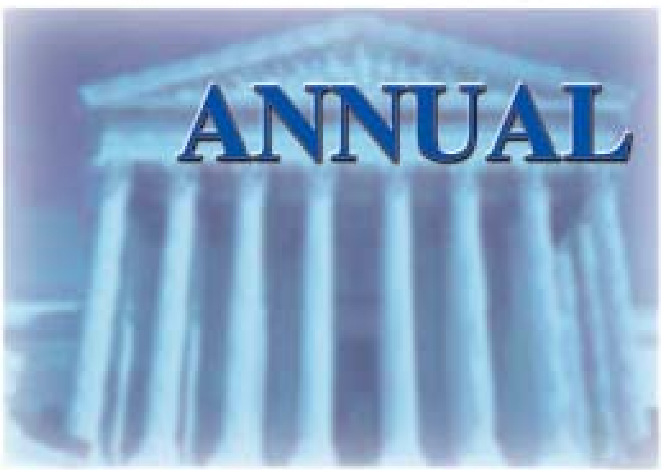
Multistate Tax Commission



ANNUAL REPORT 1999-00

For the fiscal year of July 1, 1999 - June 30, 2000

Multistate Tax Commission

July 3, 2000

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

One of the principal purposes of the Multistate Tax Commission is to bring greater equity, uniformity and compatibility to the tax laws of the various states of this nation and their political subdivisions as those laws affect multistate and multinational businesses. Additionally, the Commission provides both industry and states an organization within which to discuss and resolve their tax problems. The Commission also assists the States in encouraging multistate and multinational businesses to comply properly with state and local tax laws and, in turn, advocates improvements in laws, rules and practices that make it easier and more convenient for those businesses to comply. Finally and fundamentally, the Commission works to help protect the tax sovereignty and jurisdiction of States under the U.S. Constitution so that the role of the States in our democratic system of federalism remains vital and strong.

I respectfully submit to you the Annual Report of the Multistate Tax Commission. This report covers the Commission's activities for the fiscal year beginning July 1, 1999 and ending June 30, 2000.

Respectfully submitted,

Dan R. Bucks

Dan R. Bucks
Executive Director

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States Working Together Since 1967 . . .
To Preserve Federalism and Tax Fairness

States created the Multistate Tax Commission in 1967 to preserve federalism and promote tax fairness. States control and guide the Commission as the administrative agency of the Multistate Tax Compact—an interstate compact upheld by the U.S. Supreme Court in the 1978 U.S. Steel decision.

The authority of States to determine their tax policies is at the very core of State sovereignty, but in the fields of interstate and international commerce that authority is subject to restraint by Congress and the U.S. Supreme Court. In the 1960's—prompted by interstate business complaints that disparate State tax policies created unreasonable burdens for interstate commerce—Congress threatened to assume power over State corporate income, gross receipts and sales and use taxation. Faced with this challenge to federalism, States developed the Multistate Tax Compact to promote greater uniformity, efficiency and equity in the taxation of interstate commerce. The Compact and the Commission it established were a success at their very creation, because they forestalled the proposals for broad federal intervention into State taxation. The formula of States working together to resolve issues of multistate taxation continues to reduce the degree of federal intervention in the details of State and local tax policy.

The process of States working together through the Commission not only preserves State sovereignty, but also serves to achieve tax fairness. States typically seek to ensure, in the interest of equal taxation, that out-of-state businesses are held to the same standards of tax accountability as local, in-state businesses. However, national and global businesses fear they will be subject to duplicate taxation if different States apply separate and widely different tax rules to interstate commerce. Thus, the Commission assists States in developing and using uniform and effective standards of accountability for national and global businesses so that those businesses will pay their fair share, but not more than their fair share, of a State's taxes. These efforts serve the even larger purpose of supporting a free market economy by helping ensure fair and equal competition among enterprises regardless of type, size or location.

The Commission is a unique entity to help reconcile and ease the tension between Constitutional provisions that, on the one hand, protect State sovereignty and, on the other hand, restrain that sovereignty with regard to interstate and foreign commerce. By assisting States in working together in taxing national and global commerce, the Commission helps preserve state authority in a manner that also ensures fairness and supports our market economy.

MEMBERSHIP AND ORGANIZATION

Forty-five States (including the District of Columbia) participate in the Commission. Twenty-one States are Members of the Commission, two States are Sovereignty Members, nineteen States are Associate Members, and three States are Project Members.

The Member States include: Alabama, Alaska, Arkansas, California, Colorado, District of Columbia, Hawaii, Idaho, Kansas, Maine, Michigan, Minnesota, Missouri, Montana, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, and Washington. Full Members have enacted the Multistate Tax Compact. These States govern the Commission and typically participate in a wide range of projects and programs.

Florida and Wyoming are Sovereignty Members of the Commission. Sovereignty Members join in shaping and supporting the Commission's efforts to preserve state taxing authority and improve multistate tax policy and administration.

Associate Member States include: Arizona, Connecticut, Georgia, Illinois, Kentucky, Louisiana, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Wisconsin, and West Virginia. Associate Members participate in Commission committees and meetings and often join one or more Commission projects or programs.

Project Member States include: Iowa, Nebraska, and Rhode Island. These States participate in one or more Commission programs, typically the National Nexus Program or the Joint Audit Program.

In terms of special projects and programs, forty States are members of the National Nexus Program; twenty-two States participate in the Joint Audit Program; ten States in the Deregulation, Industry Change, and Taxation Project; and ten States participated in the most recent phase of the Property Tax Fairness Project.

The Commission is governed by its Members, who are the heads of the tax agencies of the Member States. The Commission Members meet at an Annual Meeting, in July, and at such other times as are necessary. During the year, the Commission is guided by an Executive Committee comprised of seven elected members and ex officio past Commission Chairs. Also, each Member State present at an Executive Committee meeting is entitled to vote at Executive Committee meetings. The Commission seeks advice and guidance on its various programs through a set of program committees: Uniformity, Audit, Nexus, Litigation, and Property Tax Fairness.

ACTIVITIES AND GOALS

The Commission works to achieve the goals of preserving federalism and tax fairness through a comprehensive range of activities that includes developing recommended uniform state tax policies with respect to interstate commerce, encouraging compliance with tax laws and consistency in enforcement through the Joint Audit and National Nexus Programs, training and education in complex multistate tax issues, supporting States engaged in major and "cutting edge" tax litigation through amicus briefs and technical assistance, and advocacy of state interests in the field of multistate taxation to Congress and the Executive Branch. The Commission, in partnership with the Federation of Tax Administrators (FTA), encourages the use of technology to improve and simplify tax administration in the interstate arena. Working with the Western States Association of Tax Administrators (WSATA), the Commission has developed a joint property tax auditing project. The Commission has initiated, to advance uniformity in state taxation, an Alternative Dispute Resolution (ADR) program to respond to cases of alleged duplicate taxation of a taxpayer by two or more States.

The Commission's activities are organized and given focus by a set of goals that define how the Commission interprets its mission. Current Commission goals include the following:

- Preserving the Ability of States to Tax Interstate Commerce Equitably;
- Maintaining Equitable Nexus Standards;
- Encouraging Proper Accountability in State Corporate Income Taxation;
- Encouraging the Efficient and Effective Operation of Sales/Use Taxes;
- Encouraging Consistent, Efficient and Effective Property Tax Administration;
- Improving State Tax Policy and Administration Affecting National and Global Commerce; and
- Preserving and Strengthening the Commission as an Instrument of Interstate Cooperation.

The Commission integrates a variety of activities to further these goals. For example, to preserve the ability of States to tax national and global commerce equitably, the Commission opposes, through its lobbying efforts, unwise Congressional preemption of state taxation of interstate commerce. However, the Commission also works to resolve the issues involved in such cases through the development and promotion of voluntary, uniform measures by the States. In some cases, such as the successful effort to develop a uniform method of apportioning financial institutions' income among States, the existence of a uniformity project eliminated the need for the affected industry to ask Congress to examine the issue.

In further pursuit of preserving state authority to tax commerce equitably, the Commission played a leadership role in exploring the international aspects of state and local issues. The Commission early in its history addressed the international division of income issues. More recently, it secured protections for state taxing authority in the Uruguay Round Trade Agreements. Currently, the Commission has begun a dialogue with European officials to exchange information on methods of applying consumption sales to international sales, including those made by electronic means.

Maintaining equitable nexus standards is another major goal the Commission pursues through multiple means advocating federal legislation authorizing States to require certain mail-order companies to collect state and local sales taxes, seeking compliance from non-filing businesses through the National

Nexus and Audit Programs, and encouraging common nexus practices among the States.

The Commission has a long history of promoting the proper accountability of corporate income in the interest of leveling the playing field among global, national and local taxpayers. The Commission has successfully opposed proposals for federal restrictions on state apportionment practices, has advocated this goal in the courts in a host of tax cases, has developed an authoritative body of income apportionment rules, and has effectively sought uniform compliance with State corporate income tax laws through the Joint Audit Program. The ADR services established through the Commission also advance this goal.

The goal of efficient and equitable sales taxation is closely related to the goal of maintaining equitable nexus standards. More recently, as technology and methods of marketing have changed and as the sales of services have risen relative to the sale of goods, the Commission has increasingly developed proposals for uniform sales and use taxation. Chief among these is a uniformity recommendation on the transactional taxation of telecommunications. Moreover, the Commission's work in this area is evolving to focus increasingly on the need to simplify the sales tax to ease the cost of compliance for taxpayers and states alike. As in the case of income taxation, ADR services also promote the Commission's sales tax goal.

The Commission is seeking to encourage consistent, efficient and effective property tax administration by minimizing federal interference—most notably in the form of the 4-R Act—in property taxation that has distorted and created inequities in State and local property tax systems.

The Commission works to improve state tax policy and administration affecting national and global commerce through education and training, developing uniform proposals on procedural aspects of state taxation, and encouraging the application of modern technology both to improve interstate cooperation and the operation of state tax systems. The Commission is also developing an expanded series of practical training programs in the field of interstate taxation.

In terms of improving its effectiveness in supporting interstate tax cooperation, the Commission continuously seeks means of increasing both its internal efficiency and its outreach to a growing community of States. For example, the Commission has doubled the efficiency of its joint, multistate audits over a recent five-year period. During the same time period, the Commission developed the National Nexus Program, and now thirty-nine States participate in this highly successful compliance program. In 1989, States asked the Commission to create a Litigation Committee to serve as an educational forum for state tax attorneys working on important interstate commerce cases. States are working through the Commission to conduct regional, cooperative audits. In the mid-eighties, the Commission diversified the membership options available to States, and as a result the number of States participating in the Commission has increased from thirty to forty-five. In 1996, the Commission launched an expanded training program in multistate taxation and a new Alternative Dispute Resolution program for States to use in resolving disputes with taxpayers.

The Commission's major compliance efforts—the Joint Audit Program and the National Nexus Program—serve a variety of objectives including enhancing compliance, promoting consistent application of state laws, and resolving complex issues with the taxpayer community. Thus, the programs are not judged on revenue results alone. However, these programs are highly cost-effective. Over the past twelve years, States have collected $11 for every $1 invested in the Joint Audit Program; over the past nine years, the National Nexus Program has earned States over $80 for every $1 used to operate that Program.

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Report of the Executive Committee and Executive Director

R. Michael Southcombe, Chairman, MTC

MULTISTATE TAX COMMISSION OFFICERS
1999-00

CHAIR:
R. Michael Southcombe
Chair
Idaho State Tax Commission

VICE-CHAIR:
Mary Bryson
Director
Montana Department of Revenue

TREASURER:
Quentin Wilson
Director
Missouri Departmentof Revenue

EXECUTIVE COMMITTEE MEMBERS:
John Chavez
Secretary
New Mexico Taxation and Revenue Department

Carole Keeton Rylander
Comptroller
Texas Comptroller of Public Accounts

Mark Murray
State Treasurer
Michigan Department of Treasury

Elizabeth Harchenko
Director
Oregon Department of Revenue

EXECUTIVE COMMITTEE MEMBERS, ex officio:
Gerald H. Goldberg
Executive Officer
California Franchise Tax Board

Timothy Leathers
Deputy Director
Arkansas Department of Finance and Administration

For issues of multistate taxation, these times are ones of both challenge and opportunity. The economic and technological environment in which state tax systems operate is changing rapidly. Masked by the fortune of unusual economic prosperity, the underlying structure of state and local taxes has become increasingly obsolete over the last quarter century in relation to the nature of the economy. That structural obsolescence will become increasingly clear when economic trends are less favorable than at present. It is with regard to interstate and international commerce that state and local taxes have become especially outdated. States, with the understanding and participation of the business community, need to find new ways of making state taxes work smoothly with the flow of commerce and to apply those taxes fairly to all its participants. In this context, the purposes of the Multistate Tax Compact—tax fairness, uniformity, taxpayer convenience and compliance, and the prevention of double taxation—are as critical as at any time in the history of the Commission.

In terms of membership, Wyoming became the 2nd Sovereignty Member of the Commission and the 40th State participating in the Nexus Program. At present, there are a total of 45 States participating in the Commission, compared to 30 States eleven years ago.

The Commission continues to reach out to taxpayer groups and other organizations to seek advice and cooperation on a range of multistate tax issues. These efforts include:

- Achieving with the wireless telephone industry and other state and local organizations the passage of federal legislation establishing uniform transactional tax treatment of wireless phone calls made outside of service areas;
- Conducting several uniformity projects with industry groups, including the American Institute of Certified Public Accountants (AICPA), the Association of Fundraisers and Direct Sellers, and the funeral industry;
- Supporting and participating in the Telecommunications Tax Reform Initiative with the telecommunications industry with the National Governors Association, the National Conference of State Legislatures and the Federation of Tax Administrators to explore methods of updating the taxation of telecommunications in light of technological change and increasing deregulation of the industry;
- Supporting the work of the Commission's Sales Tax Simplification Committee comprised of private sector representatives and approving their plan to seek improvements in sales tax administration that will improve the efficiency and convenience of tax administration from a taxpayer perspective; and
- Continuing to work as a partner with the Federation of Tax Administrators (FTA) and private sector representatives on the FTA-led Electronic Business Processes Project to respond to tax administrative issues created by expanding business use of advanced technology.

Executive Committee Activities

As required by the MTC Bylaws, the Executive Committee met four times during the 1999-2000 fiscal year. The Executive Committee met on July 28, 1999, in Traverse City, Michigan; on November 4-5, 1999, in Washington, D.C.; on January 13-14, 2000, in San Diego, California; and on May 3-4, 2000 in Denver, Colorado. Actions taken at Executive Committee meetings are recorded in minutes on file in the Commission's headquarters office. At each meeting, the Executive Committee has reviewed the full range of activities undertaken by the Commission and has provided guidance as needed to those efforts. The Executive Committee initiated a strategic planning process to evaluate future directions for the Commission, and that process will continue into the next year. Pursuant to the Compact, it has prepared a budget with membership assessments, audit reimbursements and program or project fees for Fiscal Year 2001.

Future of the Sales Tax

The most significant issue in multistate taxation continues to be the challenge of updating the sales tax so that it operates efficiently and effectively in the modern economy. This challenge translates into these practical objectives:

- Streamlining the administration of the tax to reduce the burden it places on sellers, including those operating in interstate commerce;
- As a part of the streamlining process, adapting the sales tax administrative process to use modern technology and work efficiently in the context of different methods of selling; and
- Alleviating the inequity between sales on which the tax is collected and the remote sales on which the tax is not effectively collected.

The past year has witnessed a blizzard of activity around this issue. The National Tax Association Communications and Electronic Commerce Tax Project—a joint public-private-academic project in which MTC participated—concluded without being able to agree to a comprehensive solution that included leveling the playing field among competing sellers. It did, however, propose a number of useful ideas for improving sales tax administration and for identifying the taxable location (i.e., "sourcing") of electronic commerce sales. The MTC actively contributed to these administrative reform and sourcing ideas. Indeed, many of the current discussion of improving sales tax administration draw upon the earlier work of the MTC Sales Tax Simplification Committee and the Northwest Regional Sales Project, to which the MTC has provided support.

The congressionally created Advisory Commission on Electronic Commerce (ACEC) conducted the bulk of its work in the past year. The MTC testified before the Commission and provided information to the Commission and various members. On the central issue of sales taxation, the ACEC was not able to agree to a comprehensive package that met the congressional requirements for 2/3 support for a recommendation to Congress. The ACEC did, however, identify a number of helpful administrative reforms that drew upon the earlier NTA report. The issue on which the ACEC could not reach a 2/3 agreement was the extent of state tax jurisdictional authority. Indeed, the ACEC report approved by a simple majority includes proposals for restricting state taxing authority with respect to interstate commerce in an unprecedented manner that, instead of reducing inequities in taxation, would actually increase those inequities.

With the conclusion of the work of the ACEC, the energy of the States on this issue has shifted to the Streamlined Sales Tax Project. This project is supported by the National Governors Association, the National Conference of State Legislatures, the Federation of Tax Administrators, and the MTC. This project is aimed at developing a streamlined sales tax system that combines uniform laws and practices, the application of new technology and a willingness for States to assume a greater share of costs of the system. The project has quickly drawn widespread participation of the States. Over twenty States are voting members by virtue of legislative enactments or gubernatorial action. Additional States are participating are participating as observers. The MTC played an active role in developing a number of the central ideas being developed through the project and has provided it continuing support.

The Commission continues to advance sales tax simplification through its Sales Tax Simplification Committee and the continuing sales tax work of its Uniformity Committee. In addition, three Commission States—Idaho, Utah, and Washington—continue the work of the Northwest Regional Sales Tax Project. With the active participation of the private sector, this project has led to legislation in both Washington and Utah that will ease the burden of retailers in collecting local sales taxes. Further, this project to generate ideas that informs the national discussions of methods of improving the sales tax.

As remote sales on which vendors do not choose to collect sales and use taxes promise to rise and as the issues of the cost of sales and use tax administration continue to be of concern to interstate businesses, the issues of improving the equity and efficiency of sales and use taxes will continue to demand significant attention from the Commission and its Member States.

Corporate Tax Apportionment

The issue of how to divide fairly and equitably the income of a multi-jurisdictional enterprise among the states in which it earns income remains a topic of continuing concern to the Commission and the business community. Among several corporate income topics the Commission addressed, the Commission gave continuing attention to two fundamental issues in this area:

- The definition of a unitary business; and

- The classification of income as apportionable business income or allocable non-business income.

These two issues affect the division of income for more taxpayers than any other unresolved issues with regard to the corporate income tax. The definition of a unitary business is the subject of continuing study within the MTC's uniformity development process. The classification of income as business or non-business income continues to be addressed in the courts. With the benefit of amicus briefs filed by the MTC, courts across the nation have increasingly adopted the MTC's interpretation of the language of Uniform Division of Income for Tax Purposes Act (UDITPA) with regard to business and non-business income.

Beyond these fundamental issues, the Commission also is in the process of addressing a number of other corporate income topics: the definition of gross receipts, the treatment of outer-jurisdictional property in apportionment formulas, the treatment of funeral trusts, and in cooperation with the AICPA, the streamlining of administrative requirements for corporate income taxes. Rapid change in a number of industries—financial services, telecommunications and information services, and electric utilities—all have the potential for generating new income apportionment issues that States will need to address in the future.

Income Tax Issues for Multistate "Pass-Through" Businesses

A rising share of all businesses are comprised of S-corporations, partnerships, limited liability companies and sole proprietorships. The growth of S-corporations has been especially dramatic in recent years, going from less than 4% of all businesses in 1980 to about 10% in 1996. These businesses are "pass-through entities" because the income is typically passed through to the owners before income taxes are applied. Increasingly, these enterprises operate on a multistate basis and encounter significant complexity in terms of complying with the laws of the several States. The Commission has assigned to its Uniformity Committee the task of exploring methods of easing the compliance task for these multistate "pass-through" businesses and their owners. This effort to improve taxpayer convenience through greater uniformity among the States is expected to occupy increasing attention of the Commission in future years.

Conclusion

Rapid economic and technological change, including globalization, will continue to challenge the existing structure and operation of state and local taxes. Issues of multistate taxation will multiply. The need for states to work together to resolve these issues will increase. In this context, the Commission's purposes and efforts will be increasingly more vital. The challenge to the Commission is to assist the states in addressing a broadening area of issues that require resolution in a shorter period of time. Indeed, these are interesting times in the field of multistate taxation.

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Report of the Audit Committee and Audit Program

Kim C. Ferrell, Chair, MTC Audit Committee
Richard W. Schrader, Vice-Chair, MTC Audit Committee
Les Koenig, Director, MTC Joint Audit Program

AUDIT COMMITTEE MEMBERS 1999-00

ALABAMA
Dan L. Bass
Louis R. Mills

ARKANSAS
Danny Walker

COLORADO
Robert Mitchell

DISTRICT OF COLUMBIA
Nancy Tucker
Deborah Cunningham

HAWAII
Melvin Wakumoto
Wayne Griffin

IDAHO
Richard McFarland
Joe E. Randall

KANSAS
David Weeks

KENTUCKY
Robert Caldwell Clark

MAINE
Tom Giordano

MICHIGAN
David C. Husted
Stanley Borawski

MINNESOTA
Kathleen J. Stewart
Larry Wilkie

MISSOURI
Gerard T. Andert
John W. Feldmann

MONTANA
Eugene L. Walborn
Don Hoffman

NEBRASKA
Gupta Shaun Sookram
Scott Spilinek

NEW MEXICO
Ronald Cruz

NORTH DAKOTA
Harold Aldinger
Gary L. Anderson

OREGON
Stan McClain

UTAH
K. Craig Sandberg

WASHINGTON
Forrest L. Bush
Kenneth J. Capek

The following report reflects the activities of the MTC Audit Committee and Audit Program for the 1999-2000 fiscal year.

AUDIT COMMITTEE

The MTC Audit Committee met three times during the fiscal year. During the Annual Meeting, the Audit Committee removed eight audits from the MTC audit inventory and selected six additional audits for the MTC inventory. The Audit committee also selected eight sales tax audits for the MTC Audit Program inventory. The Audit Committee responded positively to the MTC Executive Director's request to explore new ways to accomplish joint audits. Fourteen committee members volunteered to serve on a joint committee with Executive Committee members to explore this possibility.

During the November Audit Committee meeting, the Audit Director distributed a new format for audit nominations. The expanded form will help the States select better audit candidates.

During the February Audit Committee Meeting, a new subcommittee was formed with members of the Uniformity Committee to study statistical sampling standards. Harold Jennings will staff this subcommittee. Audit nominations were also distributed to the States. In addition, the Audit Program hosted a day long symposium led by representatives of Washington, Wisconsin, New Jersey, and the IRS regarding statistical sampling.

Lastly, the Audit Committee reviewed the MTC Audit Program's audit activity at each meeting and offered advice on many complex audit issues that were found in various audits.

AUDIT PROGRAM

Productivity

The Audit Staff completed eleven sales tax audits during this fiscal year. There are currently 23 sales tax audits in progress. The Audit Staff also completed ten income tax audits during this fiscal year. There are currently 18 income tax audits in progress.

The MTC Audit Program has increased the productivity of its audit work by over 60% since 1989, as measured by the number of staff hours per audit per state. In 1989, an MTC audit required 168 hours of staff time per audit per state. In 2000, that number was only 63. That represents improved efficiency for both states and taxpayers, who also benefit when tax auditors spend less time completing an audit.

Please note in interpreting the enclosed charts on productivity that decline numbers represent improvement.

Staffing

The Audit Division hired Karen Drolet a sales tax auditor in November 1999. However, Karen's husband received a job transfer to Canton, Ohio and she will leave the employ of the Commission at the end of July 2000. Rachel Stephens also resigned her position as a sales tax auditor at the end of June 2000 to take a position with a public accounting firm. These positions have been advertised and interviews will take place in August 2000.

Automation

We have 6 sales tax audits where the taxpayer has supplied us with electronic records and we are attempting to use ACL software to convert the tapes to our software. We are also pursuing electronic records in every audit that is commencing as Harold Jennings is requesting from each taxpayer access to the company's electronic records. While we believe that substantial progress has been made in this area and we are experiencing some success, there are still problems that arise.

Audit Hour Analysis
Fiscal Year 1999-2000

SALES TAX	FISCAL YEAR QUARTER ENDING				
	SEP '99	DEC '99	MAR '00	JUN '00	TOTAL
Total Completed Audits	2	2	2	5	11
Total States Audited	18	14	20	50	102
Total Hours	1,308	1,882	1,586	4,286	9,062
Average Hours Per State	73	134	79	86	89

INCOME TAX	FISCAL YEAR QUARTER ENDING				
	SEP '99	DEC '99	MAR '00	JUN '00	TOTAL
Total Completed Audits	1	0	2	7	10
Total States Audited	20	0	52	179	251
Total Hours	2,145	0	1,424	9,564	13,133
Average Hours Per State	107	0	27	53	52

INCOME AND SALES TAXES	FISCAL YEAR QUARTER ENDING				
	SEP '99	DEC '99	MAR '00	JUN '00	TOTAL
Total Completed Audits	3	2	4	12	21
Total States Audited	38	14	72	229	353
Total Hours	3,453	1,882	3,010	13,850	22,195
Average Hours Per State	91	134	42	60	63

Training

Harold Jennings developed three sales tax sampling training programs with the assistance of several States' personnel. This team has met monthly for the last several months. The first training class was held during the week of March 27, 2000. Five sampling classes were held during the final quarter of this fiscal year. In addition, the Director of Audit participated in 4 Nexus training seminars this fiscal year.

Pilot Regional Audit Project

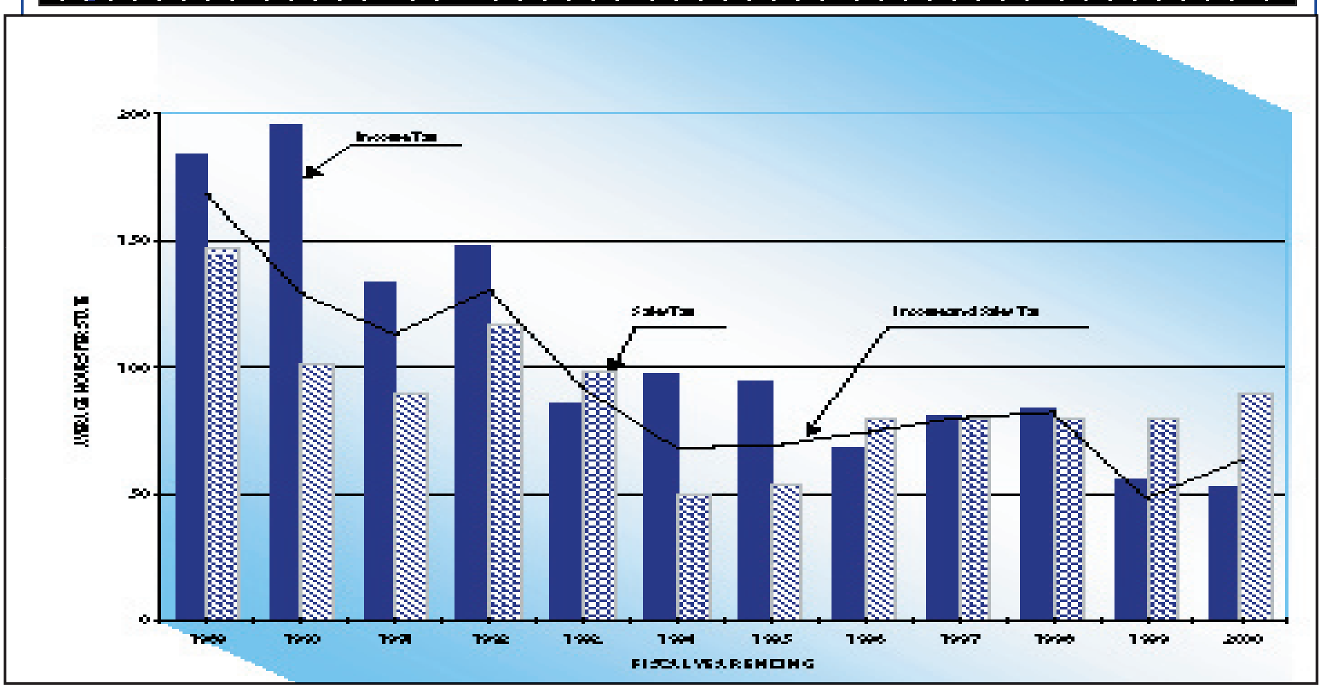
The four States in this pilot program each have been assigned two audits. The States report that the audits have commenced and are in various stages of progress.

TRENDS IN PRODUCTIVITY
MTC JOINT AUDIT PROGRAM
FISCAL YEAR 1989-90 THROUGH FISCAL YEAR 1999-00

SALES TAX	FISCAL YEAR ENDING											
	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Total Completed Audits	9	9	6	9	14	12	15	12	14	10	16	11
Total States Audited	65	66	74	104	145	140	152	122	142	97	104	102
Total Hours	12,28	9,9[illegible]	7,09	12,20	14,22	6,91	8,00	9,74	11,24	7,72	7,49	9,05
Average Hours Per State	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

INCOME TAX	FISCAL YEAR ENDING											
	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Total Completed Audits	12	4	9	7	12	9	9	9	10	9	7	10
Total States Audited	112	37	98	75	122	92	99	111	152	120	106	271
Total Hours	20,674	7,211	12,04	11,14	11,20	9,016	9,20	7,59	12,24	10,072	10,00	14,12
Average Hours Per State	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

INCOME AND SALES TAXES	FISCAL YEAR ENDING											
	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Total Completed Audits	21	13	17	16	26	22	24	22	24	19	23	21
Total States Audited	177	129	174	179	270	232	251	234	295	217	270	252
Total Hours	33,072	16,077	19,735	23,357	25,53	15,604	17,282	17,294	23,596	17,728	17,496	23,165
Average Hours Per State	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]



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Report of the Litigation Committee and MTC Legal Activities

David W. Woodgerd, Chair, MTC Litigation Committee
Paull Mines, General Counsel, MTC

LITIGATION COMMITTEE MEMBERS 1999-00

ALABAMA
Margaret McNeill
Mark Griffin

ALASKA
Tina Kobayashi
Stephen C. (Neil) Slotnick

ARIZONA
Sharon Stidley Seedall
Joyce Kinkead
James Mark Sousa

ARKANSAS
Malcolm P. Bobo
Beth B. Carson

CALIFORNIA, FTB
Benjamin F. Miller

CALIFORNIA, SBE
David H. Levine
Timothy W. Boyer

COLORADO
John Martin Vecchiarelli

CONNECTICUT
Richard D. Nicholson
Felicia S. Hoeniger

DISTRICT OF COLUMBIA
Greg Matson

FLORIDA
Marshall C. Stranburg
Linda Lettera

HAWAII
Grant Tanimoto
Dana Oshiro Viola

IDAHO
Ted Spangler
Geoffrey L. Thorpe

ILLINOIS
Paul G. Bogdanski

IOWA
Harry M. Griger

KENTUCKY
Dana Mayton

LOUISIANA
Mr. Alva C. Smith

MAINE
David E. Bauer

MASSACHUSETTS
Steven A. Remsberg

MICHIGAN
Russell E. Prins
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John R. Evans

We jointly report the activities of the Litigation Committee of the Multistate Tax Commission for fiscal year 1999-2000. We additionally report the legal activities of the Multistate Tax Commission for the same period.

LITIGATION COMMITTEE

The Litigation Committee continues to fulfill its role of reporting U.S. Supreme Court developments to, and providing an informational and educational forum for, lawyers representing state tax agencies. The growing attendance and active participation at the Committee's meetings contributes to the increased importance and beneficial impact of the Committee's activities. The Committee held two meetings this past year, February 2000 in Tucson, AZ, and the meeting in conjunction with the 1999 Annual Meeting.

The Supreme Court has issued a number of opinions in the past year important to the administration of state and local taxes. In two cases the Court limited the power Congress to create private rights of action in federal courts. In Kimel v. Florida Board of Regents, the Court continued to expand its Seminole ruling that Congress cannot abrogate 11th Amendment sovereign immunity of States from private suits where the State has not affirmatively waived its immunity except when Congress legitimately acts under its Fourteenth Amendment §5 enforcement powers. In Kimel, the Court struck down an authorization for private suits in federal court under the Age Discrimination in Employment Act. Congress intended to abrogate States' Eleventh Amendment sovereign immunity, the Court found, but exceeded its enforcement authority under §5 of the Fourteenth Amendment. Congress has the power to enforce, but not the power to determine what constitutes a constitutional violation. Age is not a suspect classification and States can discriminate on the basis of age if they have a rational basis. (One would have thought the reasoning in Kimel spelt doom for federal court jurisdiction in 4R Act cases, but after issuing Kimel the Court denied certiorari in two cases raising that precise jurisdictional issue.)

In United States v. Morrison the Court once again struck down an Act of Congress—the Violence Against Women Act—as exceeding its Commerce Clause powers, extending its reasoning in United States v. Lopez. Here, a huge body of evidence presented in hearings before Congress supported finding that violence against women had a substantial economic effect on interstate commerce. But the Court ruled that that the activity to be regulated had to be economic, and that kind of activity was not here.

On the other hand, in Reno v. Condon the Court upheld Congress's authority to require States, along with others, to obey a federal stricture in the Driver Privacy Protection Act barring release of driver license and registration information. The Court distinguished earlier cases that struck down congressional provisions that required States to enforce federal law against private individuals, pointing out that here States were simply required to obey the federal law itself, not enforce it against violation by private individuals.

The Court also rendered decisions directly affecting state taxing authority. In Hunt-Wesson, Inc. v. Franchise Tax Bd., California's interest offset was ruled unconstitutional as impermissibly taxing income over which the State had no authority to tax. In Raleigh for Estate of Stoecker v. Ill Dept. of Revenue, the Court ruled for the state tax administrator, holding that the burden of proof in a bankruptcy court determination of a tax liability should not be shifted to the State to promote equity among creditors, but should remain with the taxpayer, as directed under state tax statutes.

Additionally, most of the Litigation Committee members have participated the MTC's Informational and Training Session for State Attorneys during which participants study fundamental state tax principles and analyze how those principles may or may not apply to recent state tax cases. The session in Tucson in February presented for the first time two seminar panels; one on ethics and one on the ongoing production credit association litigation. The latter panel was particularly timely in that the Supreme Court has granted certiorari in Missouri Director of Revenue v. CoBank ACB to resolve whether States can tax these lending institutions that are federally chartered to serve the agricultural economy.

LEGAL ACTIVITIES OF COMMISSION

Formal Court Appearances

Last year, the Commission filed an amicus curiae brief in the Hoescht Celenese Corp. v. Franchise Tax Bd. case in California on the issue of whether there is one test or two tests for business income. The case concerned the appropriateness of including the proceeds of a pension reversion in the State's apportionable tax base, rather than allocating the income to the taxpayer's corporate domicile. The California Court of Appeals agreed that there were two tests for business income, but ruled that under either test, the proceeds from the pension reversion were nonbusiness income. The case has been accepted for hearing in front of the California Supreme Court (an exceedingly rare occurrence for a state tax case), and the Commission may file another amicus curiae brief at that level. Similarly, the Commission filed an amicus curiae brief in Union Carbide Corp. v. Offerman, the North Carolina pension reversion case. The result before the North Carolina Supreme Court was the same, two tests, but nonbusiness income.

During the current year, the Commission has filed in the Idaho Supreme Court an amicus curiae brief in support of the Idaho State Tax Commission in Union Pacific Corp. v. Idaho State Tax Comm'n. This case concerns whether dividends paid by a joint venture of a unitary Union Pacific subsidiary and a third party involved in a trona mineral mining operation largely on Union Pacific land constitutes business income. The Commission's brief focused solely on the one test/two test issue. No decision has yet been rendered.

The Commission also filed an amicus curiae brief in the Kansas Supreme Court in the Intercard case. The issue was whether Intercard had nexus with Kansas so as to be required to collect use tax on its sale of card readers and related materials to Kinko's. Intercard employees came into Kansas to install the card readers. The Commission argued that such physical presence met the standard of Quill. This case thus raises the often litigated argument as to the meaning of the de minimis exception to physical presence. In addition, because the taxpayer's presence in the taxing State was limited to a set time period, but sales continued, the duration of nexus issue is also presented. In this case the MTC argued that a proximate cause standard of nexus was appropriate.

The Commission is also prepared on August 1, 2000, to file an amicus brief in Furnitureland South, Inc. v. Comptroller of Treasury, now pending before the Maryland Court of Appeals (the highest level of court in Maryland). This case raises the knotty issue of when does a third-party transport company fall into the category of a common carrier whose delivery of goods sold by a remote seller does not establish use tax collection nexus. The Commission is hopeful that useful principles in defining what constitutes a common carrier for purposes of remaining within the Bellas Hess and Quill safe harbor may be established by its participation.

The staff of the Commission is in the process of reviewing whether possible participation is warranted in the Tennessee petition for U.S. Supreme Court review of the adverse decision in J.C. Penney Nat'l Bank v. Johnson. This case is one of the first, if not the first, to raise post Quill the standard of nexus for the imposition of an income tax against a remote business, in this case a credit card bank. The staff of the Commission has not yet made a final determination that its participation in this matter is appropriate, although the Commission through its Executive Committee has authorized this participation if that conclusion is reached.

As a follow-up to amicus support of the Commission filed in the previous year, we note that the Oregon Supreme Court issued its per curiam decision this past year in The Sherwin Williams Co. v. Dept. of Revenue, a case raising the issue of the extent to which gross proceeds of working capital investments are reflected in the sales factor. The Oregon Court based upon special circumstances of its law, not present in other States, rejected the contention that gross proceeds from investments of working capital should be excluded from the sales factor. The decision left unaddressed the bulk of the arguments advanced by the Commission in its amicus brief and to some extent could be viewed as a one-of-a-kind decision, especially given its issuance in the form of a per curiam decision. The Commission is looking for another opportunity to advance its view on this important issue.

Promoting Uniformity

The Legal Division primarily staffs the Uniformity Committee and as a result participates broadly in the uniformity efforts of the Commission. That effort continued this last year, including staff's participation as a hearing officer for the uniformity proposal on the definition of gross receipts in UDITPA.

In addition, the Legal Division has participated in the promotion of uniformity by supporting various electronic commerce initiatives. It actively participated in preparing presentations to the congressionally-established Advisory Commission on Electronic Commerce. It played an even more active role in the initiative to establish a streamlined sales and use tax collection system, seen by many as the best answer to the problems presented by the Quill decision and threatened congressional preemption. And the Legal Division continues its effort to liaison with with European governmental officials on the troublesome issue of electronic commerce. This work has been facilitated by travel to visit various international organizations function in Europe that was funded by the German Marshall Fund, that has promoted increased contact with the European Union. Significantly, the EU has recently proposed the adoption of a system of taxation that has a strong destination flavor that will promote level playing field treatment for e-commerce providers located within and outside of the EU.

The Legal Division continued to work with the wireless telecommunications industry group in promoting federal legislation that will establish a uniform approach to transactional taxation of wireless telecommunications. This cooperation sought non-intrusive federal legislation that while limiting impractical state transactional taxation of wireless communication, would also empower States to impose transactional taxation of wireless communication in a more practical mode than might otherwise be unavailable in the absence of federal legislation. As this report is written the proposed legislation has been passed by both houses of Congress and is on its way to the President for his signature.

Federal Legislative and Executive Issues

The Legal Division with the Commission's Legislative Consultant monitors proposed federal legislation that has the potential to impact the assumption of our federal system of government: both the States and the Federal Government each have separate spheres of responsibility and a resulting need to raise revenue to discharge that responsibility. Legislation that has been monitored with some activity to preserve federalism during the past year includes electronic commerce, electricity deregulation, bankruptcy reform, and federal tax restructuring.

Communication about State Efforts to Change State Tax Systems to Meeting Changing Economic Conditions

Personnel from the Legal Division are a source of spokespersons from the MTC staff to communicate about the activities of the Commission with third parties, including business leagues, professional associations, governmental associations, educational symposiums, and publications. At the beginning of this year an article of General Counsel Paull Mines was published in the Tax Law Review, Conversing with Professor Hellerstein: Electronic Commerce and Nexus Propel Sales and Use Tax Reform, 52 Tax Law Rev. 581. This article profoundly explores the meaning of "physical presence" in the context of electronic commerce and possible solutions offered to the States through adoption of measures to simplify the existing sales and use tax systems.

Administration of the Commission

The Legal Division acts as the legal advisor on issues that arise in the context of the administration of the Commission, as a separately organized state instrumentality. These issues include the full gamut of what one would expect for any organization, e.g., leases, contracts, and personnel matters.

Support of Other Functions of Commission

The Legal Division provides legal support to other functions of the Commission, including the Joint Audit Program and the National Nexus Program. During the past year, Legal Division support of the Joint Audit Program has grown because of increased resistance by some taxpayers to cooperate in an examination of their records for purposes of determining compliance with applicable law. The Commission through its Executive Committee has provided instructions to the Joint Audit Program to apply to the Courts for judicial enforcement of its examination powers where taxpayer resistance is not justified. This approach has had the salutary effect of allowing the Joint Audit Program to inform the taxpayers that their continued, unjustified resistance will result in the Commission seeking the aid of judicial process. The experience thus far seems to be that few, if any, taxpayers feel so strongly about their refusal to cooperate that they want to test the waters of judicially enforced subpoenas. This reaction may reflect the reality that judicially enforced subpoenas are likely to raise considerably more pertinent information than cooperating in the first instance would. The Legal Division has also supported the Joint Audit Program's examination of several nexus issues that have come to prominence during the year. In this area, we see the potential, depending upon the level of taxpayer resistance, to establish clear judicial authority for taxpayer examinations under the Due Process Clause, even when Commerce Clause nexus may not be a foregone conclusion.

Technical Support of States

The Legal Division similarly continues to provide technical support to the States in issues affecting state taxation of multi-jurisdictional commerce. Recent issues include 11th Amendment restrictions against 4-R Act cases, nexus issues, the test, or tests, for business income, state/tribal issues, the definition of a unitary business, the reach of Commerce Clause discrimination claims, and the like.

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Report of the Nexus Committee and National Nexus Program

Joseph A. Thomas, Chair, MTC Nexus Committee
Sheldon H. Laskin, Director, MTC National Nexus Program

NEXUS COMMITTEE MEMBERS 1999-00

Alabama
George C. Howell, Jr.

Alaska
Larry E. Meyers

Arizona
Miguel Teposte

Arkansas
Tom Atchley

California, FTB
Norm Scott

California, SBE
James E. Speed

Colorado
Phillip Horwitz

District of Columbia
Nancy Tucker

Florida
Marshall C. Stranburg

Hawaii
Wayne Griffin

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Richard McFarland

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Karla Pierce

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Frank Shaffer

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Harold Aldinger

Ohio
William Marshall

Oklahoma
Marjorie Welch

Oregon
Stan McClain

Rhode Island
Robert M. Geruso

South Carolina
John W. Rogers

South Dakota
Scott C. Peterson

Texas
Florentino Barraza

Utah
Shelley Robinson

Washington
Forrest L. Bush

West Virginia
Mark Morto

The following report summarizes the activities of the National Nexus Program for the period July 1, 1999 through June 30, 2000.

Voluntary Disclosures

The National Nexus Program executed agreements with 27 taxpayers during this period, resulting in 158 separate contracts with Member States. These 158 contracts resulted in $5,811,306 in back taxes collected and $632,029 in estimated annual future collections. In addition, during this period the National Nexus Program opened 22 new voluntary disclosure cases, representing 135 separate potential contracts. As a result of transferring the voluntary disclosure database from Improv to Access, the National Nexus Program has greatly improved both the accuracy and the timeliness of voluntary disclosure reports. The Voluntary Disclosure Program was ranked in the top 25% of the more than 1300 applications for the 2000 Innovations in American Government Awards Program, sponsored by the Ford Foundation and Harvard University.

Voluntary Disclosure Marketing

NNP staff continues to work to continuously avail themselves of marketing opportunities to promote the Voluntary Disclosure Program. NNP staff appears periodically at tax conferences to speak and to distribute promotional literature. Staff also periodically publishes promotional materials in professional journals. During the past year, staff has promoted the voluntary disclosure program through the following venues:

- BNA State and Local Tax Luncheon, Washington, DC;
- New Jersey Society of Certified Public Accountants;
- MTC Nexus Workshop, Austin, TX; and
- Resolving State Tax Liabilities, published in:
    1. Louisiana Department of Revenue Tax Topics;
    2. State and Local Taxes Weekly;
    3. Alabama Revenue Review;
    4. Vermont Bar Journal;
    5. New Hampshire Bar News; and
    6. Maine Bar Journal.

Nexus Research Reports

During the past year, NNP staff conducted research involving 108 companies, in the following business sectors: software, furniture, and online subsidiaries of major brick and mortar retailers. The software research resulted in a registration survey of the Member States. A number of individual company reports were made available to the States for possible follow-up action. In addition, NNP staff researched certain business practices with nexus implications, such as the formation of in-store computer kiosk alliances among multiple retailers. Nexus research served as the basis of a Powerpoint presentation to the Executive Committee at its spring meeting in Denver that highlighted current nexus business planning techniques.

Nexus School

During the past year, staff conducted nexus schools in Portland, Maine, Atlanta, Georgia (hosted by the Florida Department of Revenue), Washington, D.C., Albuquerque, New Mexico, and Hartford, Connecticut. Upcoming schools will be held in Portland, Oregon and Annapolis, Maryland.

SUT Uniform Registration

During the past year, the Executive Committee created a subcommittee of the Nexus Committee and charged that subcommittee with the task of creating an electronic sales and use tax registration system. This "one-stop" system will enable a business to simultaneously register online in all those states in which the business intends to operate. The States of Florida, Texas, Alabama, Minnesota, South Dakota, North Carolina, and Missouri have participated in a number of teleconferences, resulting in a draft RFI that is presently being circulated to the subcommittee for comment. In addition, NNP Director Sheldon H. Laskin has staffed the Registration, Returns, Rates & Remittances Working Group of the Streamlined Sales Tax Project.

Nexus List Serve

The Nexus List Serve continues to provide pertinent monthly information to nexus researchers in the States. During the past year, subscriptions increased 42% (from 33 to 47). Interested nexus researchers should contact Susan Ribe at sribe@mtc.gov.

Clearinghouse Database

After extensive beta testing, TRW delivered the final version of the clearinghouse database software to the MTC during the week of July 3, 2000. During July, NNP staff will distribute Clearinghouse Database Kits to Member States. The kits include the program software on CD, a diskette containing database historical data, hard copies of the new format for income and sales tax audits, and a database user guide.

Publications

NNP staff published a number of articles in the past year on nexus-related topics, including:

- S. Laskin, Furniture Dealer's Use of Personalized Delivery Service Creates Representational Nexus, 11 State & Local Taxes Weekly, No. 25, p. 10 (June 19, 2000) (includes a description of the voluntary disclosure program); and
- B. Baez, Multistate Update. This is a regular monthly column in the Tax Practitioners Journal. Articles cover a variety of current issues in multistate taxation.

Litigation Support

The NNP legal staff participated in writing an amicus brief in Intercard, a use tax collection nexus case pending in the Kansas Supreme Court. NNP Counsel Beau Baez had primary responsibility for the preparation and filing of the brief. NNP legal staff have also participated in preparing an amicus brief in Furnitureland South, currently pending in the Maryland Court of Appeals (Maryland's highest court). The brief will be filed in August.

NNP Membership

Finally, Wyoming recently became the 40th member of the National Nexus Program.

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Report of the Sales Tax Simplification Committee

Wayne Eggert, Chair
MTC Sales Tax Simplification Committee

SALES TAX SIMPLIFICATION COMMITTEE MEMBERS 1999-00

Wayne Eggert, Chair
Lucent Technologies
Representing the National Tax Association

Frank Davis
Gannett Co., Inc.
Representing the Tax Executives Institute

Norm Lobins
Deloitte & Touche LLP
Representing the American Institute of Certified Public Accountants

Wilma Murphree
Arthur Andersen
Representing the Institute for Professionals in Taxation

Jerry Orr
Wal-Mart Stores, Inc.
Representing the Committee on State Taxation

R. Bruce Johnson
Commissioner
State of Utah

Fred Kiga
Director of Revenue
State of Washington

Mona Shoemate
Senior Tax Policy Analyst
State of Texas

Quentin Wilson
Director of Revenue
State of Missouri

The implementation phase of the MTC Sales Tax Simplification Project continued this year with the work of the state-specific simplification subcommittees, moving steadily forward toward easing the administration of sales and use taxation. In addition, the Committee's three initial Task Forces, Exemption Processing, Situsing, and Refund Claim Processing, have stepped up their efforts to develop national-level simplification measures. This report describes the activities of the various components of this Simplification Project.

PROGRESS REPORTS OF STATE-SPECIFIC SIMPLIFICATION SUBCOMMITTEES

Each State's subcommittee consists of at least one state representative and one business representative. Several subcommittees include state legislative representatives as well. These subcommittees operate relatively independently, although each is expected to provide periodic reports on their progress to the central Steering Committee. The guiding charter document provides that each subcommittee should:

- Partner state agency and taxpayer representatives to accomplish sales tax simplification for ideas that lend themselves to action within an individual state;
- Follow through on requests for adoption of sales tax simplification involving uniformity issues as they are communicated by the sales tax simplification committee at the national level; and
- Communicate sales tax simplification accomplishments as a means of encouragement to other state committees.

One of the goals of this Project is to incorporate all forty-six States (including the District of Columbia) that levy a sales tax into this Project or have the States participating in regional efforts. Currently, twenty-four States have established subcommittees:

Alabama	Arkansas	California
Colorado	Connecticut	Florida
Illinois	Iowa	Kentucky
Maryland	Massachusetts	Michigan
Mississippi	Missouri	Nebraska
New Jersey	North Carolina	Ohio
Oklahoma	Pennsylvania	Rhode Island
South Carolina	Texas	Wyoming

This section below highlights the activities and progress of several States' sales tax simplification efforts.

Florida

Due to the large amount of fraudulent resale activity that Florida has witnessed with respect to its multijurisdictional certificate, the State has instituted a new policy, which entails annually updating information. Sellers making sales for resale may use any of the following options to document an exempt sale for resale: sellers can obtain a copy of the annual resale certificate each year; sellers can obtain an authorization number by phone; sellers can obtain one copy of the purchaser's annual resale certificate for certain open-account customers; or sellers can obtain a "vendor authorization number" by sending a file of regular customer names and numbers who purchase for resale on electronic media to the department each year.

Maryland

Maryland has recently unveiled an on-line program listing the registration numbers of exempt purchasers and organizations.

Missouri

Missouri is considering a partnership with a software vendor to allow for the electronic filing of sales tax and is also furthering its development of a geo-coding system.

North Carolina

The North Carolina State Subcommittee reports that acceptance of a uniform multijurisdictional exemption certificate and the increase of the quarterly filing threshold from $50 to $100 have been approved. In addition, the Subcommittee reports that the 1999 Legislative Session proved to be quite fruitful for simplification as the following measures were chaptered:

- Repeal of the $15 registration fee (allows for on-line registration);
- Allowance of electronic filing for semi-monthly taxpayers;
- Authority granted for the creation of a database of exempt taxpayers for verifying validity of Certificates of Authority or direct pay permits;
- Repeal of exemptions for free circulation publications and sales of articles taken in trade;
- Expansion of the exemption for prescription drugs to include all prescription drugs, regardless of to whom they are sold; added an exemption for durable medical supplies (these changes bring North Carolina's medical exemptions more in line with the current practices of other States);
- Addition of a line on the individual income tax return for purposes of reporting consumer use tax due;
- Establishment of a Tax Policy Commission to review the state and local tax structure; and
- Amendment of the statute of limitations to provide that the period for refunds matches the period for assessment when a taxpayer extends the assessment period with a waiver.

In the 2000 Session, legislation has been introduced that would, among other things, simplify the frequency and required notice of tax rate changes, simplify sourcing rules, and revise good faith and direct pay provisions. The State also plans to work with telecommunications companies to simplify the structure and administration of telecommunications taxes.

Ohio

The Ohio State Subcommittee has identified an extensive list of simplification initiatives to pursue in the State, which includes, but is not limited to, statutory and administrative rule changes, current law/practices, and any changes entailing an accompanying revenue impact. The Subcommittee has prioritized this list and will concentrate on those which are perceived to be the most beneficial to the State and taxpayers alike. These include, among other things, the following:

- Simplifying the frequency and required notice of tax rate changes with the local governments in Ohio;
- Developing a standard cost basis for use tax for self-manufactured goods;
- Developing a uniform allowance for trade-in deductions in determining the sales tax base;
- Developing materials/supplies used in research and development exemption in addition to capitalized equipment;
- Allowing for the filing of all taxes on a single return;
- Providing for registration at the state as opposed to the local level;
- Allowing for tax returns to be postmarked by the 23rd day of each month as opposed to being received by the 23rd of each month; and
- Affording taxpayers the option of filing returns by EDI or similar electronic means.

The subcommittee is currently focusing on simplifying the frequency and required notice of tax rate changes with the local governments in Ohio.

Additionally, Ohio formally authorized acceptance of the MTC Uniform Sales and Use Tax Certificate — Multijurisdiction, and in doing so became the 37th State to accept the certificate.

Pennsylvania

Pennsylvania recently became the 38th State to accept the MTC Uniform Sales and Use Tax Certificate — Multijurisdiction.

South Dakota

South Dakota is currently working to permit the electronic filing of sales and use tax returns in addition to consolidated reporting.

Texas

The Texas Subcommittee has identified a number of issues to pursue in the State, which are categorized into those requiring administrative changes and those requiring legislative changes. There is a growing interest in simplifying the definition of "food" in Texas and possibly modeling the definition after the federal "food stamp" regulation. A subcommittee is being established to analyze this issue.

Utah

Utah signed into law two significant simplification initiatives in March 2000. Arising out of uniform legislation proposed by the Northwest Regional Sales Tax Pilot Project, uniform tax rate and boundary change notification measures were enacted. Under the new law, changes to the state or local tax rate (including annexations) may be implemented only four times per year and in conjunction with the commencement of a sales tax quarter (i.e., January 1st, April 1st, July 1st, and October 1st). Seventy-five days notice is required before the change may become effective.

The second bill signed into law provides for a single statewide sales tax rate that retailers may collect if they have no nexus with the State. In return for voluntary collection at that rate, retailers would receive protection from audit exposure if they are ultimately found to have nexus. Such retailers may now be fully compliant with Utah sales tax law by filing a single return for each period, with a single tax base and a single rate. Although the new law provides no immediate benefit to Northwest Project participants, most of whom have nexus in Utah, the law does further emphasize Utah's support for Northwest Project initiatives and its increasing willingness to address the complex issues surrounding sales tax simplification.

Virginia

Virginia has recently commenced an on-line registration program and is launching an Internet filing program on a small group basis. Taxpayers are now able to calculate their Virginia tax bills on-line as well.

Washington

Under the auspices of the Northwest Regional Sales Tax Pilot Project, Washington State has also enacted legislation regarding uniform tax rate and boundary change notification measures, which is functionally equivalent to that which was signed into law in Utah. In Washington, however, this new law contained an additional provision, namely that vendors who properly utilize rate calculation technology developed and provided by the State to calculate the amount of tax due on taxable sales shall be held harmless from rate calculation errors and would not be held liable for the difference in amount due nor be subject to any penalties. The Subcommittee reported that the State will continue its participation in the Northwest Project, which will continue working to develop uniform exemption procedures, uniform definitions, and other simplification initiatives.

Other States' Simplification Subcommittee Activities

Alabama, Indiana, Kentucky, Michigan, Minnesota, Rhode Island, and West Virginia are each in various procedural stages a propos establishing their subcommittees and identifying areas of simplification they wish to pursue.

PROGRESS REPORTS OF TASK FORCES

Exemption Processing Task Force

The Exemption Processing Task Force was charged with pursuing the implementation of uniform exemption processing ideas, which include:

- Exemption identification numbers;
- Each State constructing a web site that contains a list of all exempt customers and their respective registration numbers;
- Acceptance by all States of uniform multijurisdictional exemption certificates; and
- A uniform date of expiration of exemption from the time of issuance.

The Task Force has focused primarily on the exemption identification number proposal developed within the Northwest Regional Sales Tax Pilot Project. (Under the proposal, the purchasing entity would file an exemption certificate with the State, which would then issue the entity a corresponding identification number from which purchases made by the entity would be tracked and recorded. If the exemption identification number were matched to sufficient detail on the transaction, the State would only need to key in on that number on an audit check and download the list of transactions conducted by the corresponding entity, thereby allowing the auditor to match this information with information provided on the certificate. Ideally, businesses would no longer be asked to police the system, while States would have the means by which to easily check on the proper use of the exemption identification number.)

It has been observed that it would be quite advantageous to institute a system yielding a more efficient method of tracking identification numbers and recognizing exempt transactions in light of the technology currently available. Discussions encompassing a number of topics have included:

- Exemptions. Differences in exemption treatment among the States run the gamut, e.g., taxing all purchasers and providing them with a refund (North Carolina) or specifically exempting certain types of purchasers (Arkansas). There is also a vast array of both the different types of documents required and the different types of exemptions that are provided in each State;

- Exempt Organizations. Not every State requires all exempt purchasers/organizations to register and receive an exemption registration number; and

- Expiration Dates. A uniform timeframe for the renewal of exemption certificates, e.g., everyone, three, or five years, was discussed. It was decided that in any event, the timeframe should impose no unreasonable processing burdens on either businesses or States. It was also noted that some States currently practice a "good-for-life" certificate policy.

During discussions regarding an exemption database, a number of concerns emerged. There was a general understanding that businesses are troubled re losing a good faith requirement and dealing with sales for resale. States, meanwhile, expressed some anxiety over requiring every exempt purchaser to register, how to promote electronic recordkeeping for purchasers that might not be required to file, and over resale certificates and direct pay permits. It was noted that the Task Force on EDI Audit and Legal Issues for Tax Administration produced White Papers on both procurement cards and electronic recordkeeping and retention regulations.

The Exemption Processing Task Force will continue to discuss this proposal.

Situs Task Force

The goal of the Situs Task Force is to draft model language for the uniform treatment of situsing for tangible personal property and services for sales and use tax purposes. The Situs Task Force set an initial goal to submit their draft model language to the central Sales Tax Simplification Committee by July 2000.

The members of the Situs Task Force agreed to focus on the following issues in an effort to develop model language:

- Identifying and obtaining the participation of additional state government representatives on the Task Force;

- Identifying States that have statutory language that might be used as a resource for draft language regarding situsing tangible personal property and services;

- Identifying and obtaining participation of an individual with a background in state income/franchise tax to address any situsing issues that overlap into this area; and

- Locating and reviewing published papers on the subject, such as the NTA Final Report.

The following are the ideas the Situs Task Force industry representatives have presented:

- TPP should be sitused to the destination state regardless if it's an "inter-" or "intra-" state delivery. If the item is not shipped anywhere, TPP should be sitused to the state of origin;

- Vendors should be allowed a 15% – 20% collection allowance if they voluntarily agree to collect sales tax in States in which they have no nexus;

- Services should be sitused where the service is performed;

- Services such as utilities need to be addressed separately;

- The model language should include a 90-day exemption for temporary storage and testing; and

- The model language should incorporate a "hold-harmless" provision on penalty and interest for vendors collecting sales and use tax in "good faith."

The following are the ideas the Situs Task Force academic representatives have presented:

- All sales and use tax should be collected based on destination; and

- Exploiting a market in which a seller has no nexus still creates significant presence and the vendor should be required to collect sales tax.

Ideas from state representatives are anticipated as additional representatives are added to the Task Force. In addition, the Situs Task Force will turn to the MTC Uniformity Committee for participation and assistance in this process.

Refund Claim Process Task Force

The Refund Claim Process Task Force reports that they are identifying the best practices of the States, building a consensus around particular items, in order to present them to the group as a whole.

PROGRESS REPORT OF WORK OF RELATED PROJECTS

Northwest Regional Sales Tax Pilot Project

The States of Idaho, Utah, and Washington have gathered together in a cooperative effort to develop a sales tax system that effectively harmonizes and simplifies sales taxes within the three States, which will enable businesses to comply more efficiently with the States' sales tax requirements. Each State has assembled government representatives as well as members from businesses that are headquartered in those States to participate in the Project.

As previously aforementioned, this year legislation was drafted that would establish uniform tax rate and boundary change notification measures. Changes to the state or local tax rate (including annexations) could be implemented only four times per year and in conjunction with the commencement of a sales tax quarter (i.e., January 1st, April 1st, July 1st, and October 1st), with 75 days advance notice required. This became law in Utah and Washington on March 16, 2000, and March 24, 2000, respectively. (Washington included a hold-harmless provision for vendors who calculate the amount of tax due on taxable sales using technology developed and provided by the State.)

As the Project has moved forward, the previously established Task Forces have been adjusted slightly to better reflect the current priorities and objectives of the States.

The Information Technology (IT) Task Force has been exploring and evaluating the different types of technology — software and hardware solutions — which exist or could be created that would enhance uniformity. As it was deemed this Task Force sufficiently researched this area, the Task Force will not completely disband, but rather remain a "quasi" task force. Idaho will continue to share "new" information with the Project as it becomes available. The Task Force will also share brief summaries/reactions of vendor meetings on proposed solutions as they occur within the States.

The Tax Filing Task Force, will continue to examine ways of providing greater consistency across the States in the filing of tax returns by focusing on downloading filing data, instituting uniform due dates, and continuing to research one rate per state and voluntary filing initiatives.

The new Resale and Exemption Processing Task Force will continue analyzing the previous work of the Tax Base Task Force. This Task Force seeks identify and implement ways to simplify tax administration; simplify the paperwork burden for buyers, sellers, and taxing authorities; improve tax compliance; provide for an improved the audit trail; and reduce audit risk. Discussions will continue along the lines of further analyzing and developing the previously aforementioned exemption identification number proposal. The Task Force is currently reviewing the procedures in a number of States and one business participant has submitted an initial draft of a model exemption certificate process.

Lastly, the Tax Base Task Force will continue analyzing the United Nations Central Product Classification Version 1.0, and its system of statistically classified products and services as a basis for drafting uniform definitions. The Task Force has most recently discussed drafting a uniform definition for freight, with place of sale, installation/repair, medicine, and food to follow.

Other Regional Simplification Projects

The need for simplification has resonated across the nation and has spurred the recent development of two additional regional simplification projects.

Six Upper Midwest States (Iowa, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin) have assembled an Upper Midwest Sales Tax Simplification Project to look at uniformity and sales tax simplification to enhance voluntary compliance that facilitates tax administration and reduces business costs. While the primary purpose is to increase uniformity and simplicity for multistate businesses operating in the six-state Upper Midwest region, any reduction in administrative burdens for businesses operating in fewer (or even one) of these States will be pursued. Each State was asked to form individual state working groups to identify problems in each respective State and to prioritize them. The Project participants have identified the tax base to be the highest priority in the areas of simplification and uniformity. Accordingly, the group has been asked to identify the five most difficult areas with respect to the tax base (exemptions) in a multistate environment with emphasis on the States that are members of the Midwest Group.

There has also been the recent convening of the NESTOA Sales Tax Simplification Project, which is also in the early stages of development. The participants have already discussed and wish to explore in greater detail: exempt organizations, especially uniform treatment of 501(c)(3) entities; multijurisdictional sales tax exempt use certificates; multijurisdictional direct pay certificates for large multistate businesses; common definitions (e.g., food, clothing, medicine, software); treatment of gift purchases delivered out-of-state; treatment of handling charges; treatment of bad debts; and a uniform position on the taxability of merchandise ordered over the Internet or via mail-order catalogues.

Streamlined Sales Tax Project

Substantial progress has been made as over 30 States have gathered in a cooperative effort to continue discussions focusing on the implementation of a revolutionary streamlined sales and use tax system. The Streamlined Sales Tax Project is a comprehensive undertaking in direct response to the widespread call for simplifying the sales tax. The States have enthusiastically embraced this unique opportunity to attain the fundamental simplification measures needed to maintain a viable sales tax system in the 21st Century.

The States embarked on this mission in September 1999, by initiating discussions to develop and implement a simplified sales tax system. Six subsequent meetings have been held and continuing discussions are being conducted to resolve integrating the design elements of the new system. It is anticipated that a pilot project of the new system will be in place in Fall 2000.

In addition, four Work Groups were established and charged with addressing a multitude of issues essential to successfully implementing the new system. The Work Groups are:

- Technology, Audit, Privacy, and Paying for the System;
- Tax Base Uniformity and Exemption Administration;
- Tax Rate, Registration, Returns, and Other Remittances; and
- Sourcing and Other Simplification Issues.

Several key issues have received attention from the Work Groups, including:

- Ensuring that the use of technology does not breach the basic tenets of consumer privacy while simultaneously establishing a new benchmark of security measures designed to preserve the integrity of transactions;
- Developing straight-forward sourcing rules that can be easily implemented and adapted to an electronic environment;
- Implementing the use of existing technology that provides for the accurate mapping of tax rates to the appropriate taxing jurisdiction;
- Consideration of one local use tax rate for remote sellers and exploration of the available technology that will facilitate the administration of multiple tax rates; and
- Drafting uniform definitions, standardizing exemption processing procedures for use- and entity-based exemptions, and arranging for the use of a product coding mechanism that will provide a bridge between the tax base and the use of technology.

The Project States seek the input of both public and private sector groups, in addition to those companies and individuals willing to provide technical assistance to the Work Groups. A public comment period will be provided at each Project Meeting during which interested parties may comment on the Project's design initiatives and discuss accompanying issues with the Project States.

A website has been established for the Streamlined Sales Tax Project, which is located at www.streamlinedsalestax.org, which will serve as a vehicle for disseminating information regarding the mission of the Project, the overall structure and rules governing participation in the Project, and the ongoing activities of the Project, including meeting dates and periodic Project Reports.

FUTURE

There is currently a great deal of movement toward establishing regional simplification efforts. More information on these efforts will be provided as it becomes available. These various projects, in addition to the Streamlined Sales Tax Project, invite cooperation or the joining of their efforts and future meetings of the Sales Tax Simplification Committee will address this opportunity.

Report of the Uniformity Committee

Ted Spangler, Chair
MTC Uniformity Committee

UNIFORMITY COMMITTEE MEMBERS
1999-00

Alabama
Chris J. Sherlock, IV
Michael E. Mason

Alaska
Larry E. Meyers
Mark Graber

Arizona
Donna S. McCuin

Arkansas
John H. Theis
David Foster

California, FTB
Benjamin F. Miller

California, SBE
James E. Speed
Freda Orendt-Evans

Colorado
William Speckman

Connecticut
Joseph A. Thomas
John H. Kutsukos

District of Columbia
Nancy Tucker

Florida
Marshall C. Stranburg
Linda Lettera

Hawaii
Ray K. Kamikawa
Richard Chiogioji

Idaho
Phil Aldape

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William T. Lundeen

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Carl A. Castelda

Kansas
Shirley Klenda Sicilian
Tom Hatten

Kentucky
Jennifer C. Hays
Larry M. O'Nan

Louisiana
Michael Pearson
Deborah Underwood

Maine
David E. Bauer

Massachusetts
Dennis Conley

Michigan
Jack van Coevering
Dale P. Vettel
James Bengel

Minnesota
Jack Mansun
Jennifer L. Engh

Mississippi
Frank McCain

Missouri
Gerard T. Andert
John W. Feldmann

Montana
Eugene L. Walborn
Don Hoffman

Nebraska
Patrick Reynolds

New Jersey
Denise Lambert
Michelle Dalbo

New Mexico
Frank Shaffer

North Carolina
Lennie Collins

North Dakota
Harold Aldinger
Gary L. Anderson

Ohio
James J. Lawrence
Carol Bessey

Oklahoma
David Isley

Oregon
Stan McClain

Pennsylvania
Larry P. Williams

South Carolina
Rick Handel

South Dakota
Bruce M. Christensen

Texas
Vacant

Utah
Kim C. Ferrell
Rodney G. Marrelli

Washington
Forrest L. Bush
Claire W. Hesselholt

West Virginia
Mark Morton

The Uniformity Committee is charged with perhaps the most challenging task in addressing multistate tax administration—developing uniform sales tax and income tax proposals acceptable to both businesses and state tax agencies that have a reasonable likelihood of adoption by a significant number of States. Below is a review of the Uniformity Committee's specific projects for the completed fiscal year 1999-2000.

SALES AND USE TAX

Joint Project with Association of Fund Raisers and Direct Sellers

Phase II of this project—the development of a clearinghouse database on state practices in taxing fundraising transactions accessible by the general public—is now underway. Information provided on the database is for information purposes only; taxpayers and other interested parties with questions regarding a specific state practice will be referred to the state revenue agency. A survey indicated that States are prepared to provide the appropriate information for inclusion in the database. AFRDS carries the principal responsibility for developing the database; the MTC staff is assisting with the format design for display and presentation on the World Wide Web. In addition, a public hearing was held on the Proposed Provision for the Collection of Tax on Fundraising Transactions, developed through the joint efforts of the Uniformity Committee and AFRDS; the proposal is currently undergoing a Bylaw 7 survey for possible consideration as a uniformity standard.

State Tax Priority Issues

Work on this difficult project continues to progress. Based on the results of surveys conducted in March and November 1998, that culminated in the development of a number of principles and rules to determine sales and use tax priority among states, MTC staff developed a draft statute addressing priority issues. The draft statute revealed some inconsistencies among some of the rules, and further highlighted entire circumstances where tax priority issues occur that had not been addressed. The Subcommittee organized a small task force to address some of the more basic problems of the statute. The task force will present the results of its initial efforts to the Subcommittee for discussion and evaluation at the July 2000 meeting.

Uniform Direct Pay Statute

The Task Force on EDI Audit and Legal Issues for Tax Administration (Task Force) was formed to coordinate efforts between the business community and tax administrators in analyzing and addressing the issues posed for tax administration by electronic data interchange and related business processes. The Task Force is comprised of representatives of the Committee on State Taxation (COST), Institute for Professionals in Taxation (IPT), Tax Executives Institute (TEI), Multistate Tax Commission (MTC), and Federation of Tax Administrators (FTA). The proposal for a uniform direct pay statute or regulation is the fifth in a series of Task Force reports on issues relating to electronic commerce, emerging business processes, and tax administration.

As part of the Task Force, the Electronic Business Processes Work Group explored alternative processes to reduce the burden associated with sales and use tax compliance and administration. The Task Force developed a Model Direct Payment Permit Regulation that States could follow when implementing or expanding a direct pay program. The proposal focuses on the business process of a taxpayer when a tax jurisdiction considers whether to grant direct pay authority; stresses how applicable tax laws and business processes relate from a compliance perspective; and demonstrates how direct pay authority developed from this perspective will benefit tax compliance.

The Commission took the proposal of the Task Force and provided an opportunity to the Uniformity Committee to react to the proposal. Thereafter, the Commission conducted a public hearing on the proposal. The proposal is now on report to the Executive Committee and the full Commission, pending the completion of a Bylaw 7 survey now being conducted. Assuming sufficient support for the proposal is manifested by the affected party States, this proposal may become a uniformity provision of the full Commission.

INCOME AND FRANCHISE TAX

Proposed Definition of Gross Receipts

The Hearing Officers have completed their report on the public hearing on the revised definition of gross receipts held in July 1999, which will be released at the July 2000 meeting. Recent state court decisions concerning the classification of income as business or nonbusiness income for apportionment purposes may have an impact on certain parts of the definition. The Hearing Officers recommend that a third public hearing be held at which States and the general public can present their views on the impact of these decisions on the proposed definition.

Property Factor Treatment of Outer-Jurisdictional Property

The Executive Committee voted to postpone work on this project to allow the Telecommunications Tax Reform Initiative, a joint industry-state effort to revamp the taxation of telecommunication companies, to proceed without the interference of piecemeal proposals. It is expected that the issue of outer jurisdictional property will potentially be addressed at some point during the TTRI project.

Joint Work with AICPA on Corporate Income Tax Administrative Uniformity

The Income and Franchise Tax Subcommittee continues its work on the development of a uniform statute for reporting federal adjustments to States. The work of this project is being jointly coordinated with the AICPA, whose representatives who have taken the lead on drafting of a uniform state form for reporting federal adjustments. A draft proposal prepared by MTC staff will be considered by the Committee at the July 2000 meeting.

Joint Project with Death-Care Providers

The original purpose of this project was to streamline state tax administration of funeral trusts by bringing state rules into conformity with the 1997 federal income tax rules on the treatment of funeral trusts. A survey of the States indicated that conformity with the federal rules was largely accomplished, but revealed that inconsistent rules for determining the residence of a trust for state income tax purposes is an issue ripe for some efforts in developing uniformity. MTC staff prepared a proposed rule stating that the residence of a funeral trust is determined by the residence of the grantor at the time the trust is funded; the industry responded by suggesting that residence of a trust be tied to the location of the funeral home/cemetery sponsoring the pre-need plan because many trust grantors either no longer live in the jurisdiction where the trust was created, or move after creation of the trust. The industry's counter-proposal will be discussed at the July 2000 meeting.

Throwback Affidavits

Under the leadership of Chuck Redfern, with the New Hampshire Department of Revenue, a new draft affirmation of taxability that requires taxpayers to affirm that they are taxable in other states to avoid a state's throwback rule has been completed and favorably reviewed by the Uniformity Committee. Copies of the affirmation of taxability will be sent to those States where the taxpayer has indicated it is subject to tax. By consensus of the Committee, and with the approval of the Executive Committee, the Uniformity Committee Chair forwarded copies of the draft affirmation to the business activity tax audit divisions in all state revenue agencies for evaluation, comment and possible use.

Draft Unitary Business Definition

The PPWG Uniformity Liaison Group, which is crafting a definition of unitary business, continues its work discussing the merits of the contribution/dependency tests, the three unities tests, and the three factors test. The Uniformity Committee will review at the July 2000 meeting a report on the Group's work.

Pass-Through Entities

This project addresses the nuts and bolts of tax reporting by multijurisdictional pass-through entities. A discussion of the model statute for reporting income from pass-through entities will be held at the July 2000 meeting.

1999 BUSINESS-GOVERNMENT DIALOGUE

The 1999 Business-Government Dialogue focused on three topics: Taming State Tax Administration Through Computer Technology, Tax Utopia: Sales and Use Tax Best Practices, and Operating "Pass-Thrus" in a Multistate Tax Environment. The technology segment discussed the potential for easing the compliance and administrative burden for taxpayers as well as States through the use of computer processes, examining questions of cost, law changes, and uniformity. The Tax Utopia segment focused on the States' efforts to develop simpler, more uniform, rational and equitable sales and use tax practices, equally applicable to Main Street retailers and electronic and other remote sellers. The "Pass-Thrus" segment focused on realistically dealing with state tax issues concerning pass-through entities, especially those that operate in interstate commerce. Participation from the attendees was lively, engendering discussions that often had to be continued outside the time allotted for the session. The Uniformity Committee will tentatively identify possible topics for the 2000 Business-Government Dialogue at its July 2000 meeting. There is some potential given the ongoing Streamlined Sales Tax Project that the work of that group may well become the basis for conducting the 2000 Business Government Dialogue on State Tax Uniformity.

CONCLUSION

In conclusion, I would like to express my appreciation to several Uniformity Committee members who have accepted leadership roles as the Subcommittees continue their work. I thank Claire Hesselholt with the Washington Department of Revenue for continuing her outstanding service as Chair of the Sales and Use Tax Subcommittee. I also thank Jennifer Hayes with the Kentucky Revenue Cabinet for her able leadership of the Income and Franchise Tax Subcommittee. The position of Vice-Chair of the Uniformity Committee is currently vacant due to the departure of Mona Shoemate, formerly with the Texas Comptroller of Public Accounts, from public service. I wish Mona well in her new endeavors, and thank her for taking on tasks and filling in as Chair of the Uniformity Committee whenever needed. The Uniformity Committee will recommend the appointment of a new Uniformity Committee Vice-Chair to the MTC Chairman following its July 2000 meeting.

Finally, on behalf of all members of the Committee, I commend the MTC staff for their professionalism and tireless efforts in support of the Committee's full range of activities. It goes without saying that the Staff makes the Committee's work possible.

MULTISTATE TAX COMPACT

APPENDIX A

Article I. Purposes.

The purposes of this 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.

Article II. Definitions.

As used in this compact:

1. "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any Territory or Possession of the United States.

2. "Subdivision" means any governmental unit or special district of a State.

3. "Taxpayer" means any corporation, partnership, firm, association, governmental unit or agency or person acting as a business entity in more than one State.

4. "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 transactions.

5. "Capital stock tax" means a tax measured in any way by the capital of a corporation considered in its entirety.

6. "Gross receipts tax" means a tax, other than a sales tax, which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no deduction is allowed which would constitute the tax an income tax.

7. "Sales tax" means a tax imposed with respect to the transfer for a consideration of ownership, possession or custody of tangible personal property or the rendering of services measured by the price of the tangible personal property transferred or services rendered and which is required by State or local law to be separately stated from the sales price by the seller, or which is customarily separately stated from the sales price, but does not include a tax imposed exclusively on the sale of a specifically identified commodity or article or class of commodities or articles.

8. "Use tax" means a nonrecurring tax, other than a sales tax, which (a) is imposed on or with respect to the exercise or enjoyment of any right or power over tangible personal property

incident to the ownership, possession or custody of that property or the leasing of that property from another including any consumption, keeping, retention, or other use of tangible personal property and (b) is complementary to a sales tax.

9. "Tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax, and any other tax which has a multistate impact, except that the provisions of Articles III, IV and V of this compact shall apply only to the taxes specifically designated therein and the provisions of Article IX of this compact shall apply only in respect to determinations pursuant to Article IV.

Article III. Elements of Income Tax Laws.

Taxpayer Option, State and Local Taxes.

1. Any taxpayer subject to an income tax whose income is subject to apportionment and allocation for tax purposes pursuant to the laws of a party State or pursuant to the laws of subdivisions in two or more party States may elect to apportion and allocate his income in the manner provided by the laws of such States or by the laws of such States and subdivisions without reference to this compact, or may elect to apportion and allocate in accordance with Article IV. This election for any tax year may be made in all party States or subdivisions thereof or in any one or more of the party States or subdivisions thereof without reference to the election made in the others. For the purposes of this paragraph, taxes imposed by subdivisions shall be considered separately from State taxes, and the apportionment and allocation also may be applied to the entire tax base. In no instance wherein Article IV is employed for all subdivisions of a State may the sum of all apportionments and allocations to subdivisions within a State be greater than the apportionment and allocation that would be assignable to that State if the apportionment or allocation were being made with respect to a State income tax.

Taxpayer Option, Short Form.

2. Each party State or any subdivision thereof which imposes an income tax shall provide by law that any taxpayer required to file a return whose only activities within the taxing jurisdiction consist of sales and do not include owning or renting real estate or tangible personal property and whose dollar volume of gross sales made during the tax year within the State or subdivision, as the case may be, is not in excess of $100,000 may elect to report and pay any tax due on the basis of a percentage of such volume and shall adopt rates which shall produce a tax which reasonably approximates the tax otherwise due. The Multistate Tax Commission, not more than once in five years, may adjust the $100,000 figure in order to reflect such changes as may occur in the real value of the dollar, and such adjusted figure, upon adoption by the Commission, shall replace the $100,000 figure specifically provided herein. Each party State and subdivision thereof may make the same election available to taxpayers additional to those specified in this paragraph.

Coverage.

3. Nothing in this Article relates to the reporting or payment of any tax other than an income tax.

Article IV. Division of Income.

1. As used in this Article, unless the context otherwise requires:

(a) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.

(b) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(c) "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, investment company, or any type of insurance company.

(e) "Nonbusiness income" means all income other than business income.

(f) "Public utility" means any business entity (1) which owns or operates any plant, equipment, property, franchise, or license for the transmission of communications, transportation of goods or persons, except by pipeline, or the production, transmission, sale, delivery, or furnishing of electricity, water or steam; and (2) whose rates of charges for goods or services have been established or approved by a Federal, State or local government or governmental agency.

(g) "Sales" means all gross receipts of the taxpayer not allocated under paragraphs of this Article.

(h) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any Territory or Possession of the United States, and any foreign country or political subdivision thereof.

(i) "This State" means the State in which the relevant tax return is filed or, in the case of application of this Article to the apportionment and allocation of income for local tax purposes, the subdivision or local taxing district in which the relevant tax return is filed.

2. Any taxpayer having income from business activity which is taxable both within and without this State, other than activity as a financial organization or public utility or the rendering of purely personal services by an individual, shall allocate and apportion his net income as provided in this Article. If a taxpayer has income from business activity as a public utility but derives the greater percentage of his income from activities subject to this Article, the taxpayer may elect to allocate and apportion his entire net income as provided in this Article.

3. For purposes of allocation and apportionment of income under this Article, a taxpayer is taxable in another State if (1) in that State he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax, or (2) that State has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the State does or does not do so.

4. Rents and royalties from real or tangible personal property, capital gains, interest, dividends or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in paragraphs 5 through 8 of this Article.

5. (a) Net rents and royalties from real property located in this State are allocable to this State.

(b) Net rents and royalties from tangible personal property are allocable to this State: (1) if and to the extent that the property is utilized in this State, or (2) in their entirety if the taxpayer's commercial domicile is in this State and the taxpayer is not organized under the laws of or taxable in the State in which the property is utilized.

(c) The extent of utilization of tangible personal property in a State is determined by multiplying the rents and royalties by a fraction the numerator of which is the number of days of physical location of the property in the State during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the State in which the property was located at the time the rental or royalty payer obtained possession.

6. (a) Capital gains and losses from sales of real property located in this State are allocable to this State.

(b) Capital gains and losses from sales of tangible personal property are allocable to this State if (1) the property had a situs in this State at the time of the sale, or (2) the taxpayer's commercial domicile is in this State and the taxpayer is not taxable in the State in which the property had a situs.

(c) Capital gains and losses from sales of intangible personal property are allocable to this State if the taxpayer's commercial domicile is in this State.

7. Interest and dividends are allocable to this State if the taxpayer's commercial domicile is in this State.

8. (a) Patent and copyright royalties are allocable to this State: (1) if and to the extent that the patent or copyright is utilized by the payer in this State, or (2) if and to the extent that the patent or copyright is utilized by the payer in a State in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this State.

(b) A patent is utilized in a State to the extent that it is employed in production, fabrication, manufacturing, or other processing in the State or to the extent that a patented product is produced in the State. If the basis of receipts from patent royalties does not permit allocation to States or if the accounting procedures do not reflect States of utilization, the patent is utilized in the State in which the taxpayer's commercial domicile is located.

(c) A copyright is utilized in a State to the extent that printing or other publication originates in the State. If the basis of receipts from copyright royalties does not permit allocation to States or if the accounting procedures do not reflect States of utilization, the copyright is utilized in the State in which the taxpayer's commercial domicile is located.

9. All business income shall be apportioned to this State by multiplying the income by a fraction the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three.

10. The property factor is a fraction the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this State during the tax period and the denominator of which is the average value of all of the taxpayer's real and tangible personal property owned or rented and used during the tax period.

11. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the

annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

12. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period; but the tax administrator may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

13. The payroll factor is a fraction the numerator of which is the total amount paid in this State during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period.

14. Compensation is paid in this State if:

(a) the individual's service is performed entirely within the State;

(b) the individual's service is performed both within and without the State, but the service performed without the State is incidental to the individual's service within the State; or

(c) some of the service is performed in the State and (1) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the State, or (2) the base of operations or the place from which the service is directed or controlled is not in any State in which some part of the service is performed, but the individual's residence is in this State.

15. The sales factor is a fraction the numerator of which is the total sales of the taxpayer in this State during the tax period and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

16. Sales of tangible personal property are in this State if:

(a) the property is delivered or shipped to a purchaser, other than the United States Government, within this State regardless of the f.o.b. point or other conditions of the sale; or

(b) the property is shipped from an office, store, warehouse, factory, or other place of storage in this State and (1) the purchaser is the United States Government or (2) the taxpayer is not taxable in the State of the purchaser.

17. Sales, other than sales of tangible personal property, are in this State if:

(a) the income-producing activity is performed in this State; or

(b) the income-producing activity is performed both in and outside this State and a greater proportion of the income-producing activity is performed in this State than in any other State, based on costs of performance.

18. If the allocation and apportionment provisions of this Article do not fairly represent the extent of the taxpayer's business activity in this State, the taxpayer may petition for or the tax administrator may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(a) separate accounting;

(b) the exclusion of any one or more of the factors;

(c) the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this State; or

(d) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

Article V. Elements of Sales and Use Tax Laws.

Tax Credit.

1. Each purchaser liable for a use tax on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by him with respect to the same property to another State and any subdivision thereof. The credit shall be applied first against the amount of any use tax due the State, and any unused portion of the credit shall then be applied against the amount of any use tax due a subdivision.

Exemption Certificates. Vendors May Rely.

2. Whenever a vendor receives and accepts in good faith from a purchaser a resale or other exemption certificate or other written evidence of exemption authorized by the appropriate State or subdivision taxing authority, the vendor shall be relieved of liability for a sales or use tax with respect to the transaction.

Article VI. The Commission.

Organization and Management.

1. (a) The Multistate Tax Commission is hereby established. It shall be composed of one "member" from each party State who shall be the head of the State agency charged with the administration of the types of taxes to which this compact applies. If there is more than one such agency, the State shall provide by law for the selection of the Commission member from the heads of the relevant agencies. State law may provide that a member of

the Commission be represented by an alternate, but only if there is on file with the Commission written notification of the designation and identity of the alternate. The Attorney General of each party State or his designee, or other counsel if the laws of the party State specifically provide, shall be entitled to attend the meetings of the Commission, but shall not vote. Such Attorneys General, designees, or other counsel shall receive all notices of meetings required under paragraph 1(e) of this Article.

(b) Each party State shall provide by law for the selection of representatives from its subdivisions affected by this compact to consult with the Commission member from that State.

(c) Each member shall be entitled to one vote. The Commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the total number of members.

(d) The Commission shall adopt an official seal to be used as it may provide.

(e) The Commission shall hold an annual meeting and such other regular meetings as its bylaws may provide and such special meetings as its Executive Committee may determine. The Commission bylaws shall specify the dates of the annual and any other regular meetings and shall provide for the giving of notice of annual, regular and special meetings. Notices of special meetings shall include the reasons therefor and an agenda of the items to be considered.

(f) The Commission shall elect annually, from among its members, a Chairman, a Vice Chairman and a Treasurer. The Commission shall appoint an Executive Director who shall serve at its pleasure, and it shall fix his duties and compensation. The Executive Director shall be Secretary of the Commission. The Commission shall make provision for the bonding of such of its officers and employees as it may deem appropriate.

(g) Irrespective of the civil service, personnel or other merit system laws of any party State, the Executive Director shall appoint or discharge such personnel as may be necessary for the performance of the functions of the Commission and shall fix their duties and compensation. The Commission bylaws shall provide for personnel policies and programs.

(h) The Commission may borrow, accept or contract for the services of personnel from any State, the United States, or any other governmental entity.

(i) The Commission may accept for any of its purposes and functions any and all donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any governmental entity, and may utilize and dispose of the same.

(j) The Commission may establish one or more offices for the transacting of its business.

(k) The Commission shall adopt bylaws for the conduct of its business. The Commission shall publish its bylaws in convenient form and shall file a copy of the bylaws and any amendments thereto with the appropriate agency or officer in each of the party States.

(l) The Commission annually shall make to the Governor and legislature of each party State a report covering its activities for the preceding year. Any donation or grant accepted by the Commission or services borrowed shall be reported in the annual report of the Commission and shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender. The Commission may make additional reports as it may deem desirable.

Committees.

2. (a) To assist in the conduct of its business when the full Commission is not meeting, the Commission shall have an Executive Committee of seven members, including the Chairman, Vice Chairman, Treasurer and four other members elected annually by the Commission. The Executive Committee, subject to the provisions of this compact and consistent with the policies of the Commission, shall function as provided in the bylaws of the Commission.

(b) The Commission may establish advisory and technical committees, membership on which may include private persons and public officials, in furthering any of its activities. Such committees may consider any matter of concern to the Commission, including problems of special interest to any party State and problems dealing with particular types of taxes.

(c) The Commission may establish such additional committees as its bylaws may provide.

Powers.

3. In addition to powers conferred elsewhere in this compact, the Commission shall have power to:

(a) Study State and local tax systems and particular types of State and local taxes.

(b) Develop and recommend proposals for an increase in uniformity or compatibility of State and local tax laws with a view toward encouraging the simplification and improvement of State and local tax law and administration.

(c) Compile and publish such information as would, in its judgment, assist the party States in implementation of the compact and taxpayers in complying with State and local tax laws.

(d) Do all things necessary and incidental to the administration of its functions pursuant to this compact.

Finance.

4. (a) The Commission shall submit to the Governor or designated officer or officers of each party State a budget of its estimated expenditures for such period as may be required by the laws of that State for presentation to the legislature thereof.

(b) Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the party States. The total amount of appropriations required under any such budget shall be apportioned among the party States as follows: one-tenth in equal shares; and the remainder in proportion to the amount of revenue collected by each party State and its subdivisions from income taxes, capital stock taxes, gross receipts taxes, sales and use taxes. In determining such amounts, the Commission shall employ such available public sources of information as, in its judgment, present the most equitable and accurate comparisons among the party States. Each of the Commission's budgets of estimated expenditures and requests for appropriations shall indicate the sources used in obtaining information employed in applying the formula contained in this paragraph.

(c) The Commission shall not pledge the credit of any party State. The Commission may meet any of its obligations in whole or in part with funds available to it under paragraph 1 (i) of this Article; provided that the Commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it under paragraph 1 (i), the Commission shall not incur any obligation prior to the allotment of funds by the party States adequate to meet the same.

(d) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Commission.

(e) The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the party States and by any persons authorized by the Commission.

(f) Nothing contained in this Article shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

Article VII. Uniform Regulations and Forms.

1. Whenever any two or more party States or subdivisions of party States have uniform or similar provisions of law relating to an income tax, capital stock tax, gross receipts tax, or sales or use tax, the Commission may adopt uniform regulations for any phase of the administration of such law, including assertion of jurisdiction to tax or prescribing uniform tax forms. The Commission may also act with respect to the provisions of Article IV of this compact.

2. Prior to the adoption of any regulation, the Commission shall:

(a) As provided in its bylaws, hold at least one public hearing on due notice to all affected party States and subdivisions thereof and to all taxpayers and other persons who have made timely request of the Commission for advance notice of its regulation-making proceedings.

(b) Afford all affected party States and subdivisions and interested persons an opportunity to submit relevant written data and views, which shall be considered fully by the Commission.

3. The Commission shall submit any regulations adopted by it to the appropriate officials of all party States and subdivisions to which they might apply. Each such State and subdivision shall consider any such regulation for adoption in accordance with its own laws and procedures.

Article VIII. Interstate Audits.

1. This Article shall be in force only in those party States that specifically provide therefor by statute.

2. Any party State or subdivision thereof desiring to make or participate in an audit of any accounts, books, papers, records or other documents may request the Commission to perform the audit on its behalf. In responding to the request, the Commission shall have access to and may examine, at any reasonable time, such accounts, books, papers, records, and other documents and any relevant property or stock of merchandise. The Commission may enter into agreements with party States or their subdivisions for assistance in performance of the audit. The Commission shall make charges, to be paid by the State or local government or governments for which it performs the service, for any audits performed by it in order to reimburse itself for the actual costs incurred in making the audit.

3. The Commission may require the attendance of any person within the State where it is conducting an audit or part thereof

at a time and place fixed by it within such State for the purpose of giving testimony with respect to any account, book, paper, document, other record, property or stock of merchandise being examined in connection with the audit. If the person is not within the jurisdiction, he may be required to attend for such purpose at any time and place fixed by the Commission within the State of which he is a resident.

4. The Commission may apply to any court having power to issue compulsory process for orders in aid of its powers and responsibilities pursuant to this Article, and any and all such courts shall have jurisdiction to issue such orders. Failure of any person to obey any such order shall be punishable as contempt of the issuing court. If the party or subject matter on account of which the Commission seeks an order is within the jurisdiction of the court to which application is made, such application may be to a court in the State or subdivision on behalf of which the audit is being made or a court in the State in which the object of the order being sought is situated.

5. The Commission may decline to perform any audit required if it finds that its available personnel or other resources are insufficient for the purpose or that, in the terms requested, the audit is impracticable of satisfactory performance. If the Commission, on the basis of its experience, has reason to believe that an audit of a particular taxpayer, either at a particular time or on a particular schedule, would be of interest to a number of party States or their subdivisions, it may offer to make the audit or audits, the offer to be contingent upon sufficient participation therein as determined by the Commission.

6. Information obtained by any audit pursuant to this Article shall be confidential and available only for tax purposes to party States, their subdivisions or the United States. Availability of information shall be in accordance with the laws of the States or subdivisions on whose account the Commission performs the audit and only through the appropriate agencies or officers of such States or subdivisions. Nothing in this Article shall be construed to require any taxpayer to keep records for any period not otherwise required by law.

7. Other arrangements made or authorized pursuant to law for cooperative audit by or on behalf of the party States or any of their subdivisions are not superseded or invalidated by this Article.

8. In no event shall the Commission make any charge against a taxpayer for an audit.

9. As used in this Article, "tax," in addition to the meaning ascribed to it in Article II, means any tax or license fee imposed in whole or in part for revenue purposes.

Article IX. Arbitration.

1. Whenever the Commission finds a need for settling disputes concerning apportionments and allocations by arbitration, it may adopt a regulation placing this Article in effect, notwithstanding the provisions of Article VII.

2. The Commission shall select and maintain an Arbitration Panel composed of officers and employees of State and local governments and private persons who shall be knowledgeable and experienced in matters of tax law and administration.

3. Whenever a taxpayer who has elected to employ Article IV, or whenever the laws of the party State or subdivision thereof are substantially identical with the relevant provisions of Article IV, the taxpayer, by written notice to the Commission and to each party State or subdivision thereof that would be affected, may secure arbitration of an apportionment or allocation if he is dissatisfied with the final administrative determination of the tax agency of the State or subdivision with respect thereto on the ground that it would subject him to double or multiple taxation by two or more party States or subdivisions thereof. Each party State and subdivision thereof hereby consents to the arbitration as provided herein, and agrees to be bound thereby.

4. The Arbitration Board shall be composed of one person selected by the taxpayer, one by the agency or agencies involved, and one member of the Commission's Arbitration Panel. If the agencies involved are unable to agree on the person to be selected by them, such person shall be selected by lot from the total membership of the Arbitration Panel. The two persons selected for the Board in the manner provided by the foregoing provisions of this paragraph shall jointly select the third member of the Board. If they are unable to agree on the selection, the third member shall be selected by lot from among the total membership of the Arbitration Panel. No member of a Board selected by lot shall be qualified to serve if he is an officer or employee of or is otherwise affiliated with any party to the arbitration proceeding. Residence within the jurisdiction of a party to the arbitration proceeding shall not constitute affiliation within the meaning of this paragraph.

5. The Board may sit in any State or subdivision party to the proceeding, in the State of the taxpayer's incorporation, residence or domicile, in any State in which the taxpayer does business, or in any place that it finds most appropriate for gaining access to evidence relevant to the matter before it.

6. The Board shall give due notice of the times and places of its hearings. The parties shall be entitled to be heard, to present evidence, and to examine and cross-examine witnesses. The Board shall act by majority vote.

7. The Board shall have power to administer oaths, take

testimony, subpoena and require the attendance of witnesses and the production of accounts, books, papers, records, and other documents, and issue commissions to take testimony. Subpoenas may be signed by any member of the Board. In case of failure to obey a subpoena, and upon application by the Board, any judge of a court of competent jurisdiction of the State in which the Board is sitting or in which the person to whom the subpoena is directed may be found may make an order requiring compliance with the subpoena, and the court may punish failure to obey the order as a contempt.

8. Unless the parties otherwise agree, the expenses and other costs of the arbitration shall be assessed and allocated among the parties by the Board in such manner as it may determine. The Commission shall fix a schedule of compensation for Arbitration Board members and of other allowable expenses and costs. No officer or employee of a State or local government who serves as a member of a Board shall be entitled to compensation therefor unless he is required on account of his service to forego the regular compensation attaching to his public employment, but any such Board member shall be entitled to expenses.

9. The Board shall determine the disputed apportionment or allocation and any matters necessary thereto. The determinations of the Board shall be final for purposes of making the apportionment or allocation, but for no other purpose.

10. The Board shall file with the Commission and with each tax agency represented in the proceeding: the determination of the Board; the Board's written statement of its reasons therefor; the record of the Board's proceedings; and any other documents required by the arbitration rules of the Commission to be filed.

11. The Commission shall publish the determinations of Boards together with the statements of the reasons therefor.

12. The Commission shall adopt and publish rules of procedure and practice and shall file a copy of such rules and of any amendment thereto with the appropriate agency or officer in each of the party States.

13. Nothing contained herein shall prevent at any time a written compromise of any matter or matters in dispute, if otherwise lawful, by the parties to the arbitration proceedings.

Article X. Entry Into Force and Withdrawal.

1. This compact shall enter into force when enacted into law by any seven States. Thereafter, this compact shall become effective as to any other State upon its enactment thereof. The Commission shall arrange for notification of all party States whenever there is a new enactment of the compact.

2. Any party State may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a party State prior to the time of such withdrawal.

3. No proceeding commenced before an Arbitration Board prior to the withdrawal of a State and to which the withdrawing State or any subdivision thereof is a party shall be discontinued or terminated by the withdrawal, nor shall the Board thereby lose jurisdiction over any of the parties to the proceeding necessary to make a binding determination therein.

Article XI. Effect on Other Laws and Jurisdiction.

Nothing in this compact shall be construed to:

(a) Affect the power of any State or subdivision thereof to fix rates of taxation, except that a party State shall be obligated to implement Article III 2 of this compact.

(b) Apply to any tax or fixed fee imposed for the registration of a motor vehicle or any tax on motor fuel, other than sales tax; provided that the definition of "tax" in Article VIII 9 may apply for the purposes of that Article and that the Commission's powers of study and recommendation pursuant to Article VI 3 may apply.

(c) Withdraw or limit the jurisdiction of any State or local court or administrative officer or body with respect to any person, corporation or other entity or subject matter, except to the extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another agency or body.

(d) Supersede or limit the jurisdiction of any court of the United States.

Article XII. Construction and Severability.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any State or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any State participating therein, the compact shall remain in full force and effect as to the remaining party States and in full force and effect as to the State affected as to all severable matters.

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MULTISTATE TAX COMPACT ENACTMENTS

APPENDIX B

Forty-five States (including the District of Columbia) currently participate in the activities of the Multistate Tax Commission. The Commission currently has twenty-one Compact Members, two Sovereignty Members, and nineteen Associate Members. Three additional States are members of special MTC projects.

Compact Members

States attain full membership by enacting the Multistate Tax Compact, an interstate compact among the participating States. Compact Member States are diverse both in size and in the composition of their revenue systems.

Sovereignty Members

States join as Sovereignty Members to help shape and support the Commission's efforts to preserve state taxing authority and improve multistate tax policy and administration. These States receive benefits similar to Compact Membership but do not require enactment of the Compact.

Associate Members

The number of Associate Members has grown in recent years and represents increasing interest in the activities of the Commission. Several of the Associate Members participate in and help finance one or more of the following MTC programs and projects: Joint Audit Program, National Nexus Program, Property Tax Fairness Project, and Deregulation, Industry Change, and Taxation Project.

COMPACT MEMBERSHIP	DATE OF MEMBERSHIP
Kansas	August 4, 1967
New Mexico	August 4, 1967
Texas	August 4, 1967
Washington	August 4, 1967
Oregon	September 13, 1967
Missouri	October 13, 1967
Arkansas	January 1, 1968
Idaho	April 10, 1968
Hawaii	May 7, 1968
Colorado	July 1, 1968
Utah	May 13, 1969
Montana	July 1, 1969
North Dakota	July 1, 1969
Alaska	July 1, 1970
Michigan	July 1, 1970
California	January 1, 1976
South Dakota	July 1, 1976
Alabama	October 31, 1977
District of Columbia	July 1, 1980
Minnesota	July 1, 1982
Maine	September 19, 1997

SOVEREIGNTY MEMBERSHIP	DATE OF MEMBERSHIP
Florida	August 6, 1997
Wyoming	April 7, 2000

ASSOCIATE MEMBERSHIP	DATE OF MEMBERSHIP
Massachusetts	January 23, 1968
Pennsylvania	January 23, 1968
Arizona	June 7, 1968
Tennessee	June 20, 1969
Louisiana	October 27, 1969
Maryland	July 27, 1970
New Jersey	October 14, 1970
Georgia	June 11, 1971
Ohio	June 11, 1971
New Hampshire	October 27, 1989
Connecticut	August 31, 1990
West Virginia	August 2, 1991
Wisconsin	May 5, 1994
North Carolina	April 28, 1995
Illinois	April 25, 1996
Kentucky	October 31, 1997
Oklahoma	May 14, 1998
Mississippi	November 18, 1998
South Carolina	November 18, 1998

PROJECT MEMBERSHIP	PROJECT PARTICIPATION
Iowa	National Nexus Program
Nebraska	Joint Audit Program National Nexus Program
Rhode Island	National Nexus Program

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MULTISTATE TAX COMMISSION PROGRAM PARTICIPATION

APPENDIX C

STATE	JOINT AUDIT PROGRAM		NATIONAL NEXUS PROGRAM	[illegible]	[illegible]
	SALES	INCOME			
Alabama	X	X	X	X	X
Alaska			X		
Arizona			X	X	
Arkansas	X	X	X	X	X
California SBE			X	X	
California FTB			X		
Colorado	X	X	X		X
Connecticut			X		
Delaware					
District of Columbia	X	X	X		
Florida			X		
Georgia					
Hawaii	X	X	X		
Idaho	X	X	X	X	X
Illinois					
Indiana					
Iowa			X		
Kansas	X	X	X	X	
Kentucky	X	X	X		X
Louisiana			X		
Maine	X	X	X		
Maryland		X	X		
Massachusetts	X		X		
Michigan	X		X		
Minnesota	X	X	X		
Mississippi					
Missouri	X	X	X		X
Montana		X	X	X	X
Nebraska		X	X		
Nevada					
New Hampshire			X		
New Jersey	X	X	X		
New Mexico	X	X	X		X
New York					
North Carolina			X		
North Dakota	X	X	X	X	
Ohio			X		
Oklahoma					
Oregon		X	X		X
Pennsylvania					
Rhode Island			X		
South Carolina			X		
South Dakota			X		
Tennessee					
Texas			X		
Utah	X	X	X	X	
Vermont					
Virginia					
Washington	X		X	X	X
West Virginia			X		
Wisconsin			X		
Wyoming			X		

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MULTISTATE TAX COMMISSION MEMBER STATE REPRESENTATIVES

APPENDIX D

Representatives of Compact Member States

Alabama
Michael L. Patterson
Commissioner

George E. Mingledorff, III
Assistant Commissioner
(Alternate)

Michael E. Mason
Director of Tax Policy
(Alternate)

Alaska
Wilson L. Condon
Commissioner

Larry E. Meyers
Deputy Director
(Alternate)

Arkansas
Timothy J. Leathers
Deputy Director and Revenue Commissioner

John H. Theis
Assistant Commissioner of Revenue
(Alternate)

California, FTB
Gerald H. Goldberg
Executive Officer

Brian W. Toman
Chief Counsel
(Alternate)

California, SBE
James E. Speed
Executive Director

Timothy W. Boyer
Chief Counsel
(Alternate)

Colorado
Fred Fisher
Executive Director

John Martin Vecchiarelli
Senior Director
(Alternate)

District of Columbia
Natwar M. Gandhi
Deputy Chief Financial Officer

Greg Matson
Acting Chief Counsel
(Alternate)

Hawaii
Ray K. Kamikawa
Director of Taxation

Ronald Randall
Taxation Compliance Administrator
(Alternate)

Idaho
R. Michael Southcombe
Chairman

Phil Aldape
Division Administrator
(Alternate)

Kansas
Karla Pierce
Secretary of Revenue

Shirley Klenda Sicilian
Director
(Alternate)

Maine
Anthony J. Neves
Executive Director

David E. Bauer
General Counsel
(Alternate)

Michigan
Mark Murray
State Treasurer

June Summers Haas
Acting Commissioner of Revenue
(Alternate)

Nancy Taylor
Deputy Treasurer
(Alternate)

David M. Kirvan
Deputy Revenue Commissioner
(Alternate)

Minnesota
Matthew G. Smith
Commissioner

Jennifer L. Engh
Assistant Commissioner
(Alternate)

Missouri
Quentin Wilson
Director

Carol Russell Fischer
Division Director
(Alternate)

Montana
Mary Bryson
Director

Don Hoffman
Process Lead
(Alternate)

New Mexico
John J. Chavez
Cabinet Secretary

Marilyn L. Hill
Division Director II
(Alternate)

North Dakota
Rick Clayburgh
State Tax Commissioner

Robert W. Wirtz
Chief Counsel
(Alternate)

Oregon
Elizabeth Harchenko
Director

John C. Scott
Administrator
(Alternate)

South Dakota
Gary R. Viken
Secretary

Bruce M. Christensen
Audit Director
(Alternate)

Texas
Carole Keeton Rylander
Comptroller

Billy C. Hamilton
Deputy Comptroller
(Alternate)

Utah
Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner
(Alternate)

Rodney G. Marrelli
Executive Director
(Alternate)

Washington
Frederick C. Kiga
Director

William N. Rice
Deputy Director
(Alternate)

Representatives of Sovereignty Member States

Florida
James A. Zingale
Executive Director

Bebe Blount
Director
(Alternate)

Wyoming
Johnnie Burton
Director

Keith Wilson
Administrator
(Alternate)

Representatives of Associate Member States

Arizona
Mark W. Killian
Director

Stephen B. Shiffrin
Asst. Director
(Alternate)

Connecticut
Gene Gavin
Commissioner

Richard D. Nicholson
General Counsel
(Alternate)

Georgia
T. Jerry Jackson
Commissioner

Illinois
Glen L. Bower
Director

Kentucky
Michael Haydon
Secretary

Jennifer C. Hays
Director
(Alternate)

Louisiana
Brett Crawford
Secretary

Mr. Alva C. Smith
Asst. Secretary, Group II
(Alternate)

Maryland
William Donald Schaefer
Comptroller

Stephen M. Cordi
Deputy Comptroller
(Alternate)

Massachusetts
Frederick A. Laskey
Commissioner

Mississippi
Ed Buelow, Jr.
Chairman and Commissioner

Bobby R. Long
Chief Attorney
(Alternate)

New Hampshire
Stanley R. Arnold
Commissioner

Maurice P. Gilbert
Director of Audit
(Alternate)

New Jersey
Robert K. Thompson
Director

Richard W. Schrader
Asst. Director
(Alternate)

Ohio
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Commissioner

James J. Lawrence
Deputy Tax Commissioner
(Alternate)

Oklahoma
Robert E. Anderson
Chairman

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Administrator
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Pennsylvania

Robert A. Judge, Sr.
Secretary of Revenue

Larry P. Williams
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South Carolina

Elizabeth Carpentier
Director

Otis Rawl
Deputy Executive Administrator
(Alternate)

Tennessee

Ruth E. Johnson
Commissioner

Michael L. Cole
Deputy Commissioner
(Alternate)

West Virginia

Joseph M. Palmer
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Wisconsin

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Representatives of Project Member States

Iowa

Gerald D. Bair
Director

Nebraska

Mary Jane Egr
State Tax Commissioner

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Rhode Island

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Tax Administrator

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Assistant Tax Administrator
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MULTISTATE TAX COMMISSION STAFF AND CONSULTANTS

APPENDIX E

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Director of Policy Research

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Loretta King
Administrative Assistant

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Paull Mines
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Teresa Nelson
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Diane Simon-Queen
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Antonio Soto
Database Coordinator

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Joint Audit Program

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John Caporale
Auditor

Jackie Dalenberg
Auditor

Karen Drolet
Auditor

Cathy Felix
Supervising Auditor

Bernard Freese, Jr.
Auditor

George Fung
Auditor

Marie Graham
Auditor

Harold Jennings
Field Audit Supervisor

Don Johnson
Auditor

Daniel Keating
Auditor

Paul Mond
Auditor

Samuel Moon
Computer Audit Specialist

Kenneth Morrow
Auditor

Kathy Owens
Auditor

Jerry Schleeter
Administrative Assistant

Larry Shinder
Auditor

Jeff Silver
Supervising Auditor

Rachel Stephens
Auditor

Steve Yang
Field Audit Supervisor

MULTISTATE TAX COMMISSION
REPORT OF CERTIFIED PUBLIC ACCOUNTANTS

APPENDIX F

MULTISTATE TAX COMMISSION

Financial Statements
and
Report of Independent Certified Public Accountants
June 30, 2000 and 1999

Linton, Shafer & Company, P.A.
CERTIFIED PUBLIC ACCOUNTANTS

MULTISTATE TAX COMMISSION
Table of Contents
June 30, 2000 and 1999

Linton, Shafer & Company, P.A.
CERTIFIED PUBLIC ACCOUNTANTS
BUSINESS AND FINANCIAL ADVISORS

More than 35 Years
Minding Your Business
Annapolis • Rockville • Frederick

PRINCIPALS & ASSOCIATES

Corinne M. Bradac, CPA
Kevin R. Hessler, CPA
Donald C. Linton, CPA, CFP
Joseph M. McCathran, CPA
Michele R. Mills, CPA
Ronald W. Shafer, CPA

OF COUNSEL

Alan S. Zipp, CPA, ESQ.

Report of Independent Certified Public Accountants

Executive Committee
Multistate Tax Commission

We have audited the accompanying balance sheets of Multistate Tax Commission as of June 30, 2000 and 1999 and the related statements of revenue and expenses and changes in fund balance and cash flows for the years then ended. These financial statements are the responsibility of the Commission's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Multistate Tax Commission as of June 30, 2000 and 1999, and the results of its operations and its cash flows for the years then ended in conformity with generally accepted accounting principles.

Linton, Shafer & Company

October 11, 2000

INPACT
INTERNATIONAL NETWORK OF PROFESSIONAL ACCOUNTANTS
AFFILIATE

932 Hungerford Drive, Suite 13 • Rockville, Maryland 20850 • 301-340-0084 • FAX 301-424-1120
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MULTISTATE TAX COMMISSION

Balance Sheets

June 30,

ASSETS

	2000	1999
Current Assets		
Cash and cash equivalents	$ 1,224,430	$ 3,300,182
U.S. Treasury bills	1,574,391	
Accounts receivable		
Members	16,514	-
Special projects	4,000	15,366
Prepaid expenses	41,689	33,910
Total Current Assets	2,861,024	3,349,458
Property and Equipment - at Cost		
Office furniture and equipment	847,548	884,050
Leasehold improvements	84,305	84,305
Less: accumulated depreciation and amortization	(554,911)	(553,695)
Property and Equipment - Net	376,942	414,660
Other Assets		
Accounts receivable - other	-	13,500
Expense account advances	7,550	7,950
Deposits	7,629	7,629
Total Other Assets	15,179	29,079
TOTAL ASSETS	$ 3,253,145	$ 3,793,197

LIABILITIES

	2000	1999
Current Liabilities		
Accounts payable	$ 108,880	$ 72,483
Payroll taxes withheld and accrued	26,810	23,572
Accrued salaries and vacation pay	194,446	164,366
Current portion of capital lease obligation	11,923	11,400
Deferred assessments and audit reimbursements	246,860	682,956
Total Current Liabilities	588,919	954,777
Long-Term Liabilities		
Capital lease obligation	6,165	18,088
Total Long-Term Liabilities	6,165	18,088
TOTAL LIABILITIES	595,084	972,865
Commitments and Contingencies - Note 3		
Fund Balances		
Unappropriated	961,007	1,192,816
Appropriated	763,324	638,649
Restricted	933,730	988,927
Total Fund Balances	2,658,061	2,820,392
TOTAL LIABILITIES AND FUND BALANCES	$ 3,253,145	$ 3,793,257

The accompanying notes are an integral part of these statements.

MULTISTATE TAX COMMISSION
Statements of Revenue and Expenses
and Changes in Fund Balance
Unappropriated Funds
For the Years Ended June 30,

	2000	1999
Revenue		
Assessments	$ 3,229,116	$ 3,051,040
Interest	148,216	134,712
Other income		
Contract	398,185	376,740
Training fees	58,291	39,725
Miscellaneous	36,398	32,505
Total Revenue	3,870,206	3,634,722
Expenses		
Accounting	10,547	10,063
Bonds and insurance	13,721	12,963
Conferences	87,417	134,267
Professional services	341,356	326,145
Depreciation and amortization	116,371	109,787
Employee benefits	346,170	317,569
Miscellaneous	9,639	10,246
Office supplies	48,944	39,263
Pension plan and retirement provision	240,884	219,881
Postage	31,425	31,052
Printing and duplicating	34,631	21,758
Publications and electronic resources	69,124	61,229
Recruitment	5,738	13,344
Rent	197,319	190,148
Repairs and maintenance	10,911	9,162
Salaries	2,054,804	1,811,124
Telephone	75,332	74,172
Temporary help	29,669	2,861
Travel	337,390	337,449
Training	9,851	27,220
Transfer for data base design	-	(25,329)
Allocation of administrative expenses	(165,246)	(134,409)
Total Expenses	$ 3,910,087	$ 3,610,770

(continued)

MULTISTATE TAX COMMISSION
Statements of Revenue and Expenses
and Changes in Fund Balance
Unappropriated Funds
For the Years Ended June 30,

	2000	1999
Excess of Revenue Over (Under) Expenses	$ (49,831)	$ 23,952
Transfer from Restricted Fund Balance	-	105,000
Transfer to Restricted Fund Balance	(57,303)	-
Transfer to Appropriated Fund Balance	(250,000)	(417,000)
Transfer from Appropriated Fund Balance	125,325	144,511
Total Amount Transferred	(181,978)	(167,489)
FUND BALANCE Beginning of Year	1,192,816	1,336,353
FUND BALANCE End of Year	$ 961,007	$ 1,192,816

The accompanying notes are an integral part of these financial statements.

MULTISTATE TAX COMMISSION
Statements of Changes in Fund Balances
Appropriated Funds
For the Years Ended June 30,

	Automation Plan	Future of Multistate Taxation Project	[illegible] Study
Fund Balance - June 30, 1998	$ 154,160	$ 50,000	$ 9,000
Transfer from Unappropriated Fund Balance	160,000	-	-
Transfer to Unappropriated Fund Balance	(88,215)	(20,655)	(9,000)
Net Amount Transferred (To) From Unappropriated Fund Balance	71,785	(20,655)	(9,000)
Fund Balance - June 30, 1999	225,945	29,345	-
Transfer from Unappropriated Fund Balance	-	-	-
Transfer to Unappropriated Fund Balance	(23,980)	(29,345)	-
Net Amount Transferred (To) From Unappropriated Fund Balance	(23,980)	(29,345)	-
Fund Balance - June 30, 2000	$ 201,965	$ -	$ -

Database Design	Nexus Activities	Membership Development and Relations	Total
$ 73,000	$ 80,000	$ -	$ 153,000
257,000	-	-	257,000
(26,641)	-	-	(26,641)
230,359	-	-	230,359
303,359	80,000	-	383,359
100,000	-	150,000	250,000
(72,000)	-	-	(72,000)
28,000	-	150,000	178,000
$ 331,359	$ 80,000	$ 150,000	$ 561,359

The accompanying notes are an integral part of these statements

MULTISTATE TAX COMMISSION
Statements of Changes in Fund Balance
Restricted Funds
For the Years Ended June 30,

	4R Project	Military Exchange Program	National Nexus Program	Deregulation	Total
Fund Balance - June 30, 1998	$ (747)	$ 5,092	$ 833,879	$ -	$ 838,224
Revenue	52,500	-	667,833	186,873	907,206
Expenses	17,082	-	618,016	16,405	651,503
Excess (Deficiency) of Revenue Over Expenses	35,418	-	49,817	170,468	255,703
Transfer to Unappropriated Fund Balance	-	-	(105,000)	-	(105,000)
Fund Balance - June 30, 1999	34,671	5,092	778,696	170,468	988,927
Revenue	52,500	-	645,063	41,558	739,121
Expenses	2,477	5,092	729,184	114,868	851,621
Excess (Deficiency) of Revenue Over Expenses	50,023	(5,092)	(84,121)	(73,310)	(112,500)
Transfer from Unappropriated Fund Balance	-	-	57,303	-	57,303
Fund Balance - June 30, 2000	$ 84,694	$ -	$ 751,878	$ 97,158	$ 933,730

The accompanying notes are an integral part of these statements.

MULTISTATE TAX COMMISSION

Statements of Cash Flows
For the Years Ended June 30,

	2000	1999
Increase (Decrease) in Cash and Cash Equivalents		
Cash Flows From Operating Activities		
Excess of revenues over (under) expenses	$ (162,331)	$ 279,655
Adjustments to reconcile excess of revenues over (under) expenses to net cash provided by (used in) operating activities		
Depreciation and amortization	120,855	113,631
Loss on disposal of property and equipment	5,540	16,787
Changes in assets and liabilities		
Accounts receivable		
Members	(16,515)	137,584
Audit contracts	-	13,808
Special projects	11,366	12,292
Prepaid expenses	(7,779)	1,310
Noncurrent accounts receivable - other	13,500	2,500
Expense account advances	400	400
Accounts payable	36,397	2,633
Payroll taxes withheld and accrued	3,298	3,004
Accrued salaries and vacation pay	30,080	11,618
Deferred assessments and audit reimbursements	(436,096)	309,508
Net Cash Provided by (Used in) Operating Activities	(401,285)	904,770
Cash Flows From Investing Activities		
Purchase of U.S. Treasury bills	(1,574,391)	-
Purchase of property and equipment	(88,676)	(180,238)
Payments on capital lease	(11,400)	(11,020)
Net Cash Used in Investing Activities	$ (1,674,467)	$ (191,258)

(continued)

MULTISTATE TAX COMMISSION
Statements of Cash Flows
For the Years Ended June 30,

	2000	1999
Net Increase (Decrease) in Cash and Cash Equivalents	$ (2,075,752)	$ 713,512
Cash and Cash Equivalents - Beginning of Year	3,300,182	2,586,670
Cash and Cash Equivalents - End of Year	$ 1,224,430	$ 3,300,182
Supplemental Disclosures		
Income taxes paid	$ -	$ -
Interest paid	$ 1,002	$ 777

The accompanying notes are an integral part of these financial statements.

MULTISTATE TAX COMMISSION
Notes To Financial Statements
June 30, 2000 and 1999

1. Summary of Significant Accounting Policies

The Multistate Tax Commission (the 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 multi-jurisdictional business.

Cash Equivalents

For purposes of the statement of cash flows, the Commission considers all highly liquid instruments purchased with a maturity of three months or less to be cash equivalents.

Accounts Receivable

The Commission considers accounts receivable to be fully collectible; accordingly, no allowance for doubtful accounts is required. If amounts become uncollectible, they will be charged to operations when that determination is made.

Property and Equipment

All property and equipment is stated at cost and depreciated using straight-line and accelerated methods based upon estimated useful lives as follows:

Leasehold Improvements	5 years
Office Furniture and Equipment	5 to 7 years

Expenditures for maintenance and repairs are charged to the appropriate expense accounts as incurred. Expenditures for renewals or betterments which materially extend the useful lives of assets or increase their productivity are capitalized at cost. The costs and related allowances for depreciation of assets retired or otherwise disposed of are eliminated from the accounts. The resulting gains or losses are included in the determination of excess of revenue over expenses.

Deferred Assessments and Audit Reimbursements

Assessments and audit reimbursements are due from the respective states on July lst of each year and cover the following twelve-month period. Assessments received prior to July 1st for the following year are unearned and considered deferred income until recognized as revenue in the following year.

1. Summary of Significant Accounting Policies (Continued)

Income Taxes

In the opinion of legal counsel, the Commission is exempt from Federal income taxes 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.

2. Pension Plan

Effective June 30, 1986, the Commission adopted a defined contribution plan to be funded at a rate of twelve percent of each participating individual's annual salary. To participate in this plan, employees are required to work more than certain pre-determined hourly and monthly levels throughout the plan year. The total pension expense relating to the defined contribution plan for the years ended June 30, 2000 and 1999 was $292,942 and $251,439, respectively.

3. Commitments

The Commission rents its office facilities in Washington, D.C., Texas, New York, and Illinois under lease agreements with terms expiring on various dates through September 30, 2005. These leases provide for the following minimum annual base rentals exclusive of utility charges and certain escalation charges:

Fiscal Year Ended:	Minimum Annual Payment
2001	$ 243,440
2002	139,106
2003	7,056
2004	7,148
2006	7,277

The leases include certain escalation charges based on various factors including utility, operating expense and property tax increases from a base year. Rent expense, exclusive of utility charges and real estate taxes, for the years ended June 30, 2000 and 1999 was $257,572 and $248,564, respectively.

4. Appropriated Fund Balances

During the year ended June 30, 1990, the Future of Multistate Taxation Project was established whereby contributions received are appropriated for use in supporting the long-range planning and research activities of the Commission.

During the year ended June 30, 1996, the Automation Plan was established for the purpose of financing automation improvements. The automation plan would improve audit efficiency through upgraded computers and software, potentially enabling the audit program to undertake computer-assisted audits. The plan would also improve other staff operations through upgraded computers, and upgraded communications among the Commission's offices and the states, and expand training services to states through enhanced computer communications, improved presentation equipment and videoconferencing.

The Commission's executive committee authorized the Database Design fund in the amount of $73,000 during the year ended June 30, 1997. An additional $357,000 has been authorized in subsequent years. The purpose of this fund is to provide support, through professional services, for developing a database design for managing the Commission information resources in a manner that enhances its operations.

The Commission's executive committee authorized the Nexus Activities fund in the amount of $80,000 during the year ended June 30, 1997. The purpose of this fund is to provide support for Commission nexus activities including, a) research and writing on Constitutional nexus issues and b) a reserve for professional services to support work on potential nexus cases in litigation.

The Commission's executive committee authorized the Personnel Study fund in the amount of $9,000 during the year ended June 30, 1998. The purpose of this fund is to provide support for a study of salary levels.

The Commission's executive committee authorized the Membership Development and Relations fund in the amount of $150,000 during the year ended June 30, 2000. The purpose of this fund is to support efforts aimed at increasing membership.

5. Restricted Fund Balances

During the year ended June 30, 1988, the 4R Program was established whereby contributions received are restricted to use for supporting education, lobbying and legal expenses related to this property tax project. The purpose of the project is to provide for research activities as well as to seek favorable changes in Federal laws which are related to property tax restrictions of state and local governments.

5. Restricted Fund Balances (Continued)

During the year ended June 30, 1991, the Unitary Exchange program was established. Contributions are restricted to the development of a clearinghouse for the exchange of information between member states. This program is now ended. The remaining fund balance was refunded to the participating states in the year ending June 30, 2000.

During the year ended June 30, 1991, the National Nexus program was established. This program, funded by participating states, aims to encourage and secure taxpayer compliance with current state laws through a centralized taxpayer registration information service, a liability resolution process and information sharing among member states. The contributions received from the participating states are restricted for this purpose.

During the year ended June 30, 1999, the Deregulation project was established. This project provides technical assistance to help states adapt their tax policies to the deregulation of major industries, with an initial focus on electric utility deregulation. The contributions received from the participating states are restricted for this purpose.

6. TaxNet Governmental Communications Corporation (TaxNet)

TaxNet is a separate corporation organized as a public charity and instrumentality of the states for the purpose of establishing, maintaining and administering an electronic communications network to allow subscriber access to tax information and communication with governmental tax offices. The corporation is managed by a board of directors, which includes, in accordance with its bylaws, the Chair, Vice Chair and Executive Director of Multistate Tax Commission.

Among other things, the Commission assisted in the formation of TaxNet by contributing legal services. The Commission continues to assist TaxNet by contributing other legal services. Such services have not been reflected separately in the accompanying financial statements, because such amounts are not material.

Included in accounts receivable - other is $0 and $13,500 at June 30, 2000 and l999, respectively, due from TaxNet. These amounts represent payments made by the Commission on behalf of TaxNet for which reimbursement has not yet been received.

7. Deferred Compensation Plan

The Commission offers employees a deferred compensation plan in accordance with Internal Revenue Code Section 457. The plan permits employees to defer a portion of their salary until future years. Participation in the plan is optional. The deferred compensation is not available to employees until termination, retirement, death or unforeseeable emergency. In accordance with federal law, participants' deferred compensation under the plan is trusteed and thus shielded against the claims of the creditors of the Commission and therefore, not included in these financial statements.

The Commission believes it has no liability for losses under the plan but does have a duty of due care that would be required of an ordinary prudent investor.

Investments are managed by the plan's trustee under twenty seven investment options or a combination thereof. The participants make the choice of the investment option(s).

8. Allocation of Administrative Expenses

The administrative costs of providing the various programs and other activities have been allocated among the programs and supporting services, based on total operating costs.

9. Use of Estimates

In preparing financial statements in conformity with generally accepted accounting principles, management is required to make estimates and assumptions that affect the reported amounts of assets and liabilities, the reported amounts of revenues and expenses during the reporting period, and disclosures. Actual results could differ from those estimates.

10. Concentration of Credit Risk

The Commission maintains cash balances in excess of $100,000 in a bank in the State of Colorado. The Commission is an eligible account holder under Colorado's "Public Deposit Protection Act of 1975". The purpose of the act is to provide protection of public moneys on deposit in state and national banks in Colorado and beyond that provided by the federal deposit insurance corporation and to ensure prompt payment of deposit liabilities to governmental units in the event of default or insolvency of any such banks.

Linton, Shafer & Company, P.A.
CERTIFIED PUBLIC ACCOUNTANTS
BUSINESS AND FINANCIAL ADVISORS

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**Report of Independent Certified Public Accountants
on Supplementary Information**

Executive Committee
Multistate Tax Commission

Our audit was conducted for the purpose of forming an opinion on the basic financial statements for the year ended June 30, 2000, which are presented in the preceding section of this report. The schedule of expenses for the year ended June 30, 2000, is presented for purposes of additional analysis and is not a required part of the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

Linton, Shafer & Company

October 11, 2000

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MULTISTATE TAX COMMISSION
Schedule of Expenses
For the Year Ended
June 30, 2000

Unappropriated Funds

	General Expenses	Audit Program	Administrative Expenses	Database Design	Total Unappropriated Funds
Accounting	$ 7,153	$ -	$ 3,394	$ -	$ 10,547
Bonds and insurance	-	-	13,721	-	13,721
Conferences	78,484	7,854	1,129	-	87,467
Professional services					
Legal and trustee services	678	-	29,875	75,900	106,453
Legislative	154,297	-	-	-	154,297
Special counsel	30,606	-	-	-	30,606
Depreciation and amortization	525	40,863	74,983	-	116,371
Employee benefits	64,934	197,186	84,050	-	346,170
Miscellaneous	1,612	2,025	6,052	-	9,689
Office supplies	11,535	14,175	18,234	-	43,944
Pension plan and retirement provision	51,837	148,266	49,781	-	249,884
Postage	10,699	8,445	12,281	-	31,425
Printing and duplicating	19,817	3,311	11,503	-	34,631
Publications and electronic resources	18,963	17,205	32,956	-	69,124
Recruitment	-	5,193	545	-	5,738
Rent	42,165	82,363	72,791	-	197,319
Repairs and maintenance	764	6,438	3,709	-	10,911
Salaries	441,661	1,192,997	420,146	-	2,054,804
Telephone	25,570	31,901	17,861	-	75,332
Temporary help	-	-	29,669	-	29,669
Travel	144,151	165,620	27,609	-	337,380
MTC staff training	2,289	3,134	4,428	-	9,851
Outreach program	-	-	-	-	-
Unitary exchange program	-	-	-	-	-
Allocation of administrative expenses	283,648	465,823	(914,717)	-	(165,246)
Total Expenses	$1,441,333	$2,392,804	$ -	$ 75,900	$ 3,910,037

	Restricted Funds				
4R Project	Deregulation	National Nature Program	Unitary Exchange Program	Total Restricted Funds	Total All Funds
$ -	$ -	$ -	$ -	$ -	$ 10,547
-	-	-	-	-	13,721
-	-	8,730	-	8,730	91,147
-	-	2,128	-	2,128	108,581
1,984	855	-	-	2,839	157,136
-		-	-	-	80,606
-	-	4,484	-	4,484	120,855
-	6,759	59,072	-	65,831	412,001
-	-	1,058	-	1,058	10,742
-	33	11,047	-	11,080	55,024
-	7,214	35,844	-	43,058	292,942
-	-	2,245	-	2,245	33,670
-	53	3,405	-	3,458	38,089
-	1,374	14,137	-	15,511	84,635
-	-	-	-	-	5,738
-	9,882	50,371	-	60,253	257,572
-	-	-	-	-	10,911
-	60,823	308,415	-	369,238	2,424,042
-	1,387	5,743	-	7,130	82,462
-	-	35,202	-	35,202	64,371
-	3,602	36,351	-	39,953	377,333
-	325	13,385	-	13,710	28,561
-	-	330	-	330	330
-	-	-	5,002	5,002	5,002
493	22,561	142,192	-	165,246	-
$ 2,477	$ 114,868	$ 729,184	$ 5,002	$ 851,621	$ 4,761,638