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MULTISTATE TAX COMMISSION

## **ANNUAL REPORT FOR FISCAL YEAR 2018**

(July 1, 2017 – June 30, 2018)

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Compact Members	Sovereignty Members	Associate & Program Members
Alabama*†	Georgia*†	Arizona†
Alaska*	Kentucky*†	California
Arkansas*†	Louisiana*†	Connecticut†
Colorado*†	Michigan†	Delaware*
District of Columbia*†	Minnesota†	Florida†
Hawaii*†	New Jersey*†	Illinois
Idaho*†	Rhode Island*†	Indiana
Kansas*†	West Virginia*†	Iowa*†
Missouri*†		Maine
Montana*†		Maryland†
New Mexico*†		Massachusetts†
North Dakota*†		Mississippi
Oregon*†		Nebraska*†
Texas†		New Hampshire*†
Utah*†		New York
Washington*†		North Carolina†
		Ohio
		Oklahoma†
		Pennsylvania*
		South Carolina†
		South Dakota†
		Tennessee*†
		Vermont†
		Virginia
		Wisconsin*†
		Wyoming

\*Joint Audit Program Member

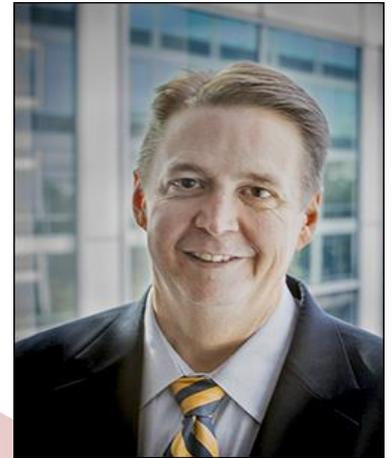
†National Nexus Program Member

As of Jul. 1, 2018

## Message from the Executive Director

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I am pleased to present the 2018 Annual Report of the Multistate Tax Commission covering the activities of the Commission and its various committees and staff during the time period July 1, 2017, to June 30, 2018. This annual report presents a convenient compilation of reports presented to the Commission at its 51<sup>st</sup> annual meeting and conference held in Boston, Massachusetts, in July, as well as the *Financial Statements and Report of Independent Certified Public Accountants for the Years Ended June 30, 2018 and 2017*.



The Multistate Tax Commission (MTC) is an intergovernmental state tax agency whose mission is to achieve fairness by promoting compliance and consistent tax policy and practice and to preserve the sovereignty of state and local governments over their tax systems.

During this past year the Commission held its annual meeting in August of 2017 in Louisville, Kentucky, where its 50<sup>th</sup> anniversary was celebrated and, as a part of that celebration, highlighted the role and impact the Commission has had on state taxation. We also recognized our distinguished and outstanding recipient of the 2017 Paull Mines Award for Contributions to State Tax Jurisprudence, Alan Friedman, former General Counsel for the Commission.

While no uniformity projects were completed during the period covered by this report, work was ongoing on three significant projects. The Commission's uniformity efforts, in addition to the work of the audit and nexus programs, training, litigation support for states, and monitoring federal developments that have state tax impacts, reflect the commitment we have to achieve our vision. This commitment was evident through the Commission's efforts during the Marketplace Seller Voluntary Disclosure Initiative, where over 850 taxpayers submitted applications to become compliant on sales and use tax collection requirements across 25 participating states.

I ask for your continued input and support as the Commission continues to facilitate joint state efforts in these areas. The Annual Report of the Multistate Tax Commission — by nature, a backward look at the Commission's activities — will provide you with information that will be helpful to you in providing us that input and support. I look forward to hearing from you.

Respectfully,

Gregory S. Matson  
Executive Director



## Overview of Actions Taken by the Multistate Tax Commission

The Commission held the Annual Business Meeting, as required by Article VI of the Multistate Tax Compact, on August 2, 2017, in Louisville, Kentucky.

The Commission took the following actions during July 1, 2017, to June 30, 2018:

- Approved the Commission Budget for 2017-2018.
- Accepted committee reports and ratified the actions of the Executive Committee for the previous program year.
- Adopted amendments to the Commission's Bylaws.
- Elected John L. Valentine, Commission Chair, Utah State Tax Commission, as Chair.
- Elected Mike Kadas, Director, Montana Department of Revenue, as Vice Chair.
- Elected Glenn Hegar, Texas Comptroller of Public Accounts, as Treasurer.
- Elected Nia Ray, Director, Oregon Department of Revenue; Walter Anger, Deputy Director and Commissioner of Revenues, Arkansas Department of Finance and Administration; Keith Richardson, Deputy CFO for Tax and Revenue, District of Columbia Office of Tax and Revenue; and Ken Roberts, Chairman, Idaho State Tax Commission, as at-large members of the Executive Committee.

The Commission did not accept any donation or grant, or borrow any service during the period covered by this report.



*Gene Corrigan at MTC 50<sup>th</sup> Annual Meetings in Louisville, Kentucky. Pictured left to right with Dan Bucks, Joe Huddleston, and Greg Matson.*



## IN REMEMBRANCE OF *GENE CORRIGAN*



The Commission was saddened by news of the death on December 7, 2017, of Eugene F. Corrigan, the MTC's very first executive director, one month shy of his 91<sup>st</sup> birthday. In July 2017, he impressed us all with his charm and remembrances while with us in Louisville for our 50th anniversary.

There are unique challenges to being the executive director of the MTC. Gene Corrigan faced not only those challenges but also the herculean task of building and guiding the MTC as a brand new creation.

We've spent a good deal of time reviewing the Commission during our 50<sup>th</sup> year, and not a week has gone by when we haven't been amazed by some aspect of what Gene, and others like him, were able to accomplish, even in the face of very determined efforts to destroy what they were working so hard to build.

Gene often described himself as a “proud parent” of the Multistate Tax Commission, and it was an honor and privilege to have our “founding father” with us in Louisville—along with his wife, Billie, and son, Robb—to help celebrate our 50<sup>th</sup> anniversary. It is an anniversary that would not have happened but for Gene's hard work and dedication during the first two decades of the MTC. The Commission expresses profound thanks and condolences to his family.



## Report of the Executive Committee

The Executive Committee met four times during the period July 1, 2017, to June 30, 2018:

- August 3, 2017, in Louisville, Kentucky;
- November 17, 2017, in New Orleans, Louisiana;
- January 8, 2018, via teleconference; and
- April 26, 2018, in Bloomington, Minnesota.

The meetings were regular meetings through which the committee provided oversight and direction to the activities of the Commission.

The following members of the Commission were elected to serve as Commission officers and members of the Executive Committee for fiscal year 2018:

- Chair: John L. Valentine, Commission Chair, Utah State Tax Commission
- Vice Chair: Mike Kadas, Director, Montana Department of Revenue
- Treasurer: Glenn Hegar, Texas Comptroller of Public Accounts
- At-Large: Nia Ray, Director, Oregon Department of Revenue; Walter Anger, Deputy Director and Commissioner of Revenues, Arkansas Department of Finance and Administration; Keith Richardson, Deputy CFO for Tax and Revenue, District of Columbia Office of Tax and Revenue; and Ken Roberts, Chairman, Idaho State Tax Commission

On May 11, 2018, Mike Kadas retired from the Montana Department of Revenue, resulting in a vacancy in the office of vice chair. With only a few months left in the fiscal year and no further planned Executive Committee meetings, the Chair determined that the vacancy would be filled with the election of new officers and committee members at the Commission's annual meeting on July 25, 2018.

The Executive Committee took the following actions during fiscal year 2018:

- Received the Uniformity Committee's recommendations with respect to proposed amendments to the Commission's General Allocation and Apportionment Regulations and directed that a public hearing be held on the proposed amendments. The Executive Committee considered the Hearing Officer's report on the proposed amendments, received public comments on



the proposed amendments, and recommended consideration by the Commission, triggering the bylaw 7 survey process for these provisions.

- Received the Uniformity Committee’s recommendations with respect to those issues referred to that committee on the proposed Model Sales and Use Tax Notice and Reporting Statute. The Executive Committee considered the Uniformity Committee’s recommendations and directed that a public hearing be held.
- Monitored the progress of the Online Marketplace Seller Voluntary Disclosure Initiative.
- Received updates on the state impacts of federal tax reform.
- Endorsed amendments made to the Commission’s Employee Handbook.
- Approved Associate Membership for Virginia effective July 1, 2018.
- Reviewed the efforts and work of the Commission’s standing committees during the year.
- Approved the audited financial statements as reported in an independent auditor report for the years ended June 30, 2017 and 2016.
- Approved a proposed fiscal year 2018 – 2019 budget for the Commission.

The Executive Committee undertook additional actions during fiscal year 2018 that are recorded in the minutes of its meetings.



## **Report of the Audit Committee**

**Frank Hales, Chair**

**Lee Baerlocher, Vice Chair**

### **Audit Committee**

The audit committee has met three times in fiscal year 2018. The audit committee met on July 31, 2017, in Louisville, Kentucky. This was the first meeting of the committee in fiscal year 2018. There were 59 members, guests and staff present during the public session and 59 members and staff present during the closed session of the meeting. There were no members of the public present during the public session, and there were 50 individuals representing 20 audit program states present during the closed session of the meeting.

The audit committee also met on November 15, 2017 in New Orleans, Louisiana. There were 58 members, guests and staff present during the public session and 54 members and staff present during the closed session of the meeting. There was one member of the public present during the public session, and there were 44 individuals representing 21 audit program states present during the closed session of the meeting.

The third and final meeting of the audit committee in fiscal year 2018 was in Bloomington, Minnesota, on April 24, 2018. There were 55 members, guests, and staff present during the public session and 48 members and staff present during the closed session of the meeting. There was one member of the public present during the public session, and there were 40 individuals representing 22 audit program states present during the closed session of the meeting.

During all the meetings the audit committee reviewed the status of all the audits in progress. A discussion was held on several income tax and sales tax audits that had significant issues.

At the meeting in Louisville Kentucky, the audit committee reviewed the sales tax audit nominations and voting results and moved to add eight new companies into the MTC sales tax audit inventory.

During the meetings in New Orleans and Bloomington, Bruce Fort, MTC staff attorney, gave a presentation on recent happenings in the State and Local Tax area. This was very well received and has become a semi-regular part of the committee meeting.



As is customary, the audit committee ended all the meetings with a round table discussion regarding audit leads and issues that individual states are experiencing.

The next meeting of the audit committee will be held during the MTC annual meeting in Boston, Massachusetts, July 23<sup>rd</sup> through July 26<sup>th</sup>.

## **Audit Program**

### **Productivity**

The Audit Program has completed two corporate income tax audit and parts of ten other corporate income tax audits for fiscal year 2018. The Audit Program also completed six sales tax audit and parts of five other sales tax audits for fiscal year 2018. Currently, there are twenty-two (22) income and thirty-one (31) sales tax audits in progress.

The MTC Audit Program has proposed assessments of \$45,814,096 for the completed corporate income tax audits and \$2,495,249 for the completed sales tax audits for fiscal year 2018.

### **Staffing**

I am very pleased to announce that Effective January 1, 2018, Larry Shinder was promoted to an audit supervisor. During our meeting in Bloomington, Minnesota, we celebrated the many years of service that Harold Jennings provided to the Commission. We are sad to see him leave the Commission, but are happy for him and wish him the very best in his retirement. Also, we were able to hire another sales tax auditor, Kim Stewart. Kim comes to us from the Kansas Department of Revenue and will begin her career with the Commission on August 1, 2018.

### **Audit Committee**

The audit committee met three times during the fiscal year 2018. The first meeting was held during MTC annual meeting event on July 31, 2017, in Louisville, Kentucky. The second meeting, fall meeting, took place in New Orleans, Louisiana, on November 15, 2017. The third meeting, spring meeting, took place in Bloomington, Minnesota, on April 24, 2018.





**TRENDS IN PRODUCTIVITY**  
**MTC JOINT AUDIT PROGRAM**  
**AUDIT HOUR ANALYSIS**  
**6/01- 6/18**

	6/01	6/02	6/03	6/04	6/05	6/06	6/07	6/08	6/09	6/10	6/11	6/12	6/13	6/14	6/15	6/16	6/17	6/18
Income Tax Total Audits	8	7	8	7	7	9	7	7	3	6	6	4	5	6	5	4	4	2
Total States Audited	131	166	165	266	196	175	141	209	79	152	309	131	150	103	79	64	76	35
Total Hours	8684	9396	10556	12012	12617	12514	9361	17570	6440	10445	25649	11937	12836	14413	11136	12893	7925	7469
<b>Average Hours Per State</b>	<b>66</b>	<b>57</b>	<b>64</b>	<b>45</b>	<b>64</b>	<b>72</b>	<b>66</b>	<b>84</b>	<b>81</b>	<b>69</b>	<b>83</b>	<b>91</b>	<b>86</b>	<b>139</b>	<b>141</b>	<b>201</b>	<b>104</b>	<b>213</b>
Sales Tax Total Audits	14	13	11	10	11	6	15	9	10	12	5	5	12	6	4	11	8	6
Total States Audited	158	159	145	154	160	77	187	97	120	147	65	59	163	63	48	108	76	66
Total Hours	11900	8850	8792	10943	6133	4946	13296	7818	7265	10772	7200	5000	13195	6570	5121	18155	12267	8133
<b>Average Hours Per State</b>	<b>75</b>	<b>56</b>	<b>61</b>	<b>71</b>	<b>38</b>	<b>64</b>	<b>71</b>	<b>80</b>	<b>61</b>	<b>73</b>	<b>110</b>	<b>85</b>	<b>81</b>	<b>104</b>	<b>106</b>	<b>168</b>	<b>161</b>	<b>123</b>
Total Both Taxes Total Audits	22	20	19	17	18	15	22	16	13	18	11	9	17	12	9	15	12	8
Total States Audited	289	325	310	420	336	252	328	306	199	299	374	190	313	166	127	172	152	101
Total Hours	20584	18246	19348	22955	18750	17460	22657	25388	13705	21217	32849	16937	26031	20983	16257	31048	20192	15602
<b>Average Hours Per State</b>	<b>71</b>	<b>56</b>	<b>62</b>	<b>55</b>	<b>56</b>	<b>70</b>	<b>69</b>	<b>83</b>	<b>69</b>	<b>71</b>	<b>88</b>	<b>89</b>	<b>83</b>	<b>126</b>	<b>128</b>	<b>180</b>	<b>133</b>	<b>154</b>

## **Training**

The Commission held an all staff retreat in Itasca, Illinois, August 15 and 16, 2017. The retreat ended at noon on the 16<sup>th</sup>. That afternoon we begin training for the audit staff and that training continued through August 17<sup>th</sup>

On September 26 and 27, 2017, we provided the Vermont Department of Taxation Income Tax training. This was very specific training for Vermont, geared to specific issues encountered during audit. Larry Shinder and Bruce Fort provided this training.

On March 20 through 23, 2018, we held a Corporate Income Tax training class in Atlanta, Georgia. Cathy Felix and Larry Shinder provided the training for the audit portion of the class. Bruce Fort provided the training for the legal portion of the class.

We held a Computer Assisted Audit Techniques Using Excel class on July 11 and 12, 2018 in Hoover, Alabama. Bob Schauer and Harold Jennings were the instructors for this class.



## **Report of the Litigation Committee**

**Clark Snelson, Chair**

**Mark Wainwright and Dee Wald, Co-Vice Chairs**

The Litigation Committee is composed of approximately 165 state assistant attorneys general, assistant solicitors, and state agency tax counsel. It is responsible for overseeing, coordinating, and sponsoring Commission activities to foster development of and cooperation between state tax attorneys on matters relevant to state tax jurisprudence and administration within the Commission's authority. The Committee also supports the Commission by providing advice on legal and tax matters when requested.

Regarding its activities during the past fiscal year, the Committee met in Louisville, Kentucky, during the 2017 annual meeting. At that time, Commission staff presented an update on the Commission's amicus brief activity and success rates. The Committee also heard a panel discussion from John Swain, Karl Frieden, and Bruce Fort, regarding the recent history of UDITPA's equitable apportionment provisions in litigation addressing the imposition of "market-based" apportionment rules in "cost of performance" states, standards of proof and distortion analysis in cases involving disparate sources of income and apportionment formulas, and the future of equitable apportionment litigation, regulations and statutes.

The Litigation Committee met for the second time during the Commission's April 2018 program committee meetings in Bloomington, Minnesota. The committee received an update on the Commission's amicus brief filings, and heard from Max Behlke, Director of Budget and Tax for the National Conference of State Legislatures, on "Taxation of the Digital Economy After *Wayfair v. South Dakota*: What the States Should be Doing, and Not Doing, to Modernize their Excise Tax Bases."



## Report of the Nexus Committee

Christy Vandevender, Chair

Randy Tilley, Vice Chair

The Nexus Program FY 2018 results (July 1, 2017, through June 30, 2018) are provided below.

- Nexus states' collections: \$18,601,151 (\$19,664,097 in all FY 2017)
- Nexus states' executed agreements: 3,087 (431 in all FY 2017)
- Nexus states' average contract value: \$ 6,026 (FY 2017: \$45,624)

The above amounts include checks received by the Commission or amounts paid by the taxpayer directly to the states and reported to the Commission. Interest on back tax paid and the value of a new taxpayer are not included. The number of executed agreements includes those from the online marketplace seller voluntary disclosure initiative, most of which involved waiver of back tax liability, as well as those from the ongoing Multistate Voluntary Disclosure Program, which do require payment of back taxes for the states' lookback periods. This accounts for the much higher number of executed agreements and the much lower average contract value. Based on the back tax liability estimates provided in the applications of taxpayers executing agreements and registering with the states under the initiative, it should result in an estimated \$51,058,614 in annual potential future revenue for the participating states.

The Nexus Committee met in person on July 31, 2017 in Louisville, Kentucky, on November 15, 2017 in New Orleans, Louisiana, on April 24, 2018 in Bloomington, Minnesota, and on July 23, 2018 in Boston, Massachusetts. The Nexus Committee conducted an emergency meeting by telephone on October 11, 2017 and an open session meeting by telephone on January 4, 2018.

The Committee considered the following issues at the July 31, 2017 meeting:

The Committee approved proceeding forward with the online marketplace seller voluntary disclosure initiative for those states agreeing to participate, the application period to commence August 17 and end October 17, 2017, sellers to be required to register and commence collection of sales/use tax by December 1, 2017 and file income tax returns, if applicable commencing in tax year 2017. Participating states will have to option to: (1) offer total back tax liability waiver,



or a limited look-back period; (2) include both sales/use tax and income/franchise tax, or only sales/use tax; and (3) impose a sales volume or back-tax liability threshold for applications. Twenty-five states, including the District of Columbia, are participating in the initiative.

The Committee approved amending the Nexus Program list of “frequently asked questions” to address treatment of not only NOLs in a voluntary disclosure agreement, but also other tax attributes, such as tax credits, carry-forwards, carry-backs, and capital gains, in lieu of amending the standard agreement.

Rhode Island joined the initiative and the National Nexus Program effective October 1, 2017.

The Committee considered the following at the October 11, 2017 emergency meeting conducted by telephone:

The Committee extended the deadline to receive applications for the online marketplace seller voluntary disclosure initiative from October 17 to November 1, 2017. The Committee also extended the deadline for applicants to register with a state (either return completed state registration forms to MTC staff or return to MTC staff written confirmation of online registration with the state, if permitted) to commence collection of sales/use tax to the later of December 1, 2017, or the date within 30 days after the seller receives notice from MTC staff that the state has signed the voluntary disclosure agreement.

The Committee considered the following at the November 15, 2017 meeting in New Orleans:

The Committee received a status report from Richard Cram, Nexus Program Director, on the online marketplace seller voluntary disclosure initiative. MTC staff have received applications from approximately 850 online marketplace sellers, as of the end of the extended November 1 application deadline.

The Committee considered the following at the January 4, 2018 meeting by teleconference:

In response to the heavy volume of online marketplace seller voluntary disclosure initiative applications and agreements being processed, Richard Cram requested that the Committee consider authorizing MTC staff to provide directions to those taxpayers receiving state-signed agreements to send taxpayer-



signed agreements, registration forms, back tax returns and payments (if required) directly to the states, instead of returning those items to MTC staff, which would then forward those items to the states. The Committee approved a motion authorizing MTC staff to provide those directions to taxpayers, giving them the option to either return those items to MTC staff or send them directly to the state.

The Committee considered the following issues at the April 24, 2018 meeting:

The Committee received the report of Richard Cram, National Nexus Program Director, on the results of the online marketplace seller voluntary disclosure initiative: an estimated \$51.1 million in annual future potential revenue for the participating states, based on the back tax liability estimates provided in the applications of those online marketplace sellers that executed agreements and registered with the states. The Committee considered a request from Janette Lohman, on behalf of herself and other tax practitioners, to conduct a new remote seller voluntary disclosure initiative offering prospective compliance. However, the Committee took no action on the request. The Committee also considered and approved proposed changes to the standard agreement form.



## **Report of the Training Program**

### **Sherry Tiggett, Events and Training Manager**

The Commission training program reached 156 participants during the year. This includes 71 participants at two in-person training courses and 85 at the 2017 Annual Conference in Louisville, Kentucky. Details on training events from the past year and scheduled for the coming year follow.

#### **Courses Offered in 2017-2018**

The following MTC courses were offered during the year:

##### Nexus School

- September 20 and 21, 2017, in Atlanta, Georgia, for 33 participants from the Alabama Department of Revenue, the Georgia Department of Revenue, the Idaho State Tax Commission, the Kentucky Department of Revenue, the New Jersey Division of Taxation, and the South Carolina Department of Revenue.

##### Corporate Income Tax training

- March 20 – 23, 2018, in Atlanta, Georgia, for 38 participants from the Alabama Department of Revenue, the Colorado Department of Revenue, the Georgia Department of Revenue, and the South Carolina Department of Revenue.

On September 26 and 27, 2017, Larry Shinder from the Joint Audit Program, along with Bruce Fort from the legal division, provided the Vermont Department of Taxation with income tax training. The training was geared to specific topics requested by Vermont on issues they have encountered during audits.

All participants for these courses were state and local government personnel.

The training program also supported the 50<sup>th</sup> Annual Conference in Louisville, Kentucky, which was attended by 85 participants, the Commission's staff retreat and auditor training which occurred in Itasca, Illinois, August 15–17, 2017, the 2017 Fall



Committee Meetings held in New Orleans, Louisiana, and the 2018 Spring Committee Meetings held in Bloomington, Minnesota. Staff also worked on preparations for the 51<sup>st</sup> Annual Conference and Committee Meetings, the 2018 Fall Committee Meetings, 2019 Spring Committee Meetings, and 52<sup>nd</sup> Annual Conference and Committee Meetings.

### **Courses Schedule for 2018-2019**

The following courses are currently scheduled:

- Computer Assisted Audit Techniques Using Excel, Hoover, Alabama, July 11 and 12, 2018
- Statistical Sampling for Sales and Use Tax Audits, Sioux Falls, South Dakota, September 25 – 28, 2018.

We encourage states to contact us as early as possibly regarding hosting a class. Updates to our schedule and registration information can be found at [www.mtc.gov](http://www.mtc.gov) or by contacting the MTC Events and Training Manager at (202) 650-0296.

### **NASBA Certification and Continuation Education Credit**

The Commission continues its registration with the National Association of State Boards of Accountancy (NASBA) as a CPE sponsor. This registration is for “group-live” programs. Accounting boards in 47 states and the District of Columbia recognize NASBA certification for granting of CPE credit for in-person courses. The Commission also certifies attendance for CLE credit at Commission sponsored training events. The Events and Training Manager attended the National Association of State Boards of Accountancy’s 2017 National Registry of CPE Sponsors Summit September 26 – 27, in Nashville, Tennessee.

### **Training Fees and Host State Credit**

The current fee schedule has been in place since October 2012 and no change in fees is expected for the coming year. The Commission provides a host state credit of up to \$3000 for each course. The credit is for course-related support and applies to tuition for host state participants.



## Report of the Uniformity Committee

Holly Coon, Chair

Tommy Hoyt, Vice Chair

In the last year, the Uniformity Committee met on August 1, 2017, November 16, 2017, and April 25, 2018. It also met by phone on July 6, 2018, to discuss possible work on issues raised by the U.S. Supreme Court's decision in *Wayfair*. It will also meet July 24, 2018. Any updates to this report from the July meeting will be given orally.

At its July meeting, the committee is expected to consider whether to continue with the Section 18 group and suggest revisions to special industry apportionment rules. It may also consider two new projects. One involves the question of whether the MTC should adopt an alternative approach to combined filing that follows the *Finnigan* theory of taxing jurisdiction over a unitary group, and the other that involves issues raised by the *Wayfair* decision.

Three work groups have been working on uniformity projects this past year as summarized below.

Project Work Groups	
<b>Sales and Use Tax Information Reporting Model Work Group</b>	
<b>Chair and Staff</b>	Phil Horwitz, Colorado and Sheldon Laskin, MTC Staff
<b>Scope of Project</b>	The uniformity committee has asked the work group to recommend revisions to a draft model statute that requires non-collecting sellers and others to: (1) give notice to in-state purchasers, with each sale, that tax may be owed; (2) give a report to in-state purchasers, annually, summarizing purchases made; and (3) file an information return with the state, annually, listing in-state purchasers and total purchases.
<b>Background</b>	This committee previously referred the draft model statute to a public hearing and a Bylaw 7 survey. When it failed to pass the Bylaw 7 survey, the committee referred the draft model statute back to the uniformity committee for clarification. Those clarifications were submitted in May 2012, but the draft was tabled pending a decision in <i>Direct Marketing Ass'n v. Brohl</i> , which involved a similar Colorado statute. After the Tenth Circuit upheld the Colorado statute and the U.S. Supreme Court denied certiorari (see <i>Direct Marketing Ass'n v. Brohl</i> , 814 F.3d 1129 (2016)), this committee referred the draft model statute back to the uniformity committee for its recommendation. That committee convened a work group to consider any necessary revisions and it began its review in June 2017, with weekly calls in which a number of states and members of the public have participated.



<b>Status</b>	The work group submitted a draft model to the uniformity committee at the November 16, 2017 meeting. After discussion, the model was sent back. The work group completed work on a revised draft model on January 31, 2018, and presented it to the uniformity committee at the April 25th meeting, where it was approved and sent to the executive committee. The executive committee sent the model to public hearing, which took place on June 14, 2018. The hearing officer's report will be presented to the Executive Committee on July 26.
<b>Section 18 Regulation Work Group</b>	
<b>Chair and Staff</b>	Holly Coon, Alabama and Bruce Fort, MTC Staff
<b>Scope of Project</b>	Recommend any new or amended model regulations under Compact, Art. IV (UDITPA) Section 18 that may be required by the Commission's adoption of recommended changes to Art. IV in 2014 and 2015.
<b>Background</b>	Following the Commission's adoption of recommended changes to the Compact, Art. IV (UDITPA), this committee recognized the need for new or amended model regulations and asked the uniformity committee to undertake the drafting of those regulations. The first projects assigned to work groups involved the amendments to the Model General Allocation and Apportionment Regulations, Section 1 and Section 17. Those work groups also identified issues to be addressed under Section 18 and in early 2016, the uniformity committee established a Section 18 work group for this purpose. The group conducted weekly meetings for over a year and submitted proposed draft models to the uniformity committee for discussion and approval at the November 16, 2017 meeting. The committee approved the model for public hearing. After proper notice, the hearing took place on February 20, 2018, with former Judge William Thompson as the hearing officer.
<b>Status</b>	<ul style="list-style-type: none"> <li>• <u>Special Rules – Receipts Factor</u>: The work group focused its efforts on “special purpose” corporate entities that would lack a receipts factor under changes adopted by the Commission because certain categories of gross receipts would not be included in the factor. The categories of gross receipts covered by the rule include dividends, interest, capital gains and losses, receipts from factoring accounts receivable, other gross receipts from investment activity, and certain other gross receipts. The proposed regulations would be included in subsection IV.18.(c) of the Model General Allocation and Apportionment Regulations.</li> <li>• <u>Receipts Factor – Bank Holding Companies and Subsidiaries</u>: Based on public comments submitted at the uniformity</li> </ul>



	<p>committee meeting in August of 2017, the work group ultimately approved a special industry regulation for financial institution holding companies and subsidiaries that may be engaged in banking and related activities. The proposed regulation is intended to provide guidance that the receipts of such entities should be apportioned under the state’s rules applicable to financial institutions, if any, or under the MTC model rules for financial institutions, and not using the receipts factor under the proposed model regulation IV.18.(c).</p> <p>The hearing officer’s report was presented to the executive committee during its April 26, 2018 meeting, and the model was sent to a Bylaw 7 survey. The survey has resulted in a majority of affected states responding affirmatively, that they would consider adopting the model. Therefore, the model is on the agenda for the Commission to consider at its annual meeting on July 25, 2018.</p>
<p><b>Partnership/RAR Project Work Group</b></p>	
<p><b><i>Chair and Staff</i></b></p>	<p>Katie Lolley, Oregon and Helen Hecht, MTC Staff</p>
<p><b><i>Scope of Project</i></b></p>	<p>Recommend: (1) model provisions that states may need in order to assess the additional tax due as a result of federal audit adjustments made under new statutory requirements for entity-level audits of large partnerships; (2) provisions necessary for the entity-level assessment of taxes; and (3) revisions to the Commission’s existing model for Reporting Federal Tax Adjustments.</p> <p>NOTE: This project is subject to certain time constraints because we expect that state legislatures will want to begin considering the necessary changes to state statutes during 2018 legislative sessions.</p>
<p><b><i>Background</i></b></p>	<p>In 2015, Congress passed the Bipartisan Budget Act which requires the IRS to conduct entity-level audits of large partnerships and assess the partnership, unless the partnership elects to do the administrative work of “pushing out” the audit adjustments to its partners. The uniformity committee initially established an informational project in 2016 to study these federal changes. Later, it determined that a work group should be established to draft model provisions that states may need in order to assess the additional tax that will result from any federal partnership audit adjustments.</p> <p>The uniformity committee was also approached by “Interested Parties” (ABA, AICPA, COST, TEI, &amp; IPT) asking that the committee consider changes to its existing model for Reporting Federal Tax Adjustments. The committee was separately asked to consider any related issues that states would need to address in assessing state tax at the entity level. The committee agreed to both of these requests. It also agreed that the working group should use a draft of proposed language put forward by the Interested Parties as its starting point and prioritize</p>



	the partnership-related provisions.
<b><i>Status</i></b>	<p>The work group has held periodic meetings in which the Interested Parties have participated and have made substantial contributions. In August, the work group approved comments to be submitted to the IRS on proposed federal regulations. The work group also agreed that the chair and staff should have an in-person meeting with the Interested Parties to clarify the understanding of how the federal process is expected to work, and what that would mean for the states. Subsequent to that meeting, the Interested Parties submitted a substantially revised draft for consideration. After review of that draft and based on input received from the work group, MTC staff made recommendations as to changes that may need to be considered. This process was repeated several times—with intermittent discussions via teleconference—and the work group and Interested Parties also asked the committee for guidance at its April meeting. The work group will present a revised proposed model to the uniformity committee at the July meeting.</p>



**Report of the Executive Director**  
**Gregory S. Matson, Executive Director**  
**Marshall C. Stranburg, Deputy Executive Director**

This report is a summary of the Commission's organizational and staff activities for the period July 1, 2017, through June 30, 2018 (unless otherwise noted).

**I. Membership**

Virginia became an associate member on July 1, 2018, by operation of Virginia H.B. 373 and approval by the Executive Committee in accordance with Bylaw 13 at its meeting of April 26, 2018.

**II. Programs & Activities**

**A. Joint Audit Program**

The Joint Audit Program has completed two corporate income tax audit and parts of ten corporate income tax audits for the fiscal year 2018. The program also completed six sales tax audits and parts of five other sales tax audits for fiscal year 2018. There are 22 income and 31 sales tax audits in progress.

The program has proposed assessments of \$45,814,096 for the completed corporate income tax audits and \$2,495,249 for the completed sales tax audits for fiscal year 2018.

The following chart summarizes hourly data for all completed (for all states) audits for the fiscal year end June 30, 2018:

	<b>Income &amp; Franchise</b>	<b>Sales &amp; Use</b>	<b>Total</b>
<b>Total Audits</b>	2	6	8
<b>Total States Audited</b>	35	66	101
<b>Total Hours</b>	7469	8133	15602
<b>Average Hours per State</b>	213	123	154

The Audit Committee met for the first time in fiscal year 2018 on July 31, 2017, in Louisville, Kentucky. During this meeting the committee discussed the progress of current audits. The committee also reviewed the companies recommended for sales tax audits and voted to add eight of those companies to the sales tax audit inventory.



The committee met again on November 15, 2017, in New Orleans, Louisiana. During this meeting, Bruce Fort, Commission counsel, gave a presentation on recent happenings in the state and local tax area. This was very well received and will become a semi-regular part of the committee meeting. The committee also discussed the progress of the current audits, including the possible early closure of one audit. As usual, the committee ended with the state round table discussion.

The committee last met on April 24, 2018, in Bloomington, Minnesota. This was the third and final meeting for the committee in fiscal year 2018. During the meeting in Bloomington, Bruce Fort made another presentation on recent happenings in the state and local tax area. The committee also recognized and honored Harold Jennings for his many years of service to the Commission. Audit issues that staff was encountering and possibilities on how to deal with those were discussed. The committee also discussed the progress of current audits, and, as usual, ended with the states' round table discussion.

In conjunction with the Commission's all-staff retreat, training for audit staff was held on August 16 and 17, 2017.

## **B. National Nexus Program**

### Multistate Voluntary Disclosure Program

The FY 2018 results are provided below.

- Nexus states' collections: \$18,601,151 (\$19,664,097 in all FY 2017)
- Nexus states' executed contracts: 3,087 (431 in all FY 2017)
- Nexus states' average contract value: \$6,026 (\$45,624 in FY 2017)

The above amounts include funds received by the Commission or paid by the taxpayer directly to the states and reported to the Commission. Interest on back tax paid and the ongoing value of a new taxpayer are not included. The number of executed contracts includes those from the online marketplace seller voluntary disclosure initiative, most of which involved waiver of back tax liability, as well as those from the ongoing Multistate Voluntary Disclosure Program, which do require payment of back taxes for the state lookback period. This accounts for the much higher number of executed contracts and the much lower average contract value.



Based on the back-tax liability estimates provided in the applications of taxpayers executing agreements and registering with the states under the initiative, it should result in an estimated \$51,058,614 in annual potential future revenue for the participating states.

### Online Marketplace Seller Voluntary Disclosure Initiative

At its July 31, 2017 meeting in Louisville, the Nexus Committee approved moving forward with the online marketplace seller voluntary disclosure initiative. A total of 25 states, including D.C., participated in the initiative. Most of the participating states offered waiver of back tax liability for both sales and use tax and income/franchise tax to online marketplace sellers with nexus as a result of inventory or other nexus-creating activity by the marketplace facilitator on behalf of the seller, if the seller registers to collect sales and use tax and file income/franchise tax returns prospectively. Four of the participating states required lookback periods. The initial application period was set for August 17 to October 17, 2017, with sellers to be registered to collect sales and use tax by December 1, 2017, and commence filing returns and paying tax due for income/franchise tax. On October 11, 2017, the Nexus Committee conducted an emergency meeting by teleconference to address requests to extend the deadlines. The committee extended the application deadline to November 1, 2017, and changed the registration deadline to the later of December 1, 2017, or 30 days after the seller receives notice that the state has signed the voluntary disclosure agreement. By the end of the November 1 application period, voluntary disclosure applications from a total of 852 online marketplace sellers were received. The initiative has been completed.

### Membership

There are currently thirty-eight participating states (including the District of Columbia) in the program, with Rhode Island having most recently joined effective October 1, 2017. Delaware advised the Commission that it has terminated its participation in the Nexus Program as of the end of FY 2018. Commission staff continues to reach out to non-member states.

### Outreach

A substantial number of inquiries were received regarding the online marketplace seller voluntary disclosure initiative. Program staff engaged in lively and spirited



discussions with business owners and taxpayer representatives over the impacts and ramifications of the initiative.

Staff continues to urge states to put a link to the program on their voluntary disclosure web pages.

### Nexus Schools

Program staff co-taught a Nexus School in Atlanta, Georgia, on September 20-21, 2017, hosted by the Georgia Department of Revenue. Please let a member of the Commission staff know if your state would like to host a Nexus School.

### Amnesties

The program posts on its web page a list of upcoming and current state tax amnesties. Please inform program staff if you would like the Commission to post your state's amnesty.

### Staffing

The program presently has four permanent full-time staff members: Richard Cram, Director, Diane Simon-Queen, Voluntary Disclosure Program Manager, Michelle Lewis, Paralegal, and James Lee, hired on March 13, 2018, as Program Specialist. Starting in October 2017, and through late February 2018, Renee Lee, Paralegal, Thomas Emberger, a temporary employee, and James Lee, then a temporary employee, worked full-time for the Program on the online marketplace seller voluntary disclosure initiative. Nianci Lyu, a temporary employee, worked full-time on the initiative during October and November 2017. Angie Molina, a senior at Georgetown University, worked part-time for the Nexus Program beginning July 5, 2017, ending in October 2017.

## **C. Legal Division**

Counsel to the Commission perform the following functions:

- Serve as staff for the uniformity committee and its workgroups;
- Serve as staff for the litigation committees and sponsored training activities;
- Provide legal services to the Commission's audit and nexus programs;



- Conduct training for state employees on various subjects;
- Consult with states on a number of tax policy issues;
- Provide litigation support and amicus briefs;
- Speak at tax conferences and write articles for tax publications; and
- Provide administrative and other legal support.

The Commission added two new counsel in May, Brian Hamer and Chris Barber. Background information on Brian and Chris is covered elsewhere in this report.

### Staffing the Uniformity Committee and Workgroups

In the last year, counsel to the Commission staffed uniformity committee meetings as well as the following uniformity projects:

- The Model Sales and Use Tax Notice and Reporting Statute work group;
- The Partnership Informational Project/ RAR Model Statute work group; and
- The Section 18 Regulatory Project work group.

Work on these projects involved assisting states in identifying issues, analyzing the effects of those issues, reconciling competing considerations, drafting model language, soliciting comments and suggestions, staffing and preparing information for work group calls and committee meetings, staffing public hearings, and complying with Commission bylaws and other processes.

Staffing the uniformity committee also requires counsel to the Commission to assist in the evaluation of proposed projects. Currently, the committee is considering revision of Section 18 special industry rules, a proposal to adopt a *Finnigan* alternative to its Combined Reporting model statute, and issues related to the *Wayfair* case.

### Staffing the Litigation Committee and Sponsored Training Activities

In the last year, counsel to the Commission staffed litigation committee meetings as well as the following activities sponsored by the litigation committee:

- An all-day appellate practice training session for state attorneys in August 2017 focusing on brief-writing; and
- An all-day training session for state attorneys in April 2018.



Work on these activities involved soliciting speakers, coordinating subjects and topics, helping with materials and presentations, preparing agendas and CLE materials, and facilitating the involvement of various individuals in other aspects of the preparation.

### Legal Assistance to Audit and Nexus Programs

Counsel regularly consult with the Joint Audit Program and National Nexus Program personnel on various legal issues. Work on these activities involves reviewing and analyzing audit issues, pursuing taxpayer compliance with information and document requests, updating personnel on emerging issues and developments, and assisting with questions from taxpayers and practitioners.

### Training for States

Counsel prepare materials and act as trainers for the Commission's general corporate income tax training and the National Nexus Program's nexus schools (covered elsewhere in this report).

### Consulting on Policy Issues

In the last year, the legal division has hosted informational sessions for a state attorneys and policy officials on the effects of recent federal tax changes on the taxation of multinational business entities, as further discussed below. Counsel regularly respond to questions and requests from state tax policy officials and also consult with state groups (including the National Governors Association and the National Conference of State Legislatures) on tax policy issues. Those issues generally include issues on which the Commission has model laws or issues that the Commission or its committees have studied. The legal division has also been closely involved with educational efforts regarding federal tax reform. The Commission hosted a teleconference on May 29 as part of its ongoing study of how the recent federal tax reform will affect state taxation.

### Litigation Support and Amicus Briefs

Counsel provide litigation support to states when requested. That work includes advising state attorneys on litigation strategy, use of experts, and evaluation of evidence and legal arguments.



The Commission may also agree to file amicus briefs in cases of significant interest to the Commission and its members. In the past year, counsel prepared amicus briefs in the following cases:

- *Graphic Packaging v. Hegar*, Texas Supreme Court, Docket No. 15-0669 (Texas won);
- *Commissioner v. Associated Bank*, Minnesota Supreme Court Docket No. A17-0923 (Minnesota won);
- *Franchise Tax Board of California v. Gilbert P. Hyatt*, U.S. Supreme Court Docket No. 17-1299, on petition (petition granted); and
- *South Dakota v. Wayfair*, U.S. Supreme Court Docket No. 17-494, on petition (petition granted) and on the merits (South Dakota won).

Counsel are also currently working on amicus briefs in other cases.

### Speaking and Articles

As detailed elsewhere in this report, Counsel regularly speak at tax conferences and seminars around the country. Counsel also prepare articles for publication, including in the last year as part of the State Tax Notes Board Briefs and for the Journal of Multistate Taxation and Incentives, *Government Contributions to Capital – The Known and the Unknown* - for publication August 2018.

### General Legal Support

The legal division provides administrative and legal support for the Commission including addressing open meetings issues, maintaining confidentiality policies, handling records requests and overseeing record retention policies, resolving lease disputes, reviewing contracts, and complying with other regulatory issues, including the Social Security issues detailed elsewhere in this report.

## **D. Policy Research**

The policy research director supports Commission efforts in addressing federal legislation with implications for state and local taxation, monitors state adoption of Commission model statutes, regulations, and guidelines. He is a member of the National Tax Association Advisory Board.



The policy research director is writing a short summary on the impact of federal adoption of territorial taxation on state business income tax bases. He organized and acted as moderator for a session on infrastructure spending and means of financing infrastructure at the 110<sup>th</sup> Annual Conference of the National Tax Association in Philadelphia, Pennsylvania, November 9 through 11, 2017. At that conference, he also discussed two papers on the theory of optimal taxation. He is updating information on current economic conditions and trends in state and local government finance for the Commission's annual meeting this summer.

The policy research director participated in the following periodic local or online economic forums and seminars:

- National Association for Business Economics symposium on transfer pricing – July 18 through July 20
- CQ webinar on federal tax reform – September 7
- Federation of Tax Administrators Revenue Estimating and Research Conference, Omaha, Nebraska, September 23 through 28, and presented a paper on long-term trends in state corporate income taxes
- Tax Economist Forum Breakfast: Jane Gravelle, Congressional Research Service. Analysis of House Tax Reform Plan: A Better Way; at Ernst & Young
- Tax Economist Forum Breakfast: Modeling the Internal Revenue Code in a Heterogeneous General Equilibrium Framework – October 4
- Tax Policy Center discussion with Kevin Hassett, Chair, Council of Economic Advisors, on economic impact of federal tax reform – October 5
- Moody's webinar on the economics of tax reform – October 6
- Tax Economist Forum Breakfast: Incidence of the Corporate Income Tax – October 18
- REMI webinar on economics of tax reform – October 31
- National Tax Association Annual Meeting, Philadelphia, PA: organized and moderated a session on infrastructure spending and financing and discussant for two papers on the theory of optimal taxation infrastructure – November 9
- REMI luncheon on possible impact of federal tax reform on the states – November 30
- Tax Economist Forum Breakfast: Trends in the Distribution of Income – December 13
- Tax Foundation webinar on tax reform and the states – January 9



- Tax Economist Forum Breakfast: Trends in Income Tax Rates over Time – January 17
- Urban Institute seminar on tax reform and the impact on the states – January 24
- Tax Economist Forum Breakfast on state and local excises as substitutes for income, property, and sales taxes – January 31
- Institute for International Economic Law seminar on protection of tax base in internationally competitive environment – February 2
- REMI webinar on tax reform and the states – February 6
- Brookings Institution Seminar on the new business tax landscape – February 14
- Consulted with PEW Foundation staff for the Fiscal Federalism Initiative project on the relationship between federal corporate income tax and state corporate income tax – February 14
- Tax Economist Forum Breakfast on dynamic scoring – February 28
- REMI webinar: Immigration and the Economy – March 6
- Tax Economist Forum Breakfast on tax reform and capital investment – March 14
- REMI luncheon: Tariffs and the Economy – March 29
- Tax Economist Forum Breakfast on tax reform and bonus depreciation – May 2
- Economic Policy Institute – Tax Cuts and Jobs Act (TCJA) and Offshoring – May 7
- National Tax Association Annual Spring Symposium, Washington, D.C. – May 17 and 18
- Tax Economist Forum Breakfast on different types of Value Added Tax – May 30
- Tax Economist Forum Breakfast on effect of TCJA on investment – June 6
- REMI Policy Conference – June 7
- Tax Economist Forum Breakfast on International Tax Issues and TCJA – June 13
- Hosted and organized Tax Economist Forum Breakfast at Hall of the States on State Fiscal Conditions – June 27

The policy director also interviewed candidates for the policy research internship for the summer of 2018. The position has been filled by Parker Armstrong, University of New Hampshire.



## E. Legislative Division

The legislative counsel and director:

- Monitors and analyzes in collaboration with the director of policy research and the legal division federal legislation that affects states;
- Coordinates Commission responses to federal legislation, including joining with the efforts of other organizations, drafting policy positions, and meeting with legislators and staff;
- Educates congressional members and staff about the negative effects of preemption generally and with respect to specific bills;
- Answers questions from member states about federal legislation;
- Monitors state legislation, identifies trends, and consults with states when requested; and
- Increases the visibility and reputation of the Commission through establishing lines of contact to legislators, taxpayer organizations, other multistate governmental organizations, the public, and other stakeholders in federal and state legislation that preempts or substantially affects state taxation.

The legislative counsel created and maintains a public page on the Commission's website to view legislative reports. It may be found on the Commission's web site under the tab *Resources* and then by clicking on *Legislation* from the resulting drop down menu, which then provides an option of viewing either *State Bills* or *Federal Bills* and allows for searching for a bill by number or viewing a list that can be sorted various ways. The Commission recently switched its vendor for state and federal legislative information from CQ Roll Call / CQ StateTrack to Bloomberg Government after careful analysis of the capabilities, cost, and ease of use of each. Bill information is temporarily unavailable on the website while we migrate data to the new system.

The legislative counsel continues to proactively increase the visibility of the Commission and promote it as the "gold standard" for tax policy development. Counsel focuses on state and federal legislators and their staffs; the Congressional Budget Office (providing data to score bills); and multistate organizations such as the National Governor's Association (attendance at weekly meetings of state representatives, coordination with NGA staff), the Federation of Tax Administrators; the Streamlined Sales Tax Governing Board; and the National Conference of State Legislatures Executive Committee Task Force on State and Local Taxation.



Awareness of the Commission among state legislators who serve on tax committees has historically been low, so counsel has prioritized developing awareness and relationships among these legislators.

Below are some of the federal bills that legislative counsel is following:

- **RECENTLY INTRODUCED.** Senator Jon Tester (D-Mont.) introduced the *Stop Taxing Our Potential Act* (STOP) on June 28, 2018. It has three cosponsors—Senators Shaheen (D-N.H.), Merkley (D-Ore.), and Hassan (D-N.H.). Montana, Oregon, and New Hampshire are three of the four states that have no sales/use tax (Delaware is the other; Alaska has no state-level sales/use taxes). These states strongly oppose the perceived inconvenience and cost of collecting tax for other states. In addition, each has a strong cultural pride in being sales/use tax free, which makes this bill triply popular at home—with retailers, purchasing businesses, and the public.
- A substantial amount of time and effort has been spent on monitoring the effects on states resulting from federal tax reform. Tax reform became law as P.L. 115-97 (informally the *Tax Cuts and Jobs Act*) on December 22, 2017, with an effective date of January 1, 2018. Amendments to the federal code have caused uncertainty for states and required them to quickly attempt to understand how the changes affect each state’s tax policies. Interest deductions, treatment of foreign-source income, taxation of pass-through income, expensing of capital goods, and myriad other changes must be considered. States appear to be more or less affected by the nature and extent of their conformity to the Internal Revenue Code. States are working hard to identify the conformity provisions to the Code to be retained or discarded and to look at other changes to state law to mitigate resulting tax increases or decreases. The impact on states of tax reform is a critical issue for the Commission and states. Many state bills have been enacted or considered during the recently-concluded sessions (only a few states are currently in session) to address the complications that the federal bill created in state income tax laws.
- *The Consolidated Appropriations Act, 2018*, H.R.1625, P.L.115-141, wrapped all twelve appropriations bills into a single bill, commonly called the omnibus spending bill. As “must pass” legislation, this was an ideal vehicle to insert state preemption bills that otherwise would have had trouble passing. Only one bill of concern made it into the omnibus—§620 of the MOBILE NOW Act of 2017 (further discussed below). It was slipped into the omnibus without debate as a provision of a larger bill regarding wireless spectrum.



- *The Wireless Telecommunications Tax and Fee Collection Fairness Act* was amended into the *MOBILE NOW Act of 2017* as §620. *MOBILE NOW* was enacted into law as P.L. 115-141. The Act preempts state tax authority over certain mobile wireless communications. The scope of preempted activity is unclear. An expansive reading of the preemption provisions would significantly limit state tax authority and hinder collection of taxes related to mobile communication. It further preempts state tax authority by requiring original jurisdiction in federal district court despite the Tax Injunction Act.
- *Remote Transactions Parity Act* (H.R.2193); referred to Subcommittee on Regulatory Reform, Commercial And Antitrust Law of the House Committee on the Judiciary; no hearings or action since referral on May 5, 2017. The provisions of this bill were seriously considered for inclusion in the omnibus spending bill but excluded in the end. The sponsor and others believed that it was critical to have a federal framework for use tax collection in place before the U.S. Supreme Court decided *South Dakota v. Wayfair*. The bill has not moved post-*Wayfair*.
- Representative Kristi Noem (R-S.D. at large) introduced H.Res.790 after she failed to insert the Remote Transactions Parity Act into the omnibus appropriations bill. H.Res.790 was a quixotic attempt to mandate that the Judiciary Committee discharge her bill for the full House to vote on. She gathered no cosponsors. It is dead.
- *Marketplace Fairness Act of 2017* (S.976); referred to Senate Committee on Finance; hearing held by Senate Committee on Banking, Housing, and Urban Affairs. Permits member states of the Streamlined Governing Board (SGB) to require remote vendors to collect use tax on behalf of their state's citizens; allows states not members of the SGB to require remote vendors to collect use tax on behalf of their citizens when they enact enumerated simplifications to their sales and use tax laws. This bill passed the Senate by a large margin in a previous Congress but made no headway in the House.
- *No Regulation Without Representation Act of 2017* (H.R.2887); referred to the House Committee on the Judiciary. This bill would prohibit a state from enacting any law, regulation, or policy that affects any other state or its residents. It applies beyond tax law. It is so absurd and sweeping that it is unlikely to advance, and has not since introduction and a hearing.



- *Mobile Workforce State Income Tax Simplification Act of 2017* (H.R.1393); approved by the House in a ‘suspension of the rules’ voice vote (‘suspension’ is supposed to be reserved for uncontroversial bills). H.R.1393 is pending in the Senate Committee on Finance.
- *Mobile Workforce State Income Tax Simplification Act of 2017* (S.540); referred to Senate Committee on Finance. See H.R.1393, above. With the House approval of H.R.1393, the Senate Finance Committee has two Mobile Workforce bills pending. A hearing on S.540 was held on June 14, 2017, by the Committee on Small Business and Entrepreneurship (not the committee of official jurisdiction). No further action is likely this Congress.
- *End Discriminatory State Taxes for Automobile Renters Act of 2017* (H.R.2024 and companion S.1159); the House Committee on the Judiciary referred it to a subcommittee on May 1, 2017, where there has been no action. The Senate bill, S.1159, resides without action in the Senate Committee on Finance. The bills would prohibit taxation of automobile rentals at a rate higher than a state’s general sales tax rate.
- *No Tax Subsidies for Stadiums Act* (H.R.811); this eponymous bill was referred to Ways and Means; there has been no further action (a very minor provision in the *Tax Cuts and Jobs Act* affected private municipal bond issues; such bonds are often used to build stadiums).
- *Tax Filing Simplification Act of 2017* (S.912) by Senator Elizabeth Warren (D-Mass.) would have the IRS at the taxpayer's option prepare the taxpayer's return when there are no complicated issues; allow taxpayers to download their tax information from third parties; and provide online software to prepare and submit returns. It is dormant in the Senate Finance Committee. Its companion bill, H.R.3511 by Rep. Brad Sherman (D-Cal.30), is dormant in Ways and Means.

The legislative counsel continues to monitor state legislation, particularly bills in response to federal tax reform and the *Wayfair* decision.

## **F. Training**

The Training staff supported the following activities since July 1, 2017:



### Nexus School

September 20- 21, 2017, in Atlanta, Georgia, for 33 participants from the Alabama Department of Revenue, the Georgia Department of Revenue, the Idaho State Tax Commission, the Kentucky Department of Revenue, the New Jersey Division of Taxation, and the South Carolina Department of Revenue.

### Corporate Income Tax training

March 20 – 23, 2018, in Atlanta, Georgia, for 38 participants from the Alabama Department of Revenue, the Colorado Department of Revenue, the Georgia Department of Revenue, and the South Carolina Department of Revenue.

On September 26 and 27, 2017, Larry Shinder from the Joint Audit Program, along with Bruce Fort from the legal division, provided the Vermont Department of Taxation with income tax training. The training was geared to specific topics requested by Vermont on issues they have encountered during audits.

The events and training staff coordinated the logistics of the 50<sup>th</sup> Annual Conference in Louisville, Kentucky, July 31 – August 3, 2017, which included an off-site reception and dinner at Churchill Down's Kentucky Derby Museum. Staff provided onsite assistance to special invited guests Eugene Corrigan and James Peters, and the Kentucky Department of Revenue provided staff — Melinda M. Hill, Deputy Commissioner, and Stacy Ball from the commissioner's office — to assist with onsite activities. Staff also coordinated logistics for the 2017 Fall Committee Meetings and the 2018 Spring Committee Meetings.

The events and training staff have been the principal coordinators of the 51<sup>st</sup> Annual Conference and Committee Meetings. Staff has also worked on preparations for the 2018 Fall Committee Meetings, 2019 Spring Committee Meetings, and 52<sup>nd</sup> Annual Conference and Committee Meetings.

The events and training staff coordinated logistics for the Commission's staff retreat and auditor training which occurred in Itasca, Illinois, August 15–17, 2017.

The events manager attended the National Association of State Boards of Accountancy's 2017 National Registry of CPE Sponsors Summit September 26–27, in Nashville, Tennessee.



### **III. Administration**

An all-staff retreat was held in Itasca, Illinois, August 15 and 16, 2017. The highlight of the retreat was a day-long presentation by Leading Edge on team building. Other presentations made during the retreat were on topics such as the Commission's updated personnel manual and information and technology security. At the conclusion of the retreat, the Joint Audit Program remained in Itasca on August 16 and 17 for staff training.

Larry Shinder was promoted to field audit supervisor effective January 1, 2018. Larry has worked for the Commission since October 1997.

Renee Lee ended her employment as a paralegal with the legal division on February 23, 2018. Renee had been with the Commission since October 2016.

Sheldon Laskin retired on February 28, 2018, with over 19 years of service to the Commission. Sheldon was the Director of the National Nexus Program from his hiring in 1998 until 2007 when he joined the legal division as counsel.

James Lee was hired on March 13, 2018, as a program specialist in the National Nexus Program. Since November 2017, James had been working for the program as a temporary employee for the on-line seller voluntary disclosure initiative.

On May 16, 2018, Chris Barber and Brian Hamer were hired to fill vacancies in the legal department. Chris was a legal extern with the Commission in 2014 and more recently worked with Sabre Corporation and Ernst & Young in the Dallas area. Brian was director of the Illinois Department of Revenue from 2003 to 2015. Before that, he was deputy director of the Chicago Department of Revenue and chief assistant corporation counsel at the city's Department of Law. He has also been a columnist with State Tax Notes.

Harold Jennings, senior audit supervisor, retired at the end of May 2018. Harold had been with the Commission since July 1991.

Parker Armstrong is interning this summer with Elliott Dubin, Director of Policy Research. Parker is an economics major at the University of New Hampshire and will enter his junior year this coming fall.



Kim Stewart, sales tax auditor with the state of Kansas, has accepted a sales tax audit position with the Commission and will began working on August 1, 2018. Kim has worked as an auditor with the Kansas Department of Revenue since July 2007.

On March 1, 2018, the Executive Director signed an amendment to the existing Washington, D.C. office lease. This lease for additional contiguous space will expand the office size from 5,906 square feet to 6,820 square feet, providing needed additional work space. The lease and related lease payment will actually become effective once the build-out of the additional space is complete. The cost of this lease amendment is included in the FY 2019 budget on the assumption that the space will be occupied on July 1, 2018. This amendment to the existing lease extends the lease termination date to December 31, 2026, and provides anticipated adequate funding for the build-out of the newly acquired space. The architectural drawings for this expansion have been completed. These plans will be submitted in order to obtain a building permit while a contractor is selected.

During the latter part of 2017, Commission employees participated in a process regarding Social Security coverage. This process allowed existing employees to opt into coverage effective January 1, 2018, if he or she elected. All new employees hired on or after January 1, 2018, would participate in Social Security. On December 11, 2017, a proposed agreement for coverage was submitted to the Social Security Administration (SSA). While we are still awaiting approval of the agreement, we have been informed that the Office of General Counsel for the SSA has provided that the Commission can obtain Social Security coverage as an interstate instrumentality. This movement to participation in Social Security is expenditure neutral for the Commission.

Related to participation in Social Security, a new defined contribution (I.R.C. §401(a)) plan was established effective January 1, 2018. It was necessary to establish a new plan given the contribution rate to this plan of 6.2%. This is in contrast to the existing Social Security substitute defined contribution plan which had a contribution rate of 12.4%. In conjunction with the establishment of the new plan, modifications were made to update the existing plan.

### Technology

The most recent updates to the Commission's audit history database are complete. The updates are currently in production.



The laptop replacement process is underway. The network administrator has configured the majority of the laptops and is in the process of transferring user data from old to new laptops as well as training users on new software that has been installed.

The Cleo Jetsonic software is being configured on all remote user laptops. This software allows for fast transfer of large files across the internet. It is intended to be used as a way for remote users to send their data back to the data center in DC and have it backed up and retained there. Because the software is not a true 'backup' solution some additional scripting needed to be done for it to better meet the desired purpose. As the new laptops are issued, the users are being shown how to use the scripts to effectively send their data back to DC. It is the expectation of the network administrator that as the process becomes more mature that the user intervention in the process will become less.

The network administrator has purchased the licenses required as well as computer hardware to facilitate the Federation of Tax Administrators (FTA) file sharing initiative. FTA is still working out some of the legal wording and logistics on their end before starting an initial trial period.

The network administrator is working with a Microsoft partner to set migrate the Commissions email services into the Microsoft Government Community Cloud (GCC). The migration is scheduled for mid-September.

The internet connection into the D.C. office has been upgraded. Previously we had a 100 MB connection and our internet provider showed us that our usage reached 98% capacity at times. We upgraded to a 1 GB connection. The additional bandwidth will help to prevent bottlenecks with the transferring of data by remote users from their Jetsonic clients as well as the use of Cleo Unify by FTA and several states.

The VMWare servers are functioning and providing services in the production environment as is the new Cybernetics Storage Attached Network. Servers have already been identified as likely candidates to be migrated to virtual machines. The migration of physical to virtual machines will be an ongoing process and will occur as the need arises.

Ongoing support for the Voluntary Disclosure Application remains an issue that requires attention. The training for the network administrator on the technology that this application is built on should begin in April or May. As a reminder, this training will allow for better troubleshooting, but not the ability to upgrade or build a new



voluntary disclosure application and database. Discussions on whether to upgrade the existing database or build a new one should commence soon now that the online marketplace seller voluntary disclosure initiative is completed.

The Ring Central phone system has been rolled out and the 8x8 phone system has been retired. Although the majority of the work on the roll out was done by the web content and phone systems manager, the network administrator assisted in provisioning phones, troubleshooting, and assisting end users with the changeover.

The network administrator conducted training with the D.C. staff as well as some remote workers on email archiving. This training is an attempt to keep the size of the email file store at a manageable size.

The normal maintenance of server hardware in the D.C. and Chicago offices occurs on a regular basis through on-site visits by the network administrator.

### III. Outside Presentations & Events

The following are the programs, conferences, and other events of outside organizations at which members of the staff represented the Commission during the reporting period:

#### JULY

- 2017 SEATA Conference; New Orleans, Louisiana (Matson)
- National Association for Business Economics 7<sup>th</sup> Annual Transfer Pricing Symposium; Washington, D.C. (Dubin)
- NYU Summer Institute in Taxation: Intermediate State & Local Taxation; *A View From the State Tax Administrators* (Matson, panelist); New York, New York
- Tax Executives Institute, Philadelphia State and Local Tax Committee; *Multistate Tax Commission Update* (Stranburg, panelist); Philadelphia, Pennsylvania
- Georgetown 40<sup>th</sup> Annual Advanced State and Local Tax Institute; *The SALT Hangover: Reporting Federal Changes to the States* (Hecht, panelist); *Digging In: State Perspectives on Federal Tax Reform* (Fort, panelist); Washington, D.C. (Cram, Disque, Dubin, Matson, Shimkin, Stranburg)



## AUGUST

- NCSL Executive Committee Task Force on State and Local Taxation meeting; Boston, Massachusetts (Shimkin)
- 2017 MSATA Conference; Indianapolis, Indiana (Stranburg)
- Council on State Taxation Mid-Atlantic Regional State Tax Seminar (Matson, panelist); McLean, Virginia

## SEPTEMBER

- 2017 NESTOA Conference; Stowe, Vermont (Matson)
- 2017 FTA Revenue Estimation and Tax Research Conference; *Joint FTA-NTA Session – State General Business Taxation: Obsolete? Hopeless? Or Prospective? – Long-Term Trends in State Corporate Income Taxes: A Zombie Tax* (Dubin); Omaha, Nebraska
- National Association of State Boards of Accountancy 2017 National Registry Summit; Nashville, Tennessee (Tiggett)
- Louisiana State Bar Association; *Navigating the Changing State and Local Tax Landscape in a Multi-State Business – Nexus* (Hecht, panelist); New Orleans, Louisiana

## OCTOBER

- 2017 WSATA Conference; Missoula, Montana (Matson)
- COST Annual Meeting; *The States Finally Get Serious About Transfer Pricing: Are You Prepared?* (Fort, panelist); Orlando, Florida

## NOVEMBER

- 24<sup>th</sup> Annual Paul J. Hartman State and Local Tax Forum; *Point/Counterpoint – Alternative Apportionment in a Single-Sales Factor World* (Fort, panelist); *Ethical Sunrise – Start Your Day the Professionally Responsible Way!* (Stranburg, panelist); *Nexus: What's New? Top Ten Issues of the Day* (Stranburg, panelist); Nashville, Tennessee
- National Tax Association 110<sup>th</sup> Annual Meeting; *Infrastructure* (Dubin, organizer and moderator); *Optimal Taxation II* (Dubin, discussant); Philadelphia, Pennsylvania
- New England State and Local Tax Forum; Newton, Massachusetts (Matson)
- Georgetown SALT Advisory Board & Conference Planning Meeting; Washington, D.C. (Matson)



## DECEMBER

- NYU 36<sup>th</sup> Institute on State and Local Taxation; *Due Process – Significant Current Issues* (Disque, Panelist); New York, New York (Matson)
- Tax Executives Institute 54<sup>th</sup> Annual Tax Symposium; *The New Partnership Audit Rules and What do They Mean for the States* (Hecht, panelist); New York, New York

## JANUARY

- Ohio Tax Conference; *Ohio Sales & Use Tax – In-depth Review of Major Developments Including Recent Ohio Supreme Court & Ohio Board of Tax Appeals (BTA) Decisions & New Audit Practices* (Stranburg, panelist); Columbus, Ohio
- D.C. Bar Tax Community Conference; *The Tax Cuts and Jobs Act; Possible Impact of TCJA on State and Local Taxes* (Hecht, panelist); Washington, D.C.
- 2018 Federal Bar Association Tax Law Conference; *Federal Partnership Audit Legislation – State Impacts* (Hecht, panelist); Washington, D.C.
- New York Bar Tax Section Annual Meeting; *The Effects of Federal Tax Legislation on State and Local Taxation* (Hecht, panelist); New York, New York

## FEBRUARY

- FTA Compliance and Education Workshop; *Tax Law for Non-lawyers* (Hecht and Disque, Panelists); *The MTC's Model Legislation on the New Federal Partnership Regime* (Hecht and Disque); *What Happened When the Nation's Marketplace Sellers Were Offered an Incentive to Register (Hint – You Can Try This at Home)* (Cram); New Orleans, Louisiana (Yang)
- ABA Tax Section Mid-Year Meeting; *SALT Implications of Federal Tax Reform* (Fort, panelist); San Diego, California
- Paul J. Hartman State and Local Tax Forum Advisory Board Planning Meeting; Phoenix, Arizona (Matson)

## MARCH

- ABA/IPT Advanced Income Tax Seminar; *Funny Guys Discussing Hot Topics* (Hecht, panelist); New Orleans, Louisiana
- ABA/IPT Advanced Sales and Use Tax Seminar; *MTC VDA Program* (Cram, panelist); New Orleans, Louisiana
- NCSL Executive Committee Task Force on State and Local Taxation; *Federal Partnership Changes* (Hecht, panelist); Washington, D.C. (Shimkin)



## APRIL

- State Services Organization’s “Coffee with Your Neighbor,” a monthly event for Hall of the States tenants; presentation on the MTC (Matson); Washington, D.C.
- COST 2018 Spring Audit Session/Income Tax Conference; *State Tax Administrators’ Roundtable* (Hecht, panelist); Boston, Massachusetts

## MAY

- 15<sup>th</sup> Annual New Mexico Tax Research Institute Tax Policy Conference; *Developments in State Taxes: Case Review and Evolving Issues* (Hecht); *Debate on Emerging State Tax Issues* (Hecht, Moderator); Albuquerque, New Mexico
- National Tax Association 48<sup>th</sup> Annual Spring Symposium; Washington, D.C. (Dubin)
- NYU SALT Luncheon Group; *MTC Update* (Matson); New York, New York
- Georgetown 41<sup>st</sup> Annual Advanced State and Local Tax Institute; *State Adaptations to Federal Changes to Partnership Rules* (Hecht, panelist); *Recent Developments in Transfer Pricing at the State Level* (Fort, panelist); Washington, D.C. (Barber, Cram, Disque, Hamer, Matson, Shimkin, Stranburg)

## JUNE

- Federation of Tax Administrators Annual Meeting; *Update on Key State Tax Cases* (Hecht, panelist); *Partnership Audit Regulations: The Great Unknown* (Hecht, panelist); Nashville, Tennessee (Matson, Disque, Hamer)
- Bloomberg Web-based Seminar; *Wayfair Ruling: First Impressions and Implications* (Matson, panelist); Washington, D.C.
- NCSL Executive Committee Task Force on State and Local Taxation meeting; Lake Tahoe, Nevada (Shimkin)



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**MULTISTATE TAX COMMISSION**

**Financial Statements, Supplementary  
Information and  
Independent Auditor's Report**

**For the Years Ended  
June 30, 2018 and 2017**

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**LSWG**  
Linton Shafer Warfield & Garrett, P.A.  
CERTIFIED PUBLIC ACCOUNTANTS

**MULTISTATE TAX COMMISSION**  
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## **Independent Auditor's Report**

To the Executive Committee of  
Multistate Tax Commission

We have audited the accompanying financial statements of Multistate Tax Commission, which comprise the balance sheets as of June 30, 2018 and 2017, and the related statements of revenue and expenses and changes in fund balance; unappropriated funds, changes in fund balance; appropriated funds, changes in fund balance; restricted funds and cash flows for the years then ended, and the related notes to the financial statements.

### **Management's Responsibility for the Financial Statements**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### **Auditor's Responsibility**

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

**Opinion**

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Multistate Tax Commission as of June 30, 2018 and 2017, and the changes in its fund balances and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

*Linton, Shafer Warfield & Garrett, P.A.*

Rockville, Maryland  
October 26, 2018

**MULTISTATE TAX COMMISSION**

**Balance Sheets**

**June 30,**

**ASSETS**

	<u>2018</u>	<u>2017</u>
<b>Current Assets</b>		
Cash and cash equivalents	\$ 1,009,312	\$ 655,791
Accounts receivable	1,445	2,205
Accrued interest	3,669	14,223
Prepaid expenses	<u>215,090</u>	<u>122,066</u>
Total Current Assets	<u>1,229,516</u>	<u>794,285</u>
<b>Property and Equipment - at Cost</b>		
Office furniture and equipment	632,744	550,073
Leasehold improvements	228,572	210,618
Less: accumulated depreciation and amortization	<u>(625,148)</u>	<u>(596,140)</u>
Property and Equipment - Net	<u>236,168</u>	<u>164,551</u>
<b>Other Assets</b>		
Investments	4,856,118	4,961,542
Expense account advances	6,000	6,000
Deposits	<u>2,200</u>	<u>5,304</u>
Total Other Assets	<u>4,864,318</u>	<u>4,972,846</u>
<b>TOTAL ASSETS</b>	<u>\$ 6,330,002</u>	<u>\$ 5,931,682</u>

## LIABILITIES

	<u>2018</u>	<u>2017</u>
<b>Current Liabilities</b>		
Accounts payable	\$ 36,891	\$ 47,244
Accrued salaries and vacation pay	447,386	425,926
Unearned membership, program and registration fees	<u>205,705</u>	<u>20,440</u>
Total Current Liabilities	<u>689,982</u>	<u>493,610</u>
 <b>TOTAL LIABILITIES</b>	 <u>689,982</u>	 <u>493,610</u>
 <b>Fund Balances</b>		
Unappropriated	3,662,485	3,342,856
Appropriated	654,921	712,641
Restricted	<u>1,322,614</u>	<u>1,382,575</u>
Total Fund Balances	<u>5,640,020</u>	<u>5,438,072</u>
 <b>TOTAL LIABILITIES AND FUND BALANCES</b>	 <u>\$ 6,330,002</u>	 <u>\$ 5,931,682</u>

The accompanying notes are an integral part of these statements.

**MULTISTATE TAX COMMISSION**  
**Statements of Revenue and Expenses**  
**and Changes in Fund Balance**  
**Unappropriated Funds**  
**For the Years Ended June 30,**

	<u>2018</u>	<u>2017</u>
<b>Revenue - Unappropriated and Appropriated</b>		
Membership assessments and program fees	\$ 6,210,240	\$ 5,973,697
Interest and dividends	121,586	128,382
Realized gain on investments	-	(45,881)
Unrealized gain (loss) on investments	(40,358)	(59,066)
Other income (loss)		
Training fees	67,603	64,560
SITAS fees	-	4,591
Conference fees	27,140	22,720
Miscellaneous	3,062	-
Total Revenue	<u>6,389,273</u>	<u>6,089,003</u>
<b>Expenses - Unappropriated and Appropriated</b>		
Auditing and payroll services	17,071	15,000
Business insurance	13,921	19,281
Conferences and training schools	149,819	116,249
Depreciation	71,107	50,631
Bond amortization	27,557	52,504
Employee benefits	790,615	789,884
Payroll taxes	71,270	55,996
Miscellaneous	13,953	36,604
Consumable and durable supplies	38,349	39,873
Postage	8,591	7,475
Printing and duplicating	9,136	7,490
Professional services	129,206	249,978
Internet access	40,912	38,759
Rent	271,404	281,479
Repairs and maintenance	12,504	17,306
Defined contribution plans	436,252	440,498
Salaries	3,711,702	3,621,907
Software licenses	32,961	34,184
Staff training	83,889	26,099
Subscriptions, publications, dues	74,203	65,705
Telephone	44,705	31,491
Travel	221,193	233,949
Allocation of administrative expenses	(142,956)	(105,108)
Total Expenses	<u>\$ 6,127,364</u>	<u>\$ 6,127,234</u>

(continued)

**MULTISTATE TAX COMMISSION**  
**Statements of Revenue and Expenses**  
**and Changes in Fund Balance**  
**Unappropriated Funds**  
**For the Years Ended June 30,**

	<u>2018</u>	<u>2017</u>
<b>Excess of Revenue Over (Under) Expenses</b>	\$ 261,909	\$ (38,231)
Transfer (to) from Appropriated Fund Balance	<u>57,720</u>	<u>(87,720)</u>
Total Amount Transferred	<u>57,720</u>	<u>(87,720)</u>
<b>FUND BALANCE - Unappropriated - Beginning of Year</b>	<u>3,342,856</u>	<u>3,468,807</u>
<b>FUND BALANCE - Unappropriated - End of Year</b>	<u>\$ 3,662,485</u>	<u>\$ 3,342,856</u>

The accompanying notes are an integral part of these financial statements.

**MULTISTATE TAX COMMISSION**  
**Statements of Changes in Fund Balance**

Appropriated Funds  
For the Years Ended  
June 30, 2018 and 2017

		Enterprise Automation Project	50th Anniversary Conference	Staff Development	Total
Fund Balance - June 30, 2016	\$	69,206	\$ 555,715	-	\$ 624,921
Transfer from Unappropriated Fund Balance		15,000	15,000	60,000	90,000
Transfer to Unappropriated Fund Balance		-	(718)	(1,562)	(2,280)
Net Amount Transferred (To) From Unappropriated Fund Balance		15,000	14,282	58,438	87,720
Fund Balance - June 30, 2017		84,206	555,715	58,438	712,641
Transfer from Unappropriated Fund Balance		15,000	-	-	15,000
Transfer to Unappropriated Fund Balance		-	(14,282)	(58,438)	(72,720)
Net Amount Transferred (To) From Unappropriated Fund Balance		15,000	(14,282)	(58,438)	(57,720)
Fund Balance - June 30, 2018	\$	99,206	\$ 555,715	-	\$ 654,921

The accompanying notes are an integral part of these statements.

**MULTISTATE TAX COMMISSION**  
**Statements of Changes in Fund Balance**  
**Restricted Funds**  
**For the Years Ended**  
**June 30, 2018 and 2017**

	<u>4R Project</u>	<u>Nexus Program</u>	<u>Total</u>
Fund Balance - June 30, 2016	\$ 42,694	\$ 1,230,297	\$ 1,272,991
Revenue	-	825,139	825,139
Expenses	<u>-</u>	<u>715,555</u>	<u>715,555</u>
Revenue Over (Under) Expenses	<u>-</u>	<u>109,584</u>	<u>109,584</u>
Fund Balance - June 30, 2017	42,694	1,339,881	1,382,575
Revenue	-	825,533	825,533
Expenses	<u>-</u>	<u>842,800</u>	<u>842,800</u>
Revenue Over (Under) Expenses	-	(17,267)	(17,267)
Restricted funds released	<u>(42,694)</u>	<u>-</u>	<u>(42,694)</u>
Fund Balance - June 30, 2018	<u>\$ -</u>	<u>\$ 1,322,614</u>	<u>\$ 1,322,614</u>

The accompanying notes are an integral part of these statements.

**MULTISTATE TAX COMMISSION**  
**Statements of Cash Flows**  
**For the Years Ended June 30,**

	<u>2018</u>	<u>2017</u>
<b>Increase (Decrease) in Cash and Cash Equivalents</b>		
<b>Cash Flows From Operating Activities</b>		
Excess of revenue over expenses	\$ 244,642	\$ 71,353
Adjustments to reconcile excess of revenue over expenses to net cash provided by operating activities		
Depreciation	71,107	50,631
Bond amortization	27,557	52,504
Restricted funds released	(42,694)	-
Unrealized (gain) loss on investments	40,358	59,066
Realized (gain) loss on sale of investments	-	45,881
Changes in assets and liabilities		
Accounts receivable	760	32,290
Prepaid expenses and accrued interest	(82,470)	(71,439)
Expense account advances and deposits	3,104	580
Accounts payable	(10,353)	28,159
Accrued salaries and vacation pay	21,460	53,472
Unearned membership, program and registration fees	185,265	(130,931)
Net Cash Provided by Operating Activities	<u>458,736</u>	<u>191,566</u>
<b>Cash Flows From Investing Activities</b>		
Purchase of property and equipment	(142,723)	(87,448)
Purchase of investments	(1,298,742)	(5,475,018)
Proceeds from sale of investments	1,336,250	3,780,665
Net Cash (Used in) Investing Activities	<u>(105,215)</u>	<u>(1,781,801)</u>
Net Increase (Decrease) in Cash and Cash Equivalents	353,521	(1,590,235)
Cash and Cash Equivalents - Beginning of Year	<u>655,791</u>	<u>2,246,026</u>
Cash and Cash Equivalents - End of Year	<u>\$ 1,009,312</u>	<u>\$ 655,791</u>
<b>Supplemental Disclosures</b>		
Income taxes paid	<u>\$ -</u>	<u>\$ -</u>
Interest paid	<u>\$ -</u>	<u>\$ -</u>

The accompanying notes are an integral part of these financial statements.

**MULTISTATE TAX COMMISSION**  
**Notes to Financial Statements**  
**June 30, 2018 and 2017**

**1. Summary of Significant Accounting Policies**

The Multistate Tax Commission (the Commission) was organized in 1967. It was established by the Multistate Tax Compact, which became effective August 4, 1967. The Commission is an intergovernmental state tax agency working on behalf of states and taxpayers to administer, equitable and efficiently, tax laws that apply to multistate and multinational enterprises.

**Cash Equivalents**

For purposes of the statement of cash flows, the Commission considers all highly liquid instruments purchased with a maturity of three months or less to be cash equivalents.

**Accounts Receivable**

Accounts receivable are stated at the amount management expects to collect from outstanding balances. The Commission considers accounts receivable to be fully collectible; accordingly, no allowance for doubtful accounts is required. If amounts become uncollectible, they will be charged to operations when that determination is made.

**Property and Equipment**

Property and equipment are defined as assets with an initial, individual cost of more than \$1,000 and an estimated useful life of one year or more. All property and equipment is stated at cost and depreciated using straight-line basis based upon estimated useful lives as follows: Leasehold Improvements - 5 years and Office Furniture and Equipment - 5 to 7 years.

Expenditures for maintenance and repairs are charged to the appropriate expense accounts as incurred. Expenditures for renewals or betterments which materially extend the useful lives of assets or increase their productivity are capitalized at cost. The costs and related allowances for depreciation of assets retired or otherwise disposed of are eliminated from the accounts. The resulting gains or losses are included in the determination of excess of revenue over expenses.

**Unearned Membership, Program and Registration Fees**

Membership assessments and program fees are due from the respective states on July 1st of each year (unless other specific arrangements are made with a State) and cover the following twelve-month period. Membership assessments and program fees received prior to July 1st for the following year are unearned and considered deferred income until recognized as revenue in the following year.

**MULTISTATE TAX COMMISSION**  
**Notes to Financial Statements**  
**June 30, 2018 and 2017**

**1. Summary of Significant Accounting Policies (continued)**

**Income Taxes**

In the opinion of legal counsel, the Commission is exempt from Federal income taxes 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.

**Fair Value**

Financial Accounting Standards Board (FASB) Codification Standards defines fair value, establishes a framework for measuring fair value, and expands disclosures about fair value measurements and establish a hierarchy for valuation inputs.

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. A fair value measurement assumes that the transaction to sell the asset or transfer the liability occurs in the principal market for the asset or liability or, in the absence of a principal market, the most advantageous market. Valuation techniques that are consistent with the market, income or cost approach are used to measure fair value.

The fair value hierarchy prioritizes the inputs to valuation techniques used to measure fair value into three broad levels:

- Level 1 - inputs are based upon unadjusted quoted prices for identical instruments traded in active markets.
- Level 2 - inputs are based upon quoted prices for similar instruments in active markets, quoted prices for identical or similar instruments in markets that are not active, and model-based valuation techniques for which all significant assumptions are observable in the market or can be corroborated by observable market data for substantially the full term of the assets or liabilities.
- Level 3 - inputs are generally unobservable and typically reflect management's estimates of assumptions that market participants would use in pricing the asset or liability. The fair values are therefore determined using model-based techniques that include option pricing models, discounted cash flow models, and similar techniques.

**MULTISTATE TAX COMMISSION**  
**Notes to Financial Statements**  
**June 30, 2018 and 2017**

**2. Defined Contribution Plans**

Effective June 30, 1986, the Commission adopted the Multistate Tax Commission Defined Contribution Plan to be funded at a rate of 12.4% of each participating individual's annual salary. To participate in this plan, employees are required to work more than certain pre-determined hourly and monthly levels throughout the plan year. Effective January 1, 2018, this Plan was closed to any newly hired employees.

On January 1, 2018 the Commission adopted the Multistate Tax Commission Social Security Participant Defined Contribution Plan, coincident with the Commission's participation in Social Security. To participate in this plan, participants must be hired after January 1, 2018 and work at least 1000 hours per year. The Plan also includes certain employees from the Commission staff who opted to be covered by Social Security during an election process held in late 2017. The Plan is to be funded 6.2% of each participant's individual annual salary.

The total expense relating to the defined contribution plans for the years ended June 30, 2018 and 2017 was \$480,787 and \$478,738, respectively.

**3. Commitments**

The Commission rents its office facilities in Washington, D.C., and Illinois under lease agreements with terms expiring on various dates through December 31, 2026. In March 2018 the Commission amended its Washington DC lease to increase the office space and extend the lease to December 31, 2026. This lease is expected to begin December 1, 2018. These leases provide for the following minimum annual base rentals exclusive of utility charges and certain escalation charges:

<u>Fiscal Year Ended:</u>	<u>Minimum Annual Payment</u>
2019	\$ 404,533
2020	427,085
2021	401,060
2022	398,636
2023	398,636

The leases include certain escalation charges based on various factors including utility, operating expense and property tax increases from a base year. Rent expense, exclusive of utility charges and real estate taxes, for the years ended June 30, 2018 and 2017 was \$392,352 and \$420,986, respectively.

**MULTISTATE TAX COMMISSION**  
**Notes to Financial Statements**  
**June 30, 2018 and 2017**

**4. Appropriated Fund Balances**

The Commission's Executive Committee authorized the Enterprise Automation Project fund in the amount of \$73,000 during the year ended June 30, 1997. An additional \$882,218 has been authorized in subsequent years. The purpose of this fund is to provide support, through professional services, for developing enterprise-wide applications for managing the Commission information resources in a manner that enhances its operations. As of June 30, 2018 and 2017 the Enterprise Automation Project fund balance was \$555,715.

The Commission's Executive Committee authorized the Equipment Reserve fund in the amount of \$17,500 during the year ended June 30, 2009. An additional \$110,000 has been authorized in subsequent years. The purpose of this fund is to provide support for purchases of computer equipment for the Commission's audit program and information technology department. As of June 30, 2018 and 2017, the Equipment Reserve fund balances were \$99,206 and \$84,206, respectively.

The Commission's Executive Committee authorized the 50<sup>th</sup> Anniversary Conference fund in the amount of \$15,000 during the year ended June 30, 2017. The purpose of the fund is to provide additional support for the Commission's 50<sup>th</sup> anniversary conference during August of 2018. As of June 30, 2018 and 2017, the 50<sup>th</sup> Anniversary Conference fund balances were \$0 and \$14,282, respectively.

The Commission's Executive Committee authorized the Staff Development fund in the amount of \$60,000 during the year ended June 30, 2017. The purpose of the fund is to provide the financial resources for a two-day staff development meeting to be held in August 2018. As of June 30, 2018 and 2017, the Staff Development fund balances were \$0 and \$58,438, respectively.

**5. Restricted Fund Balances**

During the year ended June 30, 1988, the 4R Project was established whereby contributions received are restricted to use for supporting education, lobbying and legal expenses related to this property tax project. The purpose of the project is to provide for research activities as well as to seek favorable changes in Federal laws which are related to property tax restrictions of state and local governments. During fiscal year 2018, the Commission approved closing this fund and gave the State members who contributed to the fund a credit on the Member dues for fiscal year 2018. As of June 30, 2018 and 2017, the 4R Project fund balance was \$0 and \$42,694, respectively.

**MULTISTATE TAX COMMISSION**  
**Notes to Financial Statements**  
**June 30, 2018 and 2017**

**5. Restricted Fund Balances (continued)**

During the year ended June 30, 1992, the National Nexus program was established. This program, funded by participating states, aims to encourage and secure taxpayer compliance with current state laws, a liability resolution process, and information sharing among member states. The contributions received from the participating states are restricted for this purpose. As of June 30, 2018 and 2017, the National Nexus program fund balances were \$1,322,614 and \$1,339,881, respectively.

**6. Deferred Compensation Plan**

The Commission offers employees a deferred compensation plan in accordance with Internal Revenue Code Section 457. The plan permits employees to defer a portion of their salary until future years. Participation in the plan is optional. The deferred compensation is not available to employees until termination, retirement, death or unforeseeable emergency. In accordance with federal law, participants' deferred compensation under the plan is trustee and thus shielded against the claims of the creditors of the Commission and therefore, not included in these financial statements.

The Commission believes it has no liability for losses under the plan but does have a duty of due care that would be required of an ordinary prudent investor. Investments are managed by the plan's trustee, and the plan provides approximately fifteen investment options or a combination thereof. The participants make the choice of the investment option(s).

**7. Investments**

The following is a summary of investments along with their respective fair values, all of which are considered level one:

	Cost 2018	Market 2018	Cost 2017	Market 2017
<b>Investments</b>				
Mutual funds	\$ 4,678,991	\$ 4,629,656	\$ 2,452,560	\$ 2,442,300
Money market funds	6,669	6,669	6,453	6,453
Corporate bonds	107,547	106,368	212,772	212,545
Commercial paper	-	-	979,293	979,157
US Government and Agency securities	113,509	113,425	1,320,842	1,321,087
<b>Total Investments</b>	<u>\$ 4,906,716</u>	<u>\$ 4,856,118</u>	<u>\$ 4,971,920</u>	<u>\$ 4,961,542</u>

**MULTISTATE TAX COMMISSION**  
**Notes to Financial Statements**  
**June 30, 2018 and 2017**

**7. Investments (continued)**

The Commission invests in a professionally managed portfolio that contains mutual funds. Such investments are exposed to various risks such as interest rates, market and credit. Due to the level of risk associated with such investments and the level of uncertainty related to changes in the value of such investments, it is at least reasonably possible that changes in risks in the near term would materially affect investment balances and the amounts reported in the financial statements. For the years ended June 30, 2018 and 2017, the Commission paid investment fees of \$9,250 and \$15,847, respectively.

**8. Allocation of Administrative Expenses**

The administrative costs of providing the various programs and other activities have been allocated among the programs and supporting services, based on total operating costs.

**9. Use of Estimates**

In preparing financial statements in conformity with U.S. generally accepted accounting principles, management is required to make estimates and assumptions that affect the reported amounts of assets and liabilities, the reported amounts of revenues and expenses during the reporting period, and disclosures. Actual results could differ from those estimates.

**10. Concentration of Credit Risk**

Cash held by the Commission in bank accounts may at times exceed the Federal Deposit Insurance Corporation (FDIC) coverage limit. Management believes the Commission is not exposed to any significant credit risk related to cash.

**11. Subsequent Events**

Management has evaluated subsequent events through October 26, 2018, the date that the financial statements were available to be issued. There were no significant events to report.

**SUPPLEMENTARY INFORMATION**

**Independent Auditor's Report**  
**on Supplementary Information**

To the Executive Committee of  
Multistate Tax Commission

We have audited the financial statements of Multistate Tax Commission as of and for the year ended June 30, 2018, and our report thereon dated October 26, 2018, which expressed an unmodified opinion on those financial statements, appears on pages 1 and 2. Our audit was conducted for the purpose of forming an opinion on the financial statements as a whole.

The schedule of expenses is presented for purposes of additional analysis and is not a required part of the financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the financial statements as a whole.

*Linton, Shafer Warfield & Garrett, P.A.*

Rockville, Maryland  
October 26, 2018

**MULTISTATE TAX COMMISSION**  
**Schedule of Expenses**  
**For the Year Ended**  
**June 30, 2018**

	Unappropriated and Appropriated Funds				Restricted Funds			Total
	General Expenses	Audit Program	Administrative Expenses	Training and Education	Unappropriated and Appropriated Funds	National Nexus Program	Total Restricted Funds	
Auditing and payroll services	\$ 12,500	-	\$ 4,571	\$ -	\$ -	\$ 17,071	\$ -	\$ 17,071
Business insurance	-	-	13,921	-	13,921	-	-	13,921
Conferences and training schools	125,489	12,752	3,227	8,351	149,819	12,636	12,636	162,455
Depreciation	-	11,160	59,947	-	71,107	-	-	71,107
Bond amortization	27,557	-	-	-	27,557	-	-	27,557
Employee benefits	116,770	566,784	100,604	6,457	790,615	62,272	62,272	852,887
Payroll taxes	11,181	48,100	11,548	441	71,270	6,261	6,261	77,531
Miscellaneous	1,787	3,604	6,391	2,171	13,953	1,186	1,186	15,139
Consumable and durable supplies	5,811	7,259	23,525	1,754	38,349	2,555	2,555	40,904
Postage	3,425	2,481	1,958	727	8,591	8,095	8,095	16,686
Printing and duplicating	4,936	304	(10)	3,906	9,136	70	70	9,206
Professional services	2,250	-	124,456	2,500	129,206	-	-	129,206
Internet access	2,494	24,050	14,368	-	40,912	-	-	40,912
Rent	84,663	28,202	158,539	-	271,404	120,948	120,948	392,352
Repairs and maintenance	-	1,002	11,502	-	12,504	1,519	1,519	14,023
Defined contribution plans	86,618	291,833	54,349	3,452	436,252	44,535	44,535	480,787
Salaries	699,057	2,494,618	487,588	30,439	3,711,702	423,000	423,000	4,134,702
Software licenses	235	-	32,726	-	32,961	-	-	32,961
Staff training	68,342	1,148	14,399	-	83,889	1,400	1,400	85,289
Subscriptions, publications, dues	56,092	16,251	1,065	795	74,203	6,208	6,208	80,411
Telephone	14,217	21,438	9,050	-	44,705	5,181	5,181	49,886
Travel	77,196	112,704	22,498	8,795	221,193	3,978	3,978	225,171
Allocation of administrative expenses	271,250	742,016	(1,156,222)	-	(142,956)	142,956	142,956	-
<b>Total Expenses</b>	<b>\$ 1,671,870</b>	<b>\$ 4,385,706</b>	<b>\$ -</b>	<b>\$ 69,788</b>	<b>\$ 6,127,364</b>	<b>\$ 842,800</b>	<b>\$ 842,800</b>	<b>\$ 6,970,164</b>

The accompanying notes are an integral part of this schedule.

