

Seventeenth Annual Report



Multistate Tax Commission

Fiscal Year 1983 - 1984

For the fiscal year of July 1, 1983-June 30, 1984

Multistate Tax Commission



EUGENE F. CORRIGAN, Executive Director

November 30, 1984

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 seventeenth annual report of the Multistate Tax Commission. This report covers the Commission's activities for the fiscal year beginning July 1, 1983 and ending June 30, 1984. It includes a report on receipts, expenditures and operations for that period from Rhode, Scriptor & Associates, Certified Public Accountants in Boulder, Colorado.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Eugene F. Corrigan".

Eugene F. Corrigan
Executive Director

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THE
MULTISTATE TAX COMPACT
PURPOSES, PROCEDURES AND PRACTICES

The Multistate Tax Compact is an interstate compact. It has been enacted into law by 21 states including the District of Columbia.

Designed to encourage uniformity in state tax laws applicable to interstate business, it also aims at improving the administration of state taxes with respect to that business. Toward this end, it contains a provision authorizing cooperative or joint auditing. The Compact also contains the Uniform Division of Income for Tax Purposes Act (UDITPA), which is used to determine how much of a corporate business's income is properly subject to taxation in each state in which it does business.

The Multistate Tax Commission is the operational agency created by, and operating on behalf of, the member states of the Multistate Tax Compact. The members of the Commission are the tax administrators of the 21 member states.

The 21 members meet at an annual meeting and at quarterly meetings. Between such meetings, the affairs of the Commission are supervised by an Executive Committee. This Committee consists of seven of the 21 members. It includes the Chairman, the Vice-Chairman, and the Treasurer of the Commission, plus past Chairmen. It meets upon call of the Chairman, usually quarterly.

The day-to-day activities of the Commission are conducted by a staff which is headed by the Executive Director. The headquarters office is located in Boulder, Colorado. Audit offices are maintained in Chicago, New York City and Houston. The Commission also has a representative in Washington, D.C. The staff is 25 in number.

The purposes of the Multistate Tax Compact are to:

1. Facilitate proper determination of State and local tax liability of multistate taxpayers, including the equitable apportionment of tax bases and settlement of apportionment disputes.
2. Promote uniformity or compatibility in significant components of tax systems
3. Facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration.
4. Avoid duplicative taxation.

In pursuit of these purposes, the Multistate Tax Commission and the member states are seeking to establish rational ground rules for the solution of interstate tax problems.

The Multistate Tax Commission constitutes an attempt by the states to resolve interstate tax problems for the states and for business taxpayers. It aims to preserve to the states, through cooperation among themselves, the right to administer their own tax programs and the ability to do so efficiently. The alternative may be federal legislative restriction of state tax administration powers until state sovereignty itself may become questionable.

The Multistate Tax Commission promotes uniformly efficient state tax administration practices. It takes an active part in implementing that uniformity. Its joint auditing program constitutes an effort to ensure equitable treatment for taxpayers and improved compliance by them with the tax laws of its member states.

The Multistate Tax Commission differs from any other tax organization in that it provides a joint auditing service and in that it actually gets involved with its member states in seeking improved compliance with state tax laws. Obvious efficiencies are derived from having experienced auditors permanently located in major cities for the purpose of performing complicated audits of large corporate businesses there for many states at the same time.

The Multistate Tax Commission recognizes that lack of uniform tax administration practices can cause substantial problems for business. The Commission works toward uniform simplicity in compliance procedures to the full extent possible. It knows that uniformly equitable treatment of taxpayers is a prerequisite to good tax administration. It is therefore as concerned as is any taxpayer that all taxpayers be treated fairly.

Included among its concerns is the need to be able to assure each complying taxpayer that all other taxpayers, especially the large complex multicorporate business taxpayers, are complying with the tax laws of the states. An effective joint audit program can give that assurance.

In addition to the 21 member states, ten states are associate members of the Multistate Tax Commission, their Governors having requested this "observational" status.

MULTISTATE TAX COMMISSION OFFICERS*

CHAIRMAN	Larry Looney (Idaho)
VICE CHAIRMAN	Harley Duncan (Kansas)
TREASURER	Vickie Fisher (New Mexico)

EXECUTIVE COMMITTEE MEMBERS

MEMBERS	Mark Buchi (Utah) Bob Bullock (Texas) Richard King (Missouri) Arthur Roemer (Minnesota)
EX-OFFICIO	Alan Charnes (Colorado) Kent Conrad (North Dakota) 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 1985. The ex-officio members of the Executive Committee are former Commission chairmen.*

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- ** MTC Chairman 1979-1980
- *** MTC Chairman 1980-1981
- **** MTC Chairman 1982-1984

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*****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 not 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 enacted the Compact. This serves two purposes: (1) it permits and encourage 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.

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Alaska	Maureen O'Brien
Idaho	Phil Aldape
Kansas	Tom Sheridan
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Oregon	Tom Everall

Audit Committee

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Colorado	Frank Beckwith
Idaho	Phil Aldape
Kansas	Thomas Sheridan
Minnesota	Gerome Caulfield
Missouri	James R. Beckham
Montana	Jeff Miller
North Dakota	Robert Kessel
Oregon	Tom Everall
South Dakota	Orville Dixon
Texas	Larry Crawford

Uniformity Committee

New Mexico	Manuel Gallegos, Chairman
Alaska	Maureen O'Brien
Arkansas	Everett Leath
California	Michael Brownell
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	Tom Everall
Utah	Donald Bosch
West Virginia	Jon H. Snyder

EXECUTIVE DIRECTOR'S REPORT

The Working Group

The main arena of activity affecting the Multistate Tax Commission during the year was the Treasury Building in Washington, D.C. There, a "Working Group on Unitary Taxation," appointed by the President, met on three different occasions: November 2, and December 6 and May 1. The Group consisted of: the chief executive officers of six U.S. corporations and a subsidiary of a British corporation; ; a representative of a trade association; three governors; two state tax administrators, one of whom was the chairman of the Multistate Tax Commission; three state legislators; the executive director of the Advisory Commission on Intergovernmental Relations; representatives of the White House and the State Department; and the Secretary of the Treasury.

Each of those members of the Working Group, in turn, appointed a staff person to serve on a Task Force. One was the executive director of the Multistate Tax Commission. This work occupied a major portion of the time and effort of the MITC staff from November through August.

The charge of the Task Force was to take evidence and hear testimony concerning the problem(s) presented to the Working Group and to prepare recommendations for the Working Group's consideration. In performing its work, the Task Force met on eight different occasions for a total of some twenty days during about half of which it heard extensive testimony and received documents and during the other half of which it debated and deliberated.

The problem which triggered the creation of the Working Group was that of foreign parents which were seeking relief from so-called worldwide combination as applied by some states to them and their affiliates. They had created much concern at the federal level about international relations, treaty powers, and potential retaliation from foreign countries. The state members of the Task Force were generally sympathetic to the concerns of the federal government despite their cynicism about much of the testimony which was presented to them. They almost immediately expressed a willingness to recommend that the states no longer apply worldwide combination to foreign parents. (This position is referred to hereinafter as non-WWCFP)

Nearly the entire first day of the second meeting of the Task Force was devoted to a debate as to whether the Task Force should consider any other alleged problems in the field. State personnel maintained that, by recommending non-WWCFP, they would be responding to the concerns of the foreign parents, they would be responding to the concerns of domestic parents by eliminating any cause for retaliation against American corporations by foreign countries (retaliation which the state members remained convinced was not a legitimate threat), and they would have fulfilled their charge. The corporate members chose to ignore the non-retaliation benefits which this would produce; they maintained that they too must be immunized from worldwide

combination or else non-WWCFP would create discrimination in favor of their foreign competitors.

This debate was of crucial importance; the viability of the entire effort depended upon the outcome. By agreeing to continue on, the state members exhibited a good-faith desire to act responsibly. There is some feeling of regret among the state members today, though, that by doing so they may have made it possible for their position to be misrepresented. That is why they have been so careful to try: 1) to delineate the exact boundaries of their agreement; 2) to note that their only agreement was to certain principles as a package; and 3) to specify that certain important conditions applied to any agreement as to those principles. The business representatives by and large were equally adamant to do the same thing from their perspective.

Most of the subsequent Task Force deliberations revolved around concerns of American corporations. Much of the corporate effort was directed at worldwide combination; but, as has always been the case even in the absence of worldwide combination, the main corporate complaints were directed at: 1) state taxation of proportionate shares of dividends received by domestic parents from foreign subsidiaries, income which the corporations describe as foreign income but which the states insist is domestic income to the receiving corporations; and 2) the non-deductibility of foreign taxes. No agreement was ever reached by the Task Force or the Working Group as to these issues.

In an effort to make progress somehow, the Task Force decided to encourage its members to submit proposals which could be considered. Six were submitted. They became known as Options I through VI and were included in the First Report of the Working Group when it was issued on August 31. Of course, another option, the Status Quo, was always present in the background.

Option I was submitted by a representative of California, Options II and III by the state representatives as a group, Options IV and V by the business representatives as a group, and Option VI by the representative of the Advisory Commission on Intergovernmental Relations.

Option I provided for an activities tax for which a taxpayer could file as an alternative to the corporate net income tax. The tax would have been based solely on in-state activities measured by in-state property, payroll and sales. The rate would have been determined by each state from year to year for each industry by means of a calculation made by reference to tax paid by firms in the same industry conducting a unitary business within the state. This proposal never received much support, even from among the state representatives.

Option II, submitted by state representatives, and Option V, submitted by the corporate representatives, became the ultimate focus of efforts to resolve differences between the two groups since those options seemed to present the greatest potential for compromise. Toward the end of the deliberations, the ACIR presented its Option

VI in an effort to find a middle ground which might be acceptable to both groups.

Options II through VI had several common elements which were too detailed to discuss in depth here. They included agreement as to: 1) what should be the components of a Water's Edge combination (except for continuing disagreement as to 80/20's and some disagreement as to which countries would qualify as tax havens); 2) the requirements which a state would have to meet in order to be "qualified" to receive tax administration help from the IRS; 3) the availability of worldwide combination with respect to taxpayers which do not submit spreadsheet information properly; 4) information retention requirements to be met by taxpayers who choose to use Water's Edge combination; 5) federal/state information sharing; 6) federal assistance to be made available to the states; 7) increased IRS audit activity; 8) a joint federal/state study of Section 482 regulations; and, perhaps most important of all, 9) the extensive and detailed information which a taxpayer which chooses to file on a water's Edge basis will be required to submit on a so-called "domestic spreadsheet." The latter information will consist of details concerning the manner in which the taxpayer files returns with the various states and the amount of tax which it pays to those states.

The chart at the end of this report delineates the outlines of the various options. Treasury agreed that any state could qualify by complying with any one of these options. The states have generally remained closely allied behind Option II and seemed to be taking steps aimed at complying with its terms. For its part, Treasury

has indicated its intention to proceed soon with attempts to obtain any legislation which will be necessary in order to fulfill its obligations under Option II.

Item #7's reference to the effective date received no little attention since the corporations wished to be relieved of worldwide combination retroactively in any state which adopted water's edge combination in the stead of worldwide combination. The states refused to accept such a recommendation.

Item #8 was a major bone of contention. The corporations wished to exclude from water's edge combination corporations which the IRS considers to be deriving more than 80% of their income from outside the United States. Since the IRS allows such determinations to be made on the basis of specific accounting, the states objected to the definition. The problem was much more serious in the eyes of the states, however. They believed that, even if the more-than-80% determination were made on the basis of activities (property, payroll and sales), to refrain from including all U.S. corporations, including such 80/20's, in the water's edge combination would create a major loophole which might well become almost as significant as the dividend exemption upon which the corporations were also insisting.

While there was general agreement that corporations operating in tax haven countries should be included in the water's edge combination, there was much disagreement as to the definition of a tax haven country. Item #9 on the chart shows that the two options were ultimately 25% apart. It came to the attention of the State

members of the Task Force after the completion of the Task Force effort that Great Britain is contemplating a reduction in corporate income tax rates to a level below the 90% recommended by the corporations. There was some irony to be perceived in Great Britain's becoming a tax haven under the Option V definition. This also appeared to explain why some of the corporate representatives were so anxious that the percentage be reduced to 65.

Item #10 considered the possibility that the U.S. Supreme Court might hold that a taxpayer has a constitutional right to use worldwide combination whenever it wants to do so. Concerned that this might happen, the states insisted in Option II upon preserving their right to return once more to the utilization of that concept themselves in order to avoid having it be something available to the taxpayers but not to the states.

The *de minimus* standard referred to at Item #11 refers to the desire of the states to extend their jurisdictional reach in order to be able to apply their taxes to corporations which derive substantial business from within their borders even though now protected by Public Law 86-272. Under the proposal, any corporation which made sales of more than \$500,000 into a state in any two successive years would be subject to the jurisdiction of that state for the second year regardless of P.L. 86-272.

The dividend issue, of course, remained the outstanding and most difficult of all to resolve. It seems clear to the states that little short of outright exemption will satisfy the corporations. Nevertheless, the matter is continuing

to receive attention from the states in the hope that some alternative can still be found which will constitute a satisfactory middle ground.

When the two factions of the Working Group could not agree on any one of the options, Secretary Regan suggested that they at least agree on some principles. Those which he included in the Final Report were a package to be taken as a whole; but both factions were concerned that the manner in which they were presented made it look as if they were not necessarily mutually intertwined.

The principles were stated to be:

1. Water's edge unitary combination for both U.S. and foreign based companies.
2. Increased federal administrative assistance and cooperation with the states to promote full taxpayer disclosure and accountability.
3. Competitive balance for U.S. multinationals, foreign multinationals, and purely domestic businesses.

The state members of the Working Group were greatly concerned that the public not be misled into thinking that there was any agreement on the principles unless and until there was agreement as to all of the principles; a similar concern was expressed by the corporate members. Their expressions of these concerns were included as supplemental statements appended the Working Group Report. Subject to these expressed exceptions, all members of the Working Group did sign the Report as a reasonable expression of the results of the Group's efforts.

In the eyes of the MTC, Option II is the most viable option and is the only one which state legislatures should consider currently. Model legislation for its implementation is being prepared.

The Working Group did not reach agreement on any recommendations whatsoever. The state members remained adamant that worldwide combination is the preferable method for determining that in-state income of multinational businesses. The reason is that that method provides the states with information and enforcement capabilities to which they would not otherwise have access.

The state members did agree to certain conditions, however, under which they would recommend that the states use something less than worldwide combination. The "something less" is a so-called "water's edge" combination, the parameters of which the states have carefully defined in order to include all U.S. members plus certain other members of a unitary business. The conditions require the federal government to provide a quid pro quo to the states in order to make up for the tax losses which the states would suffer by foregoing worldwide combination.

The quid pro quo is to include provisions for:

a) federal requirements that multinational taxpayers file so-called "domestic spreadsheet" information (in accordance with specifications which the state members of the Working Group have carefully spelled out) disclosing their tax liability, and the method of its calculation, to each state in which they operate;

- b) IRS review of such information for completeness before making it available to a designated state agency for further review and for recommended actions;
- c) federal legislation providing up to \$3 million to fund the activities of the designated agency;
- d) enactment of federal legislation which would allow the IRS to share with qualified states, common agencies and the designated agency under duly-executed exchange-of-information agreements, information on corporate taxpayer tax liability and the method of calculation;
- e) improvement of the IRS' enforcement capabilities in the area of corporate income tax administration; and
- f) the doing of several additional things which would enhance the abilities of both the federal and state governments to deal with the complexities of corporate income tax administration.

The water's edge concept in question would include in each combination all of the following types of corporations which are part of the unitary business, as determined pursuant to the decisions of the U.S. Supreme Court and the state courts;

- a) Certain tax haven corporations;
- b) All U.S. corporations included in a consolidated return for federal corporate tax purposes;
- c) U.S. Possessions corporations;
- d) Companies incorporated in U.S. possessions or territories; and
- e) DISCs (domestic international sales corporations) and FSCs (foreign sales corporations)

In acceding to this type of arrangement, the states opted to preserve to themselves the right to apply worldwide combination in instances in which the taxpayer did not comply with all of the above requirements; and to do so in all instances in the event that the courts rule that the taxpayer does in fact have the constitutional right to sue worldwide combination.

Any adoption of water's edge combination by a state should be carefully tailored so that the state preserves to itself the advantages of combination to the full extent possible and to ensure that no retreat from worldwide combination take place unless and until all of the above conditions have been satisfied.

The state members of the Working Group also emphasized four other important aspects of their agreement:

- a) There must be no federal legislation which would seek to limit or restrict the manner in which the states administer their taxes;
- b) Any state which adopts anything less than worldwide combination, e.g. water's edge combination, should remain free to include in the tax base of the combined group dividends received from any foreign corporations which are members of the unitary business but the income of which, because of the water's edge limitation, is not included in the water's edge combined report;
- c) Any legislation adopting the water's edge concept should be prospective in nature only; and

- d) Any such legislation should be conditioned upon the federal government's first doing those things called for in the agreement.

At its Annual Meeting in July, the Commission expressed its concern that the conditions be met by the federal government in connection with any state adoption of water's edge combination. It did so in a Resolution which is included at the end of this report.

MTC Litigation

For the first time in a dozen years, the MTC is involved in no litigation. The U.S. Steel matter was brought to a satisfactory conclusion in January when the U.S. District Court in Boise, after receiving a remand from the U.S. Circuit Court of Appeals, ordered U.S. Steel to provide access to requested information in accordance with its October 16, 1980 order. The audit is now progressing toward completion and it may not be necessary to resort to further court action as the audit progresses toward completion.

The lack of litigation at least temporarily frees the legal staff, which was increased in size to two during the year, to concentrate its efforts upon: providing staff support for the uniformity committee; providing educational programs; helping the audit staff in the performance of its duties; and writing articles in the field.

Committees

Audit

The Audit Committee, under the chairmanship of Robert Bonnici of California, met four times during the year to monitor the Commission's audit activities. The committee 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. It 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 Manuel Gallegos of New Mexico, 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 a proposed Trucking Regulation on November 13. The report of the hearing officer is pending as this Annual Report goes to press.

Publications

The Commission published two issues of the Multistate Tax Commission Review during the year. 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.

The Commission published no books during the year but is in the process of preparing a revised Legislative Handbook and an updated Handbook on Unitary Apportionment for publication in 1985.

Audit Program

During the past year, the Commission has moved its New York audit office to new and expanded facilities in the same building in order to provide for an expanded staff. The staff there now numbers eleven auditors and a full-time secretary. Meanwhile, the Chicago office has expanded to four auditors; and the two-auditor Texas office has moved from Dallas to Houston.

Conclusion

The 1985 legislative sessions will be of major importance to the states and to the Commission. Any legislation aimed at implementing water's edge combination must be written carefully in order to ensure that the states receive from the federal government that help which was the condition upon which the state members of the Working Group were willing to attempt to cooperate in an effort to relieve the federal government of a problem which it claimed to be experiencing. Meanwhile, the Commission will continue to pursue the goals for the accomplishment of which it was created some seventeen years ago.

Components of Options

Issue	Status Quo	Option I Activities Alternative (States)	Option II Comp. W/E (States)	Option III Comp. W/E w/grossing (States)	Option IV Limited W/E (Business)	Option V Mod. Ltd. W/E (Business)	Option VI W/E with Partly (ACJR)
1. Actv. Tax in lieu of apportionment for foreign MNC's	NA	Included	NA	NA	NA	NA	NA
2. Common Elements	NA	NA	Included	Included	Included	Included	Included
<u>Improvement in federal enforcement and cooperation</u>							
3. Audit Referral Agency	Not Incl.	Not Incl.	Fed. funding not to exceed \$10* Million, of designated agency		Fed. funding of audit referral agency for only 5 yrs. and only if no state uses w/w combination		Same as II, E, III
4. State requested fed. audits	Auth. for IRS to consider state requests for IRS "arm's length" audits, but on fed issues only	Not Incl.	Auth. for IRS to aid "qualified states" in doing "arm's length" audits		Same as Status Quo	Same as Status Quo	Same as II, E, III
5. Fed. training	Not Incl.	Not Incl.	IRS to train state staffs in "arm's length" audit methods.		State staff trainers may participate in existing IRS "arm's length" training program for federal staff		Same as II, E, III
6. IRS Audit efforts	During next 3 yrs. IRS would pursue previous plans to increase nbr. of int'l examiners to 150	Not Incl.	Within 4 yrs. IRS to increase nbr. of int'l examiners by 750, rev. agents by 652 other staff by 425.** IRS to report to states regularly on fed. "arm's length" compliance efforts		Same as Status Quo	Same as Status Quo	Same as II, E, III
7. Effective date	NA	Prospective	Prospective	Prospective	Retroactive	Retroactive	Prospective
<u>Water's Edge Definition:</u>							
8. 90/20's (Illinois definition)	NA	NA	Included	Included	Excluded	Essentially excluded except for sin. amt. of inc. included under "Special Foreign Inc. Rule"	Included
9. Tax Haven subs	NA	NA	Included if tax rate in foreign country is less than 90% of U.S. rate.		Excluded	Excluded unless tax rate in for. country is less than 65% of U.S. rate	Same as II, E, III.
10. Conditional use of w/w combination	Included	NA	Included	Included	Excluded	Excluded	Included
**11. De Minimis Jurisdictional Standard	Not Incl.	Not Incl.	Included	Included	Excluded	Excluded	Included
12. Dividends	Included	NA	Included	Included & grossed up but weighted by foreign subs. three factors	Excluded	Essentially excluded by "Special Foreign Inc. Rule"	Non-discrim. policy on for. vs. dom. dividends. States would seek parity in treatment of all dividends

* Later changed to "up to \$3 million"

** Later changed to "Within 5 years, IRS to increase number of international examiners by 475, revenue agents by 475, other staff by 300"

MTC Resolution Regarding U.S. Treasury Department's Working Group on Worldwide Unitary Taxation

WHEREAS, the United States Supreme Court has determined that worldwide combination is a "proper and fair" method of measuring the in-state incomes of multinational corporations operating unitary businesses; and

WHEREAS, the Multistate Tax Commission (MTC) has participated in the activities of the U.S. Treasury Department's Working Group on Worldwide Unitary Taxation; and

WHEREAS, in an effort to resolve the concerns expressed by some foreign governments about worldwide combination, the Treasury Department and all the state members of the Working Group recommended changes in Federal tax policy and practice and, conditioned on implementation of those Federal actions, recommended changes in State tax policies for measuring the incomes of multinational corporations; and

WHEREAS, these recommendations are described in detail in Option II set forth in Annex D to the Report of the Working Group; and

WHEREAS, these recommendations for federal action include, but are not limited to:

- A. Enactment of a federal law requiring filing of domestic disclosure spread sheets;
- B. Internal Revenue Service (IRS) assistance to states conducting arm's length audits;
- C. Increased exchange of information between IRS and the states;
- D. Significant increases in IRS resources devoted to international tax compliance; and

WHEREAS, these recommendations for state policy changes are conditioned on implementation of these Federal actions and include, but are not limited to:

- A. Comprehensive water's edge unitary combination;
- B. Inclusion in the tax bases of multinational corporations of dividends paid to them by foreign corporations and subsidiaries;
- C. Use of worldwide combination under certain limited circumstances;
- D. Legal and procedural improvements in state tax administration.

NOW, THEREFORE, BE IT RESOLVED that, subject to review and approval of the Group's final report by the MTC's representative on the Working Group, the Multistate Tax Commission:

- A. Commends the Working Group for undertaking this constructive effort to promote increased uniformity of state taxation of business within the federal system; and
- B. Commends the Working Group for reaffirming the state's authority to design their own revenue systems by ruling out federal restrictions on state tax policy; and
- C. Reaffirms our own commitment to federalism, our belief in each state's responsibility to design its own tax structure, and our opposition to federal restrictions on state tax policy; and
- D. Reaffirms our belief that states may elect worldwide combination as an equitable and effective method to measure the in-state incomes of multinational corporations operating unitary businesses; and
- E. Reaffirms our belief that all taxpayers, including foreign and domestic multinational businesses, multistate businesses, and businesses located within a single state, should be entitled to equal tax treatment; and
- F. Endorses the improvements in federal tax compliance and cooperative efforts recommended in Option II of the Working Group's Report as a constructive step toward greater uniformity and efficient and equitable tax administration; and
- G. Endorses as an equitable and acceptable alternative to worldwide combination, implementation of the state policy recommendations in Option II of the Working Group Report, after the federal government has implemented the compliance and assistance improvements outlined in Option II.

WHEREFORE, the Multistate Tax Commission has adopted this resolution this 13th day of July, 1984.

STAFF MEMBERS

EXECUTIVE DIRECTOR AND ACTING GENERAL COUNSEL

Eugene F. Corrigan became the Commission's first staff member in 1969. His prior experience included three years as a Sears, Roebuck tax attorney and ten years with the Illinois Department of Revenue, in the Chicago office of which he last served as chief counsel. 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

Alan H. Friedman's legal experience, over some fifteen years included 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. He is a graduate of the University of California at Berkeley and of Boalt Hall Law School at that University.

LEGAL COUNSEL

Sandra B. McCray has had extensive and varied legal and administrative experience in the office of the Colorado Attorney General. There she has served: as prosecutor in consumer protection, medical malpractice and insurance fraud cases; as Administrator of the Consumer Credit Code; as Chief of the Financial Institutions section; and, finally, as First Assistant Attorney General in charge of the Regulatory Law Section. A Phi Beta Kappa graduate of UCLA and a graduate of of the University of Colorado Law School, she will shortly receive her Master's Degree in Taxation from Georgetown University.

OF COUNSEL

William D. Dexter has served the MTC in an Of Counsel capacity since July, 1983, when he retired as General Counsel, a post which he had held for eight years. During those years, he conducted major litigation on behalf of the Commission and of states in various courts throughout the land. In 1978, he argued and won the case of MTC adv.- U.S. Steel in the U.S. Supreme Court. Two years later, he participated in the preparation and argument of the Mobil case before that Court. In 1983 and 1984, he represented Hawaii in two cases before the that Court. A prolific writer and a dedicated advocate of the interests of the states, he began his legal career with the Michigan Treasury Department in the late 1940's and was in charge of all Revenue litigation for many years there as an assistant attorney general. He served as an assistant attorney general for the Washington Department of Revenue from 1969 until he became the MTC General Counsel in 1975. While, he is, we believe, the nation's leading expert on unitary apportionment, his expertise spans the field of state taxation of interstate commerce.

AUDIT MANAGERS

Chicago: Eugene J. Dowd joined the Multistate Tax Commission in October of 1974 after performing and supervising income tax audits of large multinational corporations in the Chicago office of the California Franchise Tax Board for thirteen years. Previously he had served as budget accountant and as the staff internal auditor of the Armour Research Foundation.

Houston: Robert Milligan was a corporate accountant for nearly ten years. He was the Tax Manager of two different corporations prior to joining the Michigan Department of Revenue as an auditor in 1961. There, he audited for Income, Sales and Use, Franchise, Intangibles, Business Activities and other taxes until 1977, when he joined the staff of MTC.

New York: Arthur Schwartz is a graduate of New York University and has a Master's Degree from City University of New York. His audit experience includes five years with Certified Public Accounting firms, three on corporate internal audit staffs, twenty-three with the California Franchise Tax

Board and, in the early 1970's, a seventeen-month period with the MTC. He was managing audits of major corporations for California when he rejoined the MTC early this year.

REPORT OF
CERTIFIED PUBLIC ACCOUNTANTS

RHODE,
SCRIPPER
&
ASSOCIATES

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Larry L. Scripper, CPA
Patricia M. Nielsen, CPA

A. W. Schone, CPA, Retired

CERTIFIED PUBLIC ACCOUNTANTS

Executive Committee
Multistate Tax Commission
Boulder, Colorado

We have examined the balance sheets of Multistate Tax Commission as of June 30, 1984 and 1983, 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, 1984 and 1983, 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, Scripper & Associates

August 8, 1984.

MULTISTATE TAX COMMISSION

BALANCE SHEETS

June 30, 1984 and 1983

ASSETS

	<u>1984</u>	<u>1983</u>
CURRENT ASSETS		
Cash (including certificates of deposit of \$300,000 and \$200,000 in 1984 and 1983 respectively)	\$ 400,999	\$ 329,699
Accounts receivable--members	75,492	19,508
Accounts receivable--other	62,437	17,496
Other current assets	<u>1,012</u>	<u>142</u>
TOTAL CURRENT ASSETS	<u>539,940</u>	<u>365,845</u>
PROPERTY AND EQUIPMENT--Notes 1 and 3		
Office furniture and equipment	186,553	171,454
Leasehold improvements	<u>2,064</u>	<u>---</u>
	188,617	171,454
Less: Accumulated depreciation and amortization	<u>87,738</u>	<u>73,149</u>
TOTAL PROPERTY AND EQUIPMENT	<u>100,879</u>	<u>98,305</u>
OTHER ASSETS		
Expense account advances	6,000	4,800
Deposits	1,696	1,696
Prepaid pension costs--Note 2	<u>69,098</u>	<u>32,328</u>
TOTAL OTHER ASSETS	<u>76,794</u>	<u>38,824</u>
TOTAL ASSETS	<u>\$ 717,613</u>	<u>\$ 502,974</u>

LIABILITIES AND FUND BALANCE

	<u>1984</u>	<u>1983</u>
CURRENT LIABILITIES		
Accounts payable	\$ 19,532	\$ 18,276
Accrued vacation pay--Note 6	68,109	63,323
Payroll taxes payable	10,903	8,952
Current portion of long-term debt	<u>6,543</u>	<u>5,952</u>
TOTAL CURRENT LIABILITIES	<u>105,087</u>	<u>96,503</u>
LONG-TERM DEBT		
Note payable--Note 3	29,577	35,529
Less: Current portion	<u>6,543</u>	<u>5,952</u>
TOTAL LONG-TERM DEBT	<u>23,034</u>	<u>29,577</u>
FUND BALANCE--Exhibit B		
Unappropriated fund balance	<u>589,492</u>	<u>376,894</u>
TOTAL FUND BALANCE	<u>589,492</u>	<u>376,894</u>
TOTAL LIABILITIES AND FUND BALANCE	<u>\$ 717,613</u>	<u>\$ 502,974</u>

MULTISTATE TAX COMMISSION

STATEMENTS OF CHANGES IN FUND BALANCE
For the years ended June 30, 1984 and 1983

	<u>1984</u>	<u>1983</u>
FUND BALANCE--Beginning of year	\$ 376,894	\$ 278,784
Excess of revenue over expenses-- Exhibit C	<u>212,598</u>	<u>98,110</u>
FUND BALANCE--End of year	<u><u>\$ 589,492</u></u>	<u><u>\$ 376,894</u></u>

See accompanying notes to financial statements.

MULTISTATE TAX COMMISSION

STATEMENTS OF REVENUE AND EXPENSES
For the years ended June 30, 1984 and 1983

	<u>1984</u>	<u>1983</u>
REVENUE		
Assessments	51,380,411	\$1,179,378
Interest	55,220	49,937
Other revenue:		
Legal administrative	63,150	39,642
Miscellaneous	130	350
Gain on sale of fixed assets	469	---
	<u>1,499,380</u>	<u>1,269,307</u>
TOTAL REVENUE		
EXPENSES		
Accounting	7,500	7,500
Bonds and insurance	4,951	3,734
Consulting fees	163,109	96,920
Depreciation and amortization	32,982	28,780
Employee group insurance	61,247	45,872
Interest expense	3,120	1,490
Legal and legal support	10,000	45,088
Loss on sale of fixed assets	---	644
Miscellaneous expense	9,457	11,441
Office supplies	9,609	6,962
Pension plan and retirement provision	73,012	83,482
Postage	9,284	8,693
Printing and duplicating	13,930	16,083
Publications	4,726	1,987
Rent	61,750	73,845
Repairs and maintenance	4,256	4,990
Salaries	713,872	656,352
Telephone	25,254	21,850
Travel	77,054	51,311
Utilities	1,669	4,173
	<u>1,286,782</u>	<u>1,171,197</u>
TOTAL EXPENSES		
EXCESS OF REVENUE OVER EXPENSES	<u>\$ 212,598</u>	<u>\$ 98,110</u>

MULTISTATE TAX COMMISSION

STATEMENTS OF CHANGES IN FINANCIAL POSITION

For the years ended June 30, 1984 and 1983

	<u>1984</u>	<u>1983</u>
WORKING CAPITAL PROVIDED BY:		
Operations:		
Excess of revenue over expenses	\$ 212,598	\$ 98,110
Add: Charges not requiring the use of working capital:		
Depreciation and amortization	32,982	28,780
Net book value of property and equipment sold	3,637	6,941
Working Capital Provided by Operations	<u>249,217</u>	<u>133,831</u>
Decrease in net investment in sales-type lease	<u>---</u>	<u>24,582</u>
TOTAL PROVIDED	<u>249,217</u>	<u>158,413</u>
WORKING CAPITAL APPLIED TO:		
Purchase of property and equipment	39,193	81,374
Decrease in long-term obligations	6,543	6,220
Increase in expense account advances	1,200	1,200
Increase in prepaid pension costs	<u>36,770</u>	<u>13,769</u>
TOTAL APPLIED	<u>83,706</u>	<u>102,563</u>
INCREASE IN WORKING CAPITAL	<u>\$ 165,511</u>	<u>\$ 55,850</u>
CHANGES IN WORKING CAPITAL COMPONENTS		
Increase (decrease) in current assets:		
Cash	\$ 71,300	\$ 11,005
Accounts receivable--members	56,984	(2,375)
Accounts receivable--other	44,941	16,185
Current portion of investment in sales-type lease	---	(5,954)
Other current assets	<u>870</u>	<u>(523)</u>
	<u>174,095</u>	<u>18,338</u>
Decrease (increase) in current liabilities:		
Accounts payable	(1,256)	6,238
Accrued vacation pay	(4,786)	(33,654)
Payroll taxes payable	(1,951)	(2,368)
Assessments and audit reimbursements collected in advance	---	40,000
Current portion of long-term obligations	<u>(591)</u>	<u>27,296</u>
	<u>(8,584)</u>	<u>37,512</u>
INCREASE IN WORKING CAPITAL	<u>\$ 165,511</u>	<u>\$ 55,850</u>

MULTISTATE TAX COMMISSION

NOTES TO FINANCIAL STATEMENTS

June 30, 1984

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.

NOTE 2 - PENSION PLAN

The Commission has a defined benefit pension plan covering substantially all of its employees. The total pension expense for the year was \$73,012 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, 1984, is fully funded. The accumulated plan benefits and plan net assets are presented below:

ACTUARIAL PRESENT VALUE OF ACCUMULATED
PLAN BENEFITS AT JUNE 30, 1984:

Vested	\$184,642
Nonvested	17,070
	<u>\$201,712</u>

MARKET VALUE OF NET ASSETS AVAILABLE
FOR BENEFITS AT JUNE 30, 1984

\$658,340

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

MULTISTATE TAX COMMISSION

NOTES TO FINANCIAL STATEMENTS (Continued)
June 30, 1984

NOTE 3 - NOTE PAYABLE

Note payable at June 30, 1984 was as follows:

	<u>Current</u>	<u>Long-Term</u>	<u>Total</u>
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.	\$ 6,543	\$ 23,034	\$ 29,577

NOTE 4 - COMMITMENTS

The Commission rents its primary office facilities in Boulder, Colorado, and other office facilities in New York and Illinois 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:

<u>Fiscal Year Ended</u>	<u>Minimum Annual Rental</u>
June 30, 1985	50,328
June 30, 1986	42,836
June 30, 1987	<u>13,276</u>
TOTAL	<u>\$106,440</u>

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

NOTE 5 - 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.

MULTISTATE TAX COMMISSION

NOTES TO FINANCIAL STATEMENTS (Continued)

June 30, 1984

NOTE 6 - 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, 1984 and 1983. The calculation is based upon 250 working days per year, with the maximum number of vacation days being 40 per employee, unless specific authorization is received from the executive director.