

# **Thirteenth Annual Report**



## **Multistate Tax Commission**

**Fiscal Year 1979-1980**  
For the fiscal year of July 1, 1979-June 30, 1980

*Multistate Tax Commission*



EUGENE F. CORRIGAN, Executive Director

November 1, 1980

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

The purpose of the Multistate Tax Commission is to bring even further uniformity and compatibility to the tax laws of the various states of this nation and their political subdivisions insofar as those laws affect multistate business, to give both business and the states a single place to which to take their tax problems, to study and make recommendations on a continuing basis with respect to all taxes affecting multistate businesses, to promote the adoption of statutes and rules establishing uniformity, and to assist in protecting the fiscal and political integrity of the states from federal confiscation.

I respectfully submit to you the thirteenth annual report of the Multistate Tax Commission. This report covers the Commission activities for the fiscal year beginning July 1, 1979 and ending June 30, 1980. It includes a report on receipts, expenditures and operations for that period from Rhode, Scripser & Associates, Certified Public Accountants in Boulder.

Respectfully submitted,

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

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# Executive Director's Report

## Introduction

This report will be a short one, written in early November, whereas the previous one was written in June of this year. It will be in the nature of an addendum to the latter.

The major occurrences since June have been 1) a significant and extremely well attended annual meeting of the Commission and 2) some additions to the parade of court decisions which support MTC positions.

## Annual Meeting

A major portion of the annual meeting program provided an in-depth examination of state corporate income tax complexities and problems. It served to provoke further

bipartisan discussions throughout the meeting. The catalysts for the program and discussions were the U.S. Supreme Court's *Mobil* and *Exxon* decisions, which were discussed in the Twelfth Annual Report.

### Keesling

Frank Keesling led off the program with an analysis of the *Mobil* decision. He concluded that the *Mobil* decision supports the contention that whether or not dividends should be apportioned among the states in which the receiving corporation does business depends upon whether the issuing corporation is engaged in a unitary business with the receiving corporation. Under this interpretation, dividends between such unitary corporations would be subject to



MTC Annual Meeting

apportionment in only two situations:

1) where a state does not allow the use of combined reporting at all; or

2) where the state does allow or require combined reporting, where applicable, but the receiving corporation is precluded from filing a combined report because it owns an insufficient amount of the stock of the issuing corporation ("more than 50%" is usually required). In all other instances, such dividends would be eliminated in the combined report as interaffiliate transactions. Mr. Keesling would assign all other dividends to the commercial domicile.

### Dexter Position

Bill Dexter, on the other hand, would look to the reason for the making of a corporate investment in the stock of another corporation. If the investment was made to further the business purposes of the investing corporation, then the dividends would be considered by him to be a part of that corporation's apportionable unitary business income. This is true, in his opinion, regardless of whether a state does or does not allow or require full apportionment and regardless of whether or not it allows or requires combined reporting or recognizes the unitary business concept. The true significance of both *Mobil* and *Exxon*, he believes, lies in their re-stating the Supreme Court's historic support for this position.

### Mobil Comments

Forrest Smith, Mobil's tax counsel, reached the following conclusions concerning the *Mobil* case:

1) It laid aside commerce clause primacy vis-a-vis interstate taxation and the unitary concept.

2) It demonstrated that the risk of multiple taxation is a bad basis for argument. The taxpayer must prove actual multiple taxation before he can hope to get a favorable decision.

3) It probably established an almost

non-rebuttable presumption that a multinational corporate business is unitary.

4) It does not stand for the position that worldwide combination is legal.



Wisconsin's Asst. Attorney General Gerald Wilcox discusses his handling of the Exxon case before the U.S. Supreme Court



R.J. Reynold's Jim McGrath and Rhode Island's John Norberg

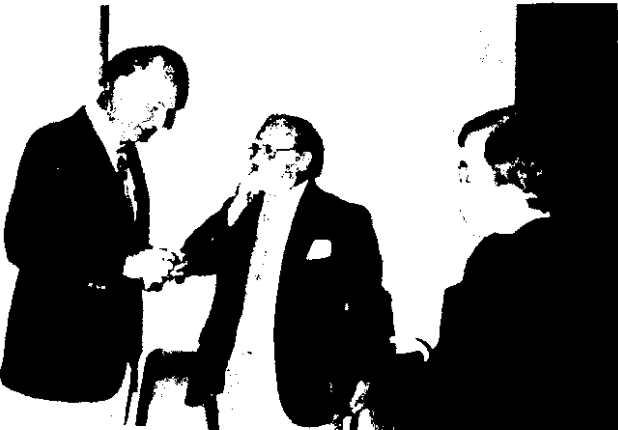
5) It established that most income will probably be considered to be apportionable; that the commercial domicile argument is dead.

6) It established the need for the taxpayer to begin all administrative hearings on the assumption that the case will wind up in the U.S. Supreme Court if interstate taxation is involved.

7) The best place to attack the effect of full apportionment of dividends is in the makeup of the formula.

### Panel Discussion

Extensive discussion followed concerning how corporations could best cope with interstate taxes after *Mobil* and *Exxon*. Led by Attorney Pat DiQuinzio, several corpor-



*MTC's Gene Corrigan, New Jersey's Sid Glaser, NAM's Tom Persky*

ate representatives seemed to agree that unitary apportionment is a fact of life on the domestic basis; but they drew the line at worldwide unitary apportionment. They seemed to think that, if dividends from overseas are to be included in the apportionable base, the formula should be adjusted somehow. The tax administrators generally take the position that the formula of the receiving corporation should not be affected by the source of the income to which the formula is to be applied.

### Program Participation

The extensive program included presentations on Welfare Fraud, Taxing Bank Income, Airline Taxation, Severance Taxation, Protecting the Sales and Use Tax Base, Developing an Audit Program, Secondary School Education in Taxes and the Multistate Tax Compact, its importance and its future. The presentations were made by the State

Tax Administrators of Illinois, Indiana, New Jersey, Rhode Island and Wisconsin, by the Executive Director of the Western Governors' Policy Office, by a Washington State legislator, by representatives of the Air Transport Association of America and the Internal Revenue Service and by representatives of Mobil Oil Co., Shell Oil Co., R.J. Reynolds Co. and Coopers and Lybrand. Transcriptions of several of the presentations are available upon request.

The luncheon speaker was Geoffrey Harley, a Doctoral Candidate at the University of Michigan Law School. His speech was a distillation of the findings and conclusions in his thesis on the subject of The Taxation of Worldwide Income. He concluded that the practice of worldwide combined reporting should be utilized not only in this country but throughout the world.

### Toward Consensus

MTC Chief Counsel Bill Dexter closed the program with a plea for greater efforts between the business community and state personnel to achieve workable and satisfactory solutions to interstate tax problems. The key to such an achievement, he said, was acceptance by business of the fact of unitary apportionment as an existing and required concept; and by the states of the fact that the current variety in state income tax laws, rules and procedures cannot truly be justified either to business representatives or to students of good government. He recommended a new effort to produce more equity and uniformity in the field.

Some 200 people attended the meeting, including tax administration personnel from 30 states, tax representatives from innumerable corporations nationwide, and legislators from several states. Many left the meeting with the feeling that a new attitude of constructive conciliation had been created and that from it might well develop in the long run a consensus on how states should tax interstate business. It is important to all that the MTC do its part to preserve that atmosphere and to help to develop and to maintain momentum toward such a consensus.

For the purpose of stimulating dialogue and searching for such a consensus, the Executive Director authored an article which appeared in *Tax Notes* on September 15.

The General Accounting Office report, discussed in the Twelfth Annual Report, is now expected to be issued in about March of 1981. It is hoped that that document will also help to lead in the direction of consensus.

### Commission Action

In its business session, the Commission:

1) Elected Gerald Goldberg, Chairman; Ken Cory, Vice-Chairman; Jenkin Palmer, Treasurer; and Bob Bullock, Robyn Godwin, Michael Lennen, and Fred Muniz, Executive Committee members. Mr. Goldberg, who was the Missouri Director of Revenue at the time, became the Executive Officer of the California Franchise Tax Board on September 1 and so resigned as Chairman effective August 31. Vice-Chairman Cory thereupon became Chairman. Because of a change in the law of California, however, the California representative will change from the State Controller, Mr. Cory, to the FTB

Executive Officer, Mr. Goldberg, on January 1, 1981. Mr. Goldberg is expected to resume his chairmanship of the Commission on that date.

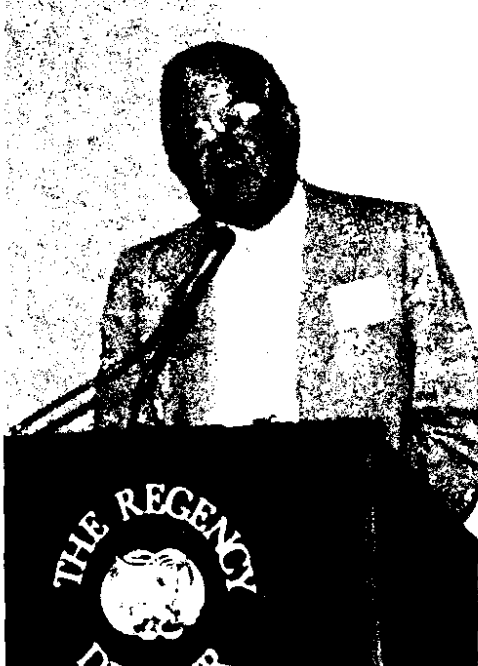
2) Adopted a resolution opposing federal bills S.983 (Mathias), S.1688 (Mathias) and H.R.5076 (Conable) as improperly detrimental to effective state tax administration.

3) Adopted a resolution opposing any federal legislation which would restrict or limit the states' right to enact severance or other mineral extraction taxes.

4) Adopted a contractor regulation concerning the attribution of multistate income of construction contractors for state income tax purposes. Adoption constitutes a recommendation to member states that they adopt the regulation in applying their income taxes to construction contractors engaged in multistate business.

5) Adopted a resolution specifying that the MTC's interpretation of paragraph 1 of Article V is that the credit

Indiana's Don Clark



Washington's State Representative, Helen Sommers



referred to therein against use tax liability for legally imposed sales or use taxes previously paid shall be allowed for tax paid to the state wherein the liability, not the payment, first occurs.

6) Adopted a resolution to establish a property tax committee the purpose of which would be to further uniformity and consistency in the valuation and assessment of the property of centrally assessed multistate taxpayers, e.g. public utilities.

Copies of the resolutions and pertinent materials, including the contractor regulation, are available upon request.

## **Audit Program**

The Commission continues to develop its joint audit program. Under it, Commission auditors perform audits on interstate corporations on behalf of several states at the same time.

### **Difficulties**

Given full uniformity, there would be no reason why one income tax audit performed in this way on a corporate taxpayer should not suffice for all states. The fact is, however, that the diversity referred to above still poses great difficulties for such an audit program. Increased uniformity is a must if the program is ever to achieve its tremendous potential.

### **Toward Internal Uniformity**

Many state tax administrators and corporate tax personnel defend such diversity in the workings of state income tax statutes and procedures. They base their contention on the idea that the states should be allowed to utilize varying tax systems to attract and to keep business as well as to fund state needs.

Few people argue with that idea. But there appears to be a growing realization that the idea does not provide a sound base for the great variety in the internal workings of a tax on corporate net income. It is one thing to provide alternative approaches to a tax system from state to state. It is quite another



*WESTPO's Phil Burgess discusses the pending federal severance tax legislation*

to make the working of the system so difficult that the system itself loses respect and becomes the subject of attack from all sides.

### **Corporate Response**

Such lack of respect seems to be amply demonstrated by the continuing efforts of a handful of corporations to deny to the MTC auditors access to factual information which is necessary to the successful and accurate determination of tax liability to the various states.

In most instances, corporations do provide MTC auditors with full information and then turn to the normal protest and appeal procedures at the state level for resolution of any disputes concerning the auditors' conclusions. This is the correct manner in which to handle such matters, in our opinion.

## **Litigation**

Meanwhile, in litigation which affects directly or indirectly the efforts of the



Commission, the following recent developments are of interest:

1) *MTC v. International Harvester*, Case 78-3746, Circuit Court of Appeals for the Ninth Circuit

International Harvester filed its appeal from a 1978 federal district court order to the Ninth Circuit Court of Appeals in San Francisco. The hearing on the appeal took place on September 11. A decision is pending. Harvester's main contention seems to be that subpoenas issued by several states in 1972 requiring Harvester to submit books and records for an MTC audit constitute harassment in connection with any current attempt to perform that same audit. Harvester also contends that a by-law concerning voting invalidates the Compact.

only excerpted minutes. As a result of another hearing on October 16, the Court issued a more definitive order holding, in part, that:

a. The MTC is entitled to conduct an audit of U.S. Steel on a worldwide unitary basis.

b. The MTC has a right of access to information of U.S. Steel and all of its domestic and worldwide subsidiaries which may lead to the discovery of relevant information or may be relevant to the income tax liability of U.S. Steel to the states on whose behalf the MTC is conducting the audit.

c. The MTC may examine such books and records and personnel as may be relevant to the audit, including minutes of U.S. Steel's executive and finance committees and the "51-state breakdown" of factors.

d. After the MTC has established the general areas of inquiry on which its auditors desire to interview personnel of U.S. Steel's tax department, U.S. Steel is to designate which of its personnel have the information necessary to respond, whereupon the interviews are to proceed. The Court also allowed interviews of other corporate personnel.

e. U.S. Steel is to execute and deliver to the MTC waivers for an additional 60 days, i.e. December 31, 1980.

U.S. Steel has filed a Claim for Appeal to the Ninth Circuit Court of Appeals in San Francisco. It has also obtained a stay of the October 16 order pending the appeal. The stay is conditioned upon the taxpayer's waiving of all statutes of limitation during the pendency of the appeal. The MTC is appealing the stay order and is cross appealing certain limitations contained in the October 16 order.

3) *Joslin Dry Goods Co. v. Colorado*

MTC Chairman Alan Charney introduces Ted de Looze, Chief Tax Counsel of the Oregon Department of Justice.

2) *MTC v. U.S. Steel Corp.*, U.S. District Ct. for Idaho, #10760182

At a hearing on August 26, the Boise Federal Court ordered U.S. Steel to make certain committee minutes available to MTC auditors and to make appropriate personnel available for interviews. A September 5 letter from U.S. Steel's attorney stated that the auditors would be allowed to examine



Dept. of Revenue, Colo. Sup. Ct.  
No. 79 SA 253

The sole issue was whether the Department of Revenue could require the taxpayer to file a combined report in light of the following statutory language, it being "undisputed fact that Joslin is part of a unitary business":

"In case of two or more corporations, whether domestic or foreign, owned or controlled directly or indirectly by the same interests, the executive director may distribute or allocate the gross income and deductions between or among such corporations or may require returns on a consolidated basis, if deemed necessary, in order to prevent evasion of taxes and to clearly reflect income."

Joslin argued that a prerequisite to the requiring of a combined report was a showing that such action was necessary "in order to prevent evasion of taxes

"The Court said that a "combined report is distinct from the 'consolidated return' referred to in the statute" and that "the power of the taxing authority to require a combined report is independent of the power to require a consolidated return." Therefore, it held that "the department need not show that a Colorado corporation, such as Joslin, which is a part of a unitary business, is attempting to evade taxes in order to require that that corporation submit a combined report."

The Court quoted with approval the following language from the Appellate Court decision in *Caterpillar Tractor Co. v. Lenckos*, 77 Ill. App. 3d 90 (1979), a case in which a decision by the Illinois Supreme Court is now pending:

The major advantage of the unitary method is that, with regard to the taxation of a parent company and its various subsidiaries, there is no elevation of form over substance. Without the unitary method there would be a different tax application

for an integrated business which is run as a number of separate corporations rather than a single multistate corporation. (See *Coca-Cola Co. v. Department of Revenue*, (Or. 1975), 533 P.2d 788). Since the whole point of the income tax act is to ascertain that portion of the business which is done within the state, there is no reason to find different results based simply on the formal structure of the business."



Cooper's & Lybrand's Lloyd Looman, key speaker Frank Keesling and Wisconsin Assistant Attorney General Gerald Wilcox

4) *Firestone Tire & Rubber Co. v. California FTB*, Los Angeles Superior Court Cases C31243 & C193836

In April, a Los Angeles Superior Court ruled on factual questions at issue in a case (C31243) filed by Firestone to contest the manner in which the unitary business concept had been applied to it and its subsidiaries by the California Franchise Tax Board. The years in question were November 1, 1959 — October 31, 1963. The relationships of 22 foreign subsidiaries were involved. The Court ruled that 13 were non-unitary but that the remaining 9 were unitary with the parent.

The Court held that there was no legal reason for precluding:

- a. the application of the unitary principle to foreign subsidiaries; and

b. the application of the normal three-factor formula to the unitary business in determining income attributable to California.

During the pendency of C31243, California sought to audit for subsequent years. When Firestone resisted, the Franchise Tax Board filed case C193836 in the Los Angeles Superior Court. That case eventually reached the California Court of Appeal which ruled that the FTB was entitled to injunctive relief preventing Firestone from interfering with the performance of the audit. On remand, the FTB filed a Supplemental Petition asking for an injunction preventing Firestone from interfering with the performance of the audit, including photocopying of pertinent materials, access to corporate minutes and committee minutes and access to key personnel. The Court indicated that it would grant the petition on September 12 but the preliminary injunction order has not yet been entered.

C31243 is being appealed by both parties.

5) *Dubuque Packing Company*, Appeal No. 79-CV-1176, Div. 6, Shawnee County District Court, Kansas

In August, the Court ruled that by application of the unitary principle, that dividends from affiliated corporations (primarily DISC's) and interest from Certificates of Deposit and from loans to subsidiaries and employees constitute apportionable business income. The taxpayer is appealing the decision.

6) *MTC v. Merck*, Oregon Sup. Ct. No. SC26499

On October 7, the Oregon Supreme Court affirmed a decision by the Oregon Tax Court. It required Merck to produce, for examination by MTC auditors, various books and records, including corporate minutes, and to allow MTC interviews of corporate officers in order to make available information which the MTC testified was "relevant and necessary to an audit

using the worldwide unitary approach." Merck does not intend to appeal.

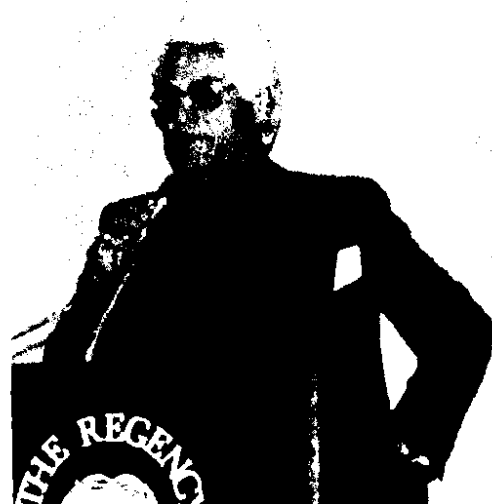
7) *ASARCO v. Idaho State Tax Commission*, No. 78-1839, U.S. Sup. Ct.

This case was remanded by the U.S. Supreme Court to the Idaho Supreme Court earlier this year for reconsideration of the latter's decision in that case (99 Idaho 924) in light of the *Mobil* decision. ASARCO recently filed a brief with the Idaho court; the Idaho State Tax Commission will shortly file its reply brief. The MTC, joined by several states, will also file a brief. No date has been set for argument.



*Missouri's Prof. Walter Johnson advocates protecting the sales tax base while Colorado's Prof. Reuben Zubrow prepares to comment and Gene Corrigan listens.*

*MTC Chief Counsel Dexter*



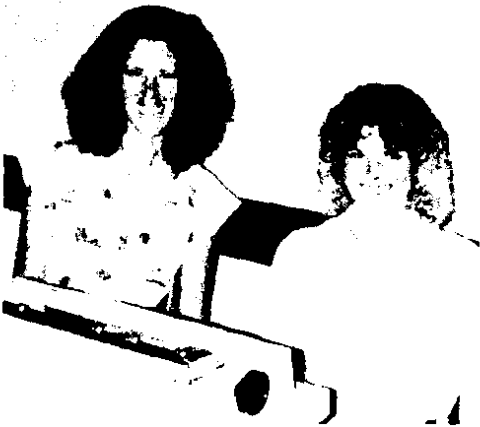
- 8) *Caterpillar Tractor Co. and Towmotor Corporation v. Oregon Department of Revenue*, No. 1233, SC 26786.

The Oregon Supreme Court decided this case on October 21, differentiating between a consolidated return and a combined report. The taxpayer admitted that the corporations were engaged in a unitary business subject to combined reporting but argued that the statute required the Department to allow such a taxpayer to file a consolidated return. The court disagreed. Result: each of the unitary corporations doing business in the state must file its own return and must compute its taxable income by the combined reporting method.

- 9) *M.V. Marine Co. et al. v. Missouri State Tax Commission*, Mo SC 60994, October 15, 1980.

In this case, several Missouri subsidiaries owned and rented barges, a towboat and steel-tank trucks to their Missouri parent and another Missouri subsidiary. The lessees operated the vehicles in the interstate transportation of goods. The lessors sought to attribute a large part of their income to other states to whose taxing jurisdiction they did not submit but to which they

*Ginger Hudson and Connie Fuerst, MTC Staff*



maintained that such income should be "sourced."

The Missouri Supreme Court noted that "The advent of the (Multistate Tax) Compact has simplified the process of determining the entitlement to apportion taxes by changing the focus of the inquiry from a search for the 'source' of income to a simple showing of jurisdictional 'tax liability' in another state." The Court saw this as a welcome relief from the "tortured process" of discerning the "source" of income.

In 1974, the Missouri statute had been amended to read: "The provisions of this Compact shall apply to any tax levied by the state of Missouri or its political subdivisions." The Court said that, "With this legislative declaration in mind, we conclude that although taxpayers still are given an option on the method of allocation they may use, all other questions reference apportionment of income are to be resolved by reference to the Compact."

"We find no evidence before us that appellants transacted business outside the state," the Court said. Testimony by a corporate officer admitted that none of the corporations, either lessor or lessee, paid any state income tax to any other state "in relation to the business transactions involved here . . . . "Thus," the Court said, "we assume no other state 'has jurisdiction to subject the taxpayer[s] to a net income tax.'" The Court did remand the case for a determination as to whether its assumption was valid.

But, the Court noted, "From the record before this Court, we can only assume that the remaining income of these corporations went untaxed by any state. While duplicative taxation is to be spurned, so too is the solution appellants urge upon this Court that would permit an avoidance of taxation by any state."

In so saying, the Court gave strong support to the Full Accountability concept which the Multistate Tax Commission advocates.

# Staff Members

## Executive Director

**Eugene F. Corrigan** became the Commission's first staff member in 1969, after resigning his position as chief counsel of the Illinois Department of Revenue's Chicago office. His prior experience included three years as a Sears, Roebuck tax attorney and ten years with the Illinois Department of Revenue. During the mid-sixties, he was also a partner in the Chicago law firm of Stradford, Lafontant, Fisher & Corrigan. He is a graduate of Princeton University and of John Marshall Law School of Chicago. He offices at the Commission's headquarters in Boulder, Colorado.

## Chief Counsel

**William D. Dexter** was an assistant attorney general in Michigan's Treasury Department and in Washington's Revenue Department before becoming the Multistate Tax Commission's Chief Counsel in 1975. His first MTC assignment was to expedite the then languishing case of *U.S. Steel, et al. v. Multistate Tax Commission, et al.* He pursued that case to early fruition in the U.S. Supreme Court. Meanwhile, he won the *Hertz* case in the Washington Supreme Court. He has participated in innumerable other cases on behalf of the Commission and states. He has been of counsel to numerous state legal staffs in regard to a variety of state and local tax matters.

## Midwest Regional Audit Manager

**Eugene Dowd** has been with the Commission for over six years. His prior experience includes thirteen years with

the California Franchise Tax Board, in Chicago, performing and supervising income tax audits of large multinational corporations. Previously, he had served as the staff internal auditor of the Armour Research Foundation.

## Acting National Audit Manager/ Eastern Regional Audit Manager

**Morton Kotkin** was appointed Eastern Regional Manager effective November 14, 1978. Prior to this appointment, he served with the Commission as a Senior Auditor for four years. Before joining the MTC in 1974, he had been an auditor and field audit supervisor with the New York office of the California State Board of Equalization for 12 years. He has been serving as the Commission's Acting National Audit Manager since July 1, 1980. A native of Brooklyn, New York, he graduated from New York University in 1961 with a Bachelor of Science Degree in Accounting.

*Mort Kotkin, MTC Eastern Regional Manager*



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## Multistate Tax Commission Officers \*



**Gerald Goldberg**  
Chairman

July 10-August 31, 1980  
January 1, 1981-



**Ken Cory**  
Chairman

September 1-December 31, 1980  
Vice Chairman July 10-August 31, 1980



**Jenkin L. Palmer**  
Treasurer

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## Executive Committee Members



**Bob Bullock**



**Robyn Godwin**



**Michael Lennen**

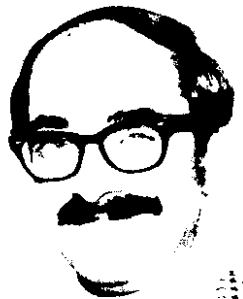


**Fred Muniz**

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**Ex Officio Member  
of Executive  
Committee  
Former Commission  
Chairman**

\*The three officers are also members of the Executive Committee. Terms of the above officers and committee members end at annual meeting in 1981 except where otherwise indicated.



**Alan N. Charnes**



**Byron L. Dorgan**

## Multistate Tax Commission

# Representatives of Party States of the Multistate Tax Compact

11/1/80

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\*Chairman of the Board of Equalization represents California in MTC fiscal years beginning in odd-numbered calendar years, and the Chairman of the Franchise Tax Board represents California in MTC fiscal years beginning in even-numbered calendar years. Effective January 1, 1981, however, California's representation will alternate between the BOE Executive Secretary and the FTB Executive Officer for periods which will coincide with MTC fiscal years.

\*\*MTC Chairman 1979-80

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### Alternate

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## Nevada

### Member

**Roy E. Nickson**  
Executive Director  
Department of Taxation  
Capital Mail Complex  
Carson City, Nevada 89710  
(702) 885-4892

### Alternate

**Jeanne B. Hannafin**  
Deputy Director  
Department of Taxation  
Capital Mail Complex  
Carson City, Nevada 89710  
(702) 885-4892

## New Mexico

### Member

**Fred Muniz**  
Commissioner of Revenue  
New Mexico Bureau of Revenue  
Santa Fe, New Mexico 87501  
(505) 827-3221

### Alternate

**Art Snead**  
Revenue Division Director  
New Mexico Bureau of Revenue  
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(505) 827-3221 x300

## North Dakota

### Member

**Byron L. Dorgan**  
Tax Commissioner  
North Dakota State Tax  
Department  
Bismarck, North Dakota 58505  
(701) 224-2770

(MTC Chairman, July 1, 1972-June 30, 1974)

### Alternate

**Robert R. Kessel**  
North Dakota State Tax  
Department  
State Capitol  
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## Oregon

### Member

**Robyn Godwin**  
Director  
Department of Revenue  
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Salem, Oregon 97310  
(503) 378-3363

### Alternate

**George Weber**  
Administrator  
Audit Division  
Department of Revenue  
State Office Building  
Salem Oregon 97310  
(503) 378-3747

## South Dakota

### Member

**R. Van Johnson**  
Secretary of Revenue  
Capitol Lake Plaza  
Pierre, South Dakota 57501  
(605) 773-3311

### Alternate

**Orville Dixon**  
Audit Director  
Department of Revenue  
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## Texas

Member

**Bob Bullock**

Comptroller of Public Accounts  
LBJ State Office Building  
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Alternate

**Wade Anderson**

Assistant Comptroller  
Legal Services  
Office of Comptroller  
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## Utah

Member

**David Duncan**

Chairman

Utah State Tax Commission  
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(801) 533-5831

Alternate

**Douglas F. Sonntag**

Utah State Tax Commission  
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## Washington

Member

**Charles Hodde**

Director

Washington Department of  
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(206) 753-5512

Alternate

**Ed Tveden**

Assistant Director  
Department of Revenue  
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Building  
Olympia, Washington 98504  
(206) 753-5504

# Tax Administrators Associate Member States

11/1/80

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

**Ralph P. Egerton, Jr.**

Commissioner  
Department of Revenue  
Montgomery, Alabama 36130  
(205) 832-5780

## Arizona

**J. Elliott Hibbs**

Director  
Department of Revenue  
Capitol Building,  
West Wing  
Phoenix, Arizona 85007  
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## Georgia

**W.E. Strickland**

Commissioner  
Department of Revenue  
410 Trinity-Washington Building  
Atlanta, Georgia 30334  
(404) 656-4016

## Louisiana

**Shirley McNamara**

Secretary  
Department of Revenue  
and Taxation  
State of Louisiana  
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Baton Rouge, Louisiana 70821  
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## Maryland

**Louis L. Goldstein**  
Comptroller of the Treasury  
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Annapolis, Maryland 21404  
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## Massachusetts

**L. Joyce Hampers**  
Commissioner  
Department of Revenue  
100 Cambridge Street  
Boston, Massachusetts 02202  
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## Minnesota

**Clyde E. Allen, Jr.**  
Commissioner of the Revenue  
Department of Revenue  
Centennial Office Building  
St. Paul, Minnesota 55145  
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## New Jersey

**Sidney Glaser**  
Director  
Division of Taxation  
Department of Treasury  
West State & Willow Streets  
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## Ohio

**Edgar L. Lindley**  
Tax Commissioner  
Department of Taxation  
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(614) 466-2166

## Pennsylvania

**Howard A. Cohen**  
Secretary of Revenue  
Department of Revenue  
207 Finance Building  
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## Tennessee

**Martha Olsen**  
Commissioner  
Department of Revenue  
Andrew Jackson State Office  
Building  
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## West Virginia

**David C. Hardesty, Jr.**  
State Tax Commissioner  
State Tax Department  
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(304) 348-2501

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# Tax Administrators Non-member States

11/1/80

## Connecticut

**Oreste Dubno**  
Commissioner  
Tax Department  
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## Delaware

**Robert Chastant**  
Director of Revenue  
Department of Finance  
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Wilmington, Delaware 19899  
(302) 571-3315

## District of Columbia

**Carolyn Smith**  
Director of Finance & Revenue  
District of Columbia  
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## Florida

**Randy Miller**  
Executive Director  
Florida Department of Revenue  
102 Carlton Building  
Tallahassee, Florida 32304  
(904) 488-5050

## Illinois

### **Thomas Johnson**

Director  
Illinois Department of Revenue  
P.O. Box 3681  
Springfield, Illinois 62708  
(217) 782-6330

## Indiana

### **Donald H. Clark**

Commissioner of Revenue  
Indiana Department of Revenue  
202 State Office Building  
Indianapolis, Indiana 46204  
(317) 232-2101  
MTC Chairman, July 1, 1974-June 30,  
1975

## Iowa

### **Gerald D. Bair**

Director  
Iowa Department of Revenue  
Lucas State Office Building  
Des Moines, Iowa 50319  
(515) 281-3204

## Kentucky

### **Robert H. Allphin**

Commissioner  
Department of Revenue  
State Office Building  
Frankfort, Kentucky 50401  
(502) 564-3226

## Maine

### **Raymond L. Halperin**

State Tax Assessor  
Bureau of Taxation  
State Office Building  
Augusta, Maine 04333  
(207) 289-2076

## Mississippi

### **A.C. Lambert**

Chairman  
Tax Commission  
Woolfolk State Office Building  
Jackson, Mississippi 39205  
(601) 354-6255

## New Hampshire

### **Lloyd M. Price**

Commissioner  
Department of Revenue  
Administration  
19 Pillsbury Street  
Concord, New Hampshire 03301  
(603) 271-2191

## New York

### **James H. Tully, Jr.**

Commissioner  
New York State Department of  
Taxation and Finance  
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## North Carolina

### **Mark Lynch**

Secretary of Revenue  
Department of Revenue  
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## Oklahoma

### **James E. Walker**

Chairman  
State Tax Commission  
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## Rhode Island

### **John H. Norberg**

Tax Administrator  
Division of Taxation  
Department of Administration  
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## South Carolina

### **Robert C. Wasson**

Chairman  
Tax Commission  
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Columbia, South Carolina 29214  
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## Vermont

### **Harriet King**

Commissioner of Taxes  
Department of Taxes  
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Montpelier, Vermont 05602  
(802) 828-2505

## Virginia

### **William H. Forst**

State Tax Commissioner  
Commonwealth of Virginia  
Department of Taxation  
Richmond, Virginia 23215  
(804) 257-8005

## Wisconsin

### **Mark S. Musolf**

Secretary of Revenue  
Department of Revenue  
201 E. Washington Ave.  
Madison, Wisconsin 53702  
(608) 266-1611

## Wyoming

### **Rudolph Anselmi**

Chairman  
Wyoming Tax Commission and  
Board of Equalization  
2200 Carey Avenue  
Cheyenne, Wyoming 82001  
(307) 777-7307

# Appendix A

## Report of Certified Public Accountants

**R** RHODE,  
**S** SCRIPTER  
**A** ASSOCIATES

EASTPARK OFFICE CENTER  
1690 THIRTY-EIGHTH STREET  
BOULDER COLORADO 80301  
(303) 444-0471

Ronald H. Rhode, CPA  
Larry L. Scripser, CPA  
Michael D. Weatherwax, CPA  
Thomas D. Pypert, CPA  

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A. W. Schone, CPA, Retired

CERTIFIED PUBLIC ACCOUNTANTS

Multistate Tax Commission  
Boulder, Colorado

We have examined the balance sheet of Multistate Tax Commission at June 30, 1980, and the related statements of changes in fund balance, revenue and incurred expenses 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, 1980, and the results of its operations, changes in fund balance, 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.

*Rhode Scripser & Associates*

August 1, 1980

## MULTISTATE TAX COMMISSION

BALANCE SHEET

June 30, 1980

ASSETS

## CURRENT ASSETS

Cash	\$ 45,057
Accounts receivable--members	26,247
Prepaid expenses	<u>2,897</u>

TOTAL CURRENT ASSETS ..... 74,201

## PROPERTY AND EQUIPMENT--Note 1

Office furniture and equipment	71,052
Leased property under capital leases--Note 2	123,540
Leasehold improvements	<u>3,562</u>
	198,154
Less: Accumulated depreciation and amortization	<u>57,057</u>

TOTAL PROPERTY AND EQUIPMENT ..... 141,097

## OTHER ASSETS

Expense account advances	4,400
Deposits	1,626
Prepaid and unamortized past service pension costs--Note 4	<u>6,130</u>

TOTAL OTHER ASSETS ..... 12,156

TOTAL ASSETS ..... \$ 227,454

LIABILITIES AND FUND BALANCE

CURRENT LIABILITIES	
Accounts payable	\$ 11,965
Payroll taxes payable	4,778
Accrued pension plan--Note 4	3,448
Assessments and audit reimbursements collected in advance	26,529
Current portion of long-term obligations	<u>25,028</u>
TOTAL CURRENT LIABILITIES .....	<u>71,748</u>
LONG-TERM OBLIGATIONS	
Obligations under capital leases--Note 2	108,574
Note payable--Note 5	<u>14,809</u>
	123,383
Less: Current portion	<u>25,028</u>
TOTAL LONG-TERM OBLIGATIONS .....	<u>98,355</u>
FUND BALANCE--Exhibit B	
Unappropriated fund balance	<u>57,351</u>
TOTAL FUND BALANCE .....	<u>57,351</u>
TOTAL LIABILITIES AND FUND BALANCE .....	<u>\$ 227,454</u>

See accompanying notes to financial statements.

## MULTISTATE TAX COMMISSION

STATEMENT OF CHANGES IN FUND BALANCE

For the year ended June 30, 1980

	Unappropriated Fund Balance
	<u>Balance</u>
BALANCE--June 30, 1979	\$ 64,660
Excess of incurred expenses over revenue--Exhibit C	<u>(7,309)</u>
 BALANCE--June 30, 1980 .....	 \$ <u><u>57,351</u></u>

See accompanying notes to financial statements.

## MULTISTATE TAX COMMISSION

STATEMENT OF REVENUE AND INCURRED EXPENSES  
For the year ended June 30, 1980

REVENUE	
Assessments	\$ 952,935
Interest	10,025
Other revenue	<u>2,172</u>
TOTAL REVENUE .....	<u>965,132</u>
INCURRED EXPENSES	
Accounting	7,844
Bonds and insurance	1,824
Consulting fees	48,155
Depreciation and amortization	38,632
EDP supplies	9,825
EDP terminal lease expense	34,307
Employee group insurance	28,721
Interest expense	23,602
Legal and legal support	17,488
Miscellaneous expense	2,739
Office supplies	7,197
Pension plan and retirement provision	73,949
Postage	6,603
Printing and duplicating	14,387
Publications	3,292
Rent	49,315
Repairs and maintenance	5,389
Salaries	502,652
Telephone	24,810
Travel	68,301
Utilities	<u>3,409</u>
TOTAL INCURRED EXPENSES .....	<u>972,441</u>
TOTAL OF INCURRED EXPENSES OVER REVENUE .....	<u>\$ (7,309)</u>

See accompanying notes to financial statements.



## MULTISTATE TAX COMMISSION

STATEMENT OF CHANGES IN FINANCIAL POSITION

For the year ended June 30, 1980

## SOURCES OF WORKING CAPITAL

## Operations:

Excess of incurred expenses over revenue--Exhibit C	\$ (7,309)
Add: Charges to operations not requiring the use of working capital:	
Depreciation and amortization	38,632
Pension plan past service costs paid in prior years and expensed currently	1,524
Net book value of furniture and equipment sold	<u>1,949</u>
Total From Operations .....	34,796
Proceeds from equipment purchased under capital lease	109,000
Decrease in expense account advances	<u>800</u>
TOTAL SOURCES OF WORKING CAPITAL .....	<u>144,596</u>

## USES OF WORKING CAPITAL

Purchase of furniture and equipment	15,565
Acquisition of leased equipment under capital lease	109,000
Purchase of leasehold improvements	1,452
Payments of long-term obligations	17,625
Increase in deposits	120
Increase in current portion of long-term obligations	<u>15,766</u>
TOTAL USES OF WORKING CAPITAL .....	<u>159,528</u>

DECREASE IN WORKING CAPITAL ..... (14,932)

WORKING CAPITAL--Beginning of Year ..... 17,385WORKING CAPITAL--End of Year ..... \$ 2,453

## CHANGES IN COMPONENTS OF WORKING CAPITAL--Increase (Decrease)

Cash	\$ 38,685
Certificates of deposit	(80,000)
Accounts receivable--members	26,247
Prepaid pension plan	(675)
Prepaid expenses	2,897
Accounts payable	8,253
Payroll taxes payable	686
Accrued pension plan	(3,448)
Assessments and audit reimbursements collected in advance	8,189
Current portion of long-term obligations	<u>(15,766)</u>

DECREASE IN WORKING CAPITAL ..... \$ (14,932)

See accompanying notes to financial statements.

MULTISTATE TAX COMMISSION

NOTES TO FINANCIAL STATEMENTS

June 30, 1980

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The Multistate Tax Commission was organized in 1967. It was established under the Multistate Tax Compact, which by its terms, became effective August 4, 1967. The basic objective of the "Compact" and, accordingly, the Commission is to provide solutions and additional facilities for dealing with state taxing problems related to multistate business.

The following accounting policies, together with those disclosed elsewhere in the financial statements, represent the significant accounting policies followed in presenting the accompanying financial statements.

(a) Method of Accounting

The Commission uses the accrual method of accounting whereby assessment revenue is recognized in the fiscal year of assessment. Contributions by states for specific purposes are recognized as income during the year of receipt. Other earned revenue is recognized as it is earned. Expenses are recognized as they are incurred.

(b) Property 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 which range from 3 to 8 years. Amortization of leasehold improvements is provided for on the straight-line basis over the term of the lease.

NOTE 2 - CAPITALIZED LEASES

Two equipment leases have been recorded as capital leases in accordance with Financial Accounting Standards Board Statement No. 13. The gross amount of the capitalized leases and the accumulated depreciation thereon is included in Property and Equipment in the Balance Sheet. The depreciation of \$29,059 is included in depreciation in the Statement of Revenue and Incurred Expenses.

At June 30, 1980, the future minimum lease payments under these leases were:

June 30, 1981	\$ 39,258
1982	39,258
1983	36,642
1984	34,025
1985	2,836
	<u>\$152,020</u>

NOTES TO FINANCIAL STATEMENTS (Continued)  
June 30, 1980

NOTE 3 - INCOME TAXES

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

NOTE 4 - PENSION PLAN

The Commission has a defined benefit pension plan covering substantially all of its employees. The total pension expense for the year was \$73,949, which includes amortization of prior service costs over 10 years. The Commission's policy is to fund pension cost accrued. The actuarially computed value of vested benefits as of June 30, 1980, is fully funded. A change during the year in certain actuarial assumptions used in computing the normal cost percentage had the effect of reducing net income for the year by approximately \$12,000. The plan benefits and plan net assets are presented below:

ACTUARIAL PRESENT VALUE OF ACCUMULATED  
PLAN BENEFITS AT JUNE 30, 1980:

Vested	\$179,466
Nonvested	<u>75,975</u>
	<u>\$255,441</u>

MARKET VALUE OF NET ASSETS AVAILABLE FOR BENEFITS AT JUNE 30, 1980	<u>\$408,589</u>
---	------------------

The assumed rate of return used in determining the actuarial present value of accumulated plan benefits was 5.5% compounded annually.

NOTE 5 - LONG-TERM DEBT

	Balance
	<u>June 30, 1980</u>
Manufacturer--6% installment note, collateralized by related equipment, payable in monthly installments of \$400, including interest, with final payment due November 12, 1983	<u>\$ 14,809</u>

MULTISTATE TAX COMMISSION

NOTES TO FINANCIAL STATEMENTS (Continued)

June 30, 1980

NOTE 6 - COMMITMENTS

The Commission rents its primary office facilities in Boulder, Colorado, and secondary office facilities in New York, Illinois, Washington, D.C., and Washington State, under lease agreements with terms expiring on various dates through August 31, 1988. These leases provide for the following minimum annual rentals exclusive of utility charges and certain escalator charges at Boulder:

<u>Fiscal Year Ended</u>	<u>Minimum Annual Rental</u>
June 30, 1981	\$ 49,704
June 30, 1982	48,225
June 30, 1983	29,917
June 30, 1984	<u>3,766</u>
	<u>\$131,612</u>

The Boulder facilities lease includes certain escalator charges based on various factors including wage index, utility and property tax increases from a base year.

NOTE 7 - CONTINGENCY

A claim for computer service of \$11,800 has been billed to the Commission, but has not been recorded or paid. The Commission believes that the claim is in excess of the services contracted. The matter is currently pending and the vendor has not initiated legal action.



## **Selected Bibliography Of Technical Articles, Books and Publications Related to the MTC**

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