



*Working together since 1967 to preserve federalism and tax fairness*

To: Executive Committee  
From: Joe Huddleston  
Date: May 7, 2007  
Subject: Report of Executive Director for January 1 – May 5, 2007

---

This report is a summary of the Commission's organizational and staff activities for the period January 1, 2007 through May 4, 2007. Also attached are the results of the informal evaluation of the January Executive Committee meeting and seminar (Attachment A).

## **I. Commission Membership**

The Indiana General Assembly has passed legislation that Section 17 of Indiana SB 502 requires the governor and the commissioner of the department of state revenue to take the steps necessary for Indiana to become an associate member of the multistate tax commission (SB 502, Sec. 17; see [Attachment B](#)). This provision would be effective July 1, 2007; the bill is enrolled and has been signed by the President of the Senate.

The Commission received a confirmation letter from Linda Tanton, Deputy Comptroller for the State of Maryland, advising us that Maryland will become a Sovereignty member effective July 1, 2007 ([Attachment C](#)).

## **II. Activities**

### **A. Programs & Presentations**

The following are programs, conferences, and other events of outside organizations at which senior members of the staff represented the Commission:

#### JANUARY

- American Bar Association 2007 Mid-Year Meeting, Hollywood, FL (Sicilian)
- Cornell State & Local Tax Luncheon Group, New York, NY (Huddleston)
- 16th Annual Ohio Tax Conference, Columbus, OH (Fort)

FEBRUARY

- FTA New Commissioners Meeting, New Orleans, LA (Huddleston)
- NYU State & Local Tax Luncheon Group, New York, NY (Matson)
- Florida Bar Association National Multistate Tax Symposium, Orlando, FL (Huddleston)

MARCH

- D.C. Bar Tax Section Luncheon, Washington, DC (Huddleston)
- Republican National Lawyers Association Luncheon, Washington, DC (Huddleston)

APRIL

- St. Louis University School of Law State & Local Tax Seminar, St. Louis, MO (Huddleston)
- Tax Executives Institute Minnesota Chapter President's Meeting, Minneapolis, MN (Sicilian)
- 4th Annual New Mexico Tax Policy Conference, Santa Fe, NM (Fort)

**B. Joint Audit Program**

The Joint Audit Program completed 4.5 income tax audits and parts of 2 other income tax audits. The Audit Program also completed 8 sales tax audits and parts of 4 additional sales tax audits through January 31 of fiscal year ending June 30, 2007. There are 22 income and 29 sales tax audits in progress. Proposed assessments fiscal year to date is \$24,062,963.

The Joint Audit Program is currently fully staffed.

Audit staff assisted in an income tax training class in Oklahoma City, Oklahoma during February 2007.

Several members of the Joint Audit Program along with the Commission's Deputy Director began work on revising the Joint Audit Program Income and Sales Tax Audit manuals and process.

**C. National Nexus Program**

During the first quarter of 2007 (January 1 through March 31), the Nexus Program executed contracts with 23 taxpayers, which resulted in 69 separate contracts with states. These 69 contracts resulted in \$938,891 in back taxes collected during the reporting period. States collected unknown additional amounts to the extent taxpayers continued to pay and remit after leaving the voluntary disclosure program. The National Nexus Program opened 24 new voluntary disclosure cases during the reporting period. These cases represent 181 separate potential contracts with states. For purposes of comparison, the first quarter of the prior year produced 114 contracts and \$1,635,562 in back taxes collected with 24 new cases opened.

The program has filled two vacant paralegal positions temps. They are working primarily on administration of the voluntary disclosure program. Because one position had been vacant for some time, full staffing of the voluntary disclosure program will lead to faster resolution of cases, greater taxpayer and state satisfaction, and ultimately to more cases and revenue for the states.

#### **D. Legal**

The legal staff continues to organize and staff the in-person Litigation Committee meetings. The last meeting was held in March in San Diego, California, and covered a range of topics including current litigation and implications of recent decisions regarding REITs, Economic Presence nexus, the 4-R Act and add-back statutes. Other topics involved issues of confidentiality and the need for amending regulations related to UDITPA section 18.

The legal staff's work for the Uniformity Committee during 3rd quarter of FY 2007 included development of the following uniformity proposals:

- Proposed Amendments to MTC Regulation Regarding "On Behalf Of" Language (A bylaw 7 survey was issued and a majority of Compact member states has responded in the affirmative).
- Proposed Model Regulation Regarding Statistical Sampling (A hearing was held March 9, written testimony was received April 23 and the hearing officer's report is being drafted)
- Proposed Model Regulation for Telecommunications Sales Factor Apportionment (under development at the Uniformity Committee).
- Proposed Model Regulation Regarding Hotel Intermediaries (under development at the Uniformity Committee).
- Proposed Amendments to the Multistate Tax Compact Art. IV. §17 (under development at the Executive Committee and through NCCUSL)

The staff also began hosting regular teleconferences for state tax attorneys. The calls are held bi-monthly, with the exception of those months during which we have an in-person Litigation Committee meeting. During these calls we make a presentation on one or two current important legal topics affecting multiple states and then allow time for discussion. Our first teleconference was held in late January and covered two topics: (1) REITs, presented by Michael Fatale (MA) and Joe Garrett (AL), and (2) dot.com litigation, presented by Jeff Graybill (CA- BOE). Our next teleconference is scheduled for May 14 and will include a presentation from Frank O'Connell (GA) on Bankruptcy Code 346 issues.

The legal staff, working with the Commission's website content manager, has created the first version of a state tax attorney brief bank. The brief bank is searchable by taxpayer name or key word. We continue to work on a potential second version that would allow for text searches of the briefs.

Legal staff continued to provide information and analysis on legislative proposals and litigation in our member states. We reviewed legislation for Kansas, Massachusetts, North Carolina, New Mexico, Oregon, and Montana. We assisted in the analysis and/or writing of briefs in West Virginia, New Mexico, Louisiana and Alabama. Legal Division staff also taught corporate income tax classes in Oklahoma and nexus school in various states. We are in the process of drafting an amicus brief for Alabama on its VFJ case related to the state's add-back statute.

Legal staff is working with NCCUSL to identify problem areas and craft amendments for UDITPA. We also continue to provide support to the Streamlined Sales Tax effort by attending meetings and participating in teleconferences.

Legal staff continued to assist the Audit Program with legal support on on-going audits and to provide support for the January and May 2007 Executive Committee meetings, including production of draft amendments to Commission by-laws.

#### **E. Policy Research**

Policy Research staff are providing technical support for the Uniformity Committee's project on apportioning the net income of telecommunications service provider businesses. This work is focused on sourcing wholesale sales of telecommunications service providers. The work on telecommunications transactions taxes is focused on estimating compliance costs for telecommunications service providers.

The Policy Research Director is working with a member of the staff of the Indiana legislative fiscal committee on apportionment issues and measuring corporate income tax capacity. He has also worked with staff members of the Utah Tax Commission on apportionment issues regarding one taxpayer and participated in discussion of trends in state tax reform with state delegations.

Policy Research staff have participated in discussion of state tax administration with foreign tax officials, monitored state adoption of MTC model statutes, regulations, and guidelines, and attended professional forums on topics pertaining to state and local fiscal conditions (such as the seminar hosted by the Urban Institute March 30, 2007).

The Policy Research Director edited two articles and wrote one article for the winter 2007 issue of the *Multistate Tax Commission Review* and is working on the summer 2007 issue.

## **F. Training**

The Commission held a Corporate Income Tax on February 5-8, 2007, in Oklahoma City, Oklahoma, for 43 students (10 taking Part 1 only and 33 in Parts 1 & 2). Students were primarily from the Oklahoma Tax Commission, but also included personnel from Arizona, Arkansas, Missouri, North Carolina, and South Carolina.

The following courses or events are scheduled at this time:

April 23-27	Non-Statistical Sampling in New Orleans, Louisiana
April 24-25	Nexus School in Denver, Colorado
May 7-11	Computer Assisted Audit, Oklahoma City, Oklahoma (this course is full)
June 5-6	Nexus School in Hartford, Connecticut
September 23-27	Audit and Computer Technology Workshop in Nashville, Tennessee (cosponsored with FTA)

The Commission has submitted an application to the National Association of State Boards of Accountancy (NASBA) for the annual renewal of our registration as a CPE Sponsor.

Commission staff is reviewing course offerings and costs for 2007-2008. This may result in tuition increases for our courses. The new tuition schedule will be finalized prior to the Commission's annual meeting.

The Director of Training attended the NASBA CPE conference on March 12-14 in Nevada.

The Louisiana sampling course will introduce new sampling software that has been developed by Bob Schauer, Commission computer audit specialist. We expect that future sampling courses will use this software.

## **G. Administration**

All old J.P. Morgan accounts were closed in January 2007.

## **H. Multistate Voluntary Compliance Initiative**

The multi-state tax shelter voluntary compliance program began May 1. It will run through October 1. Nineteen states followed through to perfect their participation in the program out of the thirty-one that initially listed themselves as interested. One or two more states are likely to join the effort as the program continues. The flow of approximately 7,500 initial invitation letters to taxpayers who have already participated in a state tax shelter VCP is scheduled to begin May 9. States are requested to announce this program through their own information channels. The MTC has available a template press release for states who wish to use it. Program guidelines, forms, and benefits

offered by participating states will be posted on the MTC web site presently. MTC staff are providing interviews and making the press release and program guidelines available to the tax trade press.

### **I. Information Sharing with the IRS**

The Commission and IRS continue to work closely to develop the terms of their information-sharing partnership through a Memorandum of understanding. We have made considerable gains and are close to an agreement.

### **III. Website**

The Commission's new website has come into its own over the last six months. The following chart shows the salient trends for the website:

	<b>Total Hits</b>	<b>Total Page Views</b>	<b>Avg Page Views /Visitor</b>	<b>Avg Visit Length</b>	<b>Avg Page Views /Day</b>	<b>Total Visitors</b>	<b>Avg Visitors /Day</b>
<b>Dec</b>	608,301	92,092	4.25	4:23	2,970	21,674	699
<b>Jan</b>	394,556	56,487	4.09	4:14	1,822	13,797	445
<b>Feb</b>	317,327	43,646	3.62	3:36	1,558	12,068	431
<b>Mar</b>	341,543	50,401	4.01	3:48	1,737	12,567	433
<b>Apr</b>	343,404	43,137	3.26	3:28	1,437	13,236	441

- There was a spike in page views in March, due to the Winter Committee meetings.
- Page views, average page views per visitor, average visit length, and average page views per day have settled down since the launch in November, and appear to be steady.
- Comparing the two previous points to the number for total visitors (and average visitors per day), which is at its highest since January, indicates that people know their way around the site now, and are clicking around searching for things less and less.

Our most popular pages remain entrenched, but the Sales and Use Certificate page has passed the Events Calendar for the fifth spot. There was a very large spike in Sales and Use Certificate page activity over March and April.

The Sales and Use Certificate is also the most popular download from our website. The number of downloads for this have been growing consistently each month. It was downloaded 1,337 times in April, compare with 800 in February. Combined Reporting, Allocation and Apportionment, Income Tax Course Description, and Nexus School Description are among the other most popular downloads.

Our users are getting good use out of the Meeting Agendas posted online. There were just fewer than 1,000 visits to our Winter Committee Meetings Page. There were 143 visits to the Annual Conference page in April, and 123 visits to the Executive Committee May meetings page.

Employment Opportunities viewing has been very consistent over the last three months, with an average of 244 visits per month. We will be implementing a form that people can fill out and submit online to send their organization's employment opportunities.

Google continues to be our number one referring site by far, and this number has grown each month since November.

### **III. Staffing**

#### **A. Personnel**

The following lists the changes to the Commission's staff for this period:

- Bruce Fort, formerly counsel for the New Mexico Taxation and Revenue Department, joined the legal staff as Commission counsel in January.
- David Nowak, a former supervisor with the Ohio Department of Revenue, was hired as an auditor in January.
- Sheila Hudson, executive assistant, was hired in February.
- Diane Simon-Queen, a long-time employee of the National Nexus Program, was promoted from paralegal to senior paralegal on March 1.
- Sheldon Laskin joined the legal staff as counsel effective April 1.
- Tom Shimkin was promoted to director of the National Nexus Program effective April 1.
- Andrew Barnes, National Nexus Program paralegal, resigned effective April 20 to take another position.

Both paralegal positions in the National Nexus Program are now filled with temporary employees. We expect the performance of these temporary employees will allow their hiring as permanent employees in the near future.

Elliott Dubin will be presented with a Distinguished Alumnus Award, Graduate and University Center, City University of New York, on May 11, 2007.

## **B. Consultants**

An RFP for support in the federal legislative arena was issued in January, and three proposals were submitted. The review committee consisting of the three Commission officers and the Executive Director reviewed the proposals and conducted interviews. The results of this RFP process will be discussed during the closed session of the May Executive Committee meeting.

## **IV. Facilities**

The lease on the current space for the Commission's headquarters in Washington, D.C. will expire on January 31, 2008. After reviewing external options, and getting assurances that they could accommodate our need for a little more space contiguous with our current office, the Commission staff has negotiated a renewal of our lease with the State Services Organization from whom Hall of the States tenants sublease space. A memo regarding the negotiated agreement is attached to the 2007-2008 budget review memorandum.

## Attachment A



*Working together since 1967 to preserve federalism and tax fairness*

### **Executive Committee Meeting & Conference January 4-5, 2007 San Diego, CA**

#### **Evaluation & Comments**

##### **General**

##### **1. Overall Format of the event (1/2 day committee followed by two days of issue-or industry-focused presentations):**

Did Not Like = 0  
Somewhat Helpful = 1  
Liked a lot = 9

##### **2. Starting time each day (9.00 a.m. for sessions):**

Did Not Like = 1  
Somewhat Helpful = 2  
Perfect = 6

##### **3. 1/2 hour breaks each morning and afternoon:**

Did Not Like = 2  
Somewhat Helpful = 2  
Liked a lot = 6

##### **4. Additional comments:**

- I enjoyed the time structure as it allows more time to network and keep up on office work. Thanks!
- I would prefer to start at 8:30 a.m. This would have given us some additional time for the presentations, and Q&A.

- Since I'm traveling on Idaho taxpayers' money, they expect me to get the most for their money. That means work at 8:00 a.m. Visiting over breakfast - even on official matters should count.
- I found the short seminar style presentations very helpful, and the later start time and longer breaks gave me some blocks of time to deal with issues back home (phone calls, emails).
- Assuming we always give MTC business and issues priority, the seminars are a big plus.
- A lot of interesting and helpful information was provided. However, I don't think I could have absorbed much more after 1 1/2 days. There seemed to be a good balance of time for play/visiting and work (both attendance at the events and opportunities to check in on things back home at the office).
- The nine o'clock start was great coming from MSI - the east coast folks might like an earlier start. The 1/2 hour breaks allowed me to keep up with my phone calls.
- Earlier than 8:00 would probably be too early unless you are talking about breakfast when 7:30 would be good.
- I would rather start at 8:00 or 8:30 unless we are on the East Coast and are having people call in. Longer breaks are probably appropriate when we have lecture type sessions, as it is a little harder to maintain alertness. When we have sessions where we are actively debating issues, I think 15 minute breaks are adequate. They end up being 20 to 25 minute breaks anyway.

## **Presentations**

### **1. Insurance Presentation:**

Not Helpful = 1

Somewhat Helpful = 5

Very Worthwhile = 4

Additional Comments:

- The presentation was informative and useful but I was disappointed that industry representatives seemed not to recognize the legitimate problems introduced into state income and franchise structures by the industry as a result of substantial federal deregulation.
- I have a pretty thorough ground in this area and it is administered in another agency in my state. However, I think presentations like this are really important because legislators don't know who administers what and the presentation was helpful as a source of information in case I get questions.
- It was a good presentation but I am not sure it added any value for anyone in that it did not get in to the difficult issues such as combination.
- Industry structure and background was mostly old news.

## **2. Presentation on IRS YK1 Program:**

Not Helpful = 0

Somewhat Helpful = 1

Very Worthwhile = 8

Additional Comments:

- It was interesting to see what they are doing, but it's obviously too early for the program to be of much help to the states. Hopefully in time it will help us untangle some of the layers of organization camouflage that prevent us from collecting taxes owed.
- Presentation was boring and I couldn't get a handle on information being presented
- Doesn't apply much to us gross receipts states . . .
- Industry structure and background was mostly old news to me, but the discussion of was helpful, in part because it made clear that many of us don't fully understand it (made me feel better that it was not just me). It would have been better if they had spent more time on that, with more examples.
- Very useful
- If only they were properly funded . . .
- I'd like to see some follow up once we get an information sharing agreement in place with IRS.

## **3. Presentation on FIN48:**

Not Helpful = 0

Somewhat Helpful = 1

Very Worthwhile = 7

Additional Comments:

- Very interesting and relevant presentation. I wish we could have spent even more time on this subject.
- Not nearly long enough. We only touched the written material, questions abound.
- I hope that this presentation can be made for our Audi managers in March. Also, it would be helpful to have some discussion by state audit folks concerning how we can use this information. We need to develop some guidelines so that we aren't accused of "fishing" when we ask for the back up information. More conversation on Diann Smith's recommendation and how IRS plans to use the backup information would be useful.
- Not being an accountant, I found this a little difficult to follow, but I got the basics and was intrigued by the new financial reporting requirements — the fact that contingencies and risks must be noted. This holds some promise for the states, thought it will be labor-intensive until some electronic information becomes

available. This presentation is a good example of sharing high-value information targeted specifically at our more difficult compliance issues.

- I found subject matter interesting but lacked understanding about presentation.

#### **4. Telecomm Presentation:**

Not Helpful = 0

Somewhat Helpful = 2.5

Very Worthwhile = 4.5

Additional Comments:

- As Tax Administrators we can't make the law. The presentation seemed to be slanted towards requests for law changes.
- Interesting, but I have heard this before. Is there anything specific that the tax agencies can do, other than be informed when questions come from the legislature?
- Not relevant from FTB perspective but then we are only income tax. Seems like the problem relates to multiplicity of taxes from sub-state jurisdictions. I think most of us have heard it all before but perhaps the Executive Committee had not.
- Deborah always does a good job. Because I sat through a very similar presentation from her in D.C. last year, it was mostly redundant for me. But I'm sure it was helpful to others.
- These are great opportunities for partnering to achieve common goals.
- Very good presentation and applicable to what I am familiar with.