



MULTISTATE TAX COMMISSION

Annual Business Meeting of the Multistate Tax Commission

July 27, 2011

Whitefish, Montana

I. Roll Call of the States

A roll call of compact states was taken. Alabama, Alaska, Arkansas, California, Colorado, D.C., Idaho, Michigan, Missouri, Montana, New Mexico, North Dakota, Oregon, Texas, Utah, and Washington were present. Hawaii, Kansas, Minnesota and South Dakota were absent.

The following individuals attended the meeting either in person or *via telephone*:

Name	Affiliation	Name	Affiliation
Mike Mason	AL	Private Sector/Other	
Robynn Wilson	AK	Trip Baltz	Bureau of National Affairs
John Theis	AR	<i>Deborah Bierbaum</i>	AT&T
Walter Anger	AR	Karen Boucher	Deloitte Tax
Regina Evans	CA BOE	Jamie Fenwick	Time Warner Cable
Ben Miller	CA FTB	Todd Lard	COST
Roxy Huber	CO	Jeff Friedman	Sutherland
Steve Cordi, Chair	DC	Jennifer Hays	KY Legislature
Marshall Stranburg	FL	Virgil Helton	Fast Enterprises, LLC
Bob Geddes	ID	Rilla Livingston	IRS
David Langhorst	ID	Michael McLoughlin	Verizon
Earl J. Millet Jr.	LA	Brian Pietsch	Ameriprise Financial
Glenn White	MI	<i>Dan Schively</i>	CCH
Alana Barragán-Scott	MO	Nancy Schlepp	MT Taxpayers Assn.
Wood Miller	MO	Robert Shepherd	Shepherd, Williams & Assoc., LLC
Dan Bucks	MT	Diann L. Smith	Sutherland
Lennie Collins	NC	Warren Townsend	Wal-Mart Stores
Cory Fong	ND	Greg Turner	COST-CA
Myles Vosberg	ND	Monte Williams	Shepherd, Williams & Assoc., LLC
Mary Loftsgard	ND		

Ryan Rauschenberger	ND	MTC Staff	
Donnita Wald	ND	Ken Beier	Les Koenig
Emily Thompson	ND	<i>Roxanne Bland</i>	Greg Matson
Matt Peyerl	ND	Elliott Dubin	Thomas Shimkin
Gary Humphrey	OR	Bruce Fort	Shirley Sicilian
Andy Gerlach	SD	Joe Huddleston	Bill Six
Nancy Prosser	TX		
Rusty Johnson	TX	MTC Consultants	
Hermi Nanez	TX	Jim Rosapepe	Elizabeth Harchenko
Bruce Johnson	UT		
Gil Brewer	WA		
Craig Griffith	WV		
Jeff Oakes	WV		

The chair opened the meeting at 2:20 pm and, following a roll call of the states, determined there was a quorum.

II. Public Comment Period

Diann Smith commented that changes to the compact were under discussion by the states and that many of the member states have made changes, in their law, to the language of the compact; thus, were behaving in a manner that is inconsistent with the compact. Following advice from the chair that these comments were not related to an agenda item, Ms. Smith indicated that she would submit comments in writing.

III. Approval of Minutes of the Annual Business Meeting held July 28, 2010

Mr. Fong (North Dakota) moved acceptance of the minutes. This was approved by a unanimous voice vote.

IV. Report of the Treasurer

Mr. Huddleston noted that the Executive Committee approved the budget on June 6. Referring to the Report of the Treasurer, he added that Tennessee is now participating in the audit program, that South Carolina joined the audit program in 2011, and that the budget maintains or establishes funds for equipment reserves, enterprise automation, and federal tax information data exchange and analysis. In response to a question from Dan Bucks, Mr. Huddleston referred to comments at the recent Executive Committee meeting about the carryover balance in the Nexus Program. He then went on to explain that a software purchase has been added to the budget which results in a stabilization of the fund balance for the Nexus Program.

Mr. Bucks (Montana) moved approval of the budget. This was approved by a unanimous voice vote.

V. Report of the Executive Director

Mr. Huddleston referred to the written report and noted that South Carolina is now a sovereignty member—the highest possible level of participation given their statutory framework. Tom Shimkin commented on the Nexus Program and Shirley Sicilian noted the amount of staff support for committees and commended committee chairs for their work. Mr. Huddleston also noted that the training program is not a profit center and has a strong tradition of providing training requested by the states.

VI. Report of the Executive Committee & Other Committees or Programs

A. Committee & Program Reports

Reports were presented on the Executive Committee (Greg Matson), Audit Committee (Greg Matson for Les Koenig), Litigation Committee (Shirley Sicilian for Marshall Stranburg), Nexus Committee (Tom Shimkin for Lennie Collins), Technology Committee (Greg Matson), Uniformity Committee (Wood Miller) and Training Program (Ken Beier). Mr. Matson explained that Gordon Smead from Tennessee, chair of the Technology Committee, unexpectedly retired and that the Executive Committee decided to suspend activities until there is a need to reactivate this group. Dan Bucks commented in regard to Mr. Beier's report that there is some potential for using technology to provide training at a lower cost to the states, and that there may be some potential for using state systems to support the training effort.

B. Commission Action on Executive & Standing Committee Reports

Mr. Fong moved ratification of all actions of the Executive Committee during the past fiscal year. This was approved by a unanimous voice vote.

VII. Unfinished Business

There was no unfinished business to consider at the meeting.

VIII. New Business

A. Uniformity Proposals before the Commission

1. Proposed Model Statute for Disallowance of Deductions for Certain Payments to Captive Real Estate Investment Trusts

Following a review of the history of this proposal by Shirley Sicilian, Bruce Johnson (Utah) moved adoption of this proposal. This was approved with the following roll call vote:

Yes	No	Abstain	Absent
AL, AK, AR, CA, DC, ID, MI, MO, MT, ND, OR, SD, TX, UT, WA			CO, HI, KS, MN, NM

The states voting for the motion represented 86.36 percent of the population of those states eligible to vote.

2. Proposed Model Mobile Workforce Statute

Shirley Sicilian reviewed the history of this project and Wood Miller (Missouri) moved to adopt the proposal. Mr. Bucks (Montana) then proposed a substitute motion to refer the proposal back to the Executive Committee, explaining that the proposal was not ready for action, and suggesting that there has not been sufficient discussion of issues raised by the State of Montana. Mr. Bucks prefaced his remarks with two comments: (1) that he introduced a substitute motion so that he would not have to speak in opposition to a proposal and (2) that the commission has worked very hard to adopt proposals that serve most of the states that have a diversity of economies and tax systems. In amplifying the second point, he stated that the proposal might be sufficient for a group of states where each has a major population center.

Mr. Bucks continued his remarks with comments on the importance of source-based income taxation, characterizing the proposal as a departure from this approach, and the importance of reporting and withholding regimes in supporting the reporting of income to tax authorities. He distributed a chart entitled *Individual Income Tax Underreporting Gap* that indicated the underreporting tax gap and net misreporting percentage for individual income for a range of information reporting and withholding circumstances. Citing recent experience with service contractor on the pipeline spill on the Yellowstone River, he further argued that the proposal should include reporting of compensation; suggesting that the proposal would put contractors in these circumstances on the honor system.

Bruce Johnson then spoke against the motion—citing the need to be able to demonstrate to Congress a standard approach that is used by perhaps 35 states. Michael Mason concurred with this perspective.

Mr. Bucks then explained that he thought the proposal was not thoroughly vetted by the Uniformity Committee, explaining that this is why he was bringing these concerns to the Commission. Robynn Wilson, in response to Mr. Buck's comments, reviewed Executive Committee and Uniformity Committee action regarding this proposal in November 2010 and March 2011.

The substitute motion was then defeated on the following roll call vote.

Yes	No	Abstain	Absent
AR, MT	AL, AK, CA, CO, DC, ID, MI, MO, ND, OR, SD, TX, UT, WA		HI, KS, MN, NM

The original motion was approved with the following roll call vote:

Yes	No	Abstain	Absent
AL, AK, AR, CA, DC, ID, MI, MO, NM, ND, OR, TX, UT, WA	MT	CO	HI, KS, MN, SD

The states voting for the motion represented 89.75 percent of the population of those states eligible to vote.

3. Proposed Amendment to Model Statute for Combined Reporting Section 1.I. – Definition of “Tax Haven” for Purposes of Water’s Edge Election

Shirley Sicilian described the proposal; after a motion duly made, the proposal was approved by the following roll call vote:

Yes	No	Abstain	Absent
AL, AK, AR, CA, DC, ID, MI, MO, MT, ND, OR, TX, UT		CO, WA	HI, KS, MN, NM, SD

The states voting for the motion represented 80.8 percent of the population of those states eligible to vote.

B. Other Business

There was no other new business.

IX. Resolutions

Roxanne Bland reviewed the items suggested in the Resolutions Report:

- Policy Resolution 06-01, Resolution Regarding the Re-write of the Telecommunications Act of 1996
- Policy Resolution 01-01, Resolution in Support of And Appreciation for the Work of the Congressional Budget Office
- Policy Resolution 01-02, Renewing the Commitment of MTC Member States to Voluntary State Tax Uniformity
- Policy Resolution 01-03, Resolution Maintaining the Integrity of State and Local Tax Appeals Systems

- Policy Resolution 01-05, Resolution in Support of and Appreciation of the Uniformity and Interstate Cooperation Projects of the Federation of Tax Administrators
- Policy Resolution 01-09, Resolution Regarding the Preservation of the Integrity of State Property Tax Systems

Ms. Bland drew the Commission's attention to bylaw 15, Resolutions and Policy Statements. The bylaw does not refer to policy resolutions, so these policy resolutions will be converted into policy statements (subject to sunset) as opposed to resolutions (usually not subject to sunset). The Commission agreed, and these policy resolutions will be recast as policy statements.

Alabama moved adoption of all of all six resolutions. This was passed on a unanimous voice vote.

Ms. Bland then noted the honorary resolutions:

- Resolution No. 2011A: Appreciation of the Montana Department of Revenue.
- Resolution No. 2011B: Appreciation of Elizabeth Harchenko, Oregon Department of Revenue.
- Resolution No. 2011C: In Recognition of Janielle Lipscomb, Audit Committee Chair, and Rick DeBano, Audit Committee Vice-Chair
- Resolution No. 2011D: In Recognition of Marshall Stranburg, Litigation Committee Chair, Mark Wainwright and Clark Snelson, Litigation Committee Co-Vice Chairs
- Resolution No. 2011E: In Recognition of Lennie Collins, Nexus Committee Chair.
- Resolution No. 2011F: In Recognition of Gordon Smead, Technology Committee Chair
- Resolution No. 2011G: In Recognition of Robynn Wilson, Uniformity Committee Chair, Wood Miller, Income and Franchise Tax Subcommittee Chair, and Richard Cram, Sales and Use Tax Subcommittee Chair
- Resolution No. 2011H: Recognition of Stephen Cordi, Multistate Tax Commission Chair

Approval of these was moved by Cory Fong (North Dakota) and approved by a unanimous voice vote.

X. Report of the Nominating Committee

Joe Huddleston presented the recommended slate of nominees to fill officer and at-large positions on the Executive Committee for 2011-2012:

Chair – Cory Fong, Tax Commissioner, North Dakota

Vice Chair – Alana M. Barragán-Scott, Director, Missouri Department of Revenue

Treasurer – Julie P. Magee, Revenue Commissioner, Alabama

At-Large – California: Kristine Cazadd, Interim Executive Director, State Board of Equalization; Idaho: Bob Geddes, Chairman, Idaho Tax Commission; Michigan: Andy Dillon, State Treasurer; Texas: Susan Combs, Comptroller of Public Accounts

XI. Election of Officers and Executive Committee

Steve Cordi asked for a vote on the slate of candidates which was approved by a unanimous voice vote.

XII. Report of the Chair

Steve Cordi expressed his appreciation to Joe Huddleston, the MTC committees and MTC staff; commented to Cory Fong that he is taking over a good organization; and stated that he looks forward to working with Mr. Fong.

XIII. Comments by Chair-Elect

Cory Fong thanked Steve Cordi for all of his hard work and to those at the meeting for their support. In addition, he commented on strategic planning efforts, working with incoming tax administrators and states that have increased their participation with the Commission. In closing, he referred to Dan Bucks comments on improvement of delivery of training and expressed the need to hear from him on a regular basis.

XIV. Strategic Planning Session

Cory Fong provided an overview of the Commission's strategic planning effort, including the role of the Steering Committee, support from Elizabeth Harchenko, and engagement of outside stakeholders. Elizabeth Harchenko commented that the initial phase, or environmental scan, of this effort is attempting to get as close to a 360-degree view as possible. She went on to explain that findings of the environmental scan—the first deliverable of this effort—will be presented at the Executive Committee meeting in November. Joe Huddleston commented that it is important to get a broad range of input on the environmental scan; that is, the states should not presume that the Steering Committee is doing all of the work. (This discussion served as an introduction to more substantial input for the environmental scan that occurred at the Executive Committee meeting on July 28.)

XV. Adjournment

Following a thank you to Montana for hosting the meeting from Cory Fong, the Chair adjourned the meeting at 4:45 pm.