

Policy Resolution 01-03

Resolution Maintaining the Integrity of State and Local Tax Appeals Processes

WHEREAS, the equal treatment of all taxpayers is fundamentally served by having all taxpayers in a jurisdiction subject to the same appeals processes; and

WHEREAS, Congress recognized this basic requirement for equal treatment with the enactment of the Tax Injunction Act, which requires—so long as States meet standards of adequate remedies—all State and local taxpayers to appeal tax assessments through State appeals bodies and courts as opposed to the federal courts; and

WHEREAS, the U.S. Constitution, especially through the Foreign and Interstate Commerce, Due Process and Equal Protection Clauses, and the equal protection and uniform tax provisions of numerous State constitutions guarantee all taxpayers—foreign and domestic—equal, non-discriminatory treatment in State and local taxation; and

WHEREAS, the Multistate Tax Compact directly authorizes the Multistate Tax Commission to promote uniform, equal and non-discriminatory taxation; and

WHEREAS, the U.S. government has negotiated and may continue to negotiate a variety of international agreements that seek to establish special international dispute processes that allow private parties from other nations the right to challenge State and local laws through special international procedures separate from the United States judicial system; and

WHEREAS, Congress has enacted legislation that permits certain taxpayers to challenge State and local tax assessments in federal court where there is a plain, speedy and adequate remedy available at State law; and

WHEREAS, Congress has considered legislation that would allow certain taxpayers to challenge State and local tax assessments directly by appeal to a Federal agency in a quasi-judicial proceeding; and

WHEREAS, establishing a separate and exclusive appeals process for certain taxpayers and not others will undermine the principle of equal treatment of all taxpayers; now, therefore, be it

RESOLVED, that the Multistate Tax Commission supports the maintenance of appeals procedures for State and local taxes that ensure equal treatment of all taxpayers, foreign and domestic; and be it further

RESOLVED, that the Multistate Tax Commission supports exempting State and local tax laws from existing special international or federal dispute procedures that permit private parties to challenge directly State or local tax laws through either an international tribunal, federal court or federal agency without first exhausting State remedies; and be it further

RESOLVED, that the Multistate Tax Commission opposes the establishment of new federal or international appeals procedures, established through either legislation or regulation, that undermine the integrity of State and local tax appeals processes by allowing some taxpayers access to special appeals procedures unavailable to all taxpayers.

Adopted this 17th day of August, 2006 by the Multistate Tax Commission.

Joe Huddleston,
Executive Director

This resolution, as amended, shall expire at the Annual Business Meeting of the Multistate Tax Commission in 2011.