



ABOUT THE MULTISTATE TAX COMPACT, WITH SUGGESTED ENABLING ACT*

The Multistate Tax Compact is a model law. Its prime purpose is to promote uniformity in tax administration procedures among the states.

The Compact was drafted in 1966 by a widely representative group of state officials, including tax administrators, attorneys general, state legislators, and a special committee of the Council of State Governments. The Compact became effective, under its terms, on August 4, 1967.

The Multistate Tax Compact is an advisory compact, in that actions taken under its authority have only an advisory or recommendatory effect on its member states. Nevertheless, it provides its members with a vehicle through which to work toward the achieving of its purposes. That vehicle is the Multistate Tax Commission. The membership of the Commission consists of the tax administrators of all party states. The enacting of the Compact into legislation by a state makes that state a party to the Compact and its top tax administrator a member of the Commission.

The Compact deals primarily with taxes which affect businesses that operate in more than one state. Its salient feature is to be found in Article IV, which consists of the Uniform Division of Income for Tax Purposes Act (UDITPA). That model act had been drafted in 1957 by the Uniform Law Commission (at that time the National Conference of Commissioners on Uniform State Laws). It provides for the attribution of multistate income on a consistent basis among the states. Some two-thirds of the corporate income tax states adhere closely to its provisions, and the remaining states generally take it into account in their income attribution determinations.

Since its inception, the Multistate Tax Commission has played a major role in promoting uniformity and fairness in state taxation of interstate commerce. It does so via the drafting, adopting and promulgating of uniform rules and regulations; the drafting and updating of corporate income tax and sales and use tax audit manuals under the provisions of which it performs joint tax audits on behalf of the states (a joint audit is one performed on a taxpayer on behalf of several states at the same time); the operations of its audit, litigation, nexus, and uniformity committees; and the increasing willingness of its member states to resolve over taxation and under taxation problems on an equitable basis through the mechanism of the Commission. The Commission also performs legal research, participates in litigation on behalf of states, presents legal programs and audit seminars, periodically publishes tax publications, and generally seeks to discourage the increasing tendency of the federal government to intrude into the field of state taxation of interstate business.

Every additional state enactment of the Compact enlarges the membership of the Commission, broadens the Commission's base with the addition of the views of that state's tax administrator to its deliberations, and increases the weight of the results of those deliberations in the courts and in the Congress. A state may use the following Suggested Enabling Act not only to enact it but also to implement its provisions.

*This information was adapted in Jan. 2015 from a previous document entitled "The Multistate Tax Compact," itself adapted in the mid-1990s from printed material that had been widely distributed since the 1970s.

SUGGESTED ENABLING ACT¹

Section 1.

The "Multistate Tax Compact" is hereby enacted into law and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

[INSERT TEXT OF THE MULTISTATE TAX COMPACT]

Section 2.

[Use this Section to implement Article III 2. If both the State and subdivisions levy income taxes on businesses, appropriate provision should be made to assure that both are covered. If neither the State nor any of its subdivisions presently levy business income taxes, this Section can be omitted.]

Section 3.

[The Governor [[with the consent of the Senate]] shall appoint the member of the Multistate Tax Commission to represent this State from among the persons made eligible by Article VI 1(a) of the compact.] [The head of the [[insert name of appropriate state tax agency]] shall represent this State on the Multistate Tax Commission.]

Section 4.

The member representing this State on the Multistate Tax Commission may be represented thereon by an alternate designated by him. Any such alternate shall be a principal deputy or assistant of the member of the Commission in the agency which the member heads.

Section 5.

[Use this Section to provide for other counsel as allowed by Article VI 1(a), if such other counsel is desired.]

Section 6.

[The Governor, after consultation with representatives of local governments, shall appoint [[three]] persons who are representative of subdivisions affected or likely to be affected by the Multistate Tax Commission.] [The Governor shall appoint [[three]] persons who are representative of subdivisions affected or likely to be affected by the Multistate Tax Commission, from among persons nominated by [[specific recognized state-wide organizations of local governments.]] The member of the Commission representing this State, and any alternate designated by him, shall consult regularly with these appointees, in accordance with Article VI 1(b) of the compact.

Section 7.

[There is hereby established the Multistate Tax Compact Advisory Committee composed of the member of the Multistate Tax Commission representing this State, any alternate designated by him, the Attorney General or his designee, and two members of the Senate, appointed by the [[presiding officer]] thereof and two members of the [[Assembly]], appointed by the Speaker thereof. The Chairman shall be the member of the Commission representing this State. The Committee shall meet on the call of its Chairman or at the request of a majority of its members but in any event it shall meet not less than three times in each year. The Committee may consider any and all matters relating to recommendations of the Multistate Tax Commission and the activities of the members in representing this State thereon.]

Section 8.

There is hereby appropriated the sum of \$_____ to the Multistate Tax Commission [for the 20__ fiscal year] [for the biennium 20__ 20__].

Section 9.

[Insert Effective Date.]

¹ Some provision should be made for all the matters covered in the enabling Act; other provisions may be added if they are needed. Material enclosed in brackets should be replaced by specific language which will accomplish the purpose intended.