Resolution 99-6
New York City Commuter Tax and Federal Preemption

WHEREAS, the State of New York has enacted a statute that exempts New York residents from the New York City commuter tax while residents of states other than New York remain subject to the tax, and

WHEREAS, such a facially discriminatory tax exemption is clearly unconstitutional under the United States Constitution, and

WHEREAS, litigation has been filed by residents of states other than New York who are subject to the New York City tax, as well as by the adjacent states acting on behalf of their residents who are subject to the tax, challenging the constitutionality of the exemption, and

WHEREAS, the New York state trial court has promptly and correctly ruled that the exemption is unconstitutional as it treats similarly situated commuters to New York City differently, and

WHEREAS, H.R. 2014 and S. 1246 have been introduced in the United States Congress that seek to preempt states and political subdivisions of states from enacting discriminatory commuter taxes, and

WHEREAS, these bills are unnecessary due to the demonstrated ability of the New York state courts to promptly and correctly provide relief to affected taxpayers, now therefore be it

RESOLVED, that the Multistate Tax Commission respectfully urges the states to refrain from enacting facially unconstitutional tax legislation such as the New York City commuter tax exemption, and

BE IT FINALLY RESOLVED, that the Multistate Tax Commission respectfully urges the Congress not to overreact to precipitate state legislative action through federal legislation that could have unintended consequences affecting the legitimate exercise of state sovereignty in taxation.

Adopted the 30th day of July 1999, by the Multistate Tax Commission.

Attest: ___________________
Dan R. Bucks
Executive Director