Resolution Adopting the
Model Audit Sampling Statute and Accompanying Regulation
as a Multistate Tax Commission Uniformity Recommendation to the States

Whereas, many state revenue agencies routinely employ various sampling techniques as a means to conduct taxpayer audits more efficiently; and

Whereas, some state revenue agencies have been challenged on the use of sampling techniques in conducting audits on grounds that existing state laws and regulations do not grant the agency authority to use such techniques; and

Whereas, the Uniformity Committee has developed a Model Audit Sampling Statute and Accompanying Regulation and further recommended their adoption as a Multistate Tax Commission uniformity recommendation to the States; and

Whereas, the model's statutory portion provides an explicit grant of authority to employ sampling techniques when conducting taxpayer audits, in addition to the authority to employ such sampling techniques which already exists under a state's general audit statutes; and the regulatory portion provides definitions of judgmental, probability and statistical sampling techniques; and

Whereas, a public hearing on the Model Audit Sampling Statute and Accompanying Regulation was held on March 9, 2006; and

Whereas, on August 2, 2007, the Executive Committee referred the proposal back to the Uniformity Committee to make recommendations for additional changes; and

Whereas, the Uniformity Committee submitted recommendations for additional changes to the Executive Committee during its November 2007 meeting; and

Whereas, on November 8, 2007, the Executive Committee deferred discussion of the Uniformity Committee's recommendations to its January 2008 meetings; and

Whereas, on January 3, 2008, the Executive Committee approved the model statute and regulation, with amendments, for the MTC Bylaw 7 survey (Exhibit A); and

Whereas, a majority of affected states responded to the survey indicating that they would consider adopting the Model Audit Sampling Statute and Accompany Regulation into their own State's law; now, therefore, be it

RESOLVED, that the Compact Member States adopt the Model Audit Sampling Statute and Accompanying Regulation as a Multistate Tax Commission Uniformity Recommendation to the States.

Omar Davis, Chair	Joe Huddleston, Executive Director

Exhibit A

PROPOSED MODEL AUDIT SAMPLING AUTHORIZATION STATUTE
And
ACCOMPANYING REGULATION

Statute

Audit Procedures.—

For purposes of administering this act, the Department may, when examining returns or records and making assessments or refunds, use statistical sampling techniques or other sampling techniques.

Regulation

Audit Procedures.—

1. For purposes of administering this act, the Department is authorized to use judgmental, probability and statistical sampling techniques.

> a. Judgmental sampling means any approach to sampling where the sample is selected based on convenience and judgment, showing characteristics where some elements of the population are subjectively favored over others, or where the chance of selection is unknown.
>
> b. Probability sampling means any approach to sampling where the sample units are selected into the sample based on known probabilities, and includes any sample using a method in which every element of a finite population has a known but not necessarily equal change of being selected.
>
> c. Statistical sampling means any approach to sampling that has the following characteristics:
>
> > i. Use of probability sampling techniques to select the sample; and
> > ii. Use of probability theory to evaluate the sample results, including measurement of sampling risk.