, Kansas 66625
(913) 296-7719

MICHIGAN

Member

Robert A. Bowman
State Treasurer
Department of Treasury
Treasury Building
Lansing, Michigan 48922
(517) 373-3223

Alternate

Sydney Goodman
Commissioner of Revenue
Department of Treasury
Revenue Division
Treasury Building
Lansing, Michigan 48922
(517) 373-3193

MINNESOTA

Member

Arthur C. Roemer
Commissioner of Revenue
Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145
(612) 296-3401

Alternate

Gerome T. Caulfield
Director, Corporate Income Tax Division
Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55146
(612) 296-1901

MISSOURI

Member

Richard A. King
Director of Revenue
Department of Revenue
PO Box 311
Jefferson City, Missouri 65105
(314) 751-4450

Alternate

James B. Deutsch
General Counsel
Department of Revenue
PO Box 475
Jefferson City, Missouri 65105
(314) 751-2633

MONTANA

Member

Ellen Feaver
Director of Revenue
Montana Department of Revenue
Mitchell Building
Helena, Montana 59620
(406) 449-2460

Alternate

Gerald Foster
Administrator, Natural Resource/
Corporation Tax Division
Montana Department of Revenue
Mitchell Building
Helena, Montana 59620
(406) 449-2460

NEBRASKA

Member

Donna Karnes
State Tax Commissioner
PO Box 94818
Lincoln, Nebraska 68509
(402) 471-2971

Alternate

Greg A. Richter
Deputy Tax Commissioner
PO Box 94818
Lincoln, Nebraska 68509
(402) 471-2971

NEW MEXICO

Member

Vickie L. Fisher
Secretary
New Mexico Taxation and
Revenue Department
PO Box 630
Santa Fe, New Mexico 87509-0630
(505) 988-2290 X600

Alternate

Ronald S. Loyd
Deputy Secretary
New Mexico Taxation and
Revenue Department
PO Box 630
Santa Fe, New Mexico 87509-0630
(505) 988-2290 X200

NORTH DAKOTA

Member

Kent Conrad
Tax Commissioner
North Dakota State Tax Department
State Capitol
Bismarck, North Dakota 58505
(701) 224-2770

Alternate

Arnold M. Burian
Deputy Tax Commissioner
North Dakota State Tax Department
State Capitol
Bismarck, North Dakota 58505
(701) 224-2770

Alternate

Robert Kessel
Director, Income & Oil Tax Dept.
North Dakota State Tax Dept.
State Capitol
Bismarck, North Dakota 58505
(701) 224-3653

OREGON

Member

Robyn Godwin****
Director Department of Revenue
Revenue Building
955 Center Street, N.E.
Salem, Oregon 97310
(503) 378-3363

Alternate

George Weber
Administrator, Audit Division
Department of Revenue
Revenue Building, Rm. 255
955 Center Street, N.E.
Salem, Oregon 97310
(503) 378-3747

SOUTH DAKOTA

Member

R. Van Johnson
Secretary of Revenue
Department of Revenue
R.F. Kneip Building
700 N. Illinois
Pierre, South Dakota 57501
(605) 773-3276

Alternate

Orville Dixon
Audit Director
Department of Revenue
R.F. Kneip Building
700 N. Illinois
Pierre, South Dakota 57501
(605) 773-3751

TEXAS

Member

Bob Bullock
Comptroller of Public Accounts
LBJ State Office Building
Austin, Texas 78711
(512) 475-6001

Alternate

Wade Anderson
Associate Deputy Comptroller
Legal Services
Office of Comptroller
PO Box 13528
Austin, Texas 78711
(512) 475-1906 & 2729

Alternate

Larry Crawford
Associate Deputy Comptroller
for Audit
LBJ State Office Building
111 East 17th Street, Room 210
Austin, Texas 78774
(512) 475-8149

UTAH

Member

Mark K. Buchi
Chairman
Utah State Tax Commission
Heber M. Wells Building
161 E. 300 South
Salt Lake City, Utah 84134
(801) 530-6088

Alternate

G. Ellsworth Brunson
Commissioner
Utah State Tax Commission
Heber M. Wells Bldg.
161 E. 300 South
Salt Lake City, Utah 84134
(801) 530-6088

WASHINGTON

Member

Donald R. Burrows
Director
Department of Revenue
415 General Administration Bldg.
Olympia, Washington 98504
(206) 753-5574

Alternate

Don McCuiston
Assistant Director
Department of Revenue
415 General Administration Bldg.
Olympia, Washington 98504
(206) 753-5525

WEST VIRGINIA

Member

Herschel Rose
State Tax Commissioner
State Tax Department
Charleston, West Virginia 25305
(304) 348-2501

Alternate

Gary A. Gorrell
Deputy Tax Commissioner
State Tax Department
Charleston, West Virginia 25305
(304) 348-2501

* Executive Secretary of the Board of Equalization represents California in MTC fiscal years beginning in odd-numbered calendar years, and the Executive Officer of the Franchise Tax Board represents California in MTC fiscal years beginning in even-numbered calendar years

** MTC Chairman 1979-1980

*** MTC Chairman 1980-1981

**** MTC Chairman 1981-1982

Tax Administrators Associate Member States

The Commission has made provisions for associate membership in bylaw 13, 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.

ALABAMA

James C. White, Jr.
Commissioner
Department of Revenue
Montgomery, Alabama 36130
(205) 832-5780

ARIZONA

J. Elliott Hibbs
Director
Department of Revenue
Capitol Building, West Wing
Phoenix, Arizona 85007
(602) 255-3393

GEORGIA

Marcus E. Collins, Sr.
Commissioner
Department of Revenue
410 Trinity-Washington Building
Atlanta, Georgia 30334
(404) 656-4016

LOUISIANA

Shirley McNamara
Secretary
Department of Revenue
and Taxation
State of Louisiana
PO Box 201
Baton Rouge, Louisiana 70821
(504) 925-7680

MARYLAND

Louis L. Goldstein
Comptroller of the Treasury
State Treasury Building
PO Box 466
Annapolis, Maryland 21404
(301) 269-3801

MASSACHUSETTS

Ira A. Jackson
Commissioner
Department of Revenue
100 Cambridge Street
Boston, Massachusetts 02202
(617) 727-4201

NEW JERSEY

John R. Baldwin
Director
Division of Taxation
Department of Treasury
West State & Willow Streets
Trenton, New Jersey 08625
(609) 292-5185

OHIO

Joann Limbach
Tax Commissioner
Department of Taxation
PO Box 530
Columbus, Ohio 43216
(614) 466-2166

PENNSYLVANIA

James I. Scheiner
Acting Secretary of Revenue
Department of Revenue
207 Finance Building
Harrisburg, Pennsylvania 17127
(717) 783-3680

TENNESSEE

Martha Olsen
Commissioner
Department of Revenue
Andrew Jackson State Office
Building, Room 927
Nashville, Tennessee 37242
(615) 741-2461

Tax Administrators Non-member States

CONNECTICUT

Oreste Dubno
Commissioner
Tax Department
92 Farmington Avenue
Hartford, Connecticut 06115
(203) 566-7120

DELAWARE

Robert Chastant
Director of Revenue
Department of Finance
Wilmington State Office Bldg.
9th & French Streets
Wilmington, Delaware 19899
(302) 571-3315

FLORIDA

Randy Miller
Executive Director
Florida Department of Revenue
102 Carlton Building
Tallahassee, Florida 32304
(904) 488-5050

ILLINOIS

J. Thomas Johnson
Director
Illinois Department of Revenue
PO Box 3681
Springfield, Illinois 62708
(217) 782-6330

INDIANA

William Haan
Commissioner of Revenue
Indiana Department of Revenue
202 State Office Building
Indianapolis, Indiana 46204
(317) 232-2101

IOWA

Gerald D. Bair
Director
Iowa Department of Revenue
Hoover State Office Building
Des Moines, Iowa 50319
(505) 281-3204

KENTUCKY

Ronald G. Geary
Secretary
Revenue Cabinet
Capitol Annex
Frankfort, Kentucky 40620
(502) 564-3226

MAINE

Raymond L. Halperin
State Tax Assessor
Bureau of Taxation
State Office Building
Augusta, Maine 04333
(207) 289-2076

MISSISSIPPI

A.C. Lambert
Chairman
Tax Commission
Woolfolk State Office Building
Jackson, Mississippi 39205
(601) 359-1098

NEVADA

Patrick J. Pine
Executive Director
Department of Taxation
Capitol Mall Complex
Carson City, Nevada 89710
(702) 885-4892

NEW HAMPSHIRE

Lloyd M. Price
Commissioner
Department of Revenue
Administration
61 South Spring St., PO Box 457
Concord, New Hampshire 03301
(603) 271-2191

NEW YORK

Roderick Chu
Commissioner
New York State Department of
Taxation and Finance
Albany, New York 12227
(518) 457-2244

NORTH CAROLINA

Mark Lynch
Secretary of Revenue
Department of Revenue
PO Box 25000
Raleigh, North Carolina 27640
(919) 733-7211

OKLAHOMA

Odie A. Nance
Chairman
State Tax Commission
The M.C. Connors Building
2501 N. Lincoln
Oklahoma City, Oklahoma 73194
(405) 521-3115

RHODE ISLAND

John H. Norberg
Tax Administrator
Division of Taxation
Department of Administration
289 Promenade Street
Providence, Rhode Island 02908
(401) 277-3050

SOUTH CAROLINA

John T. Weeks
Chairman
Tax Commission
Box 125
Columbia, South Carolina 29214
(803) 758-2691

VERMONT

Elaine Hoiska
Commissioner of Taxes
Department of Taxes
Pavilion Office Building
Montpelier, Vermont 05602
(802) 828-2505

VIRGINIA

William H. Forst
State Tax Commissioner
Commonwealth of Virginia
Department of Taxation
Richmond, Virginia 23215
(804) 257-8005

WISCONSIN

Michael Ley
Secretary of Revenue
125 S. Webster St.
PO Box 8933
Madison, Wisconsin 53708
(608) 266-1611

WYOMING

Rudolph Anselmi
Chairman
Wyoming Tax Commission and
Board of Equalization
2200 Carey Avenue
Cheyenne, Wyoming 82001
(307) 777-7961

Report of Certified Public Accountants

RHODE, SCRIPTER & ASSOCIATES

CERTIFIED PUBLIC ACCOUNTANTS

EASTPARK OFFICE CENTER
1690 THIRTY-EIGHTH STREET
BOULDER, COLORADO 80301
(303) 444-0471

Ronald H. Rhode, CPA
Larry L. Scripter, CPA
Thomas D. Piper, CPA
Patricia M. Nielsen, CPA

A. W. Schone, CPA, Retired

Executive Committee
Multistate Tax Commission
Boulder, Colorado

We have examined the balance sheets of Multistate Tax Commission as of June 30, 1983 and 1982, and the related statements of revenue and expenses, changes in fund balance and changes in financial position for the years then ended. Our examinations were 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.

In our opinion, the financial statements referred to above present fairly the financial position of Multistate Tax Commission at June 30, 1983 and 1982, and the results of its operations, changes in fund balance, and changes in financial position for the years then ended in conformity with generally accepted accounting principles applied on a consistent basis.

Rhode, Scripter & Associates

August 12, 1983

MULTISTATE TAX COMMISSION

BALANCE SHEETS

June 30, 1983 and 1982

ASSETS

	1983	1982
CURRENT ASSETS		
Cash (including certificates of deposit of $200,000 in 1983 and 1982)	$ 329,699	$ 318,694
Accounts receivable--members	18,508	20,883
Accounts receivable--other	17,496	1,311
Net investment in sales type lease--Current portion--Note 2	---	5,954
Other current assets	142	665
TOTAL CURRENT ASSETS	365,845	347,507
PROPERTY AND EQUIPMENT--Notes 1 and 4		
Office furniture and equipment	171,454	106,074
Less: Accumulated depreciation and amortization	73,149	53,422
TOTAL PROPERTY AND EQUIPMENT	98,305	52,652
OTHER ASSETS		
Expense account advances	4,800	3,600
Deposits	1,696	1,696
Prepaid and unamortized past service pension costs--Note 3	32,328	18,559
Net investment in sales-type lease--Long-term portion--Note 2	---	24,582
TOTAL OTHER ASSETS	38,824	48,437
TOTAL ASSETS	$ 502,974	$ 448,596

LIABILITIES AND FUND BALANCE

	1983	1982
CURRENT LIABILITIES		
Accounts payable	$ 18,276	$ 24,514
Accrued vacation pay--Note 7	63,323	29,669
Payroll taxes payable	8,952	6,584
Assessments and audit reimbursements collected in advance	---	40,000
Current portion of long-term debt	5,952	33,248
TOTAL CURRENT LIABILITIES	96,503	134,015
LONG-TERM DEBT		
Obligations under capital leases--Note 2	---	62,534
Note payable--Note 4	35,529	6,511
	35,529	69,045
Less: Current portion	5,952	33,248
TOTAL LONG-TERM DEBT	29,577	35,797
FUND BALANCE--Exhibit B		
Unappropriated fund balance	376,894	278,784
TOTAL FUND BALANCE	376,894	278,784
TOTAL LIABILITIES AND FUND BALANCE	$ 502,974	$ 448,596

MULTISTATE TAX COMMISSION

STATEMENTS OF CHANGES IN FUND BALANCE
For the years ended June 30, 1983 and 1982

	1983	1982
FUND BALANCE--Beginning of year	$ 278,784	$ 154,919
Excess of revenue over expenses-- Exhibit C	98,110	123,865
FUND BALANCE--End of year	$ 376,894	$ 278,784

MULTISTATE TAX COMMISSION

STATEMENTS OF REVENUE AND EXPENSES
For the years ended June 30, 1983 and 1982

	1983	1982
REVENUE		
Assessments	$1,179,378	$1,045,731
Interest	49,937	67,620
Other revenue:		
Legal administrative	39,642	24,950
Miscellaneous	350	485
TOTAL REVENUE	1,269,307	1,138,786
EXPENSES		
Accounting	7,500	7,622
Bonds and insurance	3,734	2,797
Consulting fees	96,920	71,489
Depreciation and amortization	28,790	17,274
Employee group insurance	45,372	33,749
Interest expense	1,490	13,973
Legal and legal support	45,088	30,637
Loss on sale of fixed assets	544	1,970
Miscellaneous expense	11,441	4,789
Office supplies	5,962	7,487
Pension plan and retirement provision	83,482	74,534
Postage	3,693	9,948
Printing and duplicating	16,083	17,584
Publications	1,987	(7,117)
Rent	73,345	59,887
Repairs and maintenance	4,990	2,558
Salaries	656,352	593,770
Telephone	21,850	25,788
Travel	51,311	41,206
Utilities	4,173	4,876
TOTAL EXPENSES	1,171,197	1,014,921
EXCESS OF REVENUE OVER EXPENSES	$ 98,110	$ 123,865

MULTISTATE TAX COMMISSION

STATEMENTS OF CHANGES IN FINANCIAL POSITION

For the years ended June 30, 1983 and 1982

	1983	1982
WORKING CAPITAL PROVIDED BY:		
Operations:		
Excess of revenue over expenses	$ 98,110	$ 123,865
Add: Charges not requiring the use of working capital:		
Depreciation and amortization	28,780	17,274
Net book value of property and equipment sold	6,941	2,395
Working Capital Provided by Operations	133,831	143,534
Decrease in net investment in sales-type lease	24,582	5,954
TOTAL PROVIDED	158,413	149,488
WORKING CAPITAL APPLIED TO:		
Purchase of property and equipment	81,374	29,629
Decrease in long-term obligations	6,220	32,947
Increase in expense account advances	1,200	112
Increase in prepaid and unamortized past services--pension costs	13,769	12,427
TOTAL APPLIED	102,563	75,115
INCREASE IN WORKING CAPITAL	$ 55,850	$ 74,373
CHANGES IN WORKING CAPITAL COMPONENTS		
Increase (decrease) in current assets:		
Cash	$ 11,005	$ 157,939
Accounts receivable--members	(2,375)	1,929
Accounts receivabe--other	16,185	112
Current portion of investment in sales-type lease	(5,954)	1,605
Other current assets	(523)	95
	18,338	160,372
Decrease (increase) in current liabilities:		
Accounts payable	6,238	(13,196)
Accrued vacation pay	(33,654)	29,669
Payroll taxes payable	(2,368)	(776)
Assessments and audit reimbursements collected in advance	40,000	(40,000)
Current portion of long-term obligations	27,296	(2,858)
	37,512	(86,499)
INCREASE IN WORKING CAPITAL	$ 55,850	$ 74,373

MULTISTATE TAX COMMISSION

NOTES TO FINANCIAL STATEMENTS
June 30, 1983

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The Multistate Tax Commission was organized in 1967. It was established under the Multistate Tax Compact, which by its terms, became effective August 4, 1967. The basic objective of the "Compact" and, accordingly, the Commission is to provide solutions and additional facilities for dealing with state taxing problems related to multistate business.

Method of Accounting

The Commission follows the accrual method of accounting whereby assessment revenue is recognized in the fiscal year of assessment. Contributions by states for specific purposes are recognized as income during the year of receipt. Other revenue is recognized as it is earned. Expenses are recognized as they are incurred.

Property and Equipment

All property and equipment is stated at cost and depreciated using straight-line and accelerated methods over the estimated useful lives of the assets which range from 3 to 8 years.

Reclassification

Certain items on the financial statements as of June 30, 1982 have been reclassified to conform to classifications used at June 30, 1983. These reclassifications were made for comparative purposes only.

NOTE 2 - NET INVESTMENT IN SALES-TYPE LEASE

During the year ended June 30, 1981, the Commission sold property relating to a previously capitalized lease for computer hardware. This sublease was recorded in accordance with Financial Accounting Standard Board Statement #13 as a sales-type lease. The sublease was recorded as follows for the year ended June 30, 1982:

Total minimum lease payments to be received	$42,073
Less: Unearned income	11,537
Net investment in sales type lease	$30,536

During the year ended June 30, 1983, the subleasee of the computer hardware informed the Commission that they would be in default of the sublease. As a result, title to the computer hardware reverted back to the Commission, and the property was sold at a net loss of $30.

NOTE 3 - PENSION PLAN

The Commission has a defined benefit pension plan covering substantially all of its employees. The total pension expense for the year was $83,482, which includes amortization of prior service costs over 10 years. The Commission's policy is to fund pension cost accrued. The actuarially computed value of vested benefits as of June 30, 1983, is fully funded. The accumulated plan benefits and plan net assets are presented below:

ACTUARIAL PRESENT VALUE OF ACCUMULATED PLAN BENEFITS AT JUNE 30, 1983:	
Vested	$329,839
Nonvested	22,053
	$351,892
MARKET VALUE OF NET ASSETS AVAILABLE FOR BENEFITS AT JUNE 30, 1983	$716,262

The assumed rate of return used in determing the actuarial present value of accumulated plan benefits was 6.5% compounded annually.

NOTE 4 - NOTE PAYABLE

Notes payable at June 30, 1983 were as follows:

	Current	Long-Term	Total
Manufacturer--9-1/2% installment note, collateralized by related equipment, payable in monthly installments of $756.03, including interest, with final payment due May 1, 1988.	$ 5,952	$ 29,577	$ 35,529

NOTE 5 - COMMITMENTS

The Commission rents its primary office facilities in Boulder, Colorado, and secondary office facilities in New York, Illinois and Washington State, under lease agreements with terms expiring on various dates through August 31, 1988. These leases provide for the following minimum annual rentals exclusive of utility charges and certain escalation charges:

MULTISTATE TAX COMMISSION

NOTES TO FINANCIAL STATEMENTS (Continued)
June 30, 1983

NOTE 5 - COMMITMENTS (Continued)

Fiscal Year Ended	Minimum Annual Rental
June 30, 1984	$ 64,692
June 30, 1985	59,112
June 30, 1986	50,076
June 30, 1987	44,956
June 30, 1988	35,700
Balance through August 31, 1988	6,000
TOTAL	$260,536

The leases include certain escalation charges based on various factors including wage index, utility, operating and property tax increases from a base year.

NOTE 6 - INCOME TAXES

In the opinion of legal counsel, the Commission is exempt from Federal income tax as well as from other Federal taxes as an organization of a group of States or as an instrumentality of those States. Therefore, no provision has been made in the financial statements for Federal income taxes.

NOTE 7 - ACCRUED VACATION PAY

In accordance with Statement of Financial Accounting Standards No. 43, "Accounting For Compensated Absences", employees' rights to receive compensation for future absences have been accrued for the year ended June 30, 1983 and 1982. The accrual at June 30, 1982 was understated by $23,000 which was included in results of operations for the year ended June 30, 1983.

PROGRESS IN UNIFORMITY THROUGH ADOPTION OF THE UNIFORM DIVISION OF INCOME FOR TAX PURPOSES ACT AMONG THE STATES

Alabama(1)	Hawaii(2)	Minnesota(6)	Oklahoma(8)
Alaska	Idaho	Missouri(2)	Oregon
Arizona	Illinois	Montana(2)	Pennsylvania
Arkansas	Indiana(2)	Nebraska(2)	South Carolina
California	Kansas	New Hampshire(7)	Tennessee
Colorado(2)	Kentucky	New Mexico	Utah(2)
Dist.of Columbia	Maine	North Carolina	Virginia
Florida(3)	Massachusetts(5)	North Dakota	West Virginia(2)
Georgia(4)			Wisconsin(8)

Notes:

(1) Alabama's corporate income tax statute is vague on how the state is to determine what portion of a corporation's income is to be attributed to the state for tax purposes. On September 6, 1967, the Alabama Legislature enacted the Multistate Tax Compact, which includes UDITPA, subject to congressional enactment of a Multistate Tax Compact Consent Bill. On September 12, 1967, the Alabama Department of Revenue promulgated regulations which adopt the UDITPA provisions as the basis on which to determine the amount of a corporation's income which is attributable to a state.

(2) This state adopted UDITPA by enacting the Multistate Tax Compact.

(3) Florida enacted the Multistate Tax Compact in 1969. When it enacted its corporate income tax in 1971, it deleted UDITPA from its statutes. Yet its corporate income tax statute is substantially in accord with UDITPA. Florida gives 50% weight to the sales factor.

(4) Georgia's payroll and sales factors differ, but only slightly.

(5) Massachusetts is included as a UDITPA state because it closely follows the UDITPA apportionment formula. Massachusetts adopted the 3-factor formula in 1920 and UDITPA codified that formula. However, rather than source, UDITPA adopted destination for sales, subject to the condition that the seller be subject to the jurisdiction of the destination state. In 1966, Massachusetts changed to destination basis, but subject to the current modification that no-nexus sales are Massachusetts sales if they are not sold by third state based salesmen. Unlike UDITPA, all income, including intangible income, is put into the Massachusetts tax base with the sole exclusion of dividends received from corporations, but not trusts or DISCS, in which the receiving corporation owns more than 15% of the voting stock. Massachusetts gives 50% weight to the sales factor.

(6) Minnesota has adopted UDITPA but gives taxpayer option of using an alternative formula.

(7) New Hampshire is included here as a UDITPA state even though its property factor is somewhat different.

(8) Although Oklahoma and Wisconsin have not technically adopted UDITPA, their laws appear to be sufficiently close to enable them to be considered UDITPA states.

AGREEMENT ON EXCHANGE OF INFORMATION
[INCOME TAX]

In the interest of furthering the mutual interests of the undersigned states represented by the undersigned officials through benefits which can be derived from the exchange of information among said states, each of said officials does hereby enter into the following Agreement for the exchange of information with every other undersigned official.

The undersigned hereby mutually agree to exchange information, to the full extent permitted by their respective laws, in accordance with the terms and limitations below:

1. For purposes of this Agreement, income tax means a tax imposed on or measured by net income, including any tax imposed on or measured by an amount arrived at by deducting expenses from gross income, one or more forms of which expenses are not specifically and directly related to particular transaction.
2. This agreement shall be applicable with respect to:
   a. The inspection of income tax returns of any taxpayer; and
   b. The furnishing of an abstract of the return of income of any taxpayer; and
   c. The furnishing of any information concerning any items contained in any return of income of any taxpayer; and
   d. The furnishing of any information disclosed by the report of any investigation of the income or return of income of any taxpayer, exclusive of any information obtained through an agreement between any of the undersigned states and the Internal Revenue Service.
3. For purposes of this Agreement, taxpayer includes any individual, corporation, partnership or fiduciary subject to an income tax or required to file an income tax return.
4. This Agreement is not limited to a specific period of time or to returns, documents or information relating to any specific years or periods; and it will be considered to be in effect until revoked.
5. Additions and changes, including definitions, in the provisions of this Agreement, may be made by mutual consent of the proper officials of the undersigned states, and shall become an attachment to this Agreement.
6. No information obtained pursuant to this Agreement shall be disclosed to any person not authorized by the laws of the undersigned states.
7. The information obtained pursuant to this Agreement shall be used only for the purpose of administration of the income tax laws of the undersigned states.
8. This written Agreement shall not become effective between any two states until the authorized officials for both such states have signed it in the space provided below.

9. This written Agreement is not intended to revoke or supersede any other similar agreement that may have been previously entered into between any two or more of the states represented below.
10. The undersigned agree to inform each other of the current statutory provisions of their respective states concerning the confidentiality of the material exchanged and the penalties for unlawful disclosure thereof.
11. Any of the undersigned state officials may, at their discretion, refuse to furnish information disclosed in the report of any investigation while such investigation is still in progress or during such time as litigation is contemplated or in process, if the official of the state making the investigation deems it in the best interests of his state for such information to be withheld pending determination of litigation.
12. Each of the undersigned state officials hereby affirms that he is the proper official charged with the administration of the income tax laws of his state.

* * *

The above agreement has been executed by the following states under the information sharing authority granted by their statutes. The execution of the Agreement by these states constitutes the equivalent of 210 individual agreements.

Signatory States

Alaska	Idaho	Michigan	North Carolina
Arkansas	Illinois	Minnesota	North Dakota
California	Indiana	Missouri	Oregon
Colorado	Kansas	Montana	Pennsylvania
Florida	Louisiana	Nebraska	Utah
Hawaii			

AGREEMENT ON EXCHANGE OF INFORMATION
[SALES AND USE TAX]

In the interest of furthering the mutual interests of the undersigned states represented by the undersigned officials through benefits which can be derived from the exchange of information among said states, each of said officials does hereby enter into the following Agreement for the exchange of information with every other undersigned official.

The undersigned hereby mutually agree to exchange information, to the full extent permitted by their respective laws, in accordance with the terms and limitations below:

1. For purposes of this Agreement, sales tax includes general excise and/or gross receipt taxes and means a tax imposed on a sale or exchange of personal property and/or services, as well as on gross receipts from trade or business; and use tax means a tax other than ad valorem tax, on the privilege of storing, using or consuming personal property and/or services.
2. This Agreement shall be applicable with respect to:
   a. The inspection of sales and use tax returns of any taxpayer; and
   b. The furnishing of an abstract or the exchange of computer information regarding the sales or use tax return of any taxpayer; and
   c. The furnishing of any information concerning any items contained in any sales or use tax return of any taxpayer; and
   d. The furnishing of any information disclosed by the report of any investigation of the sales or use tax return of any taxpayer.
3. For purposes of this Agreement, "taxpayer" includes any individual, corporation, partnership, organization, association, fiduciary, person or other entity, subject to payment or collection and remittance of sales or use tax or required to file a sales or use tax return.
4. This Agreement is not limited to a specific period of time or to returns, documents or information relating to any specific years or periods; and it will be considered to be in effect until revoked by one of the parties; however, the withdrawal of one party hereto shall not affect the Agreements among the remaining parties.
5. Additions and changes, including definitions, in the provisions of this Agreement, may be made by mutual consent of the proper officials of the undersigned states, and shall become an attachment to this Agreement.
6. No information obtained pursuant to this Agreement shall be disclosed to any person not authorized by the laws of the undersigned states.
7. The information obtained pursuant to this Agreement shall be used only for the purpose of administration and enforcement of the sales and use tax laws of the undersigned states.

8. This written Agreement shall not become effective between any two states until the authorized officials for both such states have signed it in the space provided below.
9. This written Agreement is not intended to revoke or supersede any other similar agreement that may have been previously entered into between any two or more of the states represented below.
10. The undersigned agree to inform each other of the current statutory provisions of their respective states concerning the confidentiality of the material exchanged and the penalties for unlawful disclosure thereof.
11. Any of the undersigned state officials may, at their discretion, refuse to furnish information disclosed in the report of any investigation while such investigation is still in progress or during such time as litigation is contemplated or in process, if the official of the state making the investigation deems it in the best interests of his state for such information to be withheld pending final determination of litigation.
12. Each of the undersigned state officials hereby affirms that he is the proper official charged with the administration of the sales and use tax laws of his state.

This Agreement may be executed in counterparts, all of which taken together shall be deemed one original Agreement.

* * *

The above agreement has been executed by the following states under the information sharing authority granted by their statutes. The execution of the Agreement by these states constitutes the equivalent of 274 individual agreements.

Signatory States

Arkansas	Iowa	Mississippi	South Dakota
California	Kansas	Missouri	Tennessee
Colorado	Louisiana	Montana	Texas
Georgia	Massachusetts	Nebraska	Utah
Idaho	Michigan	North Dakota	Washington
Indiana	Minnesota	Pennsylvania	Wyoming

SALES AND USE TAX
JURISDICTION LIMITATIONS STATEMENT

The following is the Sales and Use Tax Jurisdiction Limitation Statement with which all states, to the best of our knowledge, comply:

Sales and Use Tax Jurisdiction Standard

A vendor is required to pay or collect and remit the tax imposed by this Act if within this state he directly or by any agent or other representatives:

1. Has or utilizes an office, distribution house, sales house, warehouse, service enterprise or other place of business; or

2. Maintains a stock of goods; or

3. Regularly solicits orders whether or not such orders are accepted in this state, unless the activity in this state consists solely of advertising or of solicitation by direct mail; or

4. Regularly engages in the delivery of property in this state other than by common carrier or U.S. mail; or

5. Regularly engages in any activity in connection with the leasing or servicing of property located within this state.

This state does not seek to impose use tax collection requirements on any retailer over whom the above standard does not confer jurisdiction in this state.

UNIFORM SALES & USE TAX CERTIFICATE
MULTI-JURISDICTION

(See reverse side for instructions)

Issued to (Seller)	Address

I certify that

Name of Firm (Buyer)		
Street Address or P.O. Box No.		
City	State	Zip Code

is engaged as a registered

- [ ] Wholesaler
- [ ] Retailer
- [ ] Manufacturer
- [ ] Lessor (*See note to reverse side)
- [ ] Other (Specify) ____________

and

is registered with the below listed states and cities within which your firm would deliver purchases to us and that any such purchases are for wholesale, resale, ingredients or components of a new product to be resold, leased, or rented in the normal course of our business. We are in the business of wholesaling, retailing, manufacturing, leasing (renting) the following:

Description of Business:

City or State	State Registration or ID No.	City or State	State Registration or ID No.
City or State	State Registration or ID No.	City or State	State Registration or ID No.
City or State	State Registration or ID No.	City or State	State Registration or ID No.

I further certify that if any property so purchased tax free is used or consumed by the firm as to make it subject to a Sales or Use Tax we will pay the tax due direct to the proper taxing authority when state law so provides or inform the seller for added tax billing. This certificate shall be part of each order which we may hereafter give to you, unless otherwise specified, and shall be valid until canceled by us in writing or revoked by the city or state.

General description of products to be purchased from the seller:

Under penalties of perjury, I swear or affirm that the information on this form is true and correct as to every material matter.

Authorized Signature (Owner, Partner or Corporate Officer)	Title	Date

TO OUR CUSTOMERS:

In order to comply with the majority of state and local sales tax law requirements, it is necessary that we have in our files a properly executed exemption certificate from all of our customers who claim sales tax exemption. If we do not have this certificate, we are obliged to collect the tax for the state in which the property is delivered.

If you are entitled to sales tax exemption, please complete the certificate and send it to us at your earliest convenience. If you purchase tax free for a reason for which this form does not provide, please send us your special certificate or statement.

This form of certificate has been determined to be acceptable to the following states:

Alabama	Maine	Rhode Island
Alaska	Maryland	South Carolina
Arizona	Massachusetts	South Dakota
Arkansas	Michigan	Tennessee
Colorado	Minnesota	Texas
Connecticut	Missouri	Utah
District of Columbia	Nebraska	Vermont
Georgia	Nevada	Washington
Idaho	New Mexico	Wisconsin
Illinois	North Dakota	West Virginia
Iowa	Oklahoma	Wyoming
Kansas	Pennsylvania	

NOTE: Arizona law provides that a seller will be held liable for sales tax due on any sales with respect to which an exemption certificate is found to be invalid, for whatever reason.

* *

Illinois, Iowa, and South Dakota do not have an exemption on sales of property for subsequent lease or rental.

CAUTION TO SELLER: In order for the certificate to be accepted in good faith by the seller, the seller must exercise care that the property being sold is of a type normally sold wholesale, resold, leased, rented, or utilized as an ingredient or component part of a product manufactured by the buyer in the usual course of his business. A seller failing to exercise due care could be held liable for the sales tax due in some states or cities.

Misuse of this certificate by the seller, lessor, buyer, lessee, or the representative thereof may be punishable by fine, imprisonment or loss of right to issue certificates in some states or cities.

MULTISTATE TAX COMMISSION

CONSTRUCTION CONTRACTOR REGULATION

adopted July 10, 1980

Reg. IV.18.(d). Special Regulation: Construction Contractors. The following special rules are established in respect to the apportionment of income of long-term construction contractors:

(1) In General. When a taxpayer elects to use the percentage of completion method of accounting, or the completed contract method of accounting for long-term contracts (construction contracts covering a period in excess of one year from the date of execution of the contract to the date on which the contract is finally completed and accepted), and has income from sources both within and without this state from a trade or business, the amount of business income derived from such long-term contracts from sources within this state shall be determined pursuant to this regulation. In such cases, the first step is to determine which portion of the taxpayer's income constitutes "business income" and which portion constitutes "nonbusiness income" under Article IV.1 and Reg. IV.1 thereunder. Nonbusiness income is directly allocated to specific states pursuant to the provisions of Article IV.5 to .8, inclusive. Business income is apportioned among the states in which the business is conducted pursuant to the property, payroll, and sales apportionment factors set forth in this regulation. The sum of (1) the items of nonbusiness income directly allocated to this state, plus (2) the amount of business income attributable to this state constitutes the amount of the taxpayer's entire net income which is subject to tax by this state.

(2) Business and Nonbusiness Income. For definitions, rules and examples for determining business and nonbusiness income see Reg. IV.1.

(3) Methods of Accounting and Year of Inclusion. For general rules of accounting, definitions and methods of accounting for long-term construction contracts see (each state adopting this Regulation should insert here reference to its laws and regulations relating in general to accounting methods of reporting income from long-term contracts. This Regulation assumes that the law of the adopting states permits the taxpayer to elect either the percentage of completion or completed contract method. If not, the Regulation will have to be modified to conform to an adopting state's accounting method for long-term construction contracts.)

(4) Apportionment of Business Income.

(i) In General. Business income is apportioned to this state by a three-factor formula consisting of property, payroll and sales regardless of the method of accounting for long-term contracts elected by the taxpayer. The total of the property, payroll and sales percentages is divided by three to determine the apportionment percentage. The apportionment percentage is then applied to business income to determine the amount apportioned to this state.

(ii) Percentage of Completion Method. Under this method of accounting for long-term contracts, the amount to be included each year as business income from each contract, is the amount by which the gross contract price which corresponds to the percentage of the entire contract which has been completed during the income years exceeds all expenditures made during the income year in connection with the contract. In so doing, account must be taken of the material and supplies on hand at the beginning and end of the income year for use in each such contract.

Example:

A taxpayer using the percentage of completion method of accounting for long-term contracts, entered into a long-term contract to build a structure for $9,000,000. The contract allowed three years for completion, and as of the end of the second income year the taxpayer's books of account, kept on the accrual method, disclosed the following:

	Receipts	Expenditures
End of 1st income year	$2,500,000	$2,400,000
End of 2nd income year	4,500,000	4,100,000
Totals	$7,000,000	$6,500,000

In computing the above expenditures, consideration was given to material and supplies on hand at the beginning and end of each income year. It was estimated that the contract was 30% completed at the end of the first income year and 80% completed at the end of the second income year. The amount to be included as business income for the first income year is $300,000 (30% of $9,000,000 or $2,700,000 less expenditures of $2,400,000 equals $300,000). The amount to be included as business income for the second income yeai is $400,000 (50% of $9,000,000 or $4,500,000 less expenditures of $4,100,000 equals $400,000).

(iii) Completed Contract Method. Under this method of accounting business income derived from long-term contracts is reported for the income year in which the contract is finally completed and accepted. Therefore, a special computation is required to compute the amount of business

income attributable to this state from each completed contract (see subdivision (5) of this regulation). Thus, all receipts and expenditures applicable to such contracts whether complete or incomplete as of the end of the income year are excluded from business income derived from other sources, as for example, short-term contracts, interest, rents, royalties, etc., which is apportioned by the regular three-factor formula of property, payroll and sales.

(iv) Property Factor. In general the numerator and denominator of the property factor shall be determined as set forth in Article IV.10 to .12, inclusive, and Reg. IV.10 to .12, inclusive. However, the following special rules are also applicable:

(A) The average value of the taxpayer's cost (including materials and labor) of construction in progress, to the extent such costs exceed progress billings (accrued or received depending on whether the taxpayer is on the accrual or cash basis for keeping its accounts) shall be included in the denominator of the property factor. The value of any such construction costs attributable to construction projects in this state shall be included in the numerator of the property factor.

Example 1:

Taxpayer commenced a long-term construction project in this state as of the beginning of a given year. By the end of its second income year its equity in the costs of production to be reflected in the numerator and denominator of its property factor for such year is computed as follows:

	1st Year		2nd Year	
	Beginning	Ending	Beginning	Ending
Construction Costs	0	$1,000,000		
Progress billings		600,000		
Balance 12/31 - (1/1)		$ 400,000	$ 400,000	
Construction Costs - Total from beginning of project				$5,000,000
Progress billings - Total from beginning of project				4,000,000
Balance 12/31				1,000,000
Balance beginning of Year				400,000
Total				$1,400,000
Average (1/2) - Value used in property factor				$ 700,000

Note: It may be necessary to use monthly averages if yearly averages do not properly reflect the average value of the taxpayer's equity; see Article IV.12 and Reg. IV.12.

Example 2:

Same facts as in example 1, except that progress billings exceeded construction costs. No value for the taxpayer's equity in the construction project is shown in the property factor.

(B) Rent paid for the use of equipment directly attributable to a particular construction project is included in the property factor at eight times the net annual rental rate even though such rental expense may be capitalized into the cost of construction.

(C) The property factor is computed in the same manner for all long-term contract methods of accounting and is computed for each income year even though under the completed contract method of accounting, business income is computed separately (see paragraph 5).

(v) Payroll Factor. In general the numerator and denominator of the payroll factor shall be determined as set forth in Article IV.13 and .14 and Reg. IV.13 and .14. However, the following special rules are also applicable:

(A) Compensation paid employees which is attributable to a particular construction project are included in the payroll factor even though capitalized into the cost of construction.

(B) Compensation paid employees who in the aggregate perform most of their services in a state to which their employer does not report them for unemployment tax purposes, shall nevertheless be attributed to the state where the services are performed.

Example:

A taxpayer engaged in a long-term contract in state X sends several key employees to that state to supervise the project. The taxpayer, for unemployment tax purposes reports these employees to state Y where the main office is maintained and

where the employees reside. For payroll factor purposes and in accordance with Article IV.14 and Reg. IV.14 thereunder, the compensation is assigned to the numerator of state X.

(C) The payroll factor is computed in the same manner for all long-term contract methods of accounting and is computed for each income year even though under the completed contract method of accounting, business income is computed separately (see paragraph 5).

(vi) Sales Factor. In general the numerator and denominator of the sales factor shall be determined as set forth in Article IV.15 - .17, inclusive, and Reg. IV.15 - .7, inclusive. However, the following special rules are also applicable:

(A) Gross receipts derived from the performance of a contract are attributable to this state if the construction project is located in this state. If the construction project is located partly within and partly without this state, the gross receipts attributable to this state are based upon the ratio which construction costs for the project in this state incurred during the income year bears to the total of construction costs for the entire project during the income year or any other method, such as engineering cost estimates, which will provide a reasonable apportionment.

Example 1:

A construction project was undertaken in this state by a calendar year taxpayer which had elected one of the long-term contract methods of accounting. The following gross receipts (progress billings) were derived from the contract during the three income years that contract was in progress.

	1st Year	2nd Year	3rd Year
Gross Receipts	$1,000,000	$4,000,000	$3,000,000

The gross receipts to be reflected in both the numerator and denominator of the sales factor for each of the three years are the amounts shown.

Example 2:

A taxpayer contracts to build a dam on a river at a point which lies half within this state and half within state X. During the taxpayer's first income year construction costs in this state were $2,000,000. Total construction costs for the project during the income year were $3,000,000. Gross receipts (progress billings) for the year were $2,400,000. Accordingly, gross receipts of $1,600,000 ($\frac{\$2,000,000}{3,000,000}$ = 66 2/3% X $2,400,000) are included in the numerator of the sales factor.

(B) If the percentage of completion method is used, the sales factor includes only that portion of the gross contract price which corresponds to the percentage of the entire contract which was completed during the income year.

Example:

A taxpayer which had elected the percentage of completion method of accounting entered into a long-term construction contract. At the end of its current income year (the second since starting the project) it estimated that the project was 30% completed. The bid price for the project was $9,000,000 and

it had received $2,500,000 from progress billings as of the end of its current income year. The amount of gross receipts to be included in the sales factor for the current income year is $2,700,000 (30% of $9,000,000), regardless of whether the taxpayer uses the accrual method or the cash method of accounting for receipts and disbursements.

(C) If the completed contract method of accounting is used, the sales factor includes the portion of the gross receipts (progress billings) received or accrued, whichever is applicable, during the income year attributable to each contract.

Example 1:

A taxpayer which had elected the completed contract method of accounting entered into a long-term construction contract. By the end of its current income year (the second since starting the project) it had billed, and accrued on its books a total of $5,000,000 of which $2,000,000 had accrued in the first year the contract was undertaken, and $3,000,000 had accrued in the current (second) year. The amount of gross receipts to be included in the sales factor for the current income year is $3,000,000.

Example 2:

Same facts as in example 1 except the taxpayer keeps its books on the cash basis, and as of the end of its current income year had received only $2,500,000 of the $3,000,000 billed during the current year. The amount of gross receipts

to be included in the sales factor for the current income year is $2,500,000.

(D) The sales factor, except as noted above in subparagraphs (B) and (C), is computed in the same manner, regardless of which long-term method of accounting the taxpayer has elected, and is computed for each income year even though under the completed contract method of accounting, business income is computed separately.

(vii) Apportionment Percentage. The total of the property, payroll and sales percentages is divided by three to determine the apportionment percentage. The apportionment percentage is then applied to business income to establish the amount apportioned to this state.

(5) Completed Contract Method - Special Computation. The completed contract method of accounting requires that the reporting of income (or loss) be deferred until the year the construction project is completed or accepted. Accordingly, a separate computation is made for each such contract completed during the income year regardless of whether the project is located within or without this state, in order to determine the amount of income which is attributable to sources within this state. The amount of income from each contract completed during the income year apportioned to this state, plus other business income apportioned to this state by the regular three-factor formula such as interest income, rents, royalties, income from short-term contracts, etc., plus all nonbusiness income allocated to this state is the measure of tax for the income year.

The amount of income (or loss) from each contract which is derived from sources within this state using the completed contract method of ac-

counting is computed as follows:

(i) In the income year the contract is completed the income (or loss) therefrom is determined.

(ii) The income (or loss) determined at "i" is apportioned to this state by the following method:

(A) A fraction is determined for each year the contract was in progress. The numerator is the amount of construction costs paid or accrued each year the contract was in progress and the denominator is the total of all such construction costs for the project. (B) Each percentage determined in "A" is multiplied by the apportionment formula percentage for that particular year as determined in subdivision (4)(vii) of this regulation. (C) The percentages determined at "B" for each year the contract was in progress are totaled. The amount of total income (or loss) from the contract determined at "(i)" is multiplied by the total percentage. The resulting income (or loss) is the amount of business income from such contract derived from sources within this state.

<u>Example 1</u>:

A taxpayer using the completed contract method of accounting for long-term contracts is engaged in three long-term contracts; Contract L in this state, Contract M in state X and Contract N in state Y. In addition, it has other business income (less expenses) during the income year 1972 from interest, rents and short-term contracts amounting to $500,000, and nonbusiness income allocable to this state of $8,000. During 1972 it completed Contract M in state X at a profit of $900,000. Contracts L and

N in this state and state Y, respectively, were not completed during the income year. The apportionment percentages of the taxpayer as determined in subdivision (4)(vii) of this regulation and the percentages of contract costs as determined in subparagraph (ii) above for each year Contract M in state X was in progress are as follows:

	1970	1971	1972
Apportionment percentages	30%	20%	40%
Percentages of construction costs of Contract M each year to total construction costs - (100%)	20%	50%	30%

The corporation's net income subject to tax in this state for 1972 is computed as follows:

Business Income	$500,000
Apportion 40% to this state	$200,000
Add: Income from Contract M *	$252,000
Total business income derived from sources within this state	452,000
Add: Nonbusiness income allocated to this state	8,000
Net income subject to tax	$460,000

*Income from Contract M apportioned to this state:

	1970	1971	1972	Total
Apportionment percentage	30%	20%	40%	
Percent of Construction Costs	20%	50%	30%	100%
Product	6.00%	10.00%	12.00%	28%

28% of $900,000 = $252,000.

Example 2:

Same facts as in example 1 except that Contract L was started in 1972 in this state, the first year the taxpayer was subject to tax in this state. Contract L in this state and Contract N in state Y are incomplete in 1972.

The corporation's net income subject to tax in this state for 1972 is computed as follows:

Business income	$500,000
Apportion 40% to this state	$200,000
Add: Income from Contract M *	108,000
Total business income derived from sources within this state	$308,000
Add: Nonbusiness income allocated to this state	8,000
Net income subject to tax	$316,000

*Income from Contract M apportioned to this state:

	1970	1971	1972	Total
Apportionment percentage	0	0	40%	
Percent of Construction Costs	20%	50%	30%	100%
Product	0	0	12.0%	12.0%

*12% of $900,000 = $108,000

Note: Only 12% is used to determine the income derived from sources within this state since the corporation was not subject to tax in this state prior to 1972.

Example 3:

Same facts as in example 1 except that the figures relate to Contract L in this state and 1972 is the first year the corporation was taxable in another state (see Article IV.2 and .3 and Reg. IV.2.(b)(1) and .3. Contracts M and N in states X and Y were started in 1972 and are incomplete.

The corporation's net income subject to tax in this state for 1972 is computed as follows:

Business income	$500,000
Apportion 40% to this state	$200,000
Add: Income from Contract L *	738,000
Total business income derived from sources within this state	$938,000
Add: Nonbusiness income allocated to this state	8,000
Net income subject to tax	$946,000

*Income from Contract L apportioned to this state:

	1970	1971	1972	Total
Apportionment percentage	100%	100%	40%	
Percentage of Construction Costs	20%	50%	30%	100%
Product	20%	50%	12%	82%

82% of $900,000 = $738,000

(6) <u>Computation for Year of Withdrawal, Dissolution or Cessation of Business - Completed Contract Method</u>. Use of the completed contract method of accounting for long-term contracts requires that income derived from sources within this state from incomplete contracts in progress outside this state on the date of withdrawal, dissolution or cessation of business in this state be included in the measure of tax for the taxable year during which the corporation withdraws, dissolves or ceases doing business in this state.

The amount of income (or loss) from each such contract to be apportioned to this state by the apportionment method set forth in subparagraph (5)(ii) of this regulation shall be determined as if the percentage of completion method of accounting were used for all such contracts on the date of withdrawal, dissolution or cessation of business. The amount of business income (or loss) for each such contract shall be the amount by which the gross contract price from each such contract which corresponds to the percentage of the entire contract which has been completed from the commencement thereof to the date of withdrawal, dissolution or cessation of business exceeds all expenditures made during such period in connection with each such contract. In so doing account must be taken of the material and supplies on hand at the beginning and end of the income year for use in each such contract.

<u>Example:</u>

A construction contractor qualified to do business in this state had elected the completed contract method of accounting for long-term contracts. It was engaged in two long-term contracts: Contract L in this state was started in 1971 and completed at a profit of $900,000 on 12/16/73. The taxpayer

withdrew on 12/31/73. Contract M in state X was started in 1972 and was incomplete on 12/31/73. The apportionment percentages of the taxpayer as determined at subdivision (4) of this regulation, and percentages of construction costs are determined in subdivision (5) (ii) of this regulation for each year Contract M in state X was in progress are as follows:

	1971	1972	1973	Total
Apportionment percentage	30%	20%	40%	
Percentages of Construction Costs:				
Contract L, this state	20%	50%	30%	100%
Contract M, state X	0	10%	25%	35%

The corporation had other business income (net of expenses) of $500,000 during 1972 and $300,000 during 1973. The gross contract price of Contract M (state X) was $1,000,000 and it was estimated to be 35% completed on 12/31/73. Total expenditures to date for Contract M (state X) were $300,000 for the period ended 12/31/73.

The measure of tax for the taxable year ended 12/31/73 is computed as follows:

	Taxable Year 1973	
	Income Year 1972	Income Year 1973
Business income	$500,000	$300,000
Apportionment percentage to this state	20%	40%
Amount apportioned to this state	$100,000	$120,000
Add: Income from contracts:		
*L (this state)		$252,000
**M (state X)		6,000
Total business income derived from sources within this state	$100,000	$378,000

*Income from Contract L apportioned to this state:

	1971	1972	1973	Total
Apportionment percentages	30%	20%	40%	
Percentage of construction costs	20%	50%	30%	100%
Product	6.0%	10.0%	12.0%	28%

28% of $900,000 = $252,000.

**Income from Contract M apportioned to this state:

	1971	1972	1973	Total
Apportionment percentages	0	20%	40%	
Percentage of Construction Costs	0	10%	25%	35%
Product	0	2.0%	10%	12.0%

***12.0% of $50,000 = $6,000.

***Computation of apportionable income from Contract M based on percentage of completion method:

Total Contract Price	$1,000,000
Estimated to be 35% completed	$ 350,000
Less: total expenditures to date	300,000
Apportionable income	$ 50,000

MULTISTATE TAX COMMISSION

RAILROAD REGULATION

adopted July 16, 1981

Reg. IV.18.(f). Special Rules: Railroads. The following special rules are established in respect to railroads:

(1) In General. Where a railroad has income from sources both within and without this state, the amount of business income from sources within this state shall be determined pursuant to this regulation. In such cases, the first step is to determine what portion of the railroad's income constitutes "business" income and which portion constitutes "nonbusiness" income under Article IV.1 and Regulation IV.1 thereunder. Nonbusiness income is directly allocable to specific states pursuant to the provisions of Article IV.5 to .8, inclusive. Business income is apportioned among the states in which the business is conducted pursuant to the property, payroll and sales apportionment factors set forth in this regulation. The sum of (1) the items of nonbusiness income directly allocated to this state, plus (2) the amount of business income attributable to this state constitutes the amount of the taxpayer's entire net income which is subject to tax by this state.

(2) Business and Nonbusiness Income. For definitions, rules and examples for determining business and nonbusiness income, see Reg. IV.1.

(3) Apportionment of Business Income.

(i) In General. The property factor shall be determined in accordance with Reg. IV.10.-.12., inclusive, the payroll factor in accordance with Reg. IV.13., and the sales factor in accordance with Reg. IV.14.-.17, inclusive, except as modified in this regulation.

(ii) The Property Factor.

A. Property Valuation. Owned property shall be valued at its original cost and property rented from others shall be valued at eight (8) times the net annual rental rate in accordance with Article IV.11. and Reg. IV.11. Railroad cars owned and operated by other railroads and temporarily used by the taxpayer in its business and for which a per diem or mileage charge is made are not included in the property factor as rented property. Railroad cars owned and operated by the taxpayer and temporarily used by other railroads in their business and for which a per diem charge is made by the taxpayer are included in the property factor of the taxpayer.

B. General Definitions. The following definitions are applicable to the numerator and denominator of the property factor:

1. "Original cost" is deemed to be the basis of the property for federal income tax purposes (prior to any federal income tax adjustments except for subsequent capital additions, improvements thereto or partial dispositions); or, if the property has no such basis, the valuation of such property for Interstate Commerce Commission purposes. If the original cost of property is unascertainable under the foregoing valuation standards, the property is included in the property factor at its fair market value as of the date of acquisition by the taxpayer (Reg. IV.11.(a)).

2. "Rent" does not include the per diem and mileage charges paid by the taxpayer for the temporary use of railroad cars owned or operated by another railroad.

3. The "value" of owned real and tangible personal property shall mean its original cost. (See Article IV.11 and Reg. IV.11(a)).

4. "Average value" of property means the amount determined by averaging the values at the beginning and ending of the income tax year, but the (insert here the appropriate title of the administrative agency) may require the averaging of monthly values during the income year or such averaging as necessary to effect properly the average value of the railroad's property. (See Article IV.12. and Reg. IV.12.).

5. The "value" of rented real and tangible personal property means the product of eight (8) times the net annual rental rate. (See Art. IV.11. and Reg. IV.11.(b)).

6. "Net annual rental rate" means the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

7. "Property used during the income year" includes property which is available for use in the taxpayer's trade or business during the income year.

8. A "locomotive-mile" is the movement of a locomotive (a self-propelled unit of equipment designed solely for moving other equipment) a distance of one mile under its own power.

9. A "car-mile" is a movement of a unit of car equipment a distance of one mile.

C. The Denominator and Numerator of the Property Factor. The denominator of the property factor shall be the average value of all of the taxpayer's real and tangible personal property owned or rented and used during the income year. The numerator of the property factor shall be the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the income year.

In determining the numerator of the property factor, all property except mobile or movable property such as passenger cars, freight cars, locomotives and freight containers which are located within and without this state during the income year shall be included in the numerator of the property factor in accordance with Article IV.10.-.12., inclusive, and Regulation IV.10.-.12, inclusive.

Mobile or movable property such as passenger cars, freight cars, locomotives and freight containers which are located within and without this state during the income year shall be included in the numerator of the property factor in the ratio which "locomotive-miles" and "car-miles" in the state bear to the total everywhere.

(iii) The Payroll Factor. The denominator of the payroll factor is the total compensation paid everywhere by the taxpayer during the income year for the production of business income. (See Article IV.13.-14. and Reg. IV.13.-.14). The numerator of the payroll factor is the total amount paid in this state during the income year by the taxpayer for compensation. With respect to all personnel except enginemen and trainmen performing services on interstate trains, compensation paid to such employees shall be included in the numerator as provided in Article IV.13.-.14 and Reg. IV.13.-.14.

With respect to enginemen and trainmen performing services on interstate trains, compensation paid to such employees shall be included in the numerator of the payroll factor in the ratio which their services performed in this state bear to their services performed everywhere. Compensation for services performed in this state shall be deemed to be the compensation reported or required to be reported by such employees for determination of their income tax liability to this state.

(iv) The Sales (Revenue) Factor.

A. In General. All revenue derived from transactions and activities in the regular course of the trade or business of the taxpayer which produces business income, except per diem and mileage charges which are collected by the taxpayer, is included in the denominator of the revenue factor. (See Art. IV.1. and Reg.IV.1.)

The numerator of the revenue factor is the total revenue of the taxpayer in this state during the income year. The total revenue of the taxpayer in this state during the income year, other than revenue from hauling freight, passengers, mail and express, shall be attributable to this state in accordance with Article IV.15.-.17. and Regulation IV.15.-.17.

B. Numerator of Sales (Revenue) Factor From Freight, Mail and Express. The total revenue of the taxpayer in this state during the income year for the numerator of the revenue factor from hauling freight, mail and express shall be attributable to this state as follows:

1. All receipts from shipments which both originate and terminate within this state; and

2. That portion of the receipts from each movement or shipment passing through, into, or out of this state is determined by the ratio which the miles traveled by such movement or shipment in this state bears to the total miles traveled by such movement or shipment from point of origin to destination.

C. Numerator of Sales (Revenue) Factor from Passengers. The numerator of the sales (revenue) factor shall include:

1. All receipts from the transportation of passengers (including mail and express handled in passenger service) which both originate and terminate within this state; and

2. That portion of the receipts from the transportation of interstate passengers (including mail and express handled in passenger service) determined by the ratio which revenue passenger miles in this state bear to the total everywhere.

MULTISTATE TAX COMMISSION

AIRLINE REGULATION

adopted July 14, 1983

Reg. IV. 18.(e) <u>Special Rules: Airlines</u>. The following special rules are established with respect to airlines:

(1) <u>In General</u>. Where an airline has income from sources both within and without this state, the amount of business income from sources within this state shall be determined pursuant to <u>IV. of the Multistate Tax Commission except as modified by this regulation</u>.

(2) <u>Apportionment of Business Income</u>.

(i) <u>General Definitions</u>. The following definitions are applicable to the terms used in the apportionment factor descriptions.

A. "Value" of owned real and tangible personal property shall mean its original cost. (See Article IV.11. and Regulation IV.11(a).)

B. "Cost of aircraft by type" means the average original cost or value of aircraft by type which are ready for flight.

C. "Original cost" means the initial federal tax basis of the property plus the value of capital improvements to such property, except that, for this purpose, it shall be assumed that Safe Harbor Leases are not true leases and do not affect the original initial federal tax basis of the property (See Regulation IV.11(a).)

D. "Average value" of property means the amount determined by averaging the values at the beginning and ending of the income year, but the (insert here the appropriate title of the administrative agency) may require the averaging of monthly values during the income year if such averaging is necessary to reflect properly the average value of the airline's property. (See Article IV.12. and Regulation IV.12.)

E. The "value" of rented real and tangible personal property means the product of eight (8) times the net annual rental rate. (See Article IV.11. and Regulation IV.11(b).)

F. "Net annual rental rate" means the annual rental rate paid by the taxpayer.

G. "Property used during the income year" includes property which is available for use in the taxpayer's trade or business during the income year.

H. "Aircraft ready for flight" means aircraft owned or acquired through rental or lease (but not interchange) which are in the possession of the taxpayer and are available for service on the taxpayer routes.

I. "Revenue service" means the use of aircraft ready for flight for the production of revenue.

J. "Transportation revenue" means revenue earned by transporting passengers, freight and mail as well as revenue earned from liquor sales, pet crate rentals, etc.

K. "Departures" means for purposes of these regulations all takeoffs, whether they be regularly scheduled or charter flights, that occur during revenue service.

(ii) Property Factor

A. Property valuation. Owned aircraft shall be valued at its original cost and rented aircraft shall be valued at eight (8) times the net annual rental rate in accordance with Article IV.11. and Regulation IV.11. The use of the taxpayer's owned or rented aircraft in an interchange program with another air carrier will not constitute a rental of such aircraft by the airline to the other participating airline. Such aircraft shall be accounted for in the property factor of the owner. Parts and other expendables, including parts for use in contract overhaul work, will be valued at cost.

B. The denominator and numerator of the property factor. The denominator of the property factor shall be the average value of all of the taxpayer's real and tangible personal property owned or rented and used during the income year. The numerator of the property factor shall be the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the income year.

In determining the numerator of the property factor, all property except aircraft ready for flight shall be included in the numerator of the property factor in accordance with Article IV.10.-.12, inclusive. Aircraft ready for flight shall be included in the numerator of the property factor in the ratio calculated as follows:

Departures of aircraft from locations in this state weighted as to the cost and value of aircraft by type compared to total departures similarly weighted.

(iii) The Payroll Factor.

The denominator of the payroll factor is the total compensation paid everywhere by the taxpayer during the income year. (See Article IV.13.-.14) The numerator of the payroll factor is the total amount paid in this state during the income year by the taxpayer for compensation. With respect to non-flight personnel, compensation paid to such employees shall be included in the numerator as provided in Article IV.13-.14. With respect to flight personnel (the air crew aboard an aircraft assisting in the operations of the aircraft or the welfare of passengers while in the air), compensation paid to such employees shall be included in the ratio that departures of aircraft from locations in this state, weighted as to the cost and value of aircraft by type compared to total departures similarly weighted, multiplied by the total flight personnel compensation.

(iv) Sales (Transportation Revenue) Factor.

The transportation revenue derived from transactions and activities in the regular course of the trade or business of the taxpayer and miscellaneous sales of merchandise, etc., are included in the denominator of the revenue factor. (See Article IV.1. and Regulation IV.1) Passive income items such as interest, rental income, dividends, etc., will not be included in the denominator nor will the proceeds or net gains or losses from the sale of aircraft be included. The numerator of the revenue factor is the total revenue of the taxpayer in this state during the income year. The total revenue of the taxpayer in this state during the income year is the result of the following calculation:

The ratio of departures of aircraft in this state weighted as to the cost and value of aircraft by type, as compared to total departures similarly weighted multiplied by the total transportation revenue. The product of this calculation is to be added to any non-flight revenues directly attributable to this state.

(3) Records. The taxpayer must maintain the records necessary to arrive at departures by type of aircraft as used in these regulations. Such records are to be subject to review by the respective state taxing authorities or their agents.