

Multistate Tax Commission

Annual Report FY2007-08

Joe Huddleston, Executive Director



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**To the Honorable Governors and State Legislators of Member States to the
Multistate Tax Commission**

One of the principal purposes of the Multistate Tax Commission is to help bring greater equity, uniformity, and compatibility to the tax laws of the various states of this nation and their political subdivisions as those laws affect multistate and multinational businesses. Additionally, the Commission provides both industry and states an organization within which to discuss and resolve their tax problems. The Commission also assists the states in encouraging multistate and multinational businesses to comply properly with state and local tax laws and, in turn, advocates improvements in laws, rules, and practices that make it easier and more convenient for those businesses to comply. Finally and fundamentally, the Commission works to help protect the tax sovereignty and jurisdiction of states under the U.S. Constitution so that the role of the states in our democratic systems of federalism remains vital and strong.

I submit to you the Annual Report of the Multistate Tax Commission, covering the Commission's activities for the fiscal year beginning July 1, 2007 and ending June 30, 2008.

Respectfully,

Joe Huddleston
Executive Director

Overview of Actions Taken by Multistate Tax Commission

The Commission held its Annual Business Meeting, as required by Article VI of the Multistate Tax Compact, on August 2, 2007, in Minneapolis, Minnesota (Note: Bylaw 4 requires this meeting to occur during July unless otherwise specified by the Executive Committee; the Executive Committee approved August 2nd for the 2007 Annual Meeting at a teleconference on July 12, 2007).

The Commission took the following actions during July 1, 2007 – June 30, 2008:

- Approved the Commission Budget for 2007-2008.
- Accepted committee reports and ratified the actions of the Executive Committee for the previous program year.
- Adopted an amendment to Model Regulation IV.17a (commonly referred to as the "On Behalf of" amendment).
- Adopted an amendment to Bylaw 5, *Quorum, Voting, and Minutes*.
- Adopted an amendment to Bylaw 6, *Executive Committee*.
- Adopted an amendment to Bylaw 11, *Parliamentary Authority*.
- The Commission, as is its custom, also adopted a number of honorary resolutions recognizing individuals who made significant contributions to the work of the Commission throughout the year.
- Elected Jan Goodwin, Secretary, New Mexico Tax & Revenue Department, as Chair.
- Elected Trish Vincent, Director of Revenue, Missouri, as Vice Chair.
- Elected Tom Surtees, Commissioner, Alabama, as Treasurer.

- Elected Dan Bucks, Director, Montana Department of Revenue; Susan Combs, Comptroller, Texas Comptroller of Public Accounts; Ward Einess, Commissioner, Minnesota; and Ramon Hirsig, Executive Director, California State Board of Equalization, as at-large members of the Executive Committee.

The Commission did not accept any donation or grant, or borrow any services during the period of this report.

Executive Committee Report

The Executive Committee met six times during the period July 1, 2007, to June 30, 2008:

- July 12th via teleconference
- August 2nd in Minneapolis, Minnesota (immediately before the 2007 Annual Meeting of the Commission)
- November 8th in New Orleans, Louisiana
- January 3rd-4th in San Diego, California
- May 8th in Washington, D.C.
- June 20th via teleconference

The teleconference on July 12, 2007, was for the purpose of considering sovereignty membership for Georgia, Maryland, and West Virginia (each granted); associate membership for Indiana (granted); and to specify August 2nd as the date of the 2007 Annual Meeting. The teleconference on June 20, 2008, was for the purpose of considering the proposed Model Telecommunications Apportionment Regulation, with amendments as recommended in the hearing officer's report and supplemental report, thus approving the proposal to a Bylaw 7 survey (it was approved). The remaining meetings were regular meetings of the committee. Through these meetings the committee has provided oversight and direction to the activities of the Commission.

The Executive Committee experienced some changes in its membership during the course of the year. In November, Cynthia Underwood, then Acting Revenue Commissioner of the State of Alabama, was appointed and elected to serve out the unexpired portion of Tom Surtees's term as Commission Treasurer. In January, Omar D. Davis, the new Director for the Missouri Department of Revenue, was elected to serve out the unexpired portion of Trish Vincent's term as Commission Vice Chair. In March, Tim Russell, the new Alabama Commissioner of Revenue, was appointed to replace Alabama's acting commissioner, Cynthia Underwood, in

fulfilling the unexpired term as Treasurer. Later in March, Omar Davis became Commission Chair by operation of the bylaws upon the departure of Jan Goodwin from the New Mexico's Taxation & Revenue Department. In May, Tim Russell's appointment was ratified by the committee, and Stephen M. Cordi, Deputy Chief Financial Officer for Tax & Revenue for the District of Columbia, was appointed and elected to serve out the unexpired portion of Omar Davis's term as Commission Vice Chair.

The Executive Committee took the following actions during 2007-2008:

- Granted sovereignty membership to Georgia, Maryland, and West Virginia
- Specified August 2, 2007, as the date for the 2007 Annual Meeting of the Commission
- Approved the 2007-2008 Commission expenditure budget
- Established the Paull Mines Award for Contribution to State Tax Jurisprudence
- Directed a public hearing be held pursuant to Art. VII of the Multistate Tax Compact regarding a proposed Model Regulation for Apportionment of Income from the Sale of Telecommunications and Ancillary Services
- Struck section (d) of the Model REIT Statute, added the word "captive" before "real estate" to the title of the proposal, and insertion a new section (a):
 - (a) The purpose of this statute is to address the taxation of captive

real estate investment trusts. This statute shall not be interpreted as precluding the right of a state to tax the income earned by any type of real estate investment trust as source income in computing net income by measures including, but not limited to, the disallowance of, or required add back of, the dividends paid deduction otherwise allowed by federal law.

- Referred the Model Uniform Statistical Sampling Statute and Accompanying Regulations back to the Uniformity Committee for consideration of extensive public comment (as recommended by the hearing officer)
- Elected Cynthia Underwood, Acting Revenue Commissioner of the State of Alabama, to serve out the unexpired portion of Tom Surtees's term as Commission Treasurer (Ms. Underwood had been appointed before the meeting by the Commission Chair pursuant to Bylaw 3(c))
- Held a dialogue with representatives of COST regarding the results of a survey COST conducted of its members who had undergone a Commission audit; referred the survey results and COST's recommendations to the Audit Committee for consideration
- Elected Omar D. Davis, the new Director for the Missouri Department of Revenue, to serve out the unexpired portion of Trish Vincent's term as Commission Vice Chair
- Adopted the audited financial statements for FY2007
- Approved an additional \$49,000 to fund increased expenditures for the planned improvements to the Commission's headquarters office
- Approved changes to the Model Uniform Statistical Sampling Statute

and Accompanying Regulations and recommended it to the Commission, authorizing a survey of the affected member states pursuant to Bylaw 7

- Approved changes to the Model REIT Statute and Accompanying Regulations and recommended it to the Commission, authorizing a survey of the affected member states pursuant to Bylaw 7
- Considered an Isle of Man request for change to Model Combined Reporting Statute and directed staff to look into the issue
- Elected Tim Russell, the new Alabama Commissioner of Revenue, and Stephen M. Cordi, Deputy Chief Financial Officer for Tax & Revenue for the District of Columbia, to serve out the unexpired portion of Tom Surtees's term as Commission Treasurer and the unexpired portion of Omar Davis's term as Commission Vice Chair, respectively (Mssrs. Russell and Cordi had been appointed before the meeting by the Commission Chair pursuant to Bylaw 3(c))
- Approved the 2007-2008 Commission revenue budget
- Established a working group consisting of Executive and Audit Committee members to further consider items identified in COST's survey regarding the Joint Audit Program and draft a response to COST from the Commission
- Adopted report of the Commission Working Group on Revision of Compact Article IV for submission to the NCCUSL UDITPA Drafting Committee
- Adopted changes by the public hearing officer to the proposed Model Telecommunications Apportionment Regulation and recommended

the proposed model statute to the Commission, authorizing a survey of the affected member states pursuant to Bylaw 7

The Executive Committee undertook additional actions during 2007-2008 that are recorded in the minutes of its meetings.

The Executive Committee also held training and informational sessions in conjunction with its meeting in January 2008.

Audit Committee Report

Janielle Lipscomb, Chair, MTC Audit Committee

Rick DeBano, Vice Chair, MTC Audit Committee

Les Koenig, Director, MTC Joint Audit Program

The following report reflects the activities of the MTC Audit Committee and the Audit Program for 2007-2008 fiscal year.

AUDIT COMMITTEE

The MTC Audit Committee met three times during the fiscal year. During the Annual Meeting in July, 2007 the Audit Committee reviewed the past year MTC audit activity. The Committee also selected 12 sales tax and 11 income tax audits for the audit program's inventory. The Audit Committee also formed a working group to investigate ways to improve the audit selection process.

During the November, 2007 meeting, the working group recommended changes to the audit selection process. The audit Committee asked the MTC Audit Director to test these changes and report back at next meeting.

During the March, 2008 meeting, the Audit Committee reviewed the status of all audits in progress. The Committee also provided guidance on several key issues in several audits. The Audit Committee approved the changes to the audit selection process. The Audit Committee met with members of COST to discuss COST's White Paper on ways to improve the MTC Audit Program. The Audit committee recommended that a working group comprised of members of Audit and Executive Committees be formed to respond to several open items on the White Paper.

The Audit Committee also met numerous times by teleconference to discuss audits where cutting edge issues were pertinent and follow up on several audits that were protested.

Lastly, the Audit Committee reviewed the MTC Audit Program's audit activity at each meeting and offered advice on many complex audit issues that were found in various audits.

AUDIT PROGRAM

PRODUCTIVITY

Audit Program completed 7 income tax audits and parts of 2 other income tax audits. The Audit Program also completed 9 sales and parts of 2 other sales tax audits for fiscal year end 6/30/08. There are 18 income and 32 sales tax audits in progress.

The MTC Audit Program has increased the productivity of its audit work by over 36% since 1992, as measured by the number of staff hours per audit per state. In 1992, an MTC audit required 130 hours of staff time per audit per state. In 2008, that number was only 83. That represents improved efficiency for both states and taxpayers, who also benefit when tax auditors spend less time completing an audit.

Please note in interpreting the enclosed charts on productivity that declining numbers represent improvement.

STAFFING

The MTC Audit Program hired one sales tax and one income auditor this year. One income and one sales tax auditor resigned during the year. There is currently one vacancy in the income tax and sales tax auditor positions. Interviews will be conducted in August to fill the two positions.

AUTOMATION

The MTC is pursuing electronic records in every audit that is commencing. The MTC Sales Tax Auditors request electronic records when an audit begins. Several taxpayers have been cooperative in supplying the records. However, many taxpayers are still reluctant to supply electronic records. Every effort is made to assure the taxpayer that electronic records will be held in all confidentiality.

Audit Hour Analysis Last Four Quarters

	<u>9/07</u>	<u>12/07</u>	<u>3/08</u>	<u>6/08</u>	<u>Total</u>
Income Tax					
Total Audits	1	0	1	5	7
Total States Audited	25	0	42	142	209
Total Hours	2148	0	4094	11328	17570
Average Hours Per State	86	0	97	80	84
Sales Tax					
Total Audits	2	3	1	3	9
Total States Audited	24	32	10	31	97
Total Hours	1256	1231	1691	3640	7818
Average Hours Per State	52	38	169	117	80
Total Both Taxes					
Total Audits	3	3	2	8	16
Total States Audited	49	32	52	173	306
Total Hours	3404	1231	5785	14968	25388
Average Hours Per State	68	38	111	86	83

Note: Declining numbers on the following charts represent improvement

**MTC JOINT AUDIT PROGRAM
AUDIT HOUR ANALYSIS
6/92 - 6/08**

	6/92	6/93	6/94	6/95	6/96	6/97	6/98	6/99	6/00	6/01	6/02	6/03	6/04	6/05	6/06	6/07	6/08
Income Tax Total Audits	7	12	9	9	9	10	9	7	10	8	7	8	7	7	9	7	7
Total States Audited	75	132	93	99	111	152	120	186	251	131	166	165	266	196	175	141	209
Total Hours	11148	11208	9016	9284	7548	12249	10012	10060	13133	8684	9396	10556	12012	12617	12514	9361	17570
Average Hours Per State	148	85	97	94	68	81	83	55	52	66	57	64	45	64	72	66	84
Sales Tax Total Audits	9	14	13	15	13	14	10	16	11	14	13	11	10	11	6	15	9
Total States Audited	104	146	140	152	123	143	97	184	102	158	159	145	154	160	77	187	97
Total Hours	12209	14323	6818	8009	9746	11349	7721	7438	9062	11900	8850	8792	10943	6133	4946	13296	7818
Average Hours Per State	117	98	49	53	79	79	80	40	89	75	56	61	71	38	64	71	80
Total Both Taxes Total Audits	16	26	22	24	22	24	19	23	21	22	20	19	17	18	15	22	16
Total States Audited	179	278	233	251	234	295	217	370	353	289	325	310	420	336	252	328	306
Total Hours	23357	25531	15834	17293	17294	23598	17733	17498	22195	20584	18246	19348	22955	18750	17460	22657	25388
Average Hours Per State	130	92	68	69	74	80	82	48	63	71	56	62	55	56	70	69	83

Litigation Committee Report

The MTC Litigation Committee is chaired by Marshall Stranburg, Florida Department of Revenue. Mark Wainwright and Clark Snelson, Utah Office of the Attorney General, are co-vice chairs of the Committee.

In-Person Meetings

Approximately 40 attorneys, representing 25 states, attended our July 2007 in-person meeting in Minneapolis, Minnesota. Twenty-four attorneys, representing 17 states, attended our March 2008 meeting in Tucson, Arizona. Both meetings included presentations from our members and the MTC legal staff on a range of topics covering both emerging litigation and implications from recent decisions. Topics included REITs, economic presence nexus, arm's length pricing, financial institutions apportionment, bankruptcy issues, use of Delaware series LLC's and constitutional limitations on federal regulation pursuant to the commerce clause. Walter A. Pickard, Esq., Faegre & Benson, LLP, gave a presentation on the attorney-client and other privileges. Professor Mona Hymel of the University of Arizona Rodgers Law School made a presentation on some of the state and federal tax implications in choice of entities. John Taylor, Esq. of Ernst & Young, LLP made a presentation on the complexities of federal net operating loss calculations and stranded gains and losses in the context of mergers and acquisitions. As usual, we also discussed recent U.S. Supreme Court and State court decisions, and collaborated on pending litigation.

Bi-Monthly Government Tax Attorney Teleconferences

We have begun hosting regular bi-monthly teleconferences for all government tax attorneys. These teleconferences generally involve 2 presentations on topics of current

interest and allow time for discussion. Our last teleconference was held May 2008 and included a presentation on U.S. Supreme Court decisions for this term by Dan Schweitzer, Counsel for the National Association of Attorneys General, with special focus on the U.S. Supreme Court decisions in *Davis* and *CSX Transportation Inc.* by Doug Dowell, Kentucky DOR, and Warren Calvert, Georgia DOR, respectively.

Other Litigation Committee Projects

Litigation committee has worked on a number of projects, including:

- o An exchange of information agreement tailored to sharing litigation related information among state tax attorneys (draft completed this year).
- o An annual award, in honor of Paull Mines, for a state tax attorney who has contributed significantly to state tax jurisprudence (established this year)
- o An MTC brief bank (version 1.0 complete – version 2.0 under development)
- o Organizing a third in-person Litigation Committee meeting for the fall (under development for October 2008 in conjunction with the Hartman SALT Forum)

Nexus Committee Report

Lennie Collins, Chair, MTC Nexus Committee
Lee Evans, Vice Chair, MTC Nexus Committee
Thomas Shimkin, Director, MTC Nexus Program

This report covers fiscal year 2008 (July 1, 2007 – June 30, 2008). The Nexus Committee met three times in fiscal year 2008.

Committee Meetings

At its July 2007 meeting the committee:

- Reviewed results of the Multi-state Voluntary Compliance Program in which twenty-three states received total revenue of \$21 million by offering incentives to amend their return to taxpayers known to have participated in a potentially abusive tax shelter in at least one state.
- Discussed the Nexus Program's priorities and advised Commission staff that voluntary disclosures should be the focus of the program's activities.
- Reviewed draft guidelines to govern the Commission's voluntary disclosure program. They are designed to guide Commission and state staff in handling a variety of situations so that matters are handled more uniformly and so that taxpayers know what to expect in advance.
- Considered other matters in closed session.

At its November 2007 meeting the committee:

- Considered a project to develop a recommendation for a uniform duration of nexus standard. The committee abandoned this plan at its next meeting.
- Continued discussion of the draft voluntary disclosure guidelines. It appointed a drafting group, which met three times and made its recommendations to the full committee at its March 2008 meeting.

- Considered several matters in closed session.

At its March 2008 meeting the committee:

- Received presentations and had a discussion about the Nexus Program's information technology plans, including eventual integration with the Commission-wide secure communications strategy.
- Reviewed the drafting group's report on the voluntary disclosure guidelines and made a number of amendments to the document. A significant issue considered is how the Nexus program and states should handle voluntary disclosants who are contacted for audit after making application to the Nexus program. Another is whether the program should accept applications that show no back tax due, but only tax resulting from compliance in future years.
- Solicited input from members of a taxpayer organization who were in attendance but did not receive any at that time.
- Considered other matters in closed session, including a request to Commission staff to develop and manage a project.

Nexus Schools

The Commission held two well-attended Nexus Schools, in Nashville and Baltimore. Schools are scheduled for next fiscal year in Omaha and Boise.

Information Technology

The Nexus Committee continues to support the Commission's work with respect to development of an improved information technology

system to manage voluntary disclosures. The Technology Committee has been providing primary assistance. The Commission approved a contract with Revenue Resources, Inc. (RSI) of Pembroke, Massachusetts to develop the system. The company has extensive experience designing quality information technology systems for state departments of revenue. Development is underway and will take place in two steps. The first will essentially stabilize the current system, which cannot be easily maintained or upgraded. It will also allow taxpayers to apply for voluntary disclosure via the world wide web, rather than on paper or by email as now. The second step, if pursued, would introduce considerable automation that will allow the Commission to process greater volumes faster without additional staff. Taxpayers have said that speed of processing is important. It would also allow taxpayers under certain circumstances greater convenience in communicating directly with state decision makers in an anonymous environment.

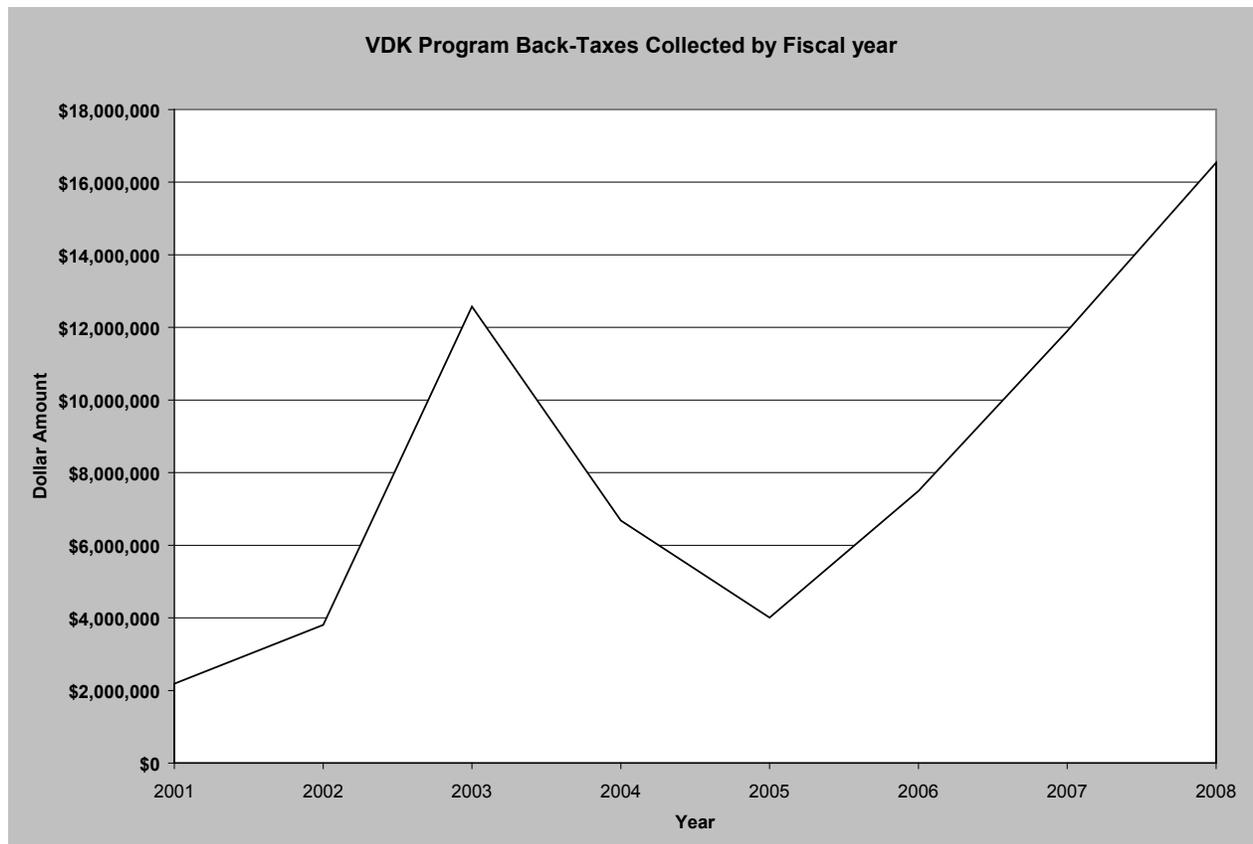
Voluntary Disclosure

States continue to distribute brochures advertising the multi-state voluntary disclosure program, particularly Texas, New Jersey, and Connecticut, which distributed 91% of the 3,996 total.

In fiscal year 2008 (June 30, 2008 year end) the National Nexus Program:

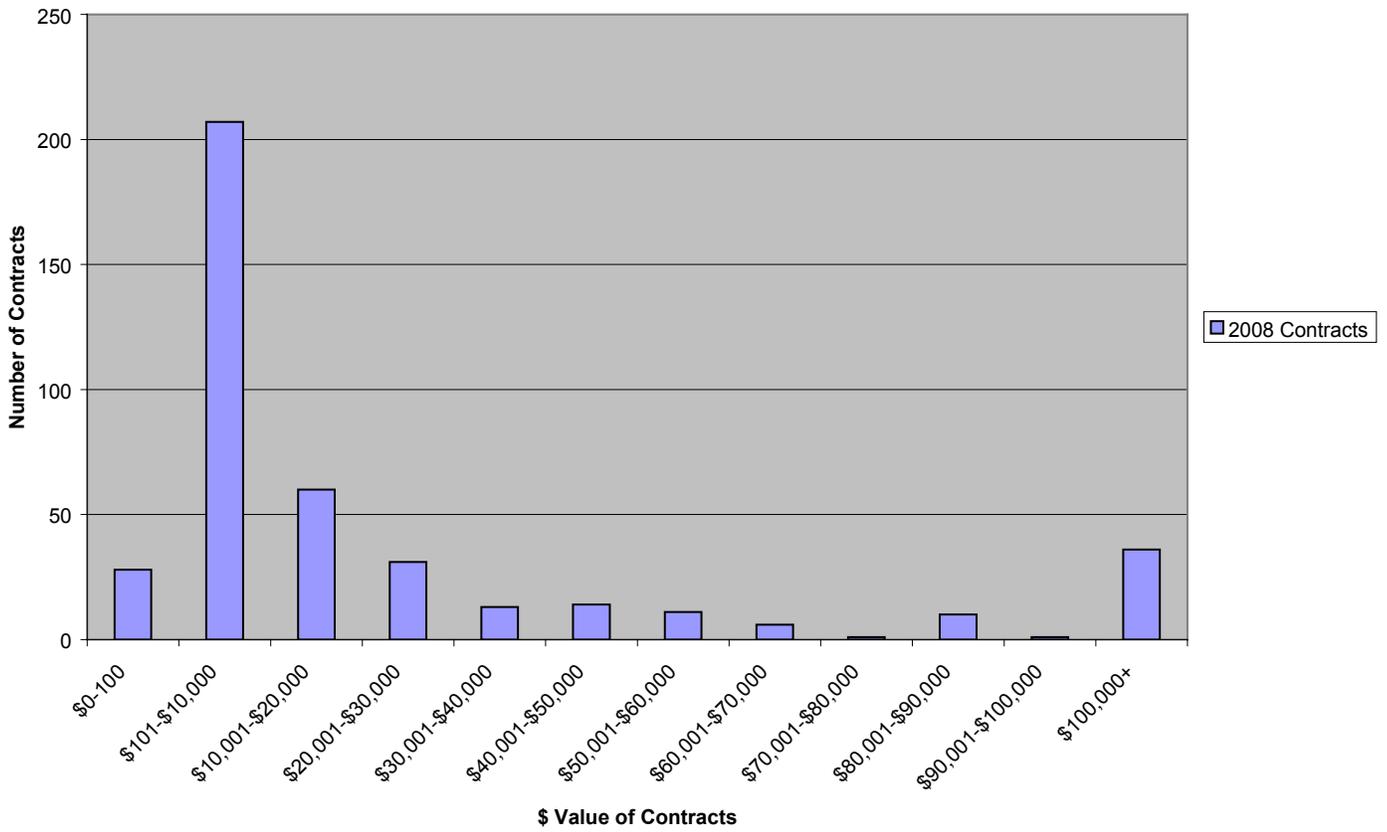
- Executed contracts with 85 taxpayers, which resulted in 421 separate contracts with states.
- Collected back tax of **\$16,540,388** (likely to rise slightly due to late-arriving data).
- Opened 71 new voluntary disclosure files, representing 620 potential state contracts.

The chart below shows revenue trends from 2001 to 2008.



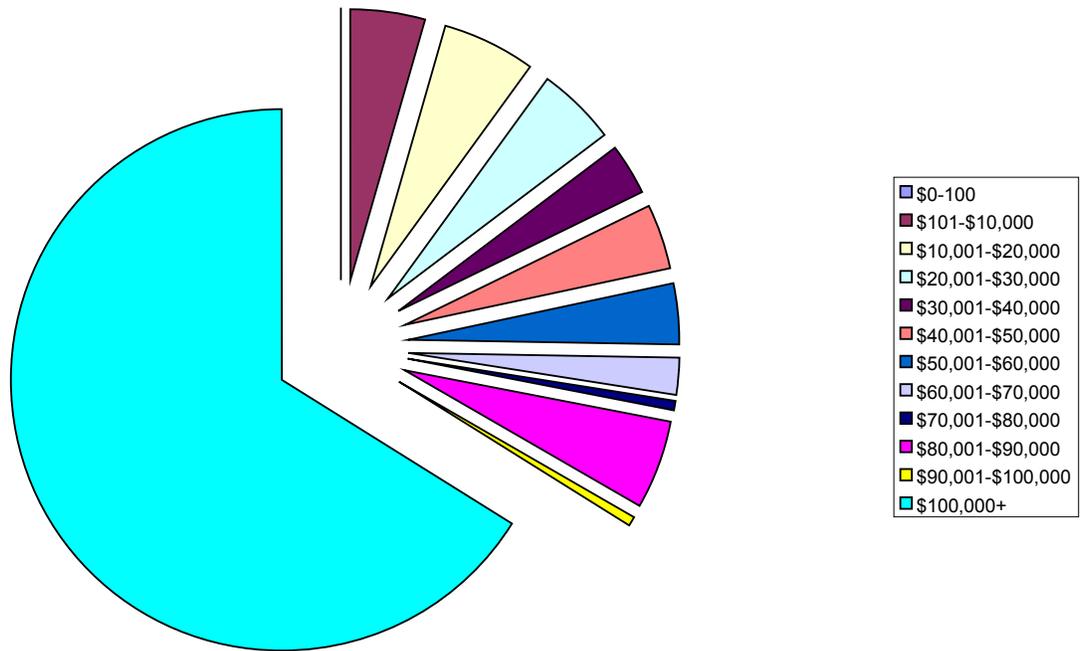
The chart below shows the number of individual state contracts signed in FY 2008 in various revenue categories. Note that most are \$10,000 or less.

Distribution of FY 2008 Contract Values



The chart below shows the percentage that each revenue category contributes to the total \$16.5 million collected. Note that most revenue comes from the very few disclosures with values in excess of \$100,000.

Distribution of Contracts by Percentage of Total Value



Technology Committee Report

The Technology Committee is chaired by Timothy R. Blevins of the Kansas Department of Revenue; Steve Wilson of the Idaho State Tax Commission is vice-chair.

The committee met July 30, 2007 in Minneapolis, Minnesota, and March 12, 2008, in Tucson, Arizona. The committee also held six teleconferences: August 29, September 26, and November 15 in 2007, January 15, February 12, and June 12 in 2008.

The committee is pleased to report that during 2007-2008 the Commission has implemented much needed network back-up and recovery improvements, and put full-disk encryption in place on all laptops. In August 2007, the committee completed development of a secure communications plan, and initial implementation of a secure messaging platform for the Commission has already begun.

The committee continues to monitor development of the Commission's website. Getting online registration up and running (along with other minor improvements) on the website has been lagging with the vendor, but the work is in final stages and should be pushed to production before the end of the summer.

The committee also worked with on issuing the Voluntary Disclosure Program database migration project RFP and assist staff in reviewing submitted bids. A contract was signed in June and the project is in development now.

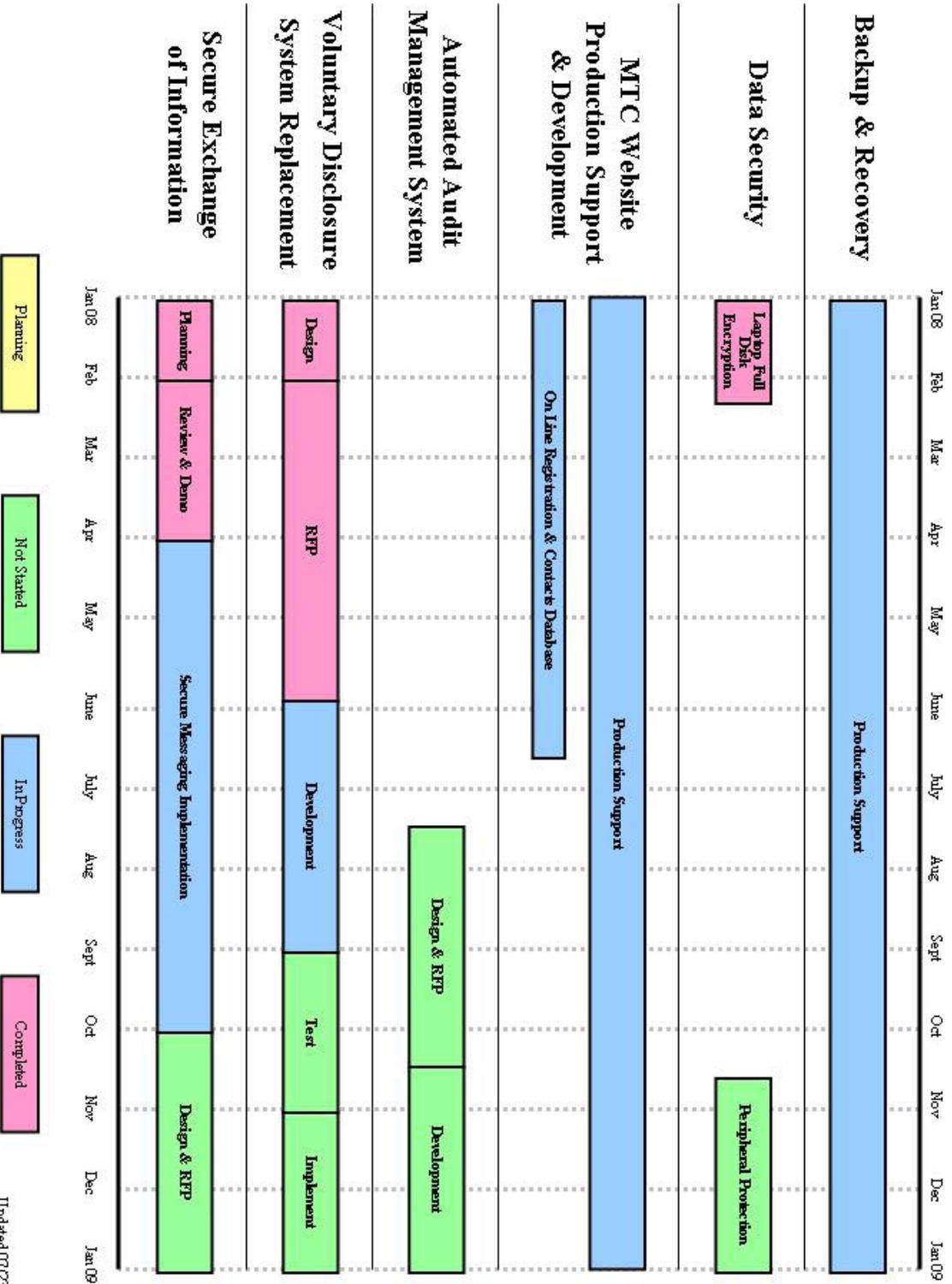
The following are the projects that the committee is focused on currently:

- Voluntary Disclosure Program database migration project
- Automated audit management system for the Joint Audit Program
- Further implementation of the secure communications plan (including enhancing the Commission's website as a robust portal for tax administration)

The committee meets on Monday, July 28th during the week of the Commission's annual meeting, and will be focused on the Voluntary Disclosure Program database migration and preparation of an RFP for an automated audit management system.

An updated project roadmap for calendar year 2008 is attached.

MTC IT PROJECT ROADMAP for CY 2008



Training Program Report

The Commission held six courses during the fiscal year—the Nexus School (two sessions), Corporate Income Tax (one session), and Statistical Sampling for Sales and Use Tax Audits (three sessions). These courses reached 170 state and local government tax personnel, three private sector participants, and nine non-U.S. governmental participants. Other training events supported by the Commission reached over 300 additional personnel. The statistical sampling class utilizes the new MTC sampling software and is now open to private sector participants.

Courses Offered in 2007-08

The following MTC courses were offered during the year:

NEXUS SCHOOL

October 29-30, 2007 in Nashville, Tennessee for 28 students

April 8-9, 2008 in Baltimore, Maryland for 48 students

CORPORATE INCOME TAX

June 2-5, 2008 in Salt Lake City, Utah for 54 students (38 in Part 2)

STATISTICAL SAMPLING

March 31-April 3, 2008 in Little Rock, Arkansas for 11 students (test course)

April 21-24, 2008 in Denver, Colorado for 27 students

June 23-26, 2008 in Chicago, Illinois for 14 students

July 14-17, 2008 in Cheyenne, Wyoming for 31 students

The Commission staff also supported the following training events during the year:

- 2007 FTA/MTC Audit and Computer Technology Workshop in Nashville for 119 attendees on September 23-26, 2007

- Financial Reporting and Tax Disclosures—FIN 48 and Related Topics for approximately 100 students (32 in person and the remainder via telephone) at the MTC Fall Program Committee meetings in New Orleans on November 8, 2007
- Training on combined reporting for approximately 100 Texas Comptroller of Public Accounts staff members (primarily auditors) on February 28, 2008.

Current Schedule of Courses and Events

The following courses and events are currently scheduled:

2008 FTA / MTC AUDIT AND COMPUTER

TECHNOLOGY WORKSHOP, October 5-8, 2007 in Albuquerque, New Mexico (registration is being handled by FTA)

NEXUS SCHOOL

September 15-16, 2008 in Omaha, Nebraska

October 21-22, 2008 in Boise, Idaho

We anticipate scheduling the Corporate Income Tax course, Statistical Sampling for Sales and Use Tax Audits (three additional sessions) and the Nexus School (one additional session) during the year. The Basic Random Sampling and Computer Assisted Audit Techniques courses are also available when requested by the states. Updates to our schedule as well as registration information can be found at www.mtc.gov or by contacting Antonio Soto at 202-508-3846.

NASBA Certification and Continuation Education Credit

The Commission has renewed its registration with the National Association of State Boards of Accountancy (NASBA) as a CPE sponsor.

This registration is for “group-live” programs. Accounting boards in 44 states recognize NASBA certification for granting of CPE credit for in-person courses. The Commission also certifies attendance for CLE credit at Commission sponsored events.

Statistical Sampling for Sales and Use Tax Audits

The new MTC sampling software is the foundation of the revised statistical sampling course. The software and new course materials were introduced in a test course for the Arkansas Department of Revenue in April. Most sessions of this course are now open to the private sector. We have had four private sector participants in the Denver and Cheyenne sessions and nine public sector attendees from British Columbia and Ireland at the course in Chicago.

Tuition and Host State Credit

The tuition schedule for 2008-2009 remains at the level established for 2007-08, since these rates reasonably reflect the cost of staff time and variable costs for our courses. Tuition for private sector participants in the Statistical Sampling course has been set at \$1880, which is twice the rate paid by Member States.

The Commission provides a host state credit of \$3000 for each course. The credit is for support related to the course and applies to tuition for host state students.

Uniformity Committee Report

The MTC Uniformity Committee, chaired by Ted Spangler, Office of the Idaho Attorney General, is divided into two subcommittees. Wood Miller, Missouri Department of Revenue, chairs the Income & Franchise Tax Subcommittee and Richard Cram, Kansas Department of Revenue, chairs the Sales & Use Tax Subcommittee. Below is a summary of the actions taken by the subcommittees and the full committee during the 2008 fiscal year.

INCOME AND FRANCHISE TAX SUBCOMMITTEE

Model Regulation for Telecommunications Sales Factor Apportionment

The subcommittee referred this proposal to the Uniformity Committee for its consideration.

Model Statute for Real Estate Investment Trusts (REITs) and Regulated Investment Companies (RICs)

The subcommittee referred a REITs proposal to the Uniformity Committee for its consideration. The subcommittee is considering whether to continue development of a RIC proposal.

Amendments to Model for Apportionment of Financial Institution Income

This project is under development. The subcommittee created a special industry/state work group to review and propose amendments where necessary.

Amendments to Model Regulations for Compact Art.IV.18

This project regarding possible amendments to Commission model regulation for section 18, distortion adjustments, is currently under development.

Income Earned by Non Corporate Income Taxpayers Derived from an Ownership Interest in a Pass-through Entity.

The subcommittee initiated this project to determine whether a model statute or regulation should be developed to address potential gap in taxation created by confluence of insurance taxation and regular corporate taxation structures.

SALES AND USE TAX SUBCOMMITTEE

Model Statute Clarifying the Tax Responsibilities of Accommodations Intermediaries

The subcommittee continues to work on a proposal requiring intermediaries to collect lodgings tax on the total price charged to the customer and provides alternate means of remittance to the state.

Model Statutes for Administering Telecommunications Transaction Taxes

The subcommittee appointed a working group of states and industry representatives to recommend language for model centralized tax administration statutes.

UNIFORMITY COMMITTEE

Proposed Model Regulation for Telecommunications Sales Factor Apportionment

The Uniformity Committee referred this uniformity proposal to the Executive Committee for its referral to the public hearing process, which has been completed. The proposal is currently under consideration by MTC Compact Member states for adoption as a uniformity recommendation.

***Real Estate Investment Trusts (REITs)
and Regulated Investment Companies
(RICs)***

The Uniformity Committee referred a REIT uniformity proposal to the Executive Committee for its referral to the public hearing process, which has been completed. The proposal is currently under consideration by MTC Compact Member states for adoption as a uniformity recommendation.

***Model Audit Sampling Authorization
Statute and Accompanying Regulation***

The Uniformity Committee amended the proposal at the recommendation of the Hearing Officer while in the hearing process. The proposal is currently under consideration by MTC Compact Member states for adoption as a uniformity recommendation.

**MULTISTATE TAX
COMMISSION**

**Financial Statements and
Report of Independent Certified
Public Accountants**

**For the Years Ended
June 30, 2008 and 2007**

MULTISTATE TAX COMMISSION
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June 30, 2008 and 2007

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Report of Independent Certified Public Accountants

Executive Committee
Multistate Tax Commission

We have audited the accompanying balance sheets of Multistate Tax Commission as of June 30, 2008 and 2007 and the related statements of revenue and expenses and changes in fund balance and cash flows for the years then ended. These financial statements are the responsibility of the Commission's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Multistate Tax Commission as of June 30, 2008 and 2007, and the results of its operations and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

Linton Shafee Warfield & Barnett

October 28, 2008

MULTISTATE TAX COMMISSION

MULTISTATE TAX COMMISSION

Balance Sheets

June 30,

ASSETS

	<u>2008</u>	<u>2007</u>
Current Assets		
Cash and cash equivalents	\$ 3,580,621	\$ 3,501,058
Accounts receivable		
Schools	48,736	15,000
Prepaid expenses	56,254	52,371
Total Current Assets	<u>3,685,611</u>	<u>3,568,429</u>
Property and Equipment - at Cost		
Office furniture and equipment	695,152	806,398
Leasehold improvements	235,452	109,857
Less: accumulated depreciation and amortization	<u>(556,151)</u>	<u>(730,235)</u>
Property and Equipment - Net	<u>374,453</u>	<u>186,020</u>
Other Assets		
Expense account advances	7,200	7,200
Deposits	6,643	10,861
Total Other Assets	<u>13,843</u>	<u>18,061</u>
TOTAL ASSETS	<u>\$ 4,073,907</u>	<u>\$ 3,772,510</u>

LIABILITIES

	2008	2007
Current Liabilities		
Accounts payable	\$ 42,594	\$ 68,420
Payroll taxes withheld and accrued	30,327	28,574
Accrued salaries and vacation pay	319,046	278,721
Accrued self insurance	66,000	56,000
Current portion of capital lease obligation	5,036	4,764
Deferred assessments and audit reimbursements	120,155	549,465
Total Current Liabilities	583,158	985,944
 Long-Term Liabilities		
Capital lease obligation	4,417	9,452
Total Long-Term Liabilities	4,417	9,452
 TOTAL LIABILITIES	 587,575	 995,396
 Commitments and Contingencies - Note 3		
 Fund Balances		
Unappropriated	2,129,185	1,594,297
Appropriated	455,714	521,435
Restricted	901,433	661,382
Total Fund Balances	3,486,332	2,777,114
 TOTAL LIABILITIES AND FUND BALANCES	 \$ 4,073,907	 \$ 3,772,510

The accompanying notes are an integral part of these statements.

MULTISTATE TAX COMMISSION
Statements of Revenue and Expenses
and Changes in Fund Balance
Unappropriated Funds
For the Years Ended June 30,

	<u>2008</u>	<u>2007</u>
Revenue - Unappropriated and Appropriated		
Assessments	\$ 5,322,530	\$ 4,784,487
Interest	157,114	161,958
Other income		
Training fees	143,755	259,838
Miscellaneous	<u>16,058</u>	<u>22,419</u>
Total Revenue	<u>5,639,457</u>	<u>5,228,702</u>
Expenses - Unappropriated and Appropriated		
Accounting	16,024	15,259
Bonds and insurance	20,791	15,072
Conferences and training schools	121,593	121,839
Depreciation and amortization	66,165	78,241
Employee benefits	660,437	519,121
Miscellaneous	14,991	20,530
Consumable supplies	52,612	65,247
Postage	27,225	30,911
Printing and duplicating	26,336	45,087
Professional services	155,200	349,293
Publications and electronic resources	38,318	26,557
Recruitment	5,328	3,928
Rent	280,909	247,536
Repairs and maintenance	12,003	4,824
Retirement plan	367,372	320,391
Salaries	3,004,734	2,722,291
Software licenses	23,583	14,672
Staff training	14,508	11,891
Subscriptions, publications, dues	34,884	37,855
Telephone	48,076	51,896
Travel	315,827	268,727
Allocation of administrative expenses	<u>(109,651)</u>	<u>(128,856)</u>
Total Expenses	<u>\$ 5,197,265</u>	<u>\$ 4,842,312</u>

(continued)

MULTISTATE TAX COMMISSION
Statements of Revenue and Expenses
and Changes in Fund Balance
Unappropriated Funds
For the Years Ended June 30,

	<u>2008</u>	<u>2007</u>
Excess of Revenue Over Expenses	\$ 442,192	\$ 386,390
Transfer from Appropriated Fund Balance	65,721	71,250
Transfer from Restricted Fund Balance	<u>26,975</u>	<u>8,089</u>
Total Amount Transferred	92,696	79,339
 FUND BALANCE - Unappropriated - Beginning of Year	 <u>1,594,297</u>	 <u>1,128,567</u>
 FUND BALANCE - Unappropriated - End of Year	 <u>\$ 2,129,185</u>	 <u>\$ 1,594,297</u>

The accompanying notes are an integral part of these financial statements.

MULTISTATE TAX COMMISSION
Statements of Changes in Fund Balance
Appropriated Funds
For the Years Ended June 30,

	<u>State Tax Compliance</u>	<u>Federalism At Risk</u>
Fund Balance - June 30, 2006	\$ 23,918	\$ 25,146
Transfer to Unappropriated Fund Balance	<u>-</u>	<u>-</u>
Net Amount Transferred (To) From Unappropriated Fund Balance	<u>-</u>	<u>-</u>
Fund Balance - June 30, 2007	23,918	25,146
Transfer to Unappropriated Fund Balance	<u>-</u>	<u>-</u>
Net Amount Transferred (To) From Unappropriated Fund Balance	<u>-</u>	<u>-</u>
Fund Balance - June 30, 2008	<u>\$ 23,918</u>	<u>\$ 25,146</u>

Enterprise Automation Project	Nexus Activities	Membership Development and Relations	Total
\$ 424,766	\$ 90,000	\$ 28,855	\$ 592,685
<u>(71,250)</u>	<u>-</u>	<u>-</u>	<u>(71,250)</u>
<u>(71,250)</u>	<u>-</u>	<u>-</u>	<u>(71,250)</u>
353,516	90,000	28,855	521,435
<u>(65,721)</u>	<u>-</u>	<u>-</u>	<u>(65,721)</u>
<u>(65,721)</u>	<u>-</u>	<u>-</u>	<u>(65,721)</u>
<u>\$ 287,795</u>	<u>\$ 90,000</u>	<u>\$ 28,855</u>	<u>\$ 455,714</u>

The accompanying notes are an integral part of these statements.

MULTISTATE TAX COMMISSION
Statements of Changes in Fund Balance
Restricted Funds
For the Years Ended June 30,

	<u>4R Project</u>	<u>Nexus Program</u>	<u>Special Audit</u>	<u>Total</u>
Fund Balance - June 30, 2006	\$ 42,694	\$ 332,867	\$ 8,089	\$ 383,650
Revenue	-	904,671	-	904,671
Expenses	<u>-</u>	<u>618,850</u>	<u>-</u>	<u>618,850</u>
Excess (Deficiency) of Revenue Over Expenses	<u>-</u>	<u>285,821</u>	<u>-</u>	<u>285,821</u>
Transfer to Unappropriated Fund Balance	<u>-</u>	<u>-</u>	<u>(8,089)</u>	<u>(8,089)</u>
Fund Balance - June 30, 2007	42,694	618,688	-	661,382
Revenue	-	812,040	-	812,040
Expenses	<u>-</u>	<u>545,014</u>	<u>-</u>	<u>545,014</u>
Excess (Deficiency) of Revenue Over Expenses	-	267,026	-	267,026
Transfer to Unappropriated Fund Balance	<u>-</u>	<u>(26,975)</u>	<u>-</u>	<u>(26,975)</u>
Fund Balance - June 30, 2008	<u>\$ 42,694</u>	<u>\$ 858,739</u>	<u>\$ -</u>	<u>\$ 901,433</u>

The accompanying notes are an integral part of these statements.

MULTISTATE TAX COMMISSION
Statements of Cash Flows
For the Years Ended June 30,

	2008	2007
Increase (Decrease) in Cash and Cash Equivalents		
Cash Flows From Operating Activities		
Excess of revenue over expenses	\$ 709,218	\$ 672,211
Adjustments to reconcile excess of revenue over expenses to net cash provided by operating activities		
Depreciation and amortization	67,587	80,943
Loss on disposal of property and equipment	20,539	11,479
Changes in assets and liabilities		
Accounts receivable		
Schools	(33,736)	(5,005)
Prepaid expenses	(3,883)	(12,937)
Expense account advances	-	500
Deposits	4,218	-
Accounts payable	(25,826)	13,131
Payroll taxes withheld and accrued	1,753	1,847
Accrued salaries and vacation pay	40,325	48,325
Accrued self insurance	10,000	56,000
Deferred assessments and audit reimbursements	(429,310)	281,815
Net Cash Provided by Operating Activities	360,885	1,148,309
Cash Flows From Investing Activities		
Purchase of property and equipment	(276,558)	(85,263)
New capital lease	-	14,964
Payments on capital lease	(4,764)	(7,419)
Net Cash Used in Investing Activities	(281,322)	(77,718)
Net Increase in Cash and Cash Equivalents	79,563	1,070,591
Cash and Cash Equivalents - Beginning of Year	3,501,058	2,430,467
Cash and Cash Equivalents - End of Year	\$ 3,580,621	\$ 3,501,058
Supplemental Disclosures		
Income taxes paid	\$ -	\$ -
Interest paid	\$ 672	\$ 409

The accompanying notes are an integral part of these financial statements.

MULTISTATE TAX COMMISSION
Notes To Financial Statements
June 30, 2008 and 2007

1. Summary of Significant Accounting Policies

The Multistate Tax Commission (the Commission) was organized in 1967. It was established under the Multistate Tax Compact, which by its terms, became effective August 4, 1967. The basic objective of the 'Compact' and, accordingly, the Commission is to provide solutions and additional facilities for dealing with state taxing problems related to multi-jurisdictional business.

Cash Equivalents

For purposes of the statement of cash flows, the Commission considers all highly liquid instruments purchased with a maturity of three months or less to be cash equivalents.

Accounts Receivable

Accounts receivable are stated at the amount management expects to collect from outstanding balances. The Commission considers accounts receivable to be fully collectible; accordingly, no allowance for doubtful accounts is required. If amounts become uncollectible, they will be charged to operations when that determination is made.

Property and Equipment

All property and equipment is stated at cost and depreciated using straight-line and accelerated methods based upon estimated useful lives as follows:

Leasehold Improvements	5 years
Office Furniture and Equipment	5 to 7 years

Expenditures for maintenance and repairs are charged to the appropriate expense accounts as incurred. Expenditures for renewals or betterments which materially extend the useful lives of assets or increase their productivity are capitalized at cost. The costs and related allowances for depreciation of assets retired or otherwise disposed of are eliminated from the accounts. The resulting gains or losses are included in the determination of excess of revenue over expenses.

Deferred Assessments and Audit Reimbursements

Assessments and audit reimbursements are due from the respective states on July 1st of each year and cover the following twelve-month period. Assessments received prior to July 1st for the following year are unearned and considered deferred income until recognized as revenue in the following year.

MULTISTATE TAX COMMISSION
Notes To Financial Statements
June 30, 2008 and 2007

1. Summary of Significant Accounting Policies (Continued)

Income Taxes

In the opinion of legal counsel, the Commission is exempt from Federal income taxes as well as from other Federal taxes as an organization of a group of States or as an instrumentality of those States. Therefore, no provision has been made in the financial statements for Federal income taxes.

Capital Lease

A long-term lease transaction relating to the financing of equipment is accounted for as a capital lease. Capital lease obligations reflect the present value of future rental payments, discounted at the interest rate implicit in the lease.

A corresponding amount is capitalized and amortized over the assets estimates economic lives on a straight-line basis. The amortization is included in depreciation expense

2. Retirement Plan

Effective June 30, 1986, the Commission adopted a defined contribution plan to be funded at a rate of 12.4% of each participating individual's annual salary. To participate in this plan, employees are required to work more than certain pre-determined hourly and monthly levels throughout the plan year. The total pension expense relating to the defined contribution plan for the years ended June 30, 2008 and 2007 was \$394,703 and \$352,355, respectively.

3. Commitments

The Commission rents its office facilities in Washington, D.C , Texas, New York, and Illinois under lease agreements with terms expiring on various dates through January 31, 2014. These leases provide for the following minimum annual base rentals exclusive of utility charges and certain escalation charges:

<u>Fiscal Year Ended:</u>	<u>Minimum Annual Payment</u>
2009	\$ 329,051
2010	311,488
2011	294,557
2012	296,359
2013	310,008

MULTISTATE TAX COMMISSION
Notes To Financial Statements
June 30, 2008 and 2007

3. Commitments (Continued)

The leases include certain escalation charges based on various factors including utility, operating expense and property tax increases from a base year. Rent expense, exclusive of utility charges and real estate taxes, for the years ended June 30, 2008 and 2007 was \$345,956 and \$319,584, respectively.

4. Appropriated Fund Balances

The Commission's executive committee authorized the Enterprise Automation fund in the amount of \$73,000 during the year ended June 30, 1997. An additional \$614,298 has been authorized in subsequent years. The purpose of this fund is to provide support, through professional services, for developing enterprise-wide applications for managing the Commission information resources in a manner that enhances its operations.

The Commission's executive committee authorized the Nexus Activities fund in the amount of \$80,000 during the year ended June 30, 1997. An additional net amount of \$20,000 has been authorized in subsequent years. The purpose of this fund is to provide support for Commission nexus activities including, a) research and writing on Constitutional nexus issues and b) a reserve for professional services to support work on potential nexus cases in litigation.

The Commission's executive committee authorized the Membership Development and Relations fund in the amount of \$150,000 during the year ended June 30, 2000. The purpose of this fund is to support efforts aimed at increasing membership.

The Commission's executive committee authorized the State Tax Compliance fund in the amount of \$23,918 during the year ended June 30, 2004. The purpose of this fund is to support the implementation of the recommendations of the Commission's State Tax Compliance Initiative and the measures to improve state tax compliance by multi state taxpayers as approved by the Executive Committee or Commission.

The Commission's executive committee authorized the Federalism at Risk fund in the amount of \$120,000 during the year ended June 30, 2002. The purpose of this fund is to provide support for an inquiry to assess the status of state and local tax systems. This inquiry culminated in a written report published in 2003.

5. Restricted Fund Balances

During the year ended June 30, 1988, the 4R Program was established whereby contributions received are restricted to use for supporting education, lobbying and legal expenses related to this property tax project. The purpose of the project is to provide for research activities as well as to seek favorable changes in Federal laws which are related to property tax restrictions of state and local governments.

MULTISTATE TAX COMMISSION
Notes To Financial Statements
June 30, 2008 and 2007

5. Restricted Fund Balances (continued)

During the year ended June 30, 1991, the National Nexus program was established. This program, funded by participating states, aims to encourage and secure taxpayer compliance with current state laws, a liability resolution process, and information sharing among member states. The contributions received from the participating states are restricted for this purpose.

6. TaxNet Governmental Communications Corporation (TaxNet)

TaxNet is a separate corporation organized as a public charity and instrumentality of the states for the purpose of establishing, maintaining and administering an electronic communications network to allow subscriber access to tax information and communication with governmental tax offices. The corporation is managed by a board of directors, which includes, in accordance with its bylaws, the Chair, Vice Chair and Executive Director of Multistate Tax Commission.

Among other things, the Commission assisted in the formation of TaxNet by contributing legal services. The Commission continues to assist TaxNet by contributing other legal services. Such services have not been reflected separately in the accompanying financial statements, because such amounts are not material.

7. Deferred Compensation Plan

The Commission offers employees a deferred compensation plan in accordance with Internal Revenue Code Section 457. The plan permits employees to defer a portion of their salary until future years. Participation in the plan is optional. The deferred compensation is not available to employees until termination, retirement, death or unforeseeable emergency. In accordance with federal law, participants' deferred compensation under the plan is trustee and thus shielded against the claims of the creditors of the Commission and therefore, not included in these financial statements.

The Commission believes it has no liability for losses under the plan but does have a duty of due care that would be required of an ordinary prudent investor.

Investments are managed by the plan's trustee under forty six investment options or a combination thereof. The participants make the choice of the investment option(s).

8. Allocation of Administrative Expenses

The administrative costs of providing the various programs and other activities have been allocated among the programs and supporting services, based on total operating costs.

MULTISTATE TAX COMMISSION
Notes To Financial Statements
June 30, 2008 and 2007

9. Use of Estimates

In preparing financial statements in conformity with generally accepted accounting principles, management is required to make estimates and assumptions that affect the reported amounts of assets and liabilities, the reported amounts of revenues and expenses during the reporting period, and disclosures. Actual results could differ from those estimates.

10. Concentration of Credit Risk

The Commission maintains cash balances in one bank. Accounts are insured by the Federal Deposit Insurance Corporation (FDIC) up to \$100,000. The Commission has a collateral agreement with the bank to cover amounts uninsured by FDIC. At June 30, 2008 and 2007, there were no uninsured cash balances. The Commission has not experienced any losses in such accounts and believes it is not exposed to any significant credit risk on cash and cash equivalents.

11. Capital Lease

The Commission acquired certain equipment under the provisions of a long-term lease.

Future minimum lease payments under the capital lease are as follows:

<u>Year Ended</u>	
2009	\$5,036
2010	4,416

12. Self Insurance

During the fiscal year ended June 30, 2007, the Commission modified its employee health insurance coverage to adopt a self insurance element. The terminal cost represents an estimate of the Commission's liability for claims during the terminal protection period. As of June 30, 2008 and 2007 the estimated terminal cost accrued is \$66,000 and \$56,000, respectively. Effective September 1, 2008 the Commission opted out of the self insurance plan.

SUPPLEMENTARY INFORMATION

**Report of Independent Certified Public Accountants
on Supplementary Information**

Executive Committee
Multistate Tax Commission

Our audit was conducted for the purpose of forming an opinion on the basic financial statements of Multistate Tax Commission for the year ended June 30, 2008. We conducted our audit in accordance with auditing standards generally accepted in the United States of America for the purpose of forming an opinion on the basic financial statements taken as a whole. The schedule of expenses for the year ended June 30, 2008, is presented for purposes of additional analysis and is not a required part of the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

Linton Shafer Warfield & Barnett

October 28, 2008

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MULTISTATE TAX COMMISSION
Schedule of Expenses
For the Year Ended
June 30, 2008

Unappropriated and Appropriated Funds

	General Expenses	Audit Program	Administrative Expenses	Enterprise Automation
Accounting	\$ 10,000	\$ -	\$ 6,024	\$ -
Bonds and insurance	-	-	20,791	-
Conferences and training schools	97,857	8,702	542	-
Depreciation and amortization	-	18,490	47,675	-
Employee benefits	113,525	393,118	129,055	-
Miscellaneous	1,805	2,572	8,600	-
Consumable supplies	10,191	15,559	24,818	-
Postage	3,315	16,168	5,663	-
Printing and duplicating	3,198	2,757	7,917	-
Professional services	113,828	-	23,492	15,000
Publications and electronic resources	3,698	12,589	21,895	-
Recruitment	-	4,576	752	-
Rent	48,485	91,177	136,839	-
Repairs and maintenance	2,079	2,380	7,544	-
Retirement plan	80,508	208,257	65,662	-
Salaries	669,606	1,695,749	534,097	-
Software licenses	-	1,235	22,348	-
Staff training	1,732	8,390	3,938	-
Subscriptions, publications, dues	15,545	13,749	4,447	-
Telephone	12,645	22,716	10,792	-
Temporary help	-	-	-	-
Travel	81,636	189,847	27,200	-
Allocation of administrative expenses	320,826	679,614	(1,110,091)	-
Total Expenses	\$ 1,590,479	\$ 3,387,645	\$ -	\$ 15,000

Training and Education	Restricted Funds			
	Total Unappropriated and Appropriated Funds	National Nexus Program	Total Restricted Funds	Total All Funds
\$ -	\$ 16,024	\$ -	\$ -	\$ 16,024
-	20,791	-	-	20,791
14,492	121,593	9,516	9,516	131,109
-	66,165	1,422	1,422	67,587
24,739	660,437	57,677	57,677	718,114
2,014	14,991	124	124	15,115
2,044	52,612	3,398	3,398	56,010
2,079	27,225	5,927	5,927	33,152
12,464	26,336	182	182	26,518
2,880	155,200	100	100	155,300
136	38,318	100	100	38,418
-	5,328	3,200	3,200	8,528
4,408	280,909	65,047	65,047	345,956
-	12,003	2,601	2,601	14,604
12,945	367,372	27,331	27,331	394,703
105,282	3,004,734	224,983	224,983	3,229,717
-	23,583	-	-	23,583
448	14,508	1,295	1,295	15,803
1,143	34,884	2,665	2,665	37,549
1,923	48,076	2,743	2,743	50,819
-	-	16,307	16,307	16,307
17,144	315,827	10,745	10,745	326,572
-	(109,651)	109,651	109,651	-
<u>\$ 204,141</u>	<u>\$ 5,197,265</u>	<u>\$ 545,014</u>	<u>\$ 545,014</u>	<u>\$ 5,742,279</u>