



Working together since 1967 to preserve federalism and tax fairness

To: Jan Goodwin, Chair
Members of the Executive Committee

From: Marshall Stranburg
Chair, Litigation Committee

Date: November 8, 2007

Subject: Litigation Committee Report of July – October, 2007

My co-vice chairs, Mark Wainwright and Clark Snelson of the Utah Office of the Attorney General, and I report the following litigation committee activity for the period July through October of 2007.

• **In-Person Meetings**

The Committee held in-person meetings July 30th and 31st in Minneapolis, Minnesota. Approximately 40 people attended each meeting, representing 25 states and the MTC staff. Both meetings included presentations from our member states and the MTC legal division on a range of topics including on-going litigation and implications of recent decisions regarding the dormant commerce clause, REITs, economic presence nexus, arm's length pricing, financial institutions apportionment and many other current topics. Walter A. Pickard, Esq., Faegre & Benson, LLP, gave a presentation on the attorney-client and other privileges. As usual, we discussed recent Supreme Court action and recent state court decisions, and collaborated on litigation pending in the states.

• **Bi-Monthly State Tax Attorney Teleconferences**

We have begun hosting regular bi-monthly teleconferences for state tax attorneys. These teleconferences generally involve 2 presentations on topics of current interest to the states and allow time for discussion. All state tax attorneys are invited to attend. Our last teleconference was held September 28 and included an excellent presentation by Joyce Hi of the California Attorney Generals Office on litigation regarding the inclusion in the sales factor of receipts from futures contracts. We are currently working on the next teleconference.

• **Other Litigation Committee Projects**

We are also working on a number of projects, including:

- Developing an exchange of information agreement tailored to sharing legal and litigation related information among state tax attorneys.
- Establishing annual recognition for a state tax attorney who has contributed significantly to state tax law
- Continued improvements to the MTC Brief Bank.