

**NINTH
ANNUAL REPORT
MULTISTATE TAX COMMISSION**



**For the Fiscal Year
of
July 1, 1975 - June 30, 1976**

**Richard R. Heath
Arkansas Director of Finance
and Administration
Chairman**

**Eugene F. Corrigan
Executive Director**

**1790 Thirtieth Street
Boulder, Colorado 80301**

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December 1, 1976

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

I respectfully submit to you the ninth annual report of the Multistate Tax Commission.

This report covers the fiscal year beginning July 1, 1975 and ending June 30, 1976.

Respectfully submitted,

A handwritten signature in cursive script that reads "Eugene F. Corrigan".

Eugene F. Corrigan
Executive Director

MULTISTATE TAX COMMISSION

OFFICERS



Richard Heath, Chairman
Director of Finance
and Administration
Arkansas



John J. Lobdell, Vice-Chairman
Director of Revenue
Oregon



Sterling Gallagher, Treasurer
Commissioner of Revenue
Alaska

EXECUTIVE COMMITTEE MEMBERS



Joseph Dolan
Director of Revenue
Colorado



Allison Green, Treasurer
State Treasurer
Michigan



Martin Huff
Executive Officer
California Franchise Tax Board



F. Kent Kalb
Secretary of Revenue
Kansas

The three officers are also members of the Executive Committee. Terms of the above officers and committee members end June 30, 1977.

EX OFFICIO MEMBERS OF EXECUTIVE COMMITTEE

FORMER COMMISSION CHAIRMEN



Byron L. Dorgan
Tax Commissioner
North Dakota



Donald H. Clark
Commissioner of Revenue
Indiana



William E. Peters
Tax Commissioner
Nebraska

**MULTISTATE TAX COMMISSION MEMBERS
REPRESENTING PARTY STATES OF THE
MULTISTATE TAX COMPACT**

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HAWAII



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*Executive officer of the Franchise Tax Board represents California in MTC fiscal year beginning in even numbered calendar years, and the Executive Secretary of the Board of Equalization represents California in MTC fiscal years beginning in odd numbered calendar years. Thus, Martin Huff is the member during fiscal 1976-1977.

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***MTC Chairman, July 1, 1975-June 30, 1976

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ALTERNATES

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KANSAS



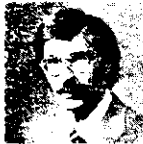
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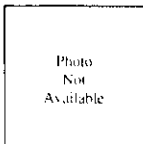
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TAX ADMINISTRATORS, ASSOCIATE MEMBER STATES

The Commission has made provision for associate membership by Section 13 of its bylaws, as follows:

13. Associate Membership

(a) Associate membership in the Compact may be granted, by a majority vote of the Commission members, to those States which have not effectively enacted the Compact but which have, through legislative enactment, made effective adoption of the Compact dependent upon a subsequent condition or have, through their Governor or through a statutorily established State agency, requested associate membership.

(b) Representatives of such associate members shall not be entitled to vote or to hold a Commission office, but shall otherwise have all the rights of Commission members.

Associate membership is extended especially for states that wish to assist or participate in the discussions and activities of the Commission, even though they have not yet enacted the Compact. This serves two important purposes: (1) it permits and encourages states that feel they lack knowledge about the Commission to become familiar with it through meeting with the members, and (2) it gives the Commission an opportunity to seek the active participation and additional influence of states which are eager to assist in a joint effort in the field of taxation while they consider or work for enactment of the Compact to become full members.

ALABAMA



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**PRIOR
MULTISTATE TAX COMMISSION
CHAIRMEN**

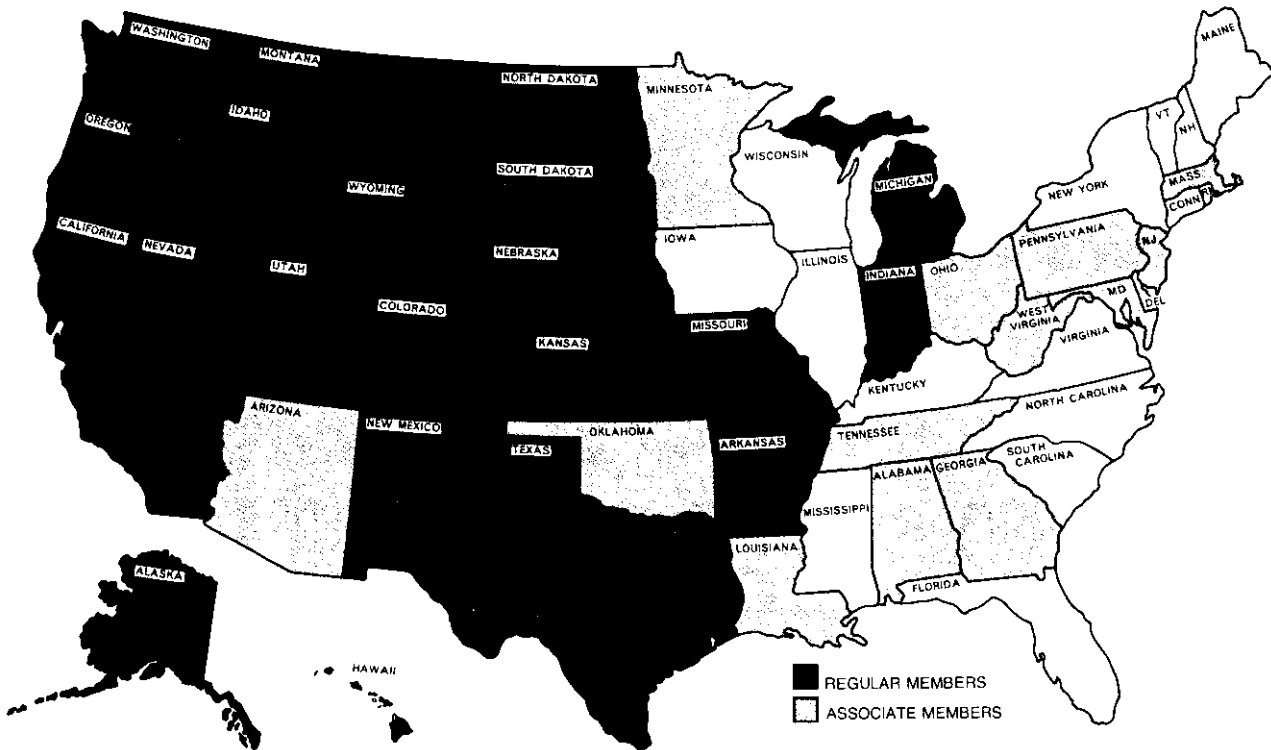
GEORGE KINNEAR, Washington	June 1967-January 1970
JAMES T. McDONALD, Kansas	January 1970-June 1971
CHARLES H. MACK, Oregon	July 1971-June 1972
BYRON L. DORGAN, North Dakota	July 1972-June 1974
DONALD H. CLARK, Indiana	July 1974-June 1975
WILLIAM E. PETERS, Nebraska	July 1975-June 1976

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- Maurice P. Carpenter (502) 564-3226
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Department of Taxes
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Department of Revenue
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MULTISTATE TAX COMMISSION

MEMBERSHIP JANUARY 1, 1977



REPORT OF THE CHAIRMAN

The outlook for the success of the Multistate Tax Commission appears brighter at this time than it has in years. The decisions in the *Hertz* and *U.S. Steel* cases [see Report of the Executive Director] have removed roadblocks that have frustrated the Commission for a number of years. Our audit staff has been expanded sufficiently to begin some really significant production. Progress towards uniformity among the member states in their laws, regulations and forms has been made and is accelerating. But most important, there is noticeably stronger commitment from the Tax Administrators to make the Commission live up to its original goals.

On June 2 and 3, 1976, at an Executive Committee meeting called by then Chairman William Peters, seven major goals were identified for the Commission:

1. To foster uniformity in tax administration among the member states.
2. To carry out an effective program of multistate audits of multistate and multinational corporations which will result in equitable apportionment of taxes among the member states and will avoid duplicative taxation.
3. To facilitate taxpayer convenience in the filing of state tax returns.
4. To guard against restrictive federal legislation and other federal action which impinges upon the ability of state tax administrators to carry out the laws of their states effectively.
5. To retain our existing membership and to increase the number of states which are full members of the Commission.
6. To help states achieve the maximum tax collection to which they are entitled under state law.
7. To train state tax personnel so they may more effectively administer the tax laws of their states.

It was decided that maximum emphasis over the next year should be placed on achieving objectives relating to the first two goals; namely, increasing uniformity in state tax administration, and increasing the effectiveness of the Joint Audit Program.

The number of standing committees was trimmed to two, a Joint Audit Liaison Committee consisting mainly of Field Audit Managers of member states and a Sales and Use Tax Committee consisting of Sales and Use Tax administrators. These committees are developing specific objectives for consideration of the Executive Committee. Those objectives should provide significant progress towards our two priority goals. Their work and progress to date have been most gratifying.

There is a strong desire in this country to decentralize government. Over the past forty years decisions, responsibility, power and authority have been pushed up the governmental ladder from local and state governments to Washington. It is abundantly clear that many programs which are now run by the federal government ought to be returned to the states. Managerial and technical competence at the state level has dramatically improved since World War II, and the argument of the Thirties that state governments lacked the capacity to handle complex problems is today demonstrably false. In no area is this more true than in the area of tax administration. Instance after instance can be cited wherein state tax personnel have proved themselves more competent, more efficient, more sophisticated and better equipped to deal with the complexities of equitably applying tax laws to multistate and multinational corporations than their federal counterparts.

Given this climate of opinion; given the strong commitment of the member state Tax Administrators; given the effective work of our committees, our administrative staff and joint audit staff; and given our overwhelming victories in the courts, the Commission will move forward rapidly toward the achievement of its goals. The result will be more equitable tax administration for the states and for *all* corporate taxpayers.

REPORT OF THE EXECUTIVE DIRECTOR

I. MEMBERSHIP

As of January 1, 1977, the Commission has 21 Member States and 13 Associate Member States. During the year the Compact was enacted in South Dakota and repealed in Florida; and Virginia ceased to be an Associate Member State.

II. UNIFORM REGULATIONS

A. Adoption of Regulations

The Multistate Tax Commission approved Uniform Allocation and Apportionment Regulations on September 10, 1971. On February 21, 1973, it approved a slightly revised version. By then Indiana had adopted the first set, which is still in effect in that State. Ten other Member States have adopted the revised Regulations. They are Arkansas, California (except as to dividends), Idaho, Missouri, Montana, Nebraska (excludes examples), New Mexico, North Dakota, Oregon and Utah. Alabama utilizes the regulations as guidelines although formal adoption has not taken place. Texas is applying the regulations to its Franchise Tax to the extent possible.

Copies of the Regulations are available at the Commission's headquarters upon request.

B. Sales Attribution Rule

In the Eighth Annual Report, we noted the pendency of a decision by the Appellate Court of Illinois¹ in a case in which the validity of the so-called throwback and double throwback rules was involved. These rules are reflected in Multistate Tax Commission Regulations IV. 16(a)(6) and (7), respectively. The Court decided the case in May of 1976, but did so on a procedural basis which avoided the issues to which we have referred.

The Supreme Court of South Carolina, however, had ruled earlier upon the throwback rule, upholding its validity.²

III. UNIFORM SALES & TAX CERTIFICATE

During the year, five additional States have indicated their willingness to accept the uniform certificate. This raises the total to thirty-six, nearly 80% of all States which have sales and use taxes. The form of the certificate and the names of the thirty-six States appear at Appendix A of this Annual Report.

IV. AUDIT ACTIVITIES

The Commission's office in New York currently consists of four auditors, including the Area Audit Manager. Its Chicago office also consists of four auditors, including the Commission's Audit Coordinator. Current plans are to add two additional auditors in January, and one more plus possibly three trainees in late Spring. It is anticipated that the size of the audit staff will more than double by the end of Fiscal Year 1978.

¹*GTE Automatic Electric Incorporated, v. Robert H. Allphin*, as Director of Revenue of the State of Illinois, 61725, Appellate Court of Illinois, May 14, 1976.

²*Covington Fabrics Corp. v. South Carolina Tax Commission*, March 10, 1975. 212 S.E. 2d 524, U.S. Supreme Court Dict. 741521. Appeal dismissed October 6, 1975, 44 LW 3198.

V. FEDERAL ACTIVITY

No action was taken by Congress during the year on any bill directly affecting the applicability of state sales and use taxes to interstate transactions or affecting state taxation of multistate income.

For the past several years, representatives of some large corporations have sought enactment of federal bills* which, among other things, would have interfered substantially with the judicially established unitary business concept. The utilization of this concept requires the use of an accounting approach called combination. This approach involves treating a unitary business as one entity whether it is operated as one corporation with many divisions or as a group of corporations. The determination of the income tax liability of any one of those corporations to a State is then made on the basis of the activities of the entire business.

Combination was used by only two States as recently as 1972. Today, at least 16 States are either using it or intending to do so to some degree. Of these, at least eleven are either applying it or intending to do so on an international basis. Some experts believe that any State which applies combination on a domestic basis can be compelled to do so on an international basis and, therefore, should also require it on an international basis.

The Treasury Department has included in the pending tax treaty with the United Kingdom provisions which would substantially shackle the States in their efforts to improve their tax administration capabilities. The objectionable provisions of the proposed United Kingdom Treaty would prohibit the use of combination at the international level in instances wherein the parents are located in the United Kingdom. Similar provisions are being incorporated into treaties which are currently being negotiated with other nations. This is especially unfortunate in view of the need to use international combination not only at the State level but at the Federal level as well. The reason for Federal support of the restrictive provisions is difficult to comprehend.

Many representatives not only of international corporations but of the Treasury Department itself have long maintained that Internal Revenue Code Section 482 provides an adequate means of determining multicorporate business income attributable to this country. They would have the States use the same approach for state purposes. That section provides that the IRS shall make adjustments when it finds that transactions between foreign and domestic affiliates have not been effected in the same manner as would have been the case had those transactions been made "at arm's length." A long Harvard Law Review Note³ recently dealt that contention a strong blow. That note pointed out that the Internal Revenue Service itself generally uses combination concepts in applying the arm's-length approach.

The Multistate Tax Commission has taken the lead in stirring opposition to the objectionable provisions of the proposed treaties. It hopes that Treasury officials will soon come to realize that those provisions would largely hamstring not only the States but the IRS as well.

VI. LITIGATION

All other litigation involving the Multistate Tax Commission has been overshadowed by decisions upholding the validity of the Multistate Tax Compact.

On January 29, 1976, the Supreme Court of the State of Washington ruled the Multistate Tax Compact valid. The nine judges were unanimous in upholding a lower court

*See previous Multistate Tax Commission Annual Reports.

³"Multinational Corporations and Income Allocation Under Section 482 of the Internal Revenue Code," *Harvard Law Review* [Vol. 89:1202], pp. 1202-1238.

decision in the case of *Kinnear et al. v. Hertz Corporation*. Hertz did not appeal the decision to the U. S. Supreme Court.

Five days later, on February 3, a three-judge panel of the Federal District Court for the Southern District of New York heard argument in the case of *U.S. Steel et al. v. Multistate Tax Commission et al.* The result was the same: on July 8, that court unanimously agreed that the Compact is constitutional.

The *Hertz* decision was the narrower of the two since it purported to consider the validity of only Article VIII and supporting articles of the Compact. The *U.S. Steel* case examined the entire Compact and related issues in detail. The corporations in the *U.S. Steel* case had the benefit of extensive discovery proceedings before the Defendants finally filed a Motion for Summary Judgment. But the corporations used little of the discovered information to support the allegations in their pleadings. In the *Hertz* case, the Commission filed its Motion for Summary Judgment before any discovery proceedings were initiated by Hertz. In both cases, the courts granted the Motions for Summary Judgment.

The specific issue before the Washington courts was whether or not the Commission has the power and authority to conduct a sales and use tax audit of Hertz pursuant to Article VIII. The Washington Supreme Court rejected Hertz's contention that the constitutionality of Article VIII must be determined by looking at the Compact as a whole. Citing the Compact's severability provision, the Court said that any potentially invalid Compact provision would be severable in any event since "... the Compact itself indicates an intent to preserve and enforce so much of the Compact as is constitutional." In the New York case, the corporations contended that the entire Compact is invalid.

Both courts addressed the central question in the case, whether or not Clause 3 of Section 10 of Article 1 of the U.S. Constitution requires congressional approval as a prerequisite to the validity of the Multistate Tax Compact. That language reads:

The Courts cited the 1893 case of *Virginia v. Tennessee*⁴ in which, *in obiter dictum*, the U.S. Supreme Court had said that congressional approval is not a prerequisite to the validity of a compact unless that compact tends to increase the political power of the States at the expense of the Federal Government. The corporations had contended that, since the language to that effect in that case was *obiter dictum*, it had no binding effect as law. The Commission, on the other hand, contended that several cases, including the U.S. Supreme Court case of *Wharton v. Wise*⁵ and other state supreme court cases which the U.S. Supreme Court had refused to review, had established that the *Virginia v. Tennessee* language reflected the law of the land. Both the Washington court and the New York Court agreed with the Commission on this point in ruling the Compact valid.

The New York Court had before it the June 14, 1976, U.S. Supreme Court decision in the case of *New Hampshire v. Maine*.⁶ In ruling the compact in that case to be valid, the Supreme Court specifically invoked the language in the *Virginia v. Tennessee* case. The *U.S. Steel* case judges were quick to cite the *New Hampshire v. Maine* decision in ruling the Multistate Tax Compact valid.

The fact that the Supreme Court has so recently ruled upon the current applicability of the *Virginia v. Tennessee* language has made the MTC tax administrators and their attorneys optimistic that the Court will summarily dispose of the *U.S. Steel* case in favor of the MTC.

The Washington Court said that the joint audit provisions "... do not increase the political power of the states. In fact, the Multistate Tax Commission, when it performs an audit, has no greater power than the individual states themselves." The New York Court

⁴148 U.S. 503.

⁵153 U.S. 155 (1894).

⁶44 U.S.L.W. 4829 (U.S.S.C. June 14, 1976).

noted that the Commission “. . . is vested with no taxing authority; the taxes which it administers are only those imposed by the respective states and subdivisions in accordance with state law. . . . Nor does the Commission have legislative power. . . .”

Hertz argued that the joint audit provisions encroach upon or interfere with the just supremacy of the United States under the commerce clause of the U.S. Constitution. The Washington Court said that “. . . there is no federal supremacy with which the Compact presently can interfere. There are many matters upon which different States may agree that can in no respect concern the United States.” The New York Court said: “There is nothing inherent in the problems of multistate tax administration that would require federal regulation, nor has Congress yet identified these problems as a matter of peculiar federal concern.”

The Washington Court disagreed with Hertz’ contention that auditing of interstate businesses for purposes of state taxation is a matter requiring uniform national policy. The Court said, “The Compact is merely a convenient vehicle through which legitimate state interests can be carried out. . . .” and the audit provisions “. . . do not impose impermissible discriminatory burdens on interstate business.”

Hertz contended that the provisions of the Compact violate the equal protection clause of the U.S. Constitution on the basis of “a possible difference in state criminal penalties for violations of confidentiality standards.” The Court said that such a claim of discrimination “cannot be substantiated.” The *U.S. Steel* Court went further: “Whether the audit is performed by Commission auditors or state auditors, the prohibitions against disclosure are the same.” But that Court said in effect that, even if an illegal disclosure took place, the corporations could not complain because “[t]he enforcement of criminal sanctions is a concern of the public prosecutor, as to which these plaintiffs lack standing.” Also, the Washington Court rejected Hertz’ claim that it is denied due process because the Compact does not provide an effective remedy for improper disclosure of confidential information. It said that Hertz had failed to demonstrate lack of an adequate remedy.

Hertz complained that Commission personnel may be appointed “[i]rrespective of the civil service, personnel or other merit system laws of any party state. . . .” with resultant discrimination against interstate taxpayers. The Court pointed out that Washington statutes permit audits of intrastate taxpayers by appointed agents not covered by applicable state qualification tests. The *U.S. Steel* Court noted that each Commission auditor “. . . is bound by the same law. . . .” when auditing on behalf of a state as would be the state’s own auditor. The New York Court then stated, with some acerbity: “It is not a demonstrated principle that tax auditors having civil service status work with any greater or less diligence or ability than those who lack job tenure.”

Hertz argued that “the Commission’s auditors *might possibly* be less familiar with state laws and less experienced than state auditors and, therefore, discrimination could result. . . .” The Court dismissed this contention as premature. The New York Court simply said that any distinction between qualifications for Commission personnel and those for state personnel “. . . is of no consequence. . . .”

Hertz argued that the Commission audits constitute unreasonable searches and seizures under the fourth amendment of the U.S. Constitution. The Court disagreed: “because the Commission is a validly constituted body, it unquestionably has the power and authority to conduct proper interstate audits. . . .”

The Court then granted the Summary Judgment, saying that Hertz had presented “. . . no disputed facts. . . that are material to the constitutionality of the Multistate Tax Commission. . . .” In granting a similar motion, the New York Court said: “No contention is made that the Compact is being administered other than according to its terms, except as to particulars governed by the substantive tax laws of the respective party states. The constitutional issues posed by this complaint reduce themselves to questions of law. . . . Certain of the issues of fact which plaintiffs would seek to raise are purely hypothetical and speculative. . . .”

In the *U.S. Steel* case, the corporations contended that the Compact promotes disparity, not uniformity; that the voluntary nature of Compact membership and the fact that only twenty-one states have joined it necessarily limits its reach; and that the advisory powers granted to the Commission are insufficient to override the differences in the substantive laws of the party states. Again a caustic quality appeared in the Court's comment that "Plaintiffs' characterization here of a compact binding only a loose and powerless confederation stands in sharp contrast to their simultaneous characterization of the Compact as intruding upon the federal supremacy and increasing the political power of the states. . . . any agreement between two or more states to observe an identical principle of state tax law diminishes the existing possibility of fifty disparate state tax results."

In 1975, the MTC issued several subpoenas calling for examination of each corporation's records at its corporate headquarters or at any other business location chosen by the corporation. The *U.S. Steel* plaintiffs contended that the Compact discriminates against multistate taxpayers by vesting in the Commission broader subpoena powers than those possessed by the individual states. The New York Court responded that:

" . . . [A] multistate corporation may be required to produce its relevant books and records in any state in which it is present and therefore taxable.

"The Commission's subpoena power is no broader than that of the party states. The Commission has no powers of subpoena or contempt apart from the powers of the state courts whose jurisdiction it invokes. . . .

"Although we do not find the Commission's powers broader than those of the constituent states, to the extent that the Commission may be enabled to use its subpoena powers in ways in which no single state can, we find that this difference does not constitute an invidious discrimination against multistate taxpayers. Different and more complex problems are raised in the taxation of multistate and multinational corporations that are not encountered in the taxation of intrastate businesses. . . . The different treatment, if any, accorded multistate taxpayers by the Compact is a permissible legislative response to what is perceived as the different circumstances of the multistate taxpayer. . . ."

Indeed, the New York Court considered the joint audit procedure to be beneficial to multistate taxpayers, saying:

"In these days of the computer, many multistate taxpayers, present in a number of states, tend to centralize their record keeping in one place, often remote from a taxing authority. Such a remote taxing authority can, under familiar constitutional principles, compel attendance before it of competent employees having knowledge, together with sufficient underlying documentation to permit spot check verification of the computerized data. Such personnel and records cannot be in more than one place at a time. Common sense dictates, therefore, that examinations should take place where the records are kept. The Compact was a common sense approach to solve the chaos which would result if taxpayer's personnel or, alternatively, state taxing authorities were required to spend most of their time on the road."

The Hertz decision is currently being enforced. The Commission has begun legal action to cause refusing corporations to abide by both the *Hertz* and the *U.S. Steel* decisions and to submit to audits which the States have directed the Commission to perform. Those corporations are resisting those suits pending a decision by the United States Supreme Court in the *U.S. Steel* case.

The appeal of the *U.S. Steel* case to the United States Supreme Court was perfected on November 4. Final pleadings by all parties have now been filed. The Supreme Court is expected to decide early in 1977 whether to summarily affirm or dismiss or to note probable jurisdiction.

VII. PUBLICATIONS

The March 1976 issue of the Vanderbilt Law Review included articles by staff

members of the Commission.⁷ The Commission also published its Newsletter No. 36 in October.

VIII. JUDICIAL UNIFORMITY

The Commission is seeking to encourage State courts to support State efforts to achieve uniformity. Toward that end, it has made its Chief Counsel available for advice and for participation in litigation which involves the results of joint audits or other related issues. As a result, he is involved in litigation matters in several States.

Joint audits constitute a major effort toward uniformity in taxation of interstate commerce. The success of those efforts, however, will ultimately depend upon the support which they receive from the courts of the various States. The courts can give such support only if they understand fully the technical issues which are involved and if they recognize that the effect of each decision reaches beyond the borders of the individual State.

In making the services of its Chief Counsel available to the States, the Commission is seeking to demonstrate to the courts the importance of each decision to the establishment of a rational system of state taxation of interstate business.

IX. CONCLUSION

The Multistate Tax Commission continues to provide the major thrust toward uniform procedures in state taxation of multistate business. The task is a difficult one. Yet progress has been steady. The Commission is optimistic that that progress will soon accelerate.

⁷William D. Dexter, Chief Counsel, Multistate Tax Commission, "Taxation of Income from Intangibles of Multistate-Multinational Corporations;" and Eugene F. Corrigan, Executive Director, Multistate Tax Commission, "Interstate Corporate Income Taxation-Recent Revolutions and a Modern Response," *Vanderbilt Law Review*, Vol. 29, No. 2, pp. 401-421 and pp. 423-442.

STANDING COMMITTEES

JOINT AUDIT LIAISON COMMITTEE



Robert H. Munzinger, Washington, CHAIRMAN

Frank Beckwith, Colorado	Ronald S. Loyd, New Mexico
Robert Bonnici, California	Fred J. Lynch, Michigan
Donald R. Bosch, Utah	Harvey P. McNutt, Wyoming
Orville Dixon, South Dakota	Frank Medlin, Idaho
Paul Erskine, California	Ted Middle, Colorado
Gerald L. Foster, Montana	Robert H. Munzinger, Washington
Horace Gailey, Utah	C. David Newbery, Kansas
Sydney Goodman, Michigan	Robert Nunes, California
Jay Hartley, Missouri	Jeremiah F. O'Connor, Indiana
Walter Harvey, California	Tomotaru Ogai, Hawaii
Ben C. Holderied, Michigan	Bob Owens, Texas
F. Nolan Humphrey, Arkansas	Robert E. Paquette, California
Gary Jenkins, Alaska	Oscar Quoidbach, Oregon
Howard Johnson, Indiana	Joe Randall, Idaho
Norman Johnson, Arkansas	Homer R. Ross, Idaho
Charles W. Keller, North Dakota	Jack Sexton, Nebraska
Robert R. Kessel, North Dakota	Robert Sondag, Nebraska
William E. Knipp, Missouri	Ray Tyson, Wyoming
Everett Leath, Arkansas	

SALES & USE TAX COMMITTEE



Frank Beckwith, Colorado, CHAIRMAN

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Walter Harvey, California	Walter M. Stack, North Dakota
Chandler A. Hewell, Georgia	S. Ed Tveden, Washington
Ben C. Holderied, Michigan	Wesley E. Wilber, Missouri
Richard M. Lee, Hawaii	

APPORTIONMENT OF 1976-77 BUDGET

<i>State</i>	<i># Revenues Under Compact</i>	<i>% to Total</i>	<i>*Appor- tioned Share of 10%</i>	<i>*Appor- tioned Share of 90%</i>	<i>Total Share of 1976- 1977 Budget</i>
Alaska	\$ 57,025,664.	.3799	\$ 1,054.05	\$ 756.81	\$ 1,810.86
Arkansas	295,134,429.	1.9665	1,054.05	3,917.56	4,971.61
California	5,678,600,428.	37.8354	1,054.05	75,373.80	76,427.85
Colorado	427,235,596.	2.8469	1,054.05	5,671.45	6,725.50
Hawaii	323,365,813.	2.1549	1,054.05	4,292.88	5,346.93
Idaho	151,688,242.	1.0108	1,054.05	2,013.66	3,067.71
Indiana	779,300,952.	5.1926	1,054.05	10,344.45	11,398.50
Kansas	363,705,929.	2.4236	1,054.05	4,828.17	5,882.22
Michigan	2,490,839,110.	16.5962	1,054.05	33,062.11	34,116.16
Missouri	769,882,255.	5.1299	1,054.05	10,219.55	11,273.60
Montana	89,122,784.	.5942	1,054.05	1,183.75	2,237.80
Nebraska	208,425,000.	1.3890	1,054.05	2,767.10	3,821.15
Nevada	79,561,386.	.5304	1,054.05	1,056.63	2,110.68
New Mexico	241,148,000.	1.6071	1,054.05	3,201.58	4,255.63
North Dakota	92,061,600.	.6138	1,054.05	1,222.78	2,276.83
Oregon	362,717,000.	2.4170	1,054.05	4,815.02	5,869.07
South Dakota	72,355,476.	.4824	1,054.04	961.01	2,015.05
Texas	1,480,702,553.	9.8659	1,054.04	19,654.35	20,708.39
Utah	270,841,633.	1.8049	1,054.04	3,595.63	4,649.67
Washington	730,048,774.	4.8645	1,054.04	9,690.81	10,744.85
Wyoming	44,073,674.	.2941	1,054.04	585.90	1,639.94
	\$15,008,836,298.	100.0000	\$22,135.00	\$199,215.00	\$221,350.00

For fiscal year ending June 30, 1973

* 10% in equal shares; 90% on basis of tax revenue

PLANNED ADMINISTRATION BUDGETS

	1976-77	1977-78	1978-79
Salaries & Payroll Costs			
a) Salaries	\$ 92,000.	\$101,200.	\$113,000.
b) Employees' Insurance	7,000.	7,800.	8,600.
c) Retirement	12,950.	14,160.	18,100.
Travel Expenses	19,200.	21,120.	23,200.
Operating Expenses			
a) Bonds and Insurance	1,000.	1,100.	1,200.
b) Office Rental	18,000.	19,800.	21,800.
c) Office Supplies	3,000.	3,300.	3,700.
d) Freight and Postage	4,000.	4,400.	4,900.
e) Printing and Duplicating	11,000.	12,100.	13,300.
f) Telephone and Telegraph	8,000.	8,800.	9,700.
g) Books and Periodicals	2,000.	2,200.	2,500.
h) Miscellaneous	500.	550.	700.
Conference & Committee Meetings and Hearings			
	2,500.	2,650.	3,000.
Contract Services			
a) Accounting Fees	3,000.	3,300.	3,700.
b) Consulting Fees	3,000.	3,300.	3,300.
c) Other Contract Services	20,500.	500.	1,000.
Capital Outlay			
a) Office Furniture	1,000.	1,100.	1,400.
b) Office Equipment	1,000.	1,100.	1,400.
Contingency	11,700.	12,870.	13,500.
Totals	\$221,350.	\$221,350.	\$248,000.

PLANNED AUDIT BUDGETS

	1976-77	1977-78	1978-79
1. Salaries & Payroll Costs			
a) Salaries	\$211,000	\$294,000	\$558,000
b) Insurance	8,600	11,800	20,000
c) Retirement	29,600	41,300	78,100
2. Travel Expenses	27,400	29,400	44,000
3. Operating Expenses			
a) Rent	20,500	24,500	39,000
b) Supplies	4,700	6,300	7,700
c) Postage	1,600	2,300	4,300
d) Printing	5,200	5,900	7,200
e) Telephone	9,000	9,800	14,500
f) Periodicals	1,200	1,200	1,800
g) Miscellany	1,000	1,300	2,700
4. Capital Outlay			
Furniture & Fixtures	6,500	4,500	11,000
Total	\$326,300	\$432,300	\$788,300

BUDGET PERFORMANCE

Fiscal Year July 1, 1975 - June 30, 1976

AUDIT

	<i>Actual</i>	<i>Budget</i>
Payroll	\$159,519.22	\$158,200.00
Insurance	10,818.84	7,350.00
Retirement	21,738.79	22,400.00
Staff Travel	24,969.50	18,400.00
Commission Member Travel		
Other Travel		
Relocation	-0-	1,200.00
Bonds & Insurance		
Rent	15,081.55	18,000.00
Supplies	2,794.13	3,200.00
Postage	809.18	1,200.00
Printing & Duplicating	4,271.57	5,700.00
Telephone	8,382.21	7,500.00
Books & Periodicals	1,181.44	500.00
Miscellany	462.16	1,350.00
Conference & Committee		
Meetings or Hearings		
Professional Fees &		
Other Contract Services		
Furniture & Fixtures	913.55	1,000.00
Totals	\$250,942.14	\$246,000.00

REPORT 1975-1976

ADMINISTRATION

<i>Actual (Over) or Under Budget</i>	<i>Actual</i>	<i>Budget</i>	<i>Actual (Over) or Under Budget</i>
\$(1,319.22)	\$ 82,515.81	\$ 80,000.00	\$(2,515.81)
(3,468.84)	6,408.30	6,100.00	(308.30)
661.21	11,552.21	11,200.00	(352.21)
(6,569.50)	13,566.50		
	1,142.00		
	182.00	19,200.00	4,309.50
1,200.00			
	778.35	1,000.00	221.65
2,918.45	15,859.67	18,000.00	1,140.33
405.87	1,754.41	2,500.00	745.59
390.82	2,689.04	3,000.00	310.96
1,428.43	8,315.90	8,000.00	(315.90)
(882.21)	6,849.28	7,000.00	150.72
(681.44)	859.90	500.00	(359.90)
887.84	992.84	500.00	(492.84)
	769.00	1,500.00	731.00
	3,792.85	5,000.00	1,207.15
86.45	226.00	500.00	274.00
\$(4,942.14)	\$159,254.06	\$164,000.00	\$ 4,745.94

JOHNSON AND SCHNEBERGER
CERTIFIED PUBLIC ACCOUNTANTS

METROPOLITAN BUILDING • SUITE 560 • DENVER, COLORADO 80202 • 303/892-1841

MEMBER
AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS
COLORADO SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS
NATIONAL ASSOCIATION OF ACCOUNTANTS

August 12, 1976

Multistate Tax Commission
Boulder, Colorado

We have examined the balance sheet of Multistate Tax Commission at June 30, 1976 and the related statements of revenue and incurred expense, changes in fund balances, and changes in financial position for the year then ended. Our examination was made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the financial statements referred to above present fairly the financial position of Multistate Tax Commission at June 30, 1976 and the results of its operations, changes in fund balances, and changes in financial position for the year then ended in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

Johnson and Schneberger

MULTISTATE TAX COMMISSION

Balance Sheet

June 30, 1976

ASSETS

Current Assets:

Cash.....	\$ 57,680
Certificates of Deposit	130,000
Assessments Receivable	
(Net of Allowance for Doubtful	
Assessments in the Amount of \$31,500)	44,172
Prepaid Expense	<u>726</u>
Total Current Assets	<u>232,578</u>

Fixed Assets (Note 1):

Leasehold Improvements	\$ 956
Office Furniture and Equipment	<u>22,568</u>
	23,524
Less: Accumulated Depreciation and	
Amortization.....	<u>(13,382)</u>
Total Fixed Assets.....	10,142

Other Assets:

Expense Account Advances.....	2,700
Deposits (Note 2).....	2,274
Unamortized Pension Plan Cost (Note 3)	<u>12,574</u>
Total Other Assets.....	<u>17,548</u>

Total Assets..... \$260,268

LIABILITIES AND FUND BALANCE

Current Liabilities:

Accounts Payable (Note 5).....	\$ 10,935
Accrued Retirement (Note 3).....	<u>8,577</u>
Total Current Liabilities	19,512

Deferred Income:

Assessments Received in Advance	22,106
---------------------------------------	--------

Fund Balance:

Reserve for Employees' Retirement	
(Note 3)	\$ 15,877
Unappropriated Fund Balance	<u>202,773</u>
Total Fund Balance.....	<u>218,650</u>

Total Liabilities and Fund Balance..... \$260,268

Accompanying Summary of Significant Accounting Policies and Notes to Financial Statements are an integral part of this statement.

JOHNSON AND SCHNEBERGER

MULTISTATE TAX COMMISSION
Statement of Revenue and Incurred Expense
For the Year Ended June 30, 1976

Revenue:	
Assessments, General Purposes	\$384,050
Other:	
Receipts, Other Purposes	26,635
Interest	<u>14,169</u>
Total Revenue	424,854
 Incurred Expense:	
Salaries	\$242,035
Insurance, Employees	17,227
Pension Plan and Retirement (Note 3)	33,291
Provision For Doubtful Assessments	31,500
Travel, Staff	38,536
Travel, Commission Members	1,142
Travel, Other	182
Rent	31,904
Supplies	4,549
Printing	12,588
Postage	3,498
Telephone	15,232
Publications	2,041
Legal	1,340
Accounting	2,452
Conferences, Committee Meetings and Hearings	769
Depreciation (Note 1)	2,945
Insurance, General	778
Other	<u>1,455</u>
Total Incurred Expense	443,464
 Excess of Incurred Expense Over Revenue	 <u><u>(\$ 18,610)</u></u>

Accompanying Summary of Significant Accounting Policies and Notes to Financial Statements are an integral part of this statement.

MULTISTATE TAX COMMISSION
Statement of Changes in Financial Position
For the Year Ended June 30, 1976

Source of Cash Funds:

Operations:	
Excess of Incurred Expense Over Revenue	(\$ 18,610)
Income Charges Not Requiring Cash Funds:	
Amortization of Pension	
Plan Past Service Cost	915
Depreciation	2,945
Provision for Doubtful Assessments	<u>31,500</u>
Total From Operations	16,750
Assessments Received in Advance	22,106
Certificates of Deposit Matured	1,465,000
Treasury Bills Matured	197,016
Increase in Accounts Payable	4,969
Increase in Accrued Retirement	4,278
Decrease in Deposits	<u>4</u>
Total Source of Cash Funds	1,710,123

Application of Cash Funds:

Certificates of Deposit Purchased	\$1,425,000
Treasury Bills Purchased	197,016
Increase in Assessments Receivable	35,215
Pension Plan Contribution in Excess of	
Normal Cost	1,679
Purchase of Office Furniture and Equipment	1,140
Increase in Expense Account Advances	800
Increase in Prepaid Expense	<u>139</u>
Total Application of Cash Funds	1,660,989

Excess of Source of Cash Funds Over	
Application of Cash Funds	49,134
Cash Balance, June 30, 1975	<u>8,546</u>
Cash Balance, June 30, 1976	\$ <u>57,680</u>

Accompanying Summary of Significant Accounting Policies and Notes to Financial Statements are an integral part of this statement.

MULTISTATE TAX COMMISSION
Statement of Changes in Fund Balances
For the Year Ended June 30, 1976

	<i>Reserve For Employees' Retirement</i>	<i>Unappropriated Fund Balance</i>
Balance, June 30, 1975.....	\$15,877	\$221,383
Deduct:		
Excess of Incurred Expense Over Revenue	(18,610)
Balance, June 30, 1976	<u>\$15,877</u>	<u>\$202,773</u>

Accompanying Summary of Significant Accounting Policies and Notes to Financial Statements are an integral part of this statement.

MULTISTATE TAX COMMISSION
Summary of Significant Accounting Policies
June 30, 1976

The accounting policies employed by Multistate Tax Commission are consistent with generally accepted accounting principles. Significant policies are described below:

Accounting Method

Under the accrual method of accounting adopted by the Commission, assessment revenue is recognized in the fiscal year of assessment. Contributions by states for specified purposes are recognized as income during the year of receipt. Other earned revenue is recognized as it is earned. Expenses are recognized as they are incurred.

Property, Plant and Equipment

All property and equipment is recorded at cost. Depreciation is provided for on the straight-line basis over the estimated useful lives of the assets. Amortization of leasehold improvements is provided for on the straight-line basis over the term of the lease.

Pension Plan

It is the Commission's policy to fund each year an amount equal to fourteen percent of the plan participants' gross salaries. Costs are actuarially determined.

It is also the policy of the Commission to accrue fourteen percent of the gross salaries of the personnel on leave of absence from State taxing authorities and make contributions to their respective plans if employment with the Commission is terminated and the employee returns to State employment before the expiration of the leave of absence.

MULTISTATE TAX COMMISSION
Notes to Financial Statements
June 30, 1976

Note 1:

Depreciation expense for the year ended June 30, 1976 calculated under the straight-line method amounted to \$2,626. Amortization expense calculated on the straight-line method over the term of the lease amounted to \$319.

Note 2:

The Commission's primary office facilities at Boulder, Colorado, are leased under an agreement expiring June 1, 1977. Monthly rental under the agreement is \$567.

The Commission leases secondary office facilities in New York, Illinois, and Washington under short-term agreements.

Deposits applicable to future rental payments aggregated \$1,849 at June 30, 1976.

Other deposits amounting to \$425 are airline travel deposits.

Note 3:

Substantially all of the full time employees of the Commission are covered by a pension plan. The Commission has also adopted the policy of assuming the liability for contributions to the State retirement fund for employees of the Commission who are on a leave of absence from State taxing agencies if these employees return to State employment.

Unamortized pension plan cost results from funding original past service cost more rapidly than the twenty year period in which this cost will be charged to expense for accounting purposes under the accounting method for pension plans adopted by the Commission.

Note 4:

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

The Internal Revenue Service has denied the Commission exempt status under the provisions of Internal Revenue Code Section 501(c)(6).

Note 5:

No provision has been made in the financial statements for disputed legal fees, approximating \$20,000.

APPENDICES

**PROGRESS IN UNIFORMITY THROUGH
ACCEPTANCE OF UNIFORM FORM
FOR
SALES & USE TAX FOR CERTIFICATE**

UNIFORM SALES & USE TAX CERTIFICATE FORM

**SALES TAX EXEMPTION CERTIFICATE
MULTI-JURISDICTION**

(See reverse side for instructions)

Issued to (\$/¢): _____ Address: _____

I certify that:

Name of Firm (Buyer)			is engaged as a registered <input type="checkbox"/> Wholesaler <input type="checkbox"/> Retailer <input type="checkbox"/> Manufacturer <input type="checkbox"/> Lessor (See note on reverse side.) <input type="checkbox"/> Other (Specify): _____
Street Address or P. O. Box No.:			
City	State	Zip Code	
is registered with the below listed states and cities within which your firm would deliver purchases to us and that any such purchases are for wholesale, resale, ingredients or components of a new product to be resold, leased, or rented in the normal course of our business. We are in the business of wholesaling, retailing, manufacturing, leasing (renting) the following:			

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

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

General description of products to be purchased from this seller: _____

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

Authorized Signatory (Owner, Partner or Corporate Officer)	Title	Date
--	-------	------

Reverse Side

TO OUR CUSTOMERS

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

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

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

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

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

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

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

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

**AGREEMENT
ON
EXCHANGE OF SALES AND USE TAX INFORMATION**

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

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

1. For the purposes of this Agreement, sales tax includes general excise and/or gross receipt taxes and means a tax imposed on a sale or exchange of personal property and/or services, as well as on gross receipts from trade or business; and use tax means a tax other than ad valorem tax, on the privilege of storing, using or consuming personal property and/or services.
2. This Agreement shall be applicable with respect to:
 - a. The inspection of sales and use tax returns of any taxpayer; and
 - b. The furnishing of an abstract or the exchange of computer information regarding the sales or use tax return of any taxpayer; and
 - c. The furnishing of any information concerning any items contained in any sales or use tax return of any taxpayer; and
 - d. The furnishing of any information disclosed by the report of any investigation of the sales or use tax return of any taxpayer.
3. For purposes of this Agreement, "taxpayer" includes any individual, corporation, partnership, organization, association, fiduciary, person or other entity, subject to payment or collection and remittance of sales or use tax or required to file a sales or use tax return.
4. This Agreement is not limited to a specific period of time or to returns, documents or information relating to any specific years or periods; and it will be considered to be in effect until revoked by one of the parties; however, the withdrawal of one party hereto shall not affect the Agreements among the remaining parties.
5. Additions and changes, including definitions, in the provisions of this Agreement, may be made by mutual consent of the proper officials of the undersigned states, and shall become an attachment to this Agreement.
6. No information obtained pursuant to this Agreement shall be disclosed to any person not authorized to receive such information by the laws of the undersigned states.
7. The information obtained pursuant to this Agreement shall be used only for the purpose of administration, and enforcement of the sales and use tax laws of the undersigned states.
8. This written Agreement shall not become effective between any two states until the authorized officials for both such states have signed it in the space provided below.
9. This written Agreement is not intended to revoke or supersede any other similar agreement that may have been previously entered into between any two or more of the states represented below.
10. *The undersigned agree to inform each other of the current statutory provisions of their respective states concerning the confidentiality of the material exchanged and the penalties for unlawful disclosure thereof.*

11. Any of the undersigned state officials may, at their discretion, refuse to furnish information disclosed in the report of any investigation while such investigation is still in progress or during such time as litigation is contemplated or in process, if the official of the state making the investigation deems it in the best interests of his state for such information to be withheld pending final determination of litigation.
12. Each of the undersigned state officials hereby affirms that he is the proper official charged with the administration of the sales and use tax laws of his state.

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

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

SIGNATORY STATES

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