

*Multistate
Tax
Commission*

*Report of Activities
for the Year Ending June 30, 1994*



August 12, 1994

MULTISTATE TAX COMMISSION OFFICERS

FY 1993-94

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ACKNOWLEDGMENTS

This report was written by senior Commission staff and consultants, including Alan Friedman, General Counsel, Paull Mines, Deputy General Counsel, William Six, Administrative Officer, Naresh Verma, Computer Systems Manager, Alice Davis, Director of the National Nexus Program, Les Koenig, Director of Audit, Jim Rosapepe and Nancy Donohoe, Legislative Consultants, Michael Mazerov, Director of Policy Research, and Dan Bucks, Executive Director.

Teresa Ruffin, Administrative Assistant, produced the text of the report, Loretta King, Administrative Assistant, designed the cover and folder graphics, and Charmaine Mattis, Executive Assistant, coordinated production and assisted with the editing of the report.

In a larger sense, this report was "written" through the achievements of the dedicated people associated with the Commission: the state participants in the Commission and the MTC staff and consultants. This report records those achievements for the year ending June 30, 1994.

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**REPORT OF THE EXECUTIVE DIRECTOR
FOR THE
YEAR ENDING JUNE 30, 1994**

States confront issues in taxation that arise from the continuing shift to a global, information-based and service-oriented economy. They confront as well demands that their tax policies and practices support administrative and economic efficiency. They face also the challenge of maintaining effective tax systems that treat taxpayers fairly and equitably. Ultimately, States are challenged to defend their sovereign rights in a world that is not always friendly to federalism.

These challenges were described in the report, *Financing State Government in the Nineties*, released in early 1994. The Multistate Tax Commission participated in preparing this report with the National Governors Association, the Federation of Tax Administrators, the National Association of State Budget Officers and the National Conference of State Legislatures. This report is the most comprehensive assessment of the current status of state and local tax systems and of the trends and circumstances that create a need to update those systems to reflect the modern economy.

The Multistate Tax Commission continues to address the "cutting edge" issues arising from these trends and circumstances and conducts effective and efficient compliance programs. The highlights of the past year for the States and the Commission include the following:

- The Commission has played a leading role in seeking protections for state sovereignty as the "Uruguay Round Trade Agreements" are implemented by the United States,
- The U.S. Supreme Court sustained, in the *Barclays* and *Colgate-Palmolive* cases, the constitutionality of the "worldwide combined reporting" method for corporate income tax purposes—a position actively supported by the Commission and its membership in these cases,
- The Commission's National Nexus Program and Joint Audit Program coordinated, on behalf of seventeen States, an agreement with one of the nation's largest direct marketing companies to collect sales and use taxes—an agreement that is expected to generate in excess of \$115 million for these States.

- The U.S. Supreme Court also supported Oregon and the Commission in the *ACF Industries* case—the first high court victory for States in "4-R Act" litigation,
- The Joint Audit Program doubled its efficiency in conducting audits as compared to five years ago,
- The National Nexus Program has assisted States in collecting nearly \$13 million in revenues and in securing commitments for an additional \$77 million in projected revenues since the program was established over three years ago—these numbers translate into a rate of return of 8.5:1 in terms of collections and a startling 60:1 in terms of collections plus projected revenues,
- The Audit Program has enabled States to collect over \$174 million dollars from audits completed in the last eleven years, with additional, active assessments outstanding of over \$113 million—representing a strong 13:1 return for collections and 21:1 for collections plus active assessments,
- At the 1993 Annual Meeting, the Commission approved a recommendation to the States for a model telecommunications tax law and for the apportionment of income earned in the publishing industry—adding to the continuing series of recommendations for service sector and information-based industries,
- In the area of uniform nexus policies—a priority effort designated by the Executive Committee—the Commission has prepared both interim and final updates to its Pub. L. 86-272 Guidelines, with the latter version subject to action at the 1994 Annual Meeting,
- The Commission is nearing action in November, 1994, on one of the most significant uniformity projects in its history—recommendations for a uniform method of apportioning of income earned from financial services,
- The States and the Commission defeated a proposal that could have cost hundreds of millions and even billions of dollars in lost revenue in the form a federal exemption of FCC licensees from state and local taxes,

- The current version of the nearly enacted federal legislation authorizing interstate banking contains provisions to prevent any preemption, direct or indirect, of state and local taxing power.

Additional accomplishments and activities are described in the remainder of this report. These successes and efforts would not be possible were it not for the people who give life to the work of the Commission. The strength of the Commission rests with the tax officials and professionals of the States who guide, participate and support—year in and year out—the work of the Commission, and it rests as well with a talented, dedicated and hard-working staff. The various representatives of the States to the Commission and its committees and the Commission staff are listed in the following section. Working together, these persons ensure that the Commission continues to be an effective instrument of state policy, as it has been for over twenty-five years.

THE ENDS AND MEANS OF THE COMMISSION

Since its origin in the late sixties, the Commission and its Member States have focused on three fundamental principles of state and local taxation:

- ***Tax Fairness and Effectiveness***—the determination of the proper state and local tax payments and obligations of interstate and international enterprises that participate in and benefit from each State's economy.
- ***Efficiency***—minimizing costs of administration and compliance for tax authorities and taxpayers alike, consistent with preserving federalism and achieving tax fairness.
- ***Preserving Federalism***—protecting state tax authority, a core element of sovereignty, from unnecessary and undue federal or international restrictions.

The States, in founding the Commission, committed themselves to supporting and advancing these principles through *voluntary interstate cooperation*. The creation of the Commission forestalled the threat of intrusive Congressional proposals that would have written certain state and local tax policies into federal law. States struck a bargain with Congress: in exchange for protection of state tax sovereignty, several States—through the Multistate Tax

Compact—agreed to work for greater tax uniformity on a voluntary basis. *Voluntary interstate cooperation is the key to reconciling the preservation of federalism with tax fairness, effectiveness and efficiency.*

LOOKING AHEAD—CHALLENGES AND CONCERNS

The threat to state tax sovereignty that arose in the 1960's occurred in the context of interstate commerce. The national economy, having emerged from the Depression and World War II, was fully developed. Economic growth and change was followed by increasing tax conflicts between States and multistate businesses. Similarly, the globalization of economic activity—facilitated by modern technology, falling trade barriers and the growth of international enterprises and institutions—is testing in new and more intensive ways the ends and means of the Commission and its Member States.

The rising volume of international trade and increasing numbers of enterprises engaged in such trade multiplies the potential for state tax issues to arise in the foreign trade context. The use of modern computer and telecommunications technology to do business across state and national boundaries gives increasing importance to issues of taxable nexus. The substitution of electronic records for paper may also render obsolete traditional compliance methods that rely on traditional records. Finally, international politics impinges increasingly on the States both in the form of pressure from federal officials and from foreign governments and interests. All of these factors combine to create new pressures on state and local tax systems.

Among the challenges the Member States and the Commission will likely face in the future are the following:

- ***Engaging States in the International Arena:*** States, both directly and through organizations such as the Commission, will need to monitor developments arising, in general, from the context of international trade and, in particular, from the Uruguay Round Trade Agreements and the World Trade Organization it created. States will need to be prepared, in a variety of contexts, to defend what they consider to be legitimate, equitable and constitutionally-sound tax practices. Further, internally, States will need a mechanism of communication among the various elected officials, executive agencies and legal staffs to ensure that they respond—on a timely and coordinated basis—to issues arising from the trade

agreements and international dispute settlement bodies. More broadly, the States and the Commission need to open a dialogue with the subnational officials of other nations with federal systems to create international understanding of and support for federalism. States will need to find ways of increasing the understanding by federal officials of the significance of federalism to the life of this nation. Finally, States will also need to forge common ground on issues that, because of diverse short-term economic interests, can otherwise divide the States to the ultimate detriment of federalism.

- ***Capitalizing on the Effectiveness of Joint Compliance:*** The Commission's Joint Audit Program and National Nexus Program have proven that joint compliance programs are efficient, effective and equitable. As companies move to electronic means of commerce, the value of states working together will likely increase. At the same time, the current programs do not necessarily yield the same results for all of the states all of the time. The challenge ahead will be to tap the potential of increased joint compliance work, while adapting that jointly conducted work to meet the needs of individual states. In this regard, the Multistate Audit Study Report prepared by Helen Hecht of New Mexico with the advice of an advisory committee chaired by Ernest J. Dronenburg, Jr. of the California Board of Equalization, provides useful guidance for the Commission.
- ***Increasing Voluntary Uniformity in Taxation:*** As the world impinges more and more on state and local tax systems, the value of uniform tax policies and practices for those matters that are sensitive to interstate and international commerce will become increasingly clear. There is strength in numbers, and common tax policies help to forge common interests and action by the States. Greater uniformity in tax policies also facilitates commerce and increases the administrative efficiency of State and local tax systems. The core purpose of the Commission in fostering greater consistency, on a voluntary basis, among the States in their tax policies and practices will be central to protecting federalism in the future.

By working together, States can better meet and respond to the challenges to their tax policies and practices arising from the emerging world economic system. The Commission is prepared to do its part in enabling the States to work together in the interests of tax fairness, administrative efficiency and the preservation of federalism.

Dan R. Bucks
Executive Director

**Representatives of States
to the
Multistate Tax Commission**

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PROTECTING AND IMPROVING STATE TAXATION THROUGH UNIFORM LAWS, REGULATIONS AND PRACTICES

The Multistate Tax Commission through its uniformity initiative seeks to preserve state tax sovereignty while at the same time facilitating voluntary tax compliance by the multijurisdictional taxpayer. The end objective is a state tax system that preserves federalism by developing state taxation that is understandable and administrable for both taxpayers and States, is fair and equitable to competing business segments, avoids duplicative taxation while maintaining full accountability (not taxability), and minimizes after-the-fact assessments.

Commission uniformity projects that have been completed this fiscal year and are ready for consideration of adoption by the party States include—

- Phase II PUB. L. 86-272 Guidelines, more formally known as "Statement of Information Concerning Practices of Multistate Tax Commission and Signatory States Under PUBLIC LAW 86-272 (Phase II)."
- Model Statute Governing Imposition of State Sales Taxes on "Airline Consumables."

Uniformity projects that are reasonably anticipated to be completed by the conclusion of the next fiscal year include—

- Apportionment of Net Income of Financial Institutions;
- Uniform Rules for Classifying Apportionable Income;
- Uniform Rules for Determining the Scope of a Unitary Business; and *perhaps*
- Statement Establishing Uniform Standards for Minimum Contacts (Due Process Clause) Nexus and Substantial (Commerce Clause) Nexus in Transactional Taxation.

A summary of each of these projects is given in greater detail below.

PUB. L. 86-272 GUIDELINES

Completion of the Phase II Pub. L. 86-272 Guidelines highlights the uniformity effort this fiscal year. This project is an element of a priority effort, designated by the MTC Executive Committee in October, 1992, of updating and developing uniform nexus standards. This project, which is the subject of possible Commission adoption at the 1994 Annual Meeting, further updates the Commission's Guideline that was amended last year to reflect the U.S. Supreme Court's decision in *Wisconsin Dept. of Revenue v. William Wrigley, Jr. Co.*, 112 S.Ct. 2447 (1992).

The Phase II Guidelines, as developed by the Commission, address statutory nexus issues that go beyond the express holding of *Wrigley*, including (i) the consequences of a home office, (ii) the consequences of in-state delivery by the seller in its own trucks, (iii) the consequences of sales of tangible personal property (protected activity) that also involve the provision of a service (unprotected activity), (iv) the establishment of a standard for determining taxability for purposes of applying the throw-back rule, and (v) application of either the *Joyce* rule or the *Finnigan* rule, *i.e.*, the effect of the taxability of an affiliate on application of the throw-back for other members of same unitary business. Although the Phase II Guideline is not without controversy, the reception that the Guideline has received among States and taxpayers has been generally favorable.

AIRLINE CONSUMABLES

Also subject to possible adoption by the Commission this year is the proposal for state transactional taxation of airline consumables. This long-developing project addresses the knotty issue of how States can effectively impose their sales and use taxes to the provision of items that are either distributed free or sold by airlines during the course of a flight. The complexity of the issue is increased by the restrictive legislation that Congress passed as 49 U.S.C. §1315(f). It remains to be seen whether the proposal will garner sufficient support among the affected party States to be adopted as a uniformity recommendation of the Commission.

FINANCIAL INSTITUTIONS

This project illustrates the potential benefit in some contexts of working cooperatively with industry from the outset in the development of a uniformity recommendation. If industry is motivated to work cooperatively with the Commission and its Party States, it is more likely that the resulting recommendation will have sufficient support to be adopted in the States. In this case, the financial institution industry was motivated to work on a uniform income apportionment formula because they faced increasingly diverse state taxing practices in this area where multijurisdictional taxing principles were not well developed. Cooperative development of a proposal for implementing uniform state legislation with industry increases the prospect that States will not face an uninvited legislative effort in the Congress to preempt or regulate state taxation of financial institutions. Indeed, the ongoing financial institutions project proved invaluable during Congress' recent consideration of the Interstate Banking and Branching Act. The States in seeking language in the Federal legislation to preserve the *status quo* of state taxing powers over financial institutions were able to point to this project as evidence that it would be inappropriate for Congress to establish what the state taxing practices should be for this emerging, multijurisdictional industry.

APPORTIONABLE INCOME

Allied-Signal Inc. v. Director, Div. of Taxation, 112 S.Ct. 2251 (1992) (rejects full apportionability of income and reaffirms unitary based apportionment), represents a significant state victory in determining the constitutional limits of apportionable income in those States that employ the unitary business principle. Unless the States move to occupy the territory staked out for them in *Allied-Signal*, the opportunity to benefit from the U.S. Supreme Court's sensitivity will be lost. This uniformity project does much to fill the void and to dispel the misunderstanding that exists within both state tax agencies and the multijurisdictional taxpayer community. Complete understanding of *Allied-Signal* will dispel aggressive taxpayer positions adopted from the earlier cases of *ASARCO Inc. v. Idaho State Tax Comm'n*, 458 U.S. 307 (1982), and *F.W. Woolworth Co. v. Taxation & Revenue Dept.*, 458 U.S. 354 (1982). *ASARCO* and *Woolworth* are limited to requiring apportionable income to be derived from the same unitary business that is conducted in the taxing State and nothing more. Satisfaction of

this standard is not limited to showing that the payor of the income being classified is in a unitary relationship with the payee. Income is derived from the taxpayer's unitary business in the taxing State, if the asset generating the income itself (without regard to the underlying business of the asset) is held in furtherance of the taxpayer's unitary business.

UNITARY BUSINESS

Although one can conclude, especially following the U.S. Supreme Court's recent decision in *Barclays Bank PLC v. Franchise Tax Bd.*, 114 S.Ct. 2268 (1994), that the unitary business principle is alive and well as a U.S. constitutional jurisprudential notion, the principle remains politically controversial, especially in the context of combined reporting. Undoubtedly, some of the controversy is based on fears over the difficulty of understanding when separate affiliated business entities are in a unitary relationship. This project attempts to bring understanding and clarity to an issue that from the perspective of the States has been unreasonably obfuscated. If the States can successfully accomplish the objective of making the determination of the scope of a unitary business more "user-friendly," the States will also have done much to blunt the single biggest complaint lodged against federal adoption of combined reporting as a solution to the international transfer pricing problem. Federal adoption of unitary based apportionment, including combined reporting, is the key to restoring to state business income taxation a measure of control over manipulative tax planning of multinationals that potentially affects state tax revenues annually in the amount of \$3 billion.

NEXUS FOR TRANSACTIONAL TAXES

While *Quill Corp. v. North Dakota*, 112 S.Ct. 1904 (1992), represented a disappointment for the States, it has become evident through the investigative efforts of the National Nexus Program that many so-called remote sellers have in fact crossed the line of traditional nexus and are, therefore, in no position to resist the obligation to collect and pay either the sales tax or the use tax with respect to their interstate sales. Like the project defining the scope of a unitary business, the States see the development of clear nexus guidelines for transactional taxes as an important step to securing

voluntary compliance. This project aims, therefore, to eliminate the unnecessary confusion that exists over understanding what constitutes sufficient nexus to support the imposition of a state sales and use tax obligation on a remote seller. The constitutional case law on this issue is not as complex as taxpayers have been led to believe. The response of much of industry at last year's Business and Government Dialogue on State Tax Uniformity to this project was positive: *Business simply cannot afford to be confused over this issue, because transactional taxes come off the top without regard to profitability and, if liability exists, the affected business does not want to lose the opportunity to collect from the consumer.* Thus, although one could expect some opposition to the nexus guidelines being developed from the traditional mail-order industry that seeks to preserve its unfair tax advantage over local business, strong support for the guidelines may actually exist among business outside the mail-order industry that faces the uncertainty about knowing exactly when to collect and pay sales and use taxes on interstate sales. The existence of nexus guidelines will afford business the support that it needs to make its tax collection and payment responsibilities stick with its customers.

In addition to the above description of these projects, the attached **"UNIFORMITY MATTERS NOW PENDING BEFORE THE MULTISTATE TAX COMMISSION"** describes the complete range of activities of the uniformity efforts of the Commission for the recent period.

A description of the uniformity efforts of the Commission would not be complete without also mentioning the compliance efforts of the Commission—the Joint Audit Program and the National Nexus Program. Both of these programs demonstrate the advantages of uniformity in both the laws and tax practices of the participating States. The Joint Audit Program experiences time and time again the economies of scale and efficiencies that result from uniform state tax laws and joint cooperative action. States, through joint audits, achieve results that exceed what an individual state can achieve through efficiencies that are inherent in looking at the same issue for multiple States. Taxpayers receive the benefits of an efficient audit and consistency in the treatment of comparable issues in multiple states. In addition, auditing for multiple States assists in the identification of inconsistent reporting positions among the participating States, thereby assisting the multistate tax auditor to identify the issues that should be examined closely. Similar uniformity benefits arise from the National Nexus Program. The Program resolves nexus issues between

taxpayers and States in a consistent and efficient manner. The message is clear in the compliance arena—voluntary state tax uniformity in law and practice promotes efficient and effective state tax administration.

UNIFORMITY MATTERS NOW PENDING
BEFORE
THE MULTISTATE TAX COMMISSION

Uniformity projects of the Multistate Tax Commission follow an established four-level course of development, beginning with discussions in the MTC Uniformity Committee. This Committee seeks informal advice and comments in its deliberations from the participating states, industry, scholars, and other sources. This first level of activity results in a specific uniformity recommendation being made by the Uniformity Committee to the Executive Committee of the Commission. The second level of development involves the Executive Committee's review of the specific uniformity recommendation, the sanctioning of a public hearing on the recommendation made by the Uniformity Committee, and the holding of a public hearing by a hearing officer. The third level is review of the hearing officer's report and the taking of specific action on the uniformity recommendation, as it may have been modified during the hearing process, by the Executive Committee. At this stage, the uniformity recommendation of the hearing officer may be passed on to the full Commission, amended and passed on to the Commission, or disapproved entirely. The fourth level is consideration of the uniformity proposal by the full Commission. Multistate Tax Commission Bylaw 7 provides that no uniformity recommendation will be acted upon by the Commission unless a survey of the affected members indicates that a majority of them will consider its adoption.

With this procedure in mind, the following list describes those uniformity matters now pending before the Multistate Tax Commission and those that have recently been adopted by the Commission. The listing starts with a notation of the uniformity matters most recently adopted by the Commission and thereafter enumerates those pending, starting with the fourth level. The listing is in inverse order, because the first-listed matters are the closest to possible implementation by the Commission's state members and other states and therefore of most potential interest to those interested in state tax matters.

**UNIFORMITY RECOMMENDATIONS RECENTLY ADOPTED
BY THE COMMISSION**

| PROPOSAL | DATE OF ADOPTION |
|--|-------------------------|
| Regulation governing apportionment of income of broadcast media (MTC Reg. IV.18.(h)) | 08/31/90 |
| Uniform protest period statute | 8/31/90 |
| American Bar Association Model S Corporation Income Tax Act ("MoSCITA") w/ six possible modifications | 08/02/91 |
| Statement of Information Concerning Practices of Multistate Tax Commission and Signatory States Under Public Law 86-272 (Phase I)* | 01/22/93* |
| Regulation governing apportionment of income of Publishing (MTC reg. IV.18.(j)) | 07/30/93 |
| Uniform Principles Governing State Transactional Taxation of Telecommunications—Vendee and Vendor Versions | 07/30/93 |

*Adopted by the Executive Committee of the Commission as Phase I of the Public Law 86-272 Project following the decision in *Wisconsin Dept. of Revenue v. William J. Wrigley, Jr. Co.*, 112 S.Ct. 2447 (1992). The Phase I statement is limited to consideration of updating the Commission's prior Public Law 86-272 statement in light of *Wrigley*. Phase II of the same project which is now ongoing is considering an update of the Phase I statement in light of modern developments outside of *Wrigley*. See Uniformity Matters Awaiting Completion of Public Hearing Process for the identification of the Phase II aspects of this Project.

**UNIFORMITY PROPOSALS PENDING BEFORE THE
COMMISSION**
(Level 4)

Statement of Information Concerning Practices of Multistate Tax Commission and Signatory States Under PUBLIC LAW 86-272 (Phase II).

Proposed Model Statute Imposing a Sales Tax on Airline Consumables.

**UNIFORMITY MATTERS AWAITING EXECUTIVE
COMMITTEE ACTION**
(Level 3)

| PROJECT | ANTICIPATED EXECUTIVE COMMITTEE ACTION |
|--|--|
| Attribution of income from the business of a financial institution (proposed MTC.reg. IV.18.(i)) | Executive Committee authorized final development of proposal, subject to finalization of certain technical aspect of the proposal. |

**UNIFORMITY MATTERS AWAITING COMPLETION OF
PUBLIC HEARING PROCESS**
(Level 2)

There are no uniformity matters currently awaiting the completion of the public hearing process.

**UNIFORMITY MATTERS BEFORE THE UNIFORMITY
COMMITTEE**
(Level 1)

CURRENT AGENDA ITEMS--SALES/USE TAXES:

| PROJECT | ACTION | COMMITTEE COMPLETION TARGET | EARLIEST COMM'N ACTION |
|--|--|-----------------------------------|------------------------------|
| Uniform definition of "minimum contacts nexus" and "substantial nexus" <i>post-Quill</i> | model regulation | 10/94 | 1995 |
| Taxation of selected telecommunications based, interstate services | model regulation or possibly legislation | 7/95 | 1996 |

CURRENT AGENDA ITEMS--INCOME/FRANCHISE TAXES:

| PROJECT | ACTION | COMMITTEE COMPLETION TARGET | EARLIEST COMM'N ACTION |
|---|------------------|-----------------------------------|------------------------------|
| Apportionable income <i>post Allied-Signal and Kraft</i> | model regulation | 10/94 | 1995 |
| Uniform definition of a unitary business <i>post Allied-Signal</i> | model regulation | 10/94 | 1995 |
| Income apportionment of telecommunications (Committee committed to studying matter as first step to undertaking possible project) | To be determined | To be determined | To be determined |
| Uniform definition of "minimum contacts nexus" and "substantial nexus" <i>post-Quill</i> | model regulation | 07/95 | 1996 |

PROTECTING STATE TAXATION IN CONGRESS AND WITH FEDERAL AGENCIES

SALES AND USE TAXATION

As a result of efforts by the MTC in conjunction with FTA, state and local groups and supportive retailers, Senator Dale Bumpers (D, AR), Chairman of the Senate Small Business Committee, introduced a mail order bill, S. 1825—Tax Fairness for Main Street Business Act of 1994 on February 3. So far, the groups supporting this effort have succeeded in signing on 11 cosponsors to the Bumpers bill. Efforts are underway for a corresponding House bill. The Senate Small Business Committee held a hearing on the Bumpers bill on April 13th, with representatives of the retail industry and state and local governments testifying in support of the bill. To gain grassroots support of this legislation, the MTC and the FTA have designed an Action Agenda to organize state coalitions.

TELECOMMUNICATIONS

MTC and its Member States waged a successful effort in late summer 1993 to defeat language included in the FY 1994 Budget Reconciliation Act by the cellular telephone industry to preempt state and local taxing authority over their property. Legislative efforts to defeat the language included working directly with the states to lobby members of the budget conference committee on the issue. In addition, the MTC encouraged the National Conference of State Legislatures, National Governors Association, and National League of Cities to write letters urging the conference committee to reject the language.

This spring, at the request of the House Energy and Commerce Committee staff, the MTC worked with two industry groups to assure that their amendments to the "information superhighway" legislation did not preempt state and local tax authority. In the case of the MFS Communications, a telephone company offering services to business, the MTC and allied groups negotiated language for their amendment so that it would not preempt state taxing authority and would limit local authority in ways acceptable to the local government associations. This language became part of the House version of the bill that passed in June. Currently, the MTC is working to accomplish similar protection in an amendment sought by the direct broadcast

satellite industry in the Senate version of the bill. The proposal being negotiated would also apply similar aspects of the Bumpers bill to this industry. Senate Committee Action is expected to take place at the end of July, 1994.

BARCLAYS BANK CASE

The U.S. Supreme Court, in a recent 7-2 decision, upheld California's use of worldwide combined reporting as constitutional. The *Barclays* case is discussed in further detail in the next section dealing with court cases. However, in the foreign and interstate commerce area, there is often an important interplay between Congress, the Executive and the courts. The Commissioners efforts stretching over two decades to defend the right of states to use worldwide unitary reporting played a role in the decision. The Senate defeat of the U.K.-U.S. Tax Treaty in 1978, at the urging of the Commission and its Member States combined with Congressional objection of restrictions on worldwide unitary were key factors in the decision. Justice Ginsburg, in her opinion, stated that because of this history, "Congress has implicitly permitted the state to use the world wide combined reporting method." The State of California's victory in the *Barclays* case was paved also by the success of California and the MTC in persuading the President to direct the Solicitor General to file a brief in support of the state. In addition, the MTC recruited five U.S. senators to sign on to a Senate brief filed on behalf of California.

TRADE—GATS, GATT AND ENERGY CHARTER

During the last six months, the MTC and FTA have been working with the U.S. Trade Representative (USTR) and Treasury on a reservation to the General Agreement on Trade in Services (GATS) protecting state taxes. (GATS is one portion of the URUGUAY Round Agreement that includes an update of the General Agreement on Tariffs and Trade, GATT, and other agreements.) We have gained several protections for taxes applying to the service section under GATS. However, these reservations do not apply to the goods sector and they do not completely protect, otherwise constitutional, state tax practices on the services sector. Thus, the states need further protections for state tax laws in the implementing legislation which is currently being considered by Congress. To gain these additional state protections, we drafted an amendment to the new GATT implementing legislation that is being sponsored by Senator Kent Conrad (D, ND), to

ensure that state and local taxing authority can not be preempted without the specific Congressional authorization. Currently, the MTC is working with state tax administrators and other state and local groups to educate members of the Senate Finance Committee on the need for the Conrad Amendment.

In the course of working with USTR and Treasury on the GATT reservations, the MTC was informed that the U.S. was considering signing a proposed Energy Charter with the European Union, Russia, and members of Organization for Economic Cooperation and Development (OECD) that would preempt state and local taxation of energy industries. We strongly objected and urged the federal government not to sign the agreement without resolving state and local concerns. After presenting our concerns to State Department officials, they asked us for treaty language that would be acceptable to the states. With assistance from the FTA, we drafted such options. At this time, the State Department is discussing these options with the European Union.

BANKING

MTC has been successful in its efforts to secure language protecting state tax authority in both the House and Senate interstate banking and branching bills. Since the House and Senate have passed their versions of bills, the focus has shifted to the House-Senate Conference. The MTC is monitoring the drafting of the final interstate banking bill to assure that state taxing authority is protected. The Conference Committee is expected to finalize their report and pass the bill in mid-August.

4R RAILROAD REFORM LEGISLATION

As a result of our efforts to get support for federal legislative reforms to the 4-R Act which would reduce state fiscal burdens, Rep. Mike Synar (D, OK), member of the House Judiciary Committee, introduced H.R. 3702. Senator Dorgan, member of the Senate Commerce Committee, and Senator Conrad introduced S. 1540, the Property Tax Fairness Act. The Commission is in the process of renewing the Property Tax Fairness Project to continue the effort in support of these bills. The project also aims at preventing the extension of "4-R" benefits to other industries.

SEN. DORGAN'S "SENSE OF THE SENATE" AMENDMENT ON THE BUDGET- FEDERAL USE OF FORMULA APPORTIONMENT

On March 23rd, Senator Byron Dorgan (D, ND) offered an amendment to the 1995 Budget Resolution to ensure that multinational firms pay their fair share of U.S. taxes. Sen. Dorgan's "Sense-of-the-Senate" amendment to the budget bill, which passed by voice vote, encourages the Treasury Department to use their statutory authority to implement the use of formula apportionment. The House recently agreed to the Dorgan "Sense-of-the-Senate" Resolution.

PROTECTING STATE TAXATION IN THE COURTS

The Multistate Tax Commission has consistently been vigilant in defense of the right of states to apply their tax systems of choice. This vigilance has been demonstrated in various arenas—in the Courts, in the State Legislatures, in Congress and before the Federal Executive. The following describes only those activities engaged by the Commission in state and federal Courts to advance the states' interests in the taxation of multistate business enterprises.

From the very inception of the Commission's Joint Audit Program, the Commission was set upon by several Fortune 100 companies that attacked the legal power of the Commission States to join together to perform corporate income and sales and use tax audits. The companies were naturally concerned with the fact that one auditor, auditing on behalf of a number of states—ten or more at a time—could more effectively discover information concerning the companies' tax related activities and reporting approaches than under the traditional audit practice of separate auditors auditing only for their respective states. After many years of litigation, the United States Supreme Court's decision in *United States Steel Corp. v. Multistate Tax Commission*, 434 U.S. 452 (1978) affirmed the authority of the Commission to operate on behalf of its member states and to conduct joint audits of multistate taxpayers.

Since 1978, the Commission has been involved, either directly as a party or indirectly as an *amicus curiae* in over 50 cases in state and federal courts. Well over one-half of these cases reached the United States Supreme Court. A listing of all of U.S. Supreme Court cases participated in by the Commission is attached as an exhibit to this report.

The staff of the Commission follows a procedure—in the format of a negative check-off—before the filing of any *amicus brief* on behalf of the Commission. Prior to the filing of a brief in any case, the legal staff of the Commission prepares and the Executive Director circulates a memorandum describing the case, its importance to state taxation, and a recommendation supporting the filing or joining in a brief on behalf of the state involved. A copy of the written guideline for filing of *amicus curiae* briefs on behalf of the Commission is attached as an exhibit to this report.

During Fiscal Year 1994, the Commission joined or submitted *amicus curiae* briefs in the following five cases:

1. *Department of Revenue of Oregon v. ACF Industries, Inc., et al.*, U.S. Supreme Court No. 92-74
2. *Associated Industries of Missouri, et al. v. Janette M Lohman, Director of Revenue, et al.*, U.S. Supreme Court No. 93-397
3. *Barclays Bank PLC v. Franchise Tax Board and Colgate-Palmolive Company v. Franchise Tax Board*, U.S. Supreme Court Nos. 92-1384 and 92-1839
4. *Reich v. Collins, et al.*, U.S. Supreme Court No. 93-908
5. *In the Matter of the Appeal of Chief Industries, Inc.*, Kansas Supreme Court Appeal No. 93-69972-AS

The *ACF Industries* case addressed the issue of the effect under the 4-R Act (Railroad Revitalization and Regulatory Reform Act of 1976) of Oregon's exemption from its property tax of various classes of personal property, such as agricultural machinery, nonfarm business inventories, livestock, poultry, bees, fur-bearing animals and agricultural products in the hands of farmers. The respondent carline companies lease railroad cars to railroads and shippers and were protected under the non-discrimination provisions of the 4-R Act. In short, the 4-R Act protected them from the states' imposition of discriminatory tax rates or valuations when compared with other commercial and industrial property. Here, the issue was whether Oregon's exemption of any personal property from the property tax base (one that the carlines did not benefit from) constituted the "impos[ition of] another tax that discriminates against a rail carrier providing transportation". The Supreme Court, in reversing the decisions of the Ninth Circuit Court of Appeals, ruled in favor of Oregon and held that exempt property was not to be included in the comparison class for the purpose of applying that section of the 4-R Act at issue. One footing of the decision, supported by the *amicus curiae* brief filed on behalf of the Commission states, along with the National Conference of State Legislatures, the National Governors' Association and other associations of state and local government officials, addressed the principles of federalism. The Supreme Court, in applying such principles, concluded as follows:

"Principles of federalism support, in fact compel, our view. Subsection (b)(4), like the whole of §11503, sets limits upon the taxation authority of state government, an authority we have recognized as central to state sovereignty....When determining the breadth of a federal statute that impinges upon or pre-empts the States' traditional powers, we are hesitant to extent the statute beyond its evident scope....We will interpret a statute to pre-empt the traditional state powers only if that result is the 'clear and manifest purpose of Congress.'"

In the *Barclays* case, the primary issue for the Court was whether California's application of worldwide combined reporting to a foreign parent corporation and its domestic and foreign subsidiaries violated the Foreign Commerce Clause of the U.S. Constitution. The Commission's *amicus curiae* brief stressed the importance of Congressional action or inaction in this area over that of the Executive to define the limitation of state taxation in the area of foreign commerce. The Supreme Court, in ruling that worldwide combined reporting consistent with the Foreign Commerce, clearly emphasized the control of Congress to "reign" in the states (over the "aspirations" of the Executive), in determining the propriety of the state method of taxation. This was a significant victory for the states, not only in terms of the potential tax dollars at stake, but in terms of the ability of states to fashion more freely their methods of taxation of multinational businesses despite the wishes of the federal Executive. Lastly, in the *Colgate* case (dealing with the Constitutionality of California's application of worldwide combined reporting to domestic parents and their foreign subsidiaries), the Court reaffirmed its 1983 decision in the *Container Corporation* case approving such application.

In the *Associated Industries* case, the state of Missouri had imposed a statewide uniform use tax which, in combination with the local use tax rates that varied throughout the state, resulted in out-of-state vendors having to collect in about 6% of the transactions a total use tax rate that was higher than the sales tax rates that would have been imposed on such transactions. The Commission's *amicus curiae* brief suggested that the Court should uphold such a result because the tax system would relieve the out-of-state vendor with the complications relating to tracking the actual local use tax rates. This reduction in complexity was argued to have been in partial response to the Court's expressed concerns in the *Quill* mail order/use tax collection case decided in 1992. Unfortunately, the Court decided that

overall interest of the states' efforts to lawfully impose their tax systems on multistate and multinational business enterprises.

| MTC AMICUS ACTIVITY -- U.S. SUPREME COURT CASES | |
|--|--|
| Case | Subject |
| Reich v. Collins | Retroactivity and tax refunds |
| Barclays Bank v. FTB | Worldwide unitary combination |
| Colgate-Palmolive v. FTB | Worldwide unitary combination |
| Associated Industries v. Lohman | Use taxation at differential rates |
| ACF Industries v. Oregon | "4-R" Act "any other tax" provision |
| Harper v. Virginia | Retroactivity of court decisions |
| Quill Corp. v. North Dakota | Use taxation -- nexus issue |
| Container Corporation v. FTB | Worldwide unitary combination |
| Wisconsin v. William Wrigley Co. | Scope of P.L. 86-272 protection |
| Allied-Signal v. New Jersey | Business/non-business income |
| D.H. Holmes v. Louisiana | Use taxation -- nexus issue |
| Exxon v. Wisconsin | Unitary/apportionment |
| Mobil v. Vermont | Unitary/apportionment |
| Trinova v. Michigan | Value-added tax apportionment |
| United States v. New Mexico | Taxation of federal contractors |
| Swaggart Ministries v. SBOE | Use taxation - nexus/1st amend. |
| FTB v. Alcan Aluminum | Taxpayer access to federal courts |
| Moorman Mfg. v. Bair | Apportionment formula |
| Shell Oil v. Iowa | Unitary apportionment |
| Hublein v. South Carolina | P.L. 86-272 limits on state regulation |
| Japan Lines v. County of LA | Property taxation/foreign commerce |
| McKesson v. Florida | Retroactivity of court decisions |
| ATA v. Arkansas | Retroactivity of court decisions |
| ASARCO v. Idaho | Business/non-business income |
| Woolworth v. New Mexico | Business/non-business income |
| Aloha Airlines v. Hawaii | Federal preemption |

ENCOURAGING TAX COMPLIANCE JOINT NEXUS AND AUDIT PROGRAM WORK

A major highlight in tax compliance this fiscal year was the completion of two nexus audits involving mail order companies, one of which is among the largest direct marketers in the nation. One case involved a settlement of sales and use tax liabilities. The other was a completed audit. The tax revenues from these audits were credited to both the Nexus Program and the Audit Program because these cases started as nexus investigations and were referred for audit in a joint project between the two Programs. These audits resulted in over \$118 million in expected tax revenues for Nexus and Audit Program states, as shown on the following chart.

Completed Nexus Audits FY 1993/94

| State | Audit | | TOTAL | Total Credited | |
|-------------------|---------------|-------------|---------------|----------------|--------------|
| | A | B | | To Nexus | To Audit |
| Alabama | \$0 | \$50,244 | 50,244 | 25,122 | 25,122 |
| Arkansas | 2,379,383 | 53,579 | 2,432,962 | 1,216,480 | 1,216,480 |
| California | 40,837,500 | 491,840 | 41,329,340 | 20,664,670 | 20,664,670 |
| Colorado | 2,387,750 | 0 | 2,387,750 | 1,193,875 | 1,193,875 |
| Connecticut | 0 | 94,256 | 94,256 | 94,256 | 0 |
| Dist. of Columbia | 742,500 | 128,039 | 870,539 | 435,269 | 435,269 |
| Florida | 0 | 566,203 | 566,203 | 566,203 | 0 |
| Hawaii | 1,012,500 | 32,917 | 1,045,417 | 522,708 | 522,708 |
| Iowa | 2,756,250 | 50,119 | 2,806,369 | 2,806,369 | 0 |
| Idaho | 1,209,383 | 20,379 | 1,229,762 | 614,880 | 614,880 |
| Kansas | 2,701,117 | 39,606 | 2,740,723 | 1,370,361 | 1,370,361 |
| Maryland | 5,428,133 | 350,159 | 5,778,292 | 5,778,292 | 0 |
| Maine | 1,620,000 | 116,011 | 1,736,011 | 868,005 | 868,005 |
| Michigan | 0 | 144,855 | 144,855 | 72,427 | 72,427 |
| Minnesota | 6,398,433 | 36,998 | 6,435,431 | 3,217,715 | 3,217,715 |
| Missouri | 4,824,417 | 77,650 | 4,902,067 | 4,902,067 | 0 |
| Montana | 0 | 0 | 0 | 0 | 0 |
| North Dakota | 703,133 | 8,737 | 711,870 | 355,934 | 355,934 |
| Nebraska | 1,743,750 | 20,299 | 1,764,049 | 882,024 | 882,024 |
| New Jersey | 10,293,750 | 509,992 | 10,803,742 | 5,401,871 | 5,401,871 |
| New Mexico | 0 | 53,166 | 53,166 | 26,583 | 26,583 |
| Ohio | 0 | 396,666 | 396,666 | 396,666 | 0 |
| Oregon | 0 | 0 | 0 | 0 | 0 |
| South Carolina | 3,965,633 | 0 | 3,965,633 | 3,965,633 | 0 |
| South Dakota | 0 | 7,150 | 7,150 | 3,575 | 3,575 |
| Texas | 24,574,217 | 314,550 | 24,888,767 | 12,444,383 | 12,444,383 |
| Utah | 1,620,000 | 0 | 1,620,000 | 810,000 | 810,000 |
| Washington | 0 | 178,012 | 178,012 | 89,006 | 89,006 |
| Total | \$115,197,849 | \$3,741,427 | \$118,939,276 | \$68,724,374 | \$50,214,888 |

ENCOURAGING TAX COMPLIANCE JOINT AUDIT PROGRAM

FISCAL YEAR 1994 RESULTS

During the year, the MTC Audit Program completed twenty-two audits. Thirteen of these audits were sales tax audits and nine were income tax audits. In addition to the total audits completed, a settlement for sales tax collections with a mail order computer company was negotiated in conjunction with the National Nexus Program.

The total proposed tax assessments for the year were \$76,097,875. Excluding the settlement with the above mail order computer company, the proposed assessments were \$18,528,455. Of this amount, income tax assessments were \$7,771,221, and sales tax assessments were \$10,757,234.

The results for FY94 are summarized in two tables following this section. The first lists information by tax type, and the second summarizes assessment, collection and fee data for the year.

Looking forward to Fiscal Year 95, the MTC Audit Program projects that fifteen income tax and fifteen sales tax audits will be completed. This projection assumes that there will be a stable audit staff for the fiscal year. Included in the estimated completions are three audits that were referred by the National Nexus Program.

HISTORICAL RETURNS FROM AUDIT PROGRAM

Over the past eleven years, states have collected over \$13 for every dollar invested in the Audit Program. When outstanding assessments are added to the amounts collected, the ratio of actual plus potential return to costs exceeds \$21.50 for every dollar invested. Returns vary significantly from year-to-year and state-to-state. The eleven year history is included as the third table following this section.

EFFICIENCY OF JOINT AUDITING

The MTC Audit Program keeps statistics on the average hours per state for completed audits. The overall average hours for both income and sales taxes was 68 for the year ending 6/30/94. The

average hours for a single state income tax audit were 97 for this year and the average hours for a single state sales tax audit were 49. Following this section to is a six-year summary for average hours per audit completions and a graph displaying that data.

A study of the chart indicates that the average sales tax hours have improved significantly this year. A partial explanation is that 2 audits conducted on the recommendation of the National Nexus Program were completed this year. These two audits took significantly less time than the normal sales tax audits.

The efficiency of the Audit Program has increased dramatically in the last five years. Audits in FY94 were conducted more than twice as efficiently as they had been in FY89. In FY89, 148 hours were required per audit per state and as reported, that number has improved dramatically to 68 hours per audit per state in FY94.

PROGRAM MANAGEMENT

Four new auditors were hired during the fiscal year 7/1/93 - 6/30/94. Two of the auditors were hired in December 1993, one auditor in January 1994 and the fourth was hired in May 1994. These new hires were necessitated by the resignation of three auditors and the failure of one auditor to pass the probation period. In addition to the four new auditors hired during this fiscal year, two additional auditors were hired in May and June 1993. Thus the MTC Audit Program trained or continues to train 6 auditors during fiscal 6/94. This resulted in approximately 36 man hour months devoted to training.

In the past four years, because of effective fair hiring practices, the MTC Audit Program staff has become much more diverse and representative of the general population. In this time period, the number of women serving in auditor positions increased fourfold, from one to four, and the number of minority audit staff has increased threefold, from two to six. The Commission remains committed to achieving diversity in its staff through fair employment practices.

The Audit Program converted its records to two new software applications. We made a decision to use Lotus for Windows for the spread sheets and Microsoft Word for word processing. The Chicago Office has been trained to use the new software and staff members have become proficient in their usage. The New York Office has not yet been trained but plans are underway for the staff to conduct this training early in fiscal year 6/95.

ASSISTANCE FROM LEGAL AND NEXUS STAFF

MTC's Legal Division and the Director of the National Nexus Program provided valuable legal assistance on various audits during the fiscal year. Legal assistance was provided for nexus, combination and business/non business issues. The assistance enabled the Audit Program to complete the audits in a more efficient manner. Without the assistance many of the audits would have taken considerably longer to complete.

Multistate Tax Commission

Audit History Report for FY 94 by Tax Type

| | # of Audits | | | Income | Proposed Assessments | | Total |
|----------------------|-------------|------------|------------|--------------------|----------------------|---------------------|-------|
| | Income | Sales | Total | | Income | Sales | |
| ALABAMA | 0 | 1 | 1 | \$0 | \$25,122 | \$25,122 | |
| ARKANSAS | 8 | 11 | 19 | \$467,248 | \$1,303,883 | \$1,771,131 | |
| CALIFORNIA | 0 | 2 | 2 | \$0 | \$20,664,670 | \$20,664,670 | |
| COLORADO | 3 | 1 | 4 | \$360,796 | \$1,164,375 | \$1,525,171 | |
| DISTRICT OF COLUMBIA | 7 | 11 | 18 | \$71,213 | \$972,182 | \$1,043,395 | |
| HAWAII | 7 | 8 | 15 | \$34,595 | \$1,014,858 | \$1,049,453 | |
| IOWA | 0 | 3 | 3 | \$0 | \$0 | \$0 | |
| IDAHO | 7 | 12 | 19 | \$68,005 | \$698,792 | \$766,797 | |
| KANSAS | 9 | 12 | 21 | \$2,623,867 | \$1,908,905 | \$4,532,772 | |
| MAINE | 6 | 11 | 17 | \$83,652 | \$946,850 | \$1,030,502 | |
| MICHIGAN | 0 | 6 | 6 | \$0 | \$835,605 | \$835,605 | |
| MINNESOTA | 4 | 8 | 12 | \$30,208 | \$3,494,848 | \$3,525,056 | |
| MONTANA | 6 | 0 | 6 | \$36,882 | \$0 | \$36,882 | |
| NORTH DAKOTA | 9 | 12 | 21 | \$227,371 | \$430,866 | \$658,237 | |
| NEBRASKA | 5 | 2 | 7 | \$710,882 | \$882,024 | \$1,592,906 | |
| NEW JERSEY | 2 | 6 | 8 | \$20,871 | \$10,817,480 | \$10,838,351 | |
| NEW MEXICO | 6 | 5 | 11 | \$2,476,399 | \$181,783 | \$2,658,182 | |
| OREGON | 6 | 0 | 6 | \$80,829 | \$0 | \$80,829 | |
| SOUTH DAKOTA | 0 | 7 | 7 | \$0 | \$10,428 | \$10,428 | |
| TEXAS * | 0 | 2 | 2 | \$0 | \$12,444,383 | \$12,444,383 | |
| UTAH | 8 | 9 | 17 | \$478,393 | \$893,989 | \$1,372,382 | |
| WASHINGTON | 0 | 7 | 7 | \$0 | \$380,881 | \$380,881 | |
| TOTAL-S | 93 | 136 | 229 | \$7,771,211 | \$59,071,924 | \$66,843,135 | |

* - Prior year fees financed work for 2 Nexus/Audit cases begun in prior years and completed in FY 94.

Multistate Tax Commission

Audit History Report for FY 84 - FY 94 (Eleven Years)

| | Audit Fees | # of Audit Total | Proposed Assessments | | Amount Collected | | Assessments Outstanding | | Amount Collected + Assessments Outstanding | |
|----------------------|---------------------|---------------------|----------------------|-------|----------------------|-------|-------------------------|-------|---|--|
| | | | Total | Total | Total | Total | Total | Total | | |
| ALASKA | \$108,000 | 20 | \$113,459 | | \$144,726 | | \$9,214 | | \$153,940 | |
| ALABAMA | \$10,000 | 1 | \$25,122 | | \$0 | | \$25,122 | | \$25,122 | |
| ARKANSAS | \$312,617 | 161 | \$8,346,322 | | \$5,683,772 | | \$2,174,144 | | \$7,857,916 | |
| CALIFORNIA | \$1,087,732 | 36 | \$73,368,681 | | \$35,586,565 | | \$41,224,945 | | \$76,811,510 | |
| COLORADO | \$761,401 | 106 | \$6,950,431 | | \$4,610,695 | | \$2,307,681 | | \$6,918,376 | |
| CONNECTICUT | \$0 | 2 | \$0 | | \$0 | | \$0 | | \$0 | |
| DISTRICT OF COLUMBIA | \$305,580 | 159 | \$8,979,612 | | \$8,204,588 | | \$646,090 | | \$8,850,678 | |
| FLORIDA | \$0 | 2 | \$0 | | \$0 | | \$0 | | \$0 | |
| HAWAII | \$784,696 | 157 | \$9,365,380 | | \$5,757,511 | | \$1,214,770 | | \$6,972,281 | |
| IOWA | \$0 | 3 | \$0 | | \$0 | | \$0 | | \$0 | |
| IDAHO | \$911,264 | 181 | \$4,532,532 | | \$3,506,079 | | \$1,696,699 | | \$5,202,778 | |
| KANSAS | \$929,523 | 193 | \$35,379,281 | | \$37,896,165 | | \$10,667,889 | | \$48,564,054 | |
| MARYLAND | \$0 | 3 | \$0 | | \$0 | | \$0 | | \$0 | |
| MAINE | \$355,824 | 41 | \$1,515,852 | | \$109,948 | | \$1,338,586 | | \$1,448,534 | |
| MICHIGAN | \$600,283 | 47 | \$3,370,289 | | \$2,631,459 | | \$1,093,008 | | \$3,724,467 | |
| MINNESOTA | \$876,255 | 123 | \$25,074,010 | | \$21,195,409 | | \$5,247,211 | | \$26,442,620 | |
| MISSOURI | \$61,000 | 31 | \$1,766,653 | | \$707,956 | | \$92,997 | | \$800,953 | |
| MONTANA | \$723,042 | 74 | \$3,457,274 | | \$3,015,003 | | \$1,009,827 | | \$4,024,830 | |
| NORTH DAKOTA | \$804,449 | 159 | \$4,636,067 | | \$3,208,537 | | \$1,523,526 | | \$4,732,063 | |
| NEBRASKA | \$318,070 | 84 | \$6,555,450 | | \$1,195,184 | | \$5,544,176 | | \$6,739,360 | |
| NEW JERSEY | \$355,828 | 17 | \$12,773,281 | | \$8,894,184 | | \$5,806,744 | | \$14,700,928 | |
| NEW MEXICO | \$931,255 | 172 | \$22,379,422 | | \$6,329,832 | | \$16,045,292 | | \$22,375,124 | |
| OHIO | \$0 | 2 | \$0 | | \$0 | | \$0 | | \$0 | |
| OREGON | \$729,042 | 65 | \$6,682,465 | | \$9,517,183 | | \$382,462 | | \$9,899,645 | |
| SOUTH CAROLINA | \$0 | 1 | \$0 | | \$0 | | \$0 | | \$0 | |
| SOUTH DAKOTA | \$223,744 | 74 | \$507,879 | | \$678,237 | | \$15,085 | | \$693,322 | |
| TEXAS | \$530,686 | 17 | \$15,750,532 | | \$1,905,931 | | \$13,056,089 | | \$14,962,020 | |
| UTAH | \$941,655 | 177 | \$14,643,654 | | \$11,006,015 | | \$1,966,133 | | \$12,972,148 | |
| WASHINGTON | \$670,283 | 57 | \$4,983,979 | | \$3,525,220 | | \$946,948 | | \$4,472,168 | |
| WEST VIRGINIA | \$42,000 | 23 | \$1,539,232 | | \$148,013 | | \$334,146 | | \$482,159 | |
| TOTALS | \$13,163,229 | 2104 | \$269,277,515 | | \$174,457,517 | | \$113,932,427 | | \$288,389,944 | |

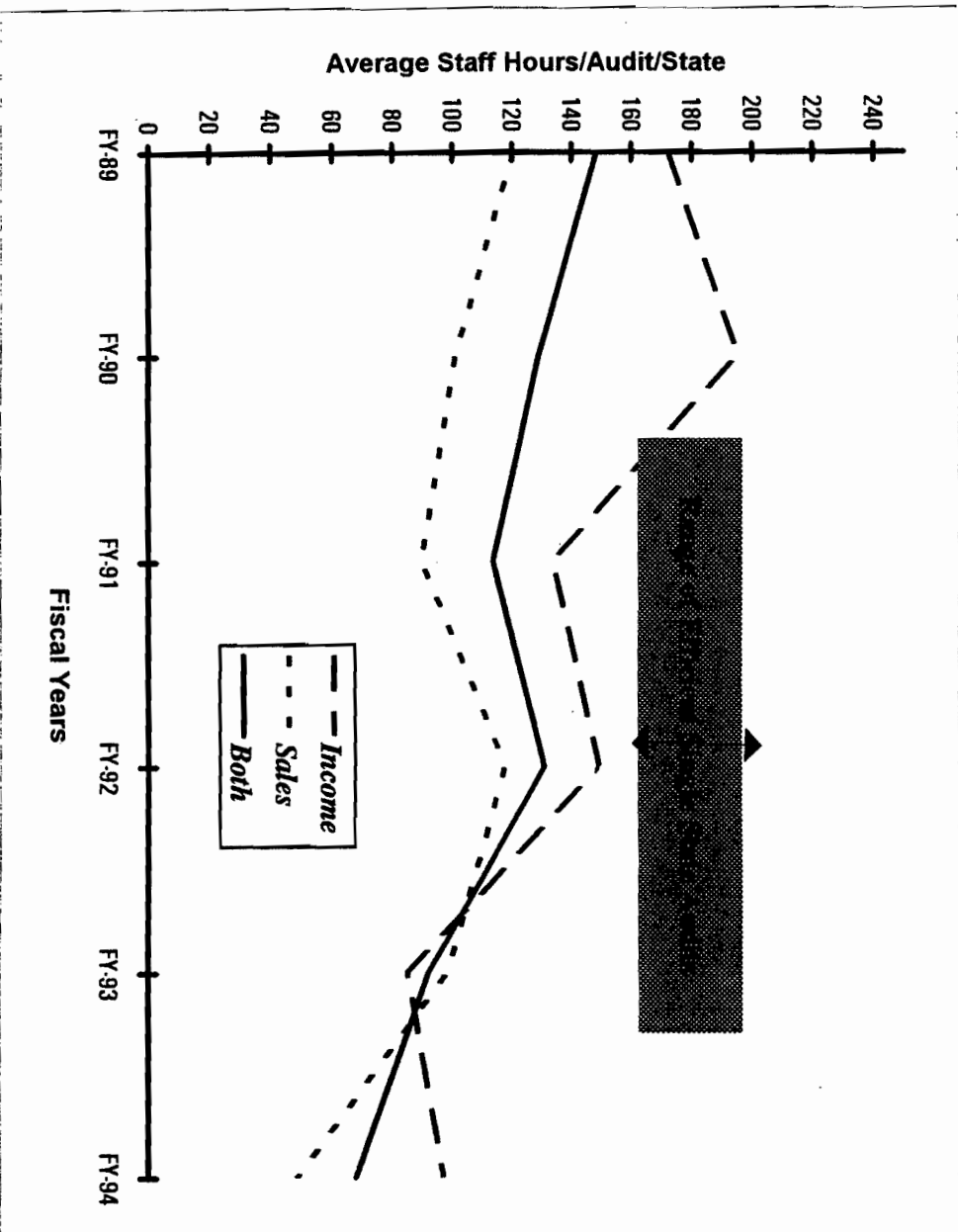
Trends in Productivity of MTC Joint Audit Program

Audit Hour Analysis

| Type of Taxes | FY-89 | FY-90 | FY-91 | FY-92 | FY-93 | FY-94 | |
|---------------|----------------------|-------|-------|-------|-------|-------|-------|
| Income Tax | Total Audits | 12 | 4 | 9 | 7 | 12 | 9 |
| | Total States Audited | 120 | 37 | 95 | 75 | 132 | 93 |
| | Total Hours | 20679 | 7211 | 12646 | 11148 | 11208 | 9016 |
| | Avg. Hours per State | 172 | 195 | 133 | 148 | 85 | 97 |
| Sales Tax | Total Audits | 9 | 9 | 8 | 9 | 14 | 13 |
| | Total States Audited | 103 | 88 | 79 | 104 | 146 | 140 |
| | Total Hours | 12393 | 8866 | 7069 | 12209 | 14323 | 6818 |
| | Avg. Hours per State | 120 | 101 | 89 | 117 | 98 | 49 |
| Both Taxes | Total Audits | 21 | 13 | 17 | 16 | 26 | 22 |
| | Total States Audited | 223 | 125 | 174 | 179 | 278 | 233 |
| | Total Hours | 33072 | 16077 | 19715 | 23357 | 25531 | 15834 |
| | Avg. Hours per State | 148 | 129 | 113 | 130 | 92 | 68 |

Trends in Time Spent on MTC Joint Audits

Comparison with Typical Range of Time Spent on Audit by Single States



Range of time spent on efficient single state audits is derived from discussions in the MTC Audit Com

ENCOURAGING TAX COMPLIANCE NATIONAL NEXUS PROGRAM

To date, the Nexus Program has generated over \$90 million in expected revenues for an investment of approximately \$1.5 million in fees paid by the states—or an expected return of \$60 for every dollar invested in the program. State by state details are provided in the chart following this section.

Two new states joined the Nexus Program in FY 1993/94, bringing the total number of member states to 30.

During 1993/1994 fiscal year, the Nexus Program conducted four major program components:

- (1) A central clearinghouse database to allow the member states to exchange information on potential nexus-creating activities of companies involved in multistate commerce. 813 companies were reported through the database and \$650,000 income tax revenues generated to the states.
- (2) A central registration and taxpayer assistance project to help companies resolve compliance problems and get registered in a number of states through one central location. 15 new voluntary offers were received during FY 93/94, so far offering over \$1.71 million in revenues to states. Approximately \$6.6 million were collected by states during FY 93/94 from completed settlements. To date, processed 43 settlements involving over \$22.8 million offered and \$17.6 million accepted.
- (3) A joint nexus investigation project that researches and identifies companies that may have compliance problems in participating Program member states. Seven projects were conducted involving, reporting 565 companies. Approximately \$72 million in tax revenue, for the states was generated from these investigations.
- (4) A taxpayer education and awareness project to provide information to the public on nexus issues in general and on the states' registration and reporting requirements. The program staff engaged in a number of speaking activities, published two bulletins and one article, and disseminated information to the public in response to 72 requests.

Additionally, Nexus Program staff members provided legal support to the MTC Audit Program on nexus issues, legal advice and support on uniformity projects and state and federal legislation when nexus issues are involved, training for state personnel on nexus issues, and coordinated the Nexus Program database activities with other MTC database functions.

CLEARINGHOUSE DATABASE

The central clearinghouse database allows the member states to exchange information on potential nexus-creating activities of companies involved in multistate commerce. The purpose of the exchange is to provide states with leads for audit selection. Through the database, states report information they gather through their own audits concerning company-reported activity in other states.

During fiscal year 1993/4, the Nexus Program expanded the clearinghouse database from exchanging only income tax information to include an exchange of sales tax nexus information. The income tax portion was also expanded to include an exchange of business/non-business tax information. The income tax exchange is limited to companies that have gross receipts of over \$12 million and conduct business in at least 4 states. The sale tax nexus portion of the database is not limited to any specific company size.

States have been exchanging income tax information through the clearinghouse database since about October of 1991. During fiscal year 1993/4, states reported information on approximately 813 companies, bringing the total number of companies reported through the clearinghouse database to approximately 2,500. States have reported to the Nexus Program approximately \$650,000 in additional income tax assessments arising from information received through the clearinghouse database. Only three states have reported so far.

VOLUNTARY SETTLEMENTS

The Nexus Program's Central Registration and Taxpayer Assistance project allows companies to voluntarily come forward anonymously to offer to resolve potential past year liabilities with member states through one central location. The Nexus Program processes the settlements for the states, and the states determine the applicable policies regarding terms of the settlement, based on the facts presented by each taxpayer.

During fiscal year 1993/4, the Nexus Program received 15 new offers to settle. Most of these settlements are still in the preliminary stages, having been received within the past two or three months. We have so far received estimated revenues from the companies in only four of these offers, which total over \$1.71 million. Of this amount, \$571,480 has been accepted and the balance is pending. During fiscal year 1993, states collected approximately \$6.6 million from present and previous settlements.

To date, the total amount offered to the program states through voluntary settlements is approximately \$22.8 million (over the full terms of the settlement agreements.) Of these offers, approximately \$18 million has been accepted. We estimate states have collected over \$12.3 million from nexus settlements to date. This estimate of cash collections reflects reports provided to us by most of the companies showing actual payments made through 1993.

NEXUS INVESTIGATIONS

The Nexus Program's Nexus Investigation project researches and identifies companies that may have compliance problems in a number of Program member states. As part of the investigation, companies are asked to voluntarily complete a multistate nexus questionnaire. The Nexus Program then sends reports to the states concerning the companies' activities and requests the states to report whether the companies are registered. If a company appears to have a compliance problem in a number of states, and if it is suitable, the Nexus Program may request the states to authorize a joint nexus audit. If a sufficient number of states authorize such an audit, the Nexus Program will refer the case to the Audit Program to conduct the formal nexus audit.

During fiscal year 93/94, 565 companies were either investigated or reported to the states for investigation in 7 different projects. The Nexus Program sent 99 multistate nexus questionnaires and referred 4 companies for joint nexus audits. One company offered to settle its tax liabilities after the audit was begun, involving over \$66 million in sales tax revenues accepted by the states; one company offered to settle before the audit began, offering \$3.8 million in annual sales tax revenues to the states; another company audit was completed with proposed assessments totaling \$2.6 million in the participating states. The total tax revenues generated from 1993/94 nexus investigation efforts is approximately \$72.5 million.

PUBLIC INFORMATION AND OTHER COMPLIANCE ACTIVITIES

- Published two issues of the National Nexus Program Bulletin: *State Jurisdiction to Obtain Information for Tax Purposes (Part 2)* (Sept. 1993) and *The Tax Fairness For Main Street Business Act of 1994* (April, 1994).
- Presented information about the Nexus Program at the FTA Compliance Workshop and at the New York State Tax Group monthly meeting.
- Published an article in the MTC Review and in State Tax Notes: *State Jurisdiction to Compel Production of Documents and Witnesses after Quill*
- Conducted training on Nexus Program projects for the states of Colorado and Arizona
- Provided information on state registration requirements in response to 72 requests, 7 of which involved requests for information on all 50 states.
- Participated in a panel discussion on nexus issues at the FTA Annual Meeting.
- Participated in planning and helped to draft federal legislation that would impose sales tax collection responsibilities on mail order companies.
- Provided advice on nexus issues to MTC auditors in 6 multistate audits

NEXUS PROGRAM REPORT

1991 through June, 1994

| STATES | CLEARINGHOUSE DATABASE ASSIGNMENT | ACCEPTED LITTLEWOOD PROJECT | | TOTAL COLLECTED | | TOTAL PAID | |
|----------------------|-----------------------------------|-----------------------------|--------------|-----------------|-------------|--------------|-------------|
| | | PROJECT | PROJECT | PROJECT | PROJECT | PROJECT | PROJECT |
| ALABAMA | | \$776,356 | \$559,072 | \$26,122 | \$559,072 | \$803,477 | \$54,253 |
| ARIZONA | | | | | \$0 | \$0 | \$9,218 |
| ARKANSAS | | \$475,014 | \$184,665 | \$1,216,480 | \$184,665 | \$1,682,394 | \$45,096 |
| CALIFORNIA B OF E | | \$136,000 | \$139,087 | \$20,864,070 | \$139,087 | \$20,800,070 | \$0 |
| CALIFORNIA FTB | | \$1,091,000 | \$331,000 | | \$331,000 | \$1,091,000 | \$189,322 |
| COLORADO | | \$286,490 | \$131,654 | \$1,193,875 | \$131,654 | \$1,480,365 | \$11,307 |
| CONNECTICUT | | \$686,966 | \$199,316 | \$94,256 | \$199,316 | \$763,222 | \$60,661 |
| DISTRICT OF COLUMBIA | | \$496,962 | \$472,378 | \$435,269 | \$472,378 | \$932,131 | \$44,509 |
| FLORIDA | \$239,626 | \$364,246 | \$187,747 | \$566,203 | \$427,373 | \$930,449 | \$77,165 |
| HAWAII | | \$96,273 | \$29,184 | \$522,708 | \$29,184 | \$618,961 | \$45,623 |
| IOWA | | \$575,250 | \$376,195 | \$2,808,369 | \$376,195 | \$3,381,619 | \$53,648 |
| IDAHO | | \$213,535 | \$467,126 | \$614,880 | \$467,126 | \$628,415 | \$35,762 |
| KANSAS | | \$1,273,216 | \$766,263 | \$1,370,361 | \$941,240 | \$2,643,517 | \$32,803 |
| KENTUCKY | | \$870,817 | \$425,625 | \$5,778,292 | \$775,655 | \$6,629,544 | \$46,939 |
| MARYLAND | | \$851,252 | \$151,782 | \$888,005 | \$151,782 | \$1,239,930 | \$46,849 |
| MAINE | | \$371,925 | \$425,675 | \$7,427 | \$425,675 | \$559,486 | \$78,311 |
| MICHIGAN | | \$485,059 | \$403,915 | \$3,217,715 | \$347,077 | \$4,317,898 | \$82,329 |
| MINNESOTA | \$300,934 | \$1,100,183 | \$403,915 | \$4,902,067 | \$403,915 | \$5,217,349 | \$54,993 |
| MISSOURI | | \$315,282 | \$41,300 | | \$41,300 | \$35,431 | \$25,368 |
| MONTANA | | \$35,431 | \$44,695 | \$355,934 | \$44,695 | \$481,395 | \$32,141 |
| NORTH DAKOTA | | \$125,461 | \$307,770 | \$882,024 | \$307,770 | \$1,556,798 | \$32,918 |
| NEBRASKA | | \$674,774 | \$19,955 | | \$19,955 | \$57,967 | \$37,291 |
| NEW HAMPSHIRE | | \$57,967 | \$892,334 | \$5,401,871 | \$892,334 | \$7,623,331 | \$65,302 |
| NEW JERSEY | | \$2,221,480 | \$144,037 | \$26,583 | \$144,037 | \$272,665 | \$43,736 |
| NEW MEXICO | | \$186,082 | \$949,987 | \$398,666 | \$949,987 | \$1,588,980 | \$37,931 |
| OHIO | | \$1,202,924 | \$105,895 | \$3,985,633 | \$105,895 | \$4,184,819 | \$56,305 |
| SOUTH CAROLINA | \$55,000 | \$214,166 | \$53,497 | \$3,575 | \$53,497 | \$27,741 | \$24,491 |
| SOUTH DAKOTA | | \$1,137,405 | \$474,611 | \$12,444,393 | \$474,611 | \$13,561,788 | \$69,621 |
| TEXAS | | \$1,137,405 | \$18,030 | | \$18,030 | \$1,108,349 | \$6,772 |
| UTAH | | \$298,349 | \$810,000 | \$89,006 | \$810,000 | \$1,231,227 | \$48,165 |
| WASHINGTON | | \$1,142,221 | \$2,217,254 | \$89,006 | \$2,217,254 | \$3,623,482 | \$48,165 |
| TOTALS | \$665,660 | \$18,066,461 | \$12,506,662 | \$68,726,374 | \$0 | \$12,964,222 | \$1,523,652 |

These figures are included in the Total Collected column through December, 1993. The Nexus program since April, 1994. The projected figures include amounts collected since the projections were established.

EDUCATING TAX AGENCIES, TAXPAYERS, AND OTHER MTC "CONSTITUENTS"

Effective communication regarding the Commission's activities, policy positions, and perspectives on multijurisdictional tax issues is critical to the achievement of all of the MTC's major goals:

- Voluntary *taxpayer compliance* is likely to be significantly enhanced if tax authorities can obtain substantial industry input in the course of developing laws and regulations and then, once the rules have been established, clearly communicate them back to taxpayers.
- Because the Commission has no power to compel adoption by any Member State of its uniformity recommendations, the achievement of greater *interstate uniformity* depends crucially on educating the relevant decision-makers about the substance of and rationale for the recommendation. In the longer term, the achievement of widespread uniformity among all states (not just Member States) depends on educating governors and state legislators about the potential benefits of uniformity, including eliminating "nowhere income" and forestalling federal preemption.
- *Protecting state tax sovereignty* when it is threatened by congressional or executive branch action frequently requires the rapid mobilization of a "grass roots" constituency of state tax department and other officials back in the state capitals that is thoroughly informed about the issue at hand. Where the Commission seeks to make longer-term changes in federal policy to advance state tax powers, it is generally necessary to educate an even broader group of "opinion leaders" in Congress, the media, and the general public, about the need for change.
- *State success in tax litigation* can often be greatly enhanced if states can share information about successful litigation strategies and (in especially critical cases) mobilize *amicus* support from other states. Such mutual assistance is critically important for all states, because one state's bad decision can be a precedent that ricochets through state courts throughout the country.
- *Effective state tax administration* generally is furthered by the sharing of information among the states concerning successful administrative initiatives, regulations addressing new issues, results of research projects, etc.

In support of these objectives, Commission staff engaged in the following taxpayer education, public education, state tax staff training, and publication activities during FY 93-94. Not listed here are numerous public speaking appearances by Member State and MTC staff to a wide variety of audiences.

GENERAL PUBLIC EDUCATION IN SUPPORT OF EFFECTIVE STATE TAX ADMINISTRATION

- MTC staff regularly contribute to and assist in the publication of TaxExPRESS, a weekly electronic newsletter on state tax administration and policy developments distributed over TaxExchange, the interstate electronic communications network that is a joint venture of the MTC and FTA.
- MTC staff produced and published the MULTISTATE TAX COMMISSION REVIEW, which contained a major article on the state tax implications of Limited Liability Companies.
- MTC staff participated in a state tax issues roundtable discussion organized semi-annually by the Commerce Clearing House STATE TAX REVIEW. The transcript of the discussion is published and serves as an important opportunity for dialogue with private practitioners and the setting forth of state perspectives on emerging tax issues.
- To keep lines of communication to the private sector open, MTC staff participate in numerous seminars on state tax issues. Presentations were made by MTC staff during FY 93-94 in such forums as the Ernst & Young advanced state tax workshop.

UNIFORMITY ORIENTED COMMUNICATIONS

ALERTS REGARDING PENDING PROPOSALS

- MTC staff publicized final public hearings concerning the proposed revision of the MTC P.L. 86-272 Statement of Information and the financial institutions apportionment regulation.

- MTC staff publicized release of final hearing officer reports with regard to both proposals to nearly 1000 persons specifically interested in one or both projects. Approximately 150 copies of the hearing officer reports were distributed in response to follow-on requests.

PUBLICATIONS

- Director of Policy Research Michael Mazerov has completed a comprehensive compilation and reformatting of all MTC uniformity recommendations adopted to date.
- MTC staff made their final contributions to FINANCING STATE GOVERNMENTS IN THE 1990S, a joint report of the MTC, Federation of Tax Administrations, National Governors Association, National Conference of State Legislators, and National Conference of State Budget Officers, which was published in February, 1994. Through a half-dozen drafts over the course of two years, MTC staff worked to ensure that the final report would include a strong message to governors and state legislators on the need for greater interstate uniformity in state tax policies and practices.

LEGISLATIVE/LOBBYING ORIENTED COMMUNICATIONS

TESTIMONY

- Executive Director Dan Bucks testified in February 1994 before the Subcommittee on Trade of the House Committee on Ways and Means concerning the threat to state tax policies posed by GATT/GATS.
- Testimony has been readied for submission to the Senate Finance Committee when it holds hearings later this year on S. 1825, Senator Bumpers' Tax Fairness for Main Street Business Act of 1994..

PUBLICATIONS

- Dan Bucks, "Trade Trouble Ahead," STATE GOVERNMENT NEWS, May 1994 (on GATT)

- Dan Bucks and Michael Mazerov, "The State Solution to the Federal Government's International Transfer Pricing Problem," NATIONAL TAX JOURNAL, September 1993.
- Michael Mazerov, "Why Arm's Length Falls Short," INTERNATIONAL TAX REVIEW, February 1994.
- National Nexus Program Bulletin, *The Tax Fairness for Main Street Business Act of 1994* (April 1994)

SPEECHES AND CONFERENCES

- MTC staff organized the morning plenary session of the 1994 Annual Meeting on implications of GATT/GATS for state tax authority. An afternoon workshop is to be devoted to S. 1825, the federal mail-order legislation.

EDUCATION ON LITIGATION ISSUES FOR STATE TAX DEPARTMENTS

- MTC legal staff coordinated two semi-annual meetings of the MTC Litigation Committee, which serves as an important information sharing network on pending cases for state tax attorneys from Member and non-member states alike. Contacts made at these meetings have been critical in facilitating state *amicus* support during the last year in such significant U.S. Supreme Court cases as *ACF Industries v. Oregon* and *Barclays Bank, PLC v. California Franchise Tax Board*.

COMPLIANCE AND ENFORCEMENT-ORIENTED COMMUNICATIONS

PUBLICATIONS

- National Nexus Program Bulletin, *State Jurisdiction to Obtain Information for Tax Purposes*. Reprinted in STATE TAX NOTES and the MULTISTATE TAX COMMISSION REVIEW.
- The National Nexus Program distributed state-produced materials on registration requirements to over 70 taxpayers or their representatives.

- MTC staff updated and continued regular distribution of the MTC *Uniform Sales and Use Tax Certificate—Multijurisdiction* in response to taxpayer requests.

SPEAKING ENGAGEMENTS

- National Nexus Program Director Alice Davis spoke before the New York State Tax Group and the FTA Annual Meeting, to inform private tax practitioners about the program and its anonymous settlement component.

TRAINING FOR STATE TAX DEPARTMENTS

- MTC Legal and Audit Program staff conducted workshops on combined reporting, unitary business, and business/non-business income principles for staff of the Maine Bureau of Taxation and the Office of the Texas Comptroller of Public Accounts.
- National Nexus Program staff trained Colorado and Arizona Department of Revenue staff on use of the Program's databases and other resources.
- Legal staff will conduct (with state assistance) workshop on business/non-business income issues and legl issues with respect to state tax incentives at the 1994 Annual Meeting.

CONFERENCES

- MTC staff organized discussions of state and industry positions on sales and use tax attributional nexus and passive investment company nexus in conjunction with the Fall 1993, Business-Government Dialogue on State Tax Uniformity.

ADMINISTERING THE COMMISSION OVERVIEW AND RESULTS

The Commission provides all of its administrative services from sources within the Commission. These cover various broad categories, including computer support, financial (historical and prospective), legal support, meeting related needs, personnel matters, and records management. A more detailed description of these services is provided on the following pages.

For fiscal year 1993/94 the administrative services department expenses as a percentage of all other departments operating expenses is approximately 14%. This amount is a modest "burden" for the other departments given the level and variety of services provided.

RESULTS OF ADMINISTRATIVE SERVICES EFFORTS

- The Commission's audited financial statements have received unqualified ("clean") opinions and there have been no significant management letter comments.
- As a result of our hiring practices, the Commission staff of 33 is a diverse group. Of the current staff 33% are women and 42% are members of minority groups.
- Timely communications with program member states are provided in the form of the *Calendar of Events*, *MTC Key State Personnel Directory*, and other documents.
- The Local Area Network (the LAN) in the D.C. office promotes the timely production and sharing (for review purposes or otherwise) of electronically created documents without the reliance on a "sneaker net". The LAN also allows individuals to communicate effectively with each other and with other MTC offices via E-mail.

FUTURE EFFORTS

- A communications and fax server will be added to the D.C. LAN. This should promote more efficient and timely communications with the state tax personnel in MTC's program states.

- Investigation of and movement towards a Simplified Employee Plan (SEP) in place of the current plan for which the record keeping is done by MTC's Colorado bank. This should reduce the administrative fees now paid by the Commission and result in more timely and accurate employee retirement plan information.
- Investigation of alternative health insurance providers with the objective of reducing the cost to the Commission of the health insurance benefits provided to its employees.

ADMINISTRATIVE MATTERS HANDLED BY ADMINISTRATIVE SERVICES

COMPUTER RELATED

- ↳ Supports the Local Area Network (LAN) of the D.C. office and provides access to other MTC offices.
- ↳ Supports and maintains the Commission's access to TaxExchange.
- ↳ Designs software applications for MTC programs such as Audit and the National Nexus Program so that data can be collected, maintained, and reported in usable form.
- ↳ Maintains the state of the art knowledge in regards to hardware and software. And based on this make recommendations for improvements or additions to the existing technology base. Then implement, de-bug, and maintain new or improved hardware and software.
- ↳ Provides computer and software training to Commission staff.

PERSONNEL & EMPLOYEE BENEFITS

- ↳ Maintains personnel files and assists the Executive Director in personnel related matters.
- ↳ Provides record keeping services to the MTC Deferred Compensation Plan.
- ↳ Enrolls new employees in the Commission's employee benefit programs and provides updated information to insurers or others as the need arises.

FINANCIAL & OTHER

- ↳ Maintains the historical financial records of the Commission using Solomon accounting software.
- ↳ Coordinates the preparation of the MTC Annual Budget.
- ↳ Handles payroll related matters including the monthly contribution to the MTC Retirement Plan and the filing of all necessary payroll tax returns.
- ↳ Purchases supplies for the D.C. office and larger items, such as office equipment, computers, and software for all MTC offices.
- ↳ Coordinates the on-site storage of Commission documents.
- ↳ Coordinates the off-site storage of Commission documents.
- ↳ Coordinates acquisition of meeting space and handles meeting logistical requirements
- ↳ Maintains and distributes the *MTC Key State Personnel Directory*

LEGAL DIVISION SUPPORT OF ADMINISTRATIVE MATTERS

- ↳ Employee relations matters, including claims made by employees arising from the terms and conditions of their employment (*e.g.*, Vitug).
- ↳ Tax compliance matters, including Commission's obligations regarding federal and state taxes (*e.g.*, exempt status of Commission for both Federal and State taxes, travel and entertainment issues, Public Safety Fee).
- ↳ Procurement matters, including review of contracts, purchase agreements, potential claims, disposition of surplus property and the like.
- ↳ Employee benefits matters, including review of issues arising under the Commission's qualified plans and Personnel Manual (*e.g.*, Pension Plan, IRC §457 Plan).

- ↳ Meeting/convention matters, including review of hotel and facility contracts and resolution of issues arising under such contracts.
- ↳ Executive Committee matters, including preparation of meeting minutes and materials.
- ↳ Commission governance matters, including analysis of Commission organic documents (e.g., Compact and Bylaws).
- ↳ Party State matters, including review of contracts entered into with Party and other States.
- ↳ Commission publication matters, including review of publications and issues arising from publication (e.g., publication of article on LLCs).
- ↳ Financial matters, including support of third-party audit of Commission accounts, banking issues and review and payment of Commission trade accounts (e.g., misdirected electronic payments, collateralization of Commission accounts).
- ↳ Central files, including participation in meetings and development of design criteria.
- ↳ Organization of Commission participation in activities, including property tax initiative, nexus program, TaxNet Governmental Communications Corporation, and the like.