



Multistate Tax Commission

Sales & Use Tax Compliance Work Group Final Report and Proposed Initiatives

Prepared for the
State Tax Compliance Initiative Steering Committee

June 17, 2004

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I. Introduction

A. The Compliance Steering Committee and the Sales & Use Tax Work Group

At its meeting in April, 2003, the Multistate Tax Commission (MTC) Executive Committee authorized a State Tax Compliance Initiative to develop methods of improving compliance with state taxes in three key areas:

- business income tax sheltering,
- pass-through entity shareholder income reporting, and
- sales and use tax compliance, including both business use tax and nexus issues.

To conduct the initiative, the Executive Committee called for the organization of an MTC Compliance Steering Committee. The Steering Committee, chaired by Ms. Elizabeth Harchenko (Oregon) organized itself into three working groups, one for each of the broad topic areas identified above.

The Sales and Use Tax Compliance Work Group is chaired by Ms. Carol Fischer (Missouri). Its membership has included representatives from 14 states:

Tamara Harris	Arizona	Blane Braunberger	North Dakota
Leo Gorny	Arizona	Ed Phillips	Ohio
Tom Atchley	Arkansas	Gary Viken	South Dakota
Shelia Woods	Arkansas	Bruce Christensen	South Dakota
Janice Thurston	California	Billy Hamilton	Texas
Larry Bergkamp	California	William Hamner	Texas
Jake Hoffman	Idaho	Florentino Barraza	Texas
Jennifer Hays	Kentucky	Rod Boogaard	Utah
Carol Fischer	Missouri	Shelley Robinson	Utah
Dave Zanone	Missouri	Tremaine Smith	Washington
Chris Laughlin	Missouri	Ralph Osgood	Washington
Jack Wright	Missouri	Mike Geesey	Wyoming
Ruth Vegdahl	Minnesota		

The purpose of the Work Group is to recommend tools for reducing sales and use tax non-compliance. Underreporting of sales and use taxes by existing registrants, and by non-filers, is estimated to cost the states \$6 to \$9 billion annually - with business use tax collection the major share. Non-collection of use tax on remote sales is estimated to cost the states another \$8 to \$9 billion. The Work Group's desired outcome is to provide recommendations that, when implemented, will increase compliance among existing sales and use tax registrants and non-registrants.

B. Purpose of this Report

The Steering Committee is charged with evaluating major compliance needs in the three areas set out above and developing plans to resolve those compliance needs. This report provides the

Work Group's findings on the major sales and use tax compliance needs. For the Steering Committee's benefit, the Work Group has summarized some of the key research, surveys and Work Group observations upon which those findings are based. Four proposed initiatives to address these compliance needs are presented for the Steering Committee's review and consideration.

II. Identification of Compliance Needs

A. State Research on Sales and Use Tax Non-Compliance

Washington State Study The Washington Department of Revenue issued a Revenue Compliance Study in January 2003 which covers state taxes included on the Department's combined excise tax return: sales, use, business and occupation, public utility, and hazardous substance tax. The study was based on random sample of audits completed between 1997 and 2000. Results were developed by projecting the audit findings to the total population of taxpayers. Highlights of the study results include:

- Of the excise taxes, Washington estimated use tax, defined as purchases made by Washington State residents and businesses from out-of-state sources, had the highest level of non-compliance at an estimated \$79.1 million annually out of a total voluntary remittance of \$204 million. This amounts to a non-compliance rate of almost 27.9% of total use tax liability.
- Sales tax non-compliance amounted to another \$65.5 million. This is a high dollar number, but a lower rate of non-compliance at 1.3% of total sales tax liability (which was \$4.8 billion).
- Accounting errors were identified as the most common reason for noncompliance, occurring 56.9% of the time. Ignorance of the statute accounted for 21.6% of the errors. Differences of opinion led to 15.7%. Negligence/fraud led to 5.7%.

Mr. Don Gutmann, Operations Research Program Manager for the Washington State Department of Revenue, summarized the results of the study in greater detail for the Multistate Tax Commission's 36th Annual Meeting Conference in July 2003. Slides from his presentation can be found at: <http://www.mtc.gov/07-31Gutmann.pdf>. A full copy of the study can be found on the Washington State Department of Revenue's web-site at http://dor.wa.gov/Docs/Reports/Compliance_Study/compliance_study_2003.pdf.

Minnesota Sales Tax Gap Study In November 2002, the American Economics Group, Inc. issued a study which estimates the Minnesota sales and use tax compliance gap for 2000. Results are broken down by filers/non-filers, industry, size of business, amount tax liability, and more. The estimates were formed using Minnesota sales and use tax figures for 2000, transaction files of existing taxpayers, information from department audits, and regression analysis to project over total population for 2000. Highlights of the study results include:

- The study found a \$451 million gap between the amount of sales and use tax paid and the amount that should have been paid.

- In broad terms, the gap was attributable to underreporting by currently registered businesses; in-state non-registered businesses (these first two categories account for 72% of gap); and businesses and households that owe use tax on remote purchases (28% of gap, but expected to grow rapidly and become 50% of gap by 2007).

Mr. Dick Gebhardt, Minnesota Department of Revenue, summarized the results of the study in greater detail for the Multistate Tax Commission's 36th Annual Meeting Conference in July 2003. Slides from his presentation can be found at: <http://www.mtc.gov/07-31Gebhart.pdf>. A full copy of the study can be found on the Minnesota Department of Revenue web-site at http://www.taxes.state.mn.us/taxes/legal_policy/research_reports/content/taxgap_full_1102.pdf.

MTC Research Memorandum An MTC research memorandum, produced by Mr. Elliott Dubin, MTC Director of Policy Research, summarizes compliance problem areas and provides a preliminary estimate of the total state fiscal impact for each area on a national basis. Highlights of information regarding sales and use tax compliance include:

- Under reporting of sales and use taxes (mainly use taxes) by existing registrants was estimated to have a total annual fiscal note for all states of \$6 to \$9 billion.
- Non-collection of use tax on remote sales was estimated to have a total annual fiscal note for all states of \$8 to \$9 billion.
- Together these sales and use tax compliance shortfalls amount to a \$14 to \$18 billion dollar compliance problem.
- In comparison to other high profile compliance problem areas, the sales and use tax compliance area creates a comparable fiscal impact. For example, the total annual fiscal impact for corporate income tax sheltering has been estimated at \$10 to \$17 billion.

B. State Survey on Sales and Use Tax Non-Compliance Problems and Solutions

In 2003 the MTC performed a survey of member states regarding compliance problems – the survey covered several tax types. The Survey was performed by Mr. Elliott Dubin, MTC Director of Policy Research, and results compiled by Ms. Susan Ribe, MTC Research Assistant. With respect to sales and use taxes, the survey asked five main questions. First, the survey asked states to identify top compliance needs. Responses included the need for better taxpayer education, to simplify overly complex exemptions, to find solutions to the remote seller problem, and to clarify state/tribal issues.

The survey next asked for descriptions of “success stories.” Responses included specially tailored audit programs, new legislation on affiliate nexus, and educational programs for taxpayers and tax preparers.

The third survey request was for states to identify resource constraints. Responses identified the need to adequately fund auditor salaries, travel budgets, and special training needs (e.g. statistical sampling or technology training for non-traditional electronic business records); education

divisions; larger scale compliance initiatives such as computer based taxpayer education programs or data mining systems. Responses also identified the need to create “statutory” resources by clarifying existing laws.

The survey asked states to identify the benefits of cooperation. Responses included taxpayer information exchanges, knowledge sharing, sharing tips on successful new techniques and ideas, promotion of uniformity, resource leveraging through joint audits, and cross checking for nexus.

The fifth and last subject was to identify possible initiatives. Responses included joint tax gap studies, cooperative data sharing, stepped up funding for fraud units, and development of affiliate nexus legislation.

C. Work Group Findings

The Work Group identified the major compliance needs as falling in three main areas, all of which address use tax, as opposed to sales tax. The Work Group’s focus on use tax is based on the results of the Minnesota and Washington studies summarized above which suggest the non-compliance tax gap is much larger for use tax than for sales tax. In Washington, the dollar value of sales tax non-compliance was lower than that of use tax non-compliance, and while that implied a non-compliance *rate* for sales tax of a respectable 1.3%, the non-compliance rate for use tax was a much higher 27.9%. The Minnesota study also estimated the dollar value of use tax non-compliance exceeded that of sales tax non-compliance. That study attributed \$271.5 million, or 60% of total Minnesota sales and use tax non-compliance, to use tax non-compliance alone.

The Work Group created Sub-Groups to identify specific problems in each of the three areas and to propose solutions. The three main areas and Sub-Group Chairs for each are:

- Use Tax Remittance by Business Consumers - - Chris Laughlin (Missouri)
- Use Tax Remittance by Household Consumers - - Tino Barraza (Texas)
- Use Tax Collection by Sellers - - Tom Atchley (Arkansas)

Use Tax Remittance by Business Consumers Non-compliance in this area appears to have a very large fiscal impact. The MTC estimates non-compliance in this category is \$6 to \$9 billion annually. By this estimate, use tax non-compliance by business taxpayers may make up the largest fiscal impact of any tax compliance problems identified so far, including corporate tax sheltering. One state estimated that for the fiscal year ending June 30, 2001, 35% of its net sales and use tax audit deficiencies occurred as a result of business’s failure to pay use tax on purchases from out-of-state vendors.

Work Group members identified specific problems in this area to include inability of states to easily share sales tax information and a combination of complex statutory responsibilities and lack of taxpayer awareness of those responsibilities. For example, the Washington study identified “accounting errors” as the most common reason for non-compliance, occurring 56.9% of the time. Other states noted this problem in their response to the MTC compliance survey.

The Washington study also found “ignorance of the statute” accounted for 21.6% of reporting errors by existing registrants. The study revealed that newer firms had much higher rates of non-compliance than older firms. Several states responding to the MTC compliance survey also identified taxpayer “education” as a critical need, including Arizona, Idaho, Utah, and others.

The Sub-Group’s proposed solutions focused on development of additional taxpayer assistance and education, and increased sharing of state sales tax audit and compliance information where such information may be pertinent to enforcing use tax remittance responsibilities.

Use Tax Remittance by Household Consumers The fiscal impact to the states from lack of compliance in this area has been well documented by several national studies, including the U.S. General Accounting Office¹, Fox², and other studies. The Minnesota study discussed above found use tax non-compliance for household consumers amounted to \$74.7 million lost Minnesota revenue annually. The Sub-Group acknowledged lack of jurisdiction to require collection by remote sellers and lack of taxpayer knowledge of the use tax remittance requirement as the two main problems in this area. Thus, Sub-Group members identified full participation in the Streamlined Sales Tax Act and Agreement as the best way for states to ultimately address the household use tax remittance problem.

The Sub-Group also discussed other initiatives undertaken in their states to generate increased use tax compliance by individual consumers. Most of these, by and large, focus on educating household taxpayers regarding their use tax remittance responsibilities. Some state initiatives, such as adding a use tax line to the individual income tax return, focus on simplifying the remittance process.

Beyond adoption of the Streamlined Sales Tax Act and Agreement, the Sub-Group noted taxpayer education as the key to encourage and promote compliance from individuals, and as such, determined it should be the focus for initial development of compliance initiatives. The Sub-Group also recognized a need to increase the ability of states to share audit where such information may be pertinent to enforcing existing use tax remittance responsibilities. Possible initiatives were prioritized according to those that would be relatively low cost for the states to implement and give maximum return for our efforts.

Use Tax Collection by Sellers This area addresses strategies for fully exercising and enforcing existing jurisdiction to require collection, as well as strategies aimed at encouraging voluntary collection where there currently is no jurisdiction. The Sub-Group recognized that voluntary collection by remote sellers over which states currently have no jurisdiction would go a long way toward addressing the two problem areas above and would best be accomplished through state adoption of the Streamlined Sales Tax Act and Agreement. As for enforcing collection responsibilities where nexus and jurisdiction to enforce currently exist, the Sub-Group focused on the need to clarify nexus rules and, within constitutional limits, enact laws to restrict sellers’ ability to avoid collection responsibilities through creation of affiliated entities or “nexus carve-

¹ Sales Taxes – Electronic Commerce Growth Presents Challenges; Revenue Losses Are Uncertain, GAO/GGD/OCE-00-165, June 2000 <http://www.gao.gov/archive/2000/g600165.pdf>

² State and Local Revenue Losses from E-Commerce: Updated Estimates; University of Tennessee Center for Business and Economic Research; Donald Bruce and William Fox; <http://cber.bus.utk.edu/ecom/ecom0901.pdf>

ups.” For example, some states have enacted legislation that makes clear the state’s intent to exercise its jurisdiction over remote sellers that have brick and mortar affiliates representing them in the state. The Sub-Group also recognized a need to increase the ability of states to share audit and compliance information pertinent to enforcing existing collection responsibilities.

III. Proposed Initiatives

Each of the Sub-Work Groups delivered its proposals to the full Work Group for review and discussion. The full Work Group recognized three common areas of concern across the Sub-Groups. These include the need for additional taxpayer assistance and education; enforcement of collection responsibilities; and information sharing among the states. The full Work Group then approved four of the proposed compliance initiatives which would address these concerns for presentation to the Steering Committee.

A. Develop a Template for Informational Mass-Mailings to CPA’s and Tax Practitioners

Increased taxpayer education is an effective tool to reduce the underreporting of sales and use taxes by existing registrants, businesses and individuals making large interstate purchases. An initiative successfully used by some states to increase education is an informational mass-mailing to CPA firms and practitioners regarding use tax remittance requirements and voluntary disclosure programs.

The Work Group recommends the development of a template for an informational mass-mailing that can be used by any state that has a use tax requirement. The template should provide detailed but easy to understand information regarding business use tax remittance requirements. The emphasis could also be reversed so that the mailing is primarily to highlight the voluntary disclosure program with reminders regarding business use tax remittance responsibilities. Of course, each state would need to cite to its own statutes and regulations, but given the fact that the responsibilities created by these statutes and regulations are basically the same across the states, a template would increase the efficiency of the mailing and simplify the issues for multistate practitioners. This proposal addresses the Commission’s recommendation to improve tax administration through state provided taxpayer education, which was adopted in the Commission’s Federalism at Risk Report.³

Quantifying costs and benefits of such a program, especially measuring a change in future use tax non-compliance, can be difficult. The estimated mailing cost is approximately 40 cents per letter. Texas mailed approximately 525 letters in two mass mail-outs to CPA firms regarding its voluntary disclosure agreement (VDA) program. The first mail-out was an “FYI” for the VDA program only. The second mail-out incorporated language stating that the VDA program was also available to taxpayers wanting to remit use tax on items purchased tax free from out of state--examples given of such taxable purchases included airplanes, art, and jewelry.

The cost of the first Texas mail-out was approximately \$200. One result from the mail-out was that the number of Voluntary Disclosures increased 32% when comparing periods before and

³ Federalism at Risk – a Report of the Multistate Tax Commission (June 2003); p. 50.

after the mail-out. In addition, Texas generated approximately \$38 million in VDA monies in FY03, after the mail-out - - a 46% increase over the \$26 million generated in FY02. It is still too early to quantify any results from the second, October 2003 mail-out.

B. Promote Awareness of the Existing MTC Voluntary Disclosure Program

All states audit companies for compliance with their own sales and use tax code provisions. Issues relating to nexus determination and the responsibility for vendors to collect a state's use tax are made each day by the multitude of state auditors as they perform their assigned audit duties. Because the states have similar nexus standards and requirements for the collection and remittance of state use tax by vendors, an auditor reviewing nexus issues and making a determination for their own state could provide information to the taxpayer regarding its potential responsibility in other states.

The Work Group recommends states provide taxpayers with information regarding the MTC Voluntary Disclosure program and its benefit for the taxpayer in complying with other state tax collection requirements. State audit and compliance personnel that discover businesses with interstate sales activities and observe failure by the business to collect the other jurisdictions tax could distribute MTC Voluntary Disclosure Brochures that explain the program and its benefits. Contact information could be provided to the taxpayer with an offer to assist in this contact if needed. Participation in this effort by all states would maximize the benefit to be received. This proposal addresses the Commission's recommendation to improve tax administration through increased participation in joint compliance activities, which was adopted in the Commission's Federalism at Risk Report.⁴

Monitoring by state audit and compliance management personnel may be needed to help ensure their own state's continuing efforts in the promotional efforts. MTC Voluntary Disclosure Program staff could also be impacted by this increased promotional outreach with additional candidates making initial inquiries but also with new responsibilities in providing promotional materials and literature for distribution by the states.

The Work Group has not estimated benefits from this proposal. However, Texas has used mass mail-outs to educate taxpayers regarding the MTC's VDA program. To date, Texas has mailed in excess of 5,000 MTC VDA letters; MTC VDA collections for Texas increased from \$218,042 in FY 02 to \$2,456,824 in FY 03, after the mail-out.

C. Develop an MTC Proposed Uniform Affiliate Nexus Statute or Regulation

States must find ways to enforce the collection of use tax by educating and encouraging remote sellers. One approach to solving this problem is in "affiliate nexus" statutes. What is "affiliate nexus?" Some businesses believe they may get around the responsibility of use tax collection by forming many separate entities to conduct business. These businesses assume that as long as the entity which actually makes the sale does not have nexus with the state, the business is not responsible for use tax collection. An affiliate nexus statute would clarify that a vendor must collect the tax if that vendor is owned by or owns a similar business that does have nexus within

⁴ Ibid; p. 51

the state in which the vendor is conducting business. This type of statute would require the dot.com side of most brick and mortar stores to collect the tax on its sales even if it is a separate corporate entity.

Five states have already adopted affiliate nexus legislation:

- *Alabama* law (HB 650, passed during the 2003 regular session)
<http://alisdb.legislature.state.al.us/acas/ACASLogin.asp?SESSION=1026>
- *Arkansas* law (HB 1440, passed during the 2001 regular session)
<http://www.arkleg.state.ar.us/ftproot/bills/2001/htm/HB1440.pdf>
- *Kansas* law (HB 2416, passed during the 2003 regular session, see §2)
<http://www.kslegislature.org/bills/2004/2416.pdf> You can find a copy of the enrolled version from this site: <http://www.kslegislature.org/cgi-bin/signed-enrolledbills/index.cgi>
- *Louisiana* law (S 32, passed during the 2002 regular session)
http://www.legis.state.la.us/leg_docs/02RS/CVT9/OUT/0000JLL1.PDF
- *Minnesota* law (H.F. 2498, passed during 2001 – 2002 session, see lines 43.1 to 45.30)
<http://www.revisor.leg.state.mn.us/cgi-bin/getbill.pl?number=HF2498&session=ls82&version=latest>

Three states have considered, or are considering, adoption:

- *California* legislation (SB 103, of the 2003 session. See Sec. 1, (g)(1))
http://www.leginfo.ca.gov/pub/bill/sen/sb_0101-0150/sb_103_bill_20030129_introduced.pdf
- *Indiana* legislation (HB 1365, introduced in the 2004 session. See pages 1-2 and 4-7)
<http://www.in.gov/legislative/bills/2004/HB/HB1365.3.html>
- *Michigan* legislation (HB 4571, SB 415 of the 2003 session)
<http://www.michiganlegislature.org/documents/2003-2004/billintroduced/house/htm/2003-HIB-4571.htm>

It is the recommendation of the work group that the Uniformity Committee of the Multistate Tax Commission be assigned to develop a model affiliate nexus statute or regulation for consideration by the states. The development of the uniform statute could be placed on a fast track using the statutes of states that have this provision as a working model and base. Once developed, the statute could be referred to the individual states for adoption or consideration. All states participating in this effort would actively promote adoption of the uniformity proposal immediately upon its completion. If most states had this provision, vendors' collection responsibilities would be clarified, compliance from affected businesses would be greater and the risk from business reorganization to limit nexus exposure would be reduced.

This proposal is also consistent with the Commission's recommendation, adopted in the Federalism at Risk Report, to preserve the viability of state sales and use taxes by strengthening sales and use tax nexus standards to better reflect current business practices.⁵

D. Enhance Exchange of Information to Improve Identification of Non-Filing Companies that have Sales and Use Tax Nexus

States can improve the identification of companies that have sales and use tax nexus, but are failing to file, through the cooperative use of information. A specific mechanism for efficiently doing so will be provided in a separate confidential document to be addressed in closed session.

E. Review and Reissue Multistate Tax Commission Policy Statement 2002-01, titled Improving State Sales Taxes to Achieve Fairness and Simplicity

In July of 2002, the Multistate Tax Commission issued Policy Statement 2002-01, Improving State Sales Taxes to Achieve Fairness and Simplicity. In that Policy Statement, the Commission expressly communicated its support for the efforts of the Streamlined Sales Tax Project and recommended the states levying sales and use taxes favorably consider the project's recommendations. The Statement also expressed that, although state action is needed to simplify the sales tax and to ensure effective enforcement of current nexus standards, appropriate federal action could ensure sales and use taxes are equitably applied. That federal action could occur through Congress or the Supreme Court revisiting the issue in the context of state efforts to simplify sales and use taxes or a combination of congressional and judicial action. A great deal of progress has been made since the Policy Statement was initially issued and possible options for fulfilling its objectives have begun to take shape.

The Work Group recommends that the Commission's Resolutions Committee review, update if necessary, and reissue the existing MTC Policy Statement so that it may continue to be a relevant, clear and accurate statement in support of States' sales tax policy goals.

⁵ Ibid; p. 16

Appendix A: Sales & Use Tax Compliance Working Group Charter

I. Introduction

The Multistate Tax Commission Executive Committee authorized a State Tax Compliance Initiative to develop methods of improving compliance with state taxes in three key areas:

- Business income sheltering,
- Pass-through entity shareholder income reporting, and
- Sales and use tax compliance, including both business use tax and nexus issues.

To conduct the initiative, the Executive Committee organized an MTC Compliance Steering Committee to evaluate major compliance needs in the three areas above and develop plans to resolve compliance problems. The steering committee created three working groups, one for each of these key areas.

II. Purpose of the Sales & Use Tax Compliance Working Group

The purpose of the Working Group is to recommend tools for reducing sales and use tax non-compliance. Underreporting of sales and use taxes by existing registrants costs the states an estimated \$15 to \$17 billion annually - with business use tax collection the major share. Non-collection of use tax on remote sales is estimated to cost the states another \$8 to \$9 billion. The areas which the working group will focus on are:

- Compliance with use tax remittance requirements by business consumers,
- Compliance with use tax remittance requirements by household consumers, and
- Compliance with use tax collection responsibilities by remote sellers with nexus, and encouragement of voluntary collection by remote sellers without nexus.

The desired outcome is to increase compliance among existing sales and use tax registrants and non-registrants.

III. Composition of the Working Group and Timeline

The Working Group is chaired by Carol Fischer, Missouri, and consists of members from Arizona, Arkansas, Kentucky, Missouri, South Dakota, Texas, and Washington. Shirley Sicilian is the MTC Staff Coordinator. The timeframe for accomplishment of tasks will be:

➤ Information gathering and review by subgroup	August & Sept. 2003
➤ Summary of Issues and Some Initial Recommendations from Sub Group to full Work group for Review	September 2003
➤ Some Initial Recommendations from Work Group to Compliance Steering Committee	October 2003
➤ Periodic reports as needed, and final report to MTC	March 2004

Appendix B:
Multistate Tax Commission Policy Statement 2002-01
Improving State Sales Taxes to Achieve Fairness and Simplicity

1.1 Preamble

The Multistate Tax Commission supports state efforts to pursue through negotiation, state legislation and enforcement, the courts and federal legislation, provisions that would require large out-of-state sellers to collect sales and use taxes from their customers. Such action is necessary to restore fairness to competition between local retail store purchases and remote sales transactions and to provide a means for states to collect taxes that are owed under existing law. The recent rapid growth of electronic commerce has underscored the importance of this equitable treatment. The Commission seeks to reduce the burden of collection on sellers and to ensure that these taxes work efficiently and effectively in contemporary markets. The Commission is working to achieve these goals through its own interstate uniformity efforts and through active support of the Streamlined Sales Tax Project and similar efforts. A simplified sales tax system can contribute to neutrality in taxation: the equal tax treatment of all forms of sales into a state regardless if made through stores, mail order or electronic means.

The U.S. Supreme Court in the *Quill* decision explicitly reaffirmed the authority of Congress to address state tax issues that affect interstate commerce. Although state action is needed to simplify the sales tax and to ensure effective enforcement of current nexus standards, federal action will be needed to ensure that sales and use taxes are equitably applied. That federal action could occur through Congress or the Supreme Court revisiting the issue in the context of state efforts to simplify sales and use taxes or a combination of congressional and judicial action.

1.2 Simplified Sales Tax System

The Multistate Tax Commission supports the development and implementation by states, with the active participation of the business community, of measures to simplify the sales and use tax system. The Commission contributes to this purpose through its own uniformity activities under the Multistate Tax Compact, the National Nexus Program and the Joint Audit Program, and pledges the continuation of those efforts. The Commission supports the efforts of the Streamlined Sales Tax Project and recommends that the states levying sales and use taxes favorably consider the project's recommendations. The Commission commits itself to developing a continuing, cooperative relationship with the states implementing the project's recommendations in support of greater uniformity and simplicity in sales and use tax administration. Sales tax simplification should strive to achieve the following reforms.

1.2.1 Single Administrative Process within a State

A simplified sales tax system should offer sellers a single administrative process within each state for the collection of sales and use taxes, the filing of reports, the conduct of audits and the adjudication of disputes. Such a process can most easily be

accomplished through statewide administration of state and local taxes or through a cooperative state-local process developed jointly by a state and its localities.

1.2.2 Use of Modern Technology

A simplified sales tax system should encourage the use of modern information technology by sellers to collect sales and use taxes in a cost-effective manner and to file returns and remit payments electronically. States should provide a framework and incentives for the use of such technology. The technology that has revolutionized business operations and expanded the scope of remote sales can also contribute to ensuring the collection of taxes due and owing in the context of those same remote sales.

1.2.3 One-Stop Registration

A simplified sales tax system should enable an interstate seller to register to collect and remit sales and use taxes with several states at one time and, if already registered, to update its registration records when business operations, store locations or other applicable factors change. The Commission is developing a central registration system to assist the states in accomplishing this purpose.

1.2.4 Tax Rate Simplification

A simplified sales tax system should provide sellers with clear and certain means of applying the correct tax rate at the time of sale. This objective can be accomplished by states providing—in a standardized form widely adaptable by sellers—a database of applicable tax rates within the state and holding harmless from assessment sellers who use the database properly. Local tax rates should change no more frequently than quarterly and with adequate, uniform advance notice of such changes. Any variation in tax rates by product should be strictly limited and eliminated where possible.

1.2.5 Tax Base Simplification

A simplified sales tax system should include uniform definitions for categories of goods and services to be taxed, items commonly exempted from taxation and core administrative or accounting terms used to calculate and report the tax. Because of the diversity of the modern marketplace and business operations, the Commission recognizes that states will develop and implement uniform definitions over time, beginning with those that are most feasible and of greatest benefit to easing administration. A simplified sales tax system should reduce the role of sellers as enforcers of exemptions by product and use and place greater administrative responsibility on states and/or those who benefit from these exemptions.

1.2.6 Administrative and Enforcement Process Simplification

A simplified sales tax system should reduce the cost of filing tax reports and paying the tax through uniform forms and methods for filing tax returns and making payments, including the expanded use of uniform electronic filing and payment systems.

A simplified sales tax system should use joint, multistate audits to improve the efficiency of the audit process and uniformity of results for states, localities and taxpayers.

1.2.7 Governance of a Simplified Sales Tax System

The governance of a simplified sales tax system should vest final authority with the states implementing the system. The governing process should guarantee open meetings and public participation in decision-making. The governing process should also encourage the voluntary resolution of disputes among states and between states and businesses.

1.3 Coordination of the Multistate Tax Compact and the Streamlined Sales Tax Agreement

The Multistate Tax Commission, consistent with its responsibilities under the Multistate Tax Compact to promote equitable and uniform taxation and taxpayer convenience and compliance, will offer continuing support to the states in implementing a simplified sales tax system. The purposes of such a system overlap with the responsibilities of the Commission. The Commission will offer its services to these states to aid the efficient administration of the system. Such services may include developing a common registration system, supporting the development of uniform rules and regulations, conducting joint audits, and providing a multistate alternative dispute resolution process.

1.4 Equitable Collection of Sales and Use Taxes

The Multistate Tax Commission calls on Congress or the U.S. Supreme Court to re establish fairness in state sales and use tax systems by requiring remote sellers making sales above a reasonable threshold level to collect sales and use taxes for any state that simplifies its tax system in accordance with the foregoing reforms. The threshold level could be established by either federal legislation or by uniform state legislation approved by Congress or by the U.S. Supreme Court. If states seek U.S. Supreme Court approval for an expanded duty to collect for states with a simplified system, the states should incorporate the threshold level in uniform state legislation implementing a simplified sales tax system. Such a provision would become effective when a favorable Supreme Court decision occurs. The Commission supports exempting small remote sellers whose contacts are limited to making sales by mail order or electronic means and whose sales fall below the threshold level from an expanded duty to collect in the interest of reducing burdens on these sellers.

In the absence of action by Congress or the U.S. Supreme Court to establish a sales threshold standard for collecting sales and use taxes, the Multistate Tax Commission is committed to assisting states in developing uniform guidelines clarifying existing constitutional standards of nexus. The Commission is committed as well to assisting the states and taxpayers in equitable and effective compliance with applicable nexus standards through its National Nexus Program and the Joint Audit Program. Coordinated, interstate action by the states to apply nexus standards on a uniform basis improves taxpayer convenience, improves equity in the application of the law, and ensures the integrity of state and local tax systems.

1.5 Opposition to Surrender of State Sovereignty

The Multistate Tax Commission is opposed to legislation that would link federal restrictions on state authority to levy business activity taxes to the implementation of an expanded duty for remote sellers to collect sales and use taxes. A trade-off between state business activity tax authority and sales and use tax authority undermines federalism and erodes the equity and effectiveness of business activity taxes.

(See also MTC Resolution 99-8 and MTC Policy Statement 02-02.) To be effective through Annual Meeting 2007.