



MULTISTATE TAX COMMISSION

Working Together Since 1967 to Preserve Federalism and Tax Fairness

To: Wood Miller, Chairman
MTC Income & Franchise Tax Subcommittee Members
From: Shirley Sicilian, General Counsel; Sheldon Laskin, Counsel
Date: July 17, 2008
Subject: **Status Update – Work Group on Amendment to Model Financial Institutions Apportionment and Allocation Formula**

Since April 2008, the Uniformity Committee Work Group that is addressing possible amendments to the Model Financial Institutions Apportionment and Allocations Formula has held 11 teleconference meetings. The Work Group determined that its issues fell into three categories - Receipts Factor, Property Factor and Definitions - and has divided its members and meetings among these categories as follows:

| <u>Definitions Work Group:</u> | <u>Property Factor WG:</u> | <u>Receipts Factor WG</u> |
|---------------------------------------|-----------------------------------|----------------------------------|
| Lennie Collins (NC DOR) | Lennie Collins (NC DOR) | Lennie Collins (NC DOR) |
| Michael Fatale (MA DOR) | Carl Joseph (CA FTB) | Janielle Lipscomb (OR DOR) |
| Brenda Gilmer (MT DOR) | Deborah Liebman (NY DOT&F) | Marilyn Harbur (OR DOR) |
| Deborah Liebman (NY DOT&F) | Marilyn Kaltenborn (NY DOT&F) | Lee Baerlocher (MT DOR) |
| Marilyn Kaltenborn (NY DOT&F) | Ronald Ginsberg (NY DOT&F) | Deborah Liebman (NY DOTF) |
| Ronald Ginsberg (NY DOT&F) | Larry Allen (ID DOR) | Marilyn Kaltenborn (NY DOTF) |
| Mary Loftsgard (ND DOR) | Mary Loftsgard (ND DOR) | Ronald Ginsberg (NY DOT&F) |
| Dee Wald (ND DOR) | Dee Wald (ND DOR) | Carl Joseph (CA FTB) |
| John Su (CA FTB) | Lee Baerlocher (MT DOR) | Karen Boucher (Delloitt) |
| Karen Boucher (Delloitt) | Karen Boucher (Delloitt) | Key Corp |
| Bank of America | American Express | US Bank |
| E*Trade | Bank of America | Wachovia |
| Wachovia | Capital One | Wells Fargo |
| Washington Mutual | GE Capital | Sheldon Laskin (MTC) |
| Wells Fargo | Wachovia | Elliott Dubin |
| Sheldon Laskin (MTC) | Washington Mutual | Shirley Sicilian (MTC) |
| Elliott Dubin | Wells Fargo | |
| Shirley Sicilian (MTC) | Sheldon Laskin (MTC) | |
| | Elliott Dubin | |
| | Shirley Sicilian (MTC) | |

The three Work Groups are discussing issues, gathering and compiling information, and drafting possible language, as set out in the table below. We have created an on-line library, accessible from the MTC home page, for storing the information we've gathered and the meeting notes. We plan to continue working on the listed issues. Our next step is to set up another round of meetings for August through October.

MTC FINANCIAL INSTITUTIONS LIST OF ISSUES AND MATERIALS PROVIDED - - JULY, 2008

| <u>Issue</u> | <u>Related Materials</u> |
|---|--|
| Receipts Factor | |
| §3(c) – How to source ATM fees | √ List of types of fees banks typically charge (ND). |
| §3(j) – How to source merchant discounts | √ (1) NY statute sourcing to location of individual merchant √ (2) Industry input on what information is available √ Industry recommendation |
| §3(l) – Is it appropriate to source “other services” based on COP? | |
| §3(m) – Should repos and federal funds be sourced at net for banks and not other firms? | |
| §3(m) – How to source for trust management fees | √ CA Reg sourcing mutual funds’ trust management fees to domicile of beneficiary |
| How should RICs and REMICs be handled? | √ Industry presentation |
| Property Factor | |
| Should loans be sourced in groups based on degree of automation and, if so, what are the appropriate groupings? | (1) Industry input whether information available to characterize loans this way. (2) Industry and CA will provide suggested sourcing for situations with high degree of automation for WG consideration |
| Is it appropriate to reassign a loan as a “material change” based on a sale to an affiliate? | Draft language (CA) |
| Definitions | |
| Should the rule apply to “activity” or “institution”? | √ (1)Types of bank transactions, income sources as percent of total income (MT, MTC) (2) New list of issues with current “institution” approach |