Thirteenth Annual Report

Multistate Tax Commission

Fiscal Year 1979-1980
For the fiscal year of July 1, 1979-June 30, 1980
To the Honorable Governors and State Legislators of Member States of the Multistate Tax Commission.

The purpose of the Multistate Tax Commission is to bring even further uniformity and compatibility to the tax laws of the various states of this nation and their political subdivisions insofar as those laws affect multistate business, to give both business and the states a single place to which to take their tax problems, to study and make recommendations on a continuing basis with respect to all taxes affecting multistate businesses, to promote the adoption of statutes and rules establishing uniformity, and to assist in protecting the fiscal and political integrity of the states from federal confiscation.

I respectfully submit to you the thirteenth annual report of the Multistate Tax Commission. This report covers the Commission activities for the fiscal year beginning July 1, 1979 and ending June 30, 1980. It includes a report on receipts, expenditures and operations for that period from Rhode, Scripter & Associates, Certified Public Accountants in Boulder.

Respectfully submitted,

Eugene F. Corrigan
Executive Director
Contents

Executive Director's Report ................................................ 2
Staff Members ........................................................................ 11
Officers and Executive Committee Members .......................... 12
Tax Administrators
    —Member States ............................................................ 13
    —Associate Member States .............................................. 15
    —Non-Member States ..................................................... 16
Appendix A
    —Report of Certified Public Accountants ............................. 18
    —Exhibit A — Balance Sheet ........................................... 20
    —Exhibit B — Statement of Changes in Fund Balance ........... 21
    —Exhibit C — Statement of Revenue & Incurred Expenses .... 22
    —Exhibit D — Statement of Changes in Financial Position .... 23
    —Notes to Financial Statements ....................................... 24
Selected Bibliography .......................................................... 27

Annual Meeting Snapshots courtesy of Jerry Alba, Prentice-Hall, Inc.
Executive Director's Report

Introduction

This report will be a short one, written in early November, whereas the previous one was written in June of this year. It will be in the nature of an addendum to the latter.

The major occurrences since June have been 1) a significant and extremely well attended annual meeting of the Commission and 2) some additions to the parade of court decisions which support MTC positions.

Annual Meeting

A major portion of the annual meeting program provided an in-depth examination of state corporate income tax complexities and problems. It served to provoke further bipartisan discussions throughout the meeting. The catalysts for the program and discussions were the U.S. Supreme Court's Mobil and Exxon decisions, which were discussed in the Twelfth Annual Report.

Keesling

Frank Keesling led off the program with an analysis of the Mobil decision. He concluded that the Mobil decision supports the contention that whether or not dividends should be apportioned among the states in which the receiving corporation does business depends upon whether the issuing corporation is engaged in a unitary business with the receiving corporation. Under this interpretation, dividends between such unitary corporations would be subject to
apportionment in only two situations:

1) where a state does not allow the use of combined reporting at all; or

2) where the state does allow or require combined reporting, where applicable, but the receiving corporation is precluded from filing a combined report because it owns an insufficient amount of the stock of the issuing corporation ("more than 50%" is usually required). In all other instances, such dividends would be eliminated in the combined report as interaffiliate transactions. Mr. Keesling would assign all other dividends to the commercial domicile.

Dexter Position

Bill Dexter, on the other hand, would look to the reason for the making of a corporate investment in the stock of another corporation. If the investment was made to further the business purposes of the investing corporation, then the dividends would be considered by him to be a part of that corporation's apportionable unitary business income. This is true, in his opinion, regardless of whether a state does or does not allow or require full apportionment and regardless of whether or not it allows or requires combined reporting or recognizes the unitary business concept. The true significance of both Mobil and Exxon, he believes, lies in their re-stating the Supreme Court's historic support for this position.

Mobil Comments

Forrest Smith, Mobil's tax counsel, reached the following conclusions concerning the Mobil case:

1) It laid aside commerce clause primacy vis-a-vis interstate taxation and the unitary concept.

2) It demonstrated that the risk of multiple taxation is a bad basis for argument. The taxpayer must prove actual multiple taxation before he can hope to get a favorable decision.

3) It probably established an almost non-rebuttable presumption that a multinational corporate business is unitary.

4) It does not stand for the position that worldwide combination is legal.
7) The best place to attack the effect of full apportionment of dividends is in the makeup of the formula.

Panel Discussion

Extensive discussion followed concerning how corporations could best cope with interstate taxes after Mobil and Exxon. Led by Attorney Pat DiQuinzio, several corporate representatives seemed to agree that unitary apportionment is a fact of life on the domestic basis; but they drew the line at worldwide unitary apportionment. They seemed to think that, if dividends from overseas are to be included in the apportionable base, the formula should be adjusted somehow. The tax administrators generally take the position that the formula of the receiving corporation should not be affected by the source of the income to which the formula is to be applied.

Program Participation

The extensive program included presentations on Welfare Fraud, Taxing Bank Income, Airline Taxation, Severance Taxation, Protecting the Sales and Use Tax Base, Developing an Audit Program, Secondary School Education in Taxes and the Multistate Tax Compact, its importance and its future. The presentations were made by the State Administrators of Illinois, Indiana, New Jersey, Rhode Island and Wisconsin, by the Executive Director of the Western Governors’ Policy Office, by a Washington State legislator, by representatives of the Air Transport Association of America and the Internal Revenue Service and by representatives of Mobil Oil Co., Shell Oil Co., R.J. Reynolds Co. and Coopers and Lybrand. Transcriptions of several of the presentations are available upon request.

The luncheon speaker was Geoffrey Harley, a Doctoral Candidate at the University of Michigan Law School. His speech was a distillation of the findings and conclusions in his thesis on the subject of The Taxation of Worldwide Income. He concluded that the practice of worldwide combined reporting should be utilized not only in this country but throughout the world.

Toward Consensus

MTC Chief Counsel Bill Dexter closed the program with a plea for greater efforts between the business community and state personnel to achieve workable and satisfactory solutions to interstate tax problems. The key to such an achievement, he said, was acceptance by business of the fact of unitary apportionment as an existing and required concept; and by the states of the fact that the current variety in state income tax laws, rules and procedures cannot truly be justified either to business representatives or to students of good government. He recommended a new effort to produce more equity and uniformity in the field.

Some 200 people attended the meeting, including tax administration personnel from 30 states, tax representatives from innumerable corporations nationwide, and legislators from several states. Many left the meeting with the feeling that a new attitude of constructive conciliation had been created and that from it might well develop in the long run a consensus on how states should tax interstate business. It is important to all that the MTC do its part to preserve that atmosphere and to help to develop and to maintain momentum toward such a consensus.
For the purpose of stimulating dialogue and searching for such a consensus, the Executive Director authored an article which appeared in Tax Notes on September 15.

The General Accounting Office report, discussed in the Twelfth Annual Report, is now expected to be issued in about March of 1981. It is hoped that that document will also help to lead in the direction of consensus.

**Commission Action**

In its business session, the Commission:

1) Elected Gerald Goldberg, Chairman; Ken Cory, Vice-Chairman; Jenkin Palmer, Treasurer; and Bob Bullock, Robyn Godwin, Michael Lennen, and Fred Muniz, Executive Committee members. Mr. Goldberg, who was the Missouri Director of Revenue at the time, became the Executive Officer of the California Franchise Tax Board on September 1 and so resigned as Chairman effective August 31. Vice-Chairman Cory thereupon became Chairman. Because of a change in the law of California, however, the California representative will change from the State Controller, Mr. Cory, to the FTB Indiana's Don Clark

Executive Officer, Mr. Goldberg, on January 1, 1981. Mr. Goldberg is expected to resume his chairmanship of the Commission on that date.

2) Adopted a resolution opposing federal bills S.983 (Mathias), S.1668 (Mathias) and H.R.5076 (Conable) as improperly detrimental to effective state tax administration.

3) Adopted a resolution opposing any federal legislation which would restrict or limit the states' right to enact severance or other mineral extraction taxes.

4) Adopted a contractor regulation concerning the attribution of multistate income of construction contractors for state income tax purposes. Adoption constitutes a recommendation to member states that they adopt the regulation in applying their income taxes to construction contractors engaged in multistate business.

5) Adopted a resolution specifying that the MTC's interpretation of paragraph 1 of Article V is that the credit Washington's State Representative, Helen Sommers
referred to therein against use tax liability for legally imposed sales or use taxes previously paid shall be allowed for tax paid to the state wherein the liability, not the payment, first occurs.

6) Adopted a resolution to establish a property tax committee the purpose of which would be to further uniformity and consistency in the valuation and assessment of the property of centrally assessed multistate taxpayers, e.g., public utilities.

Copies of the resolutions and pertinent materials, including the contractor regulation, are available upon request.

Audit Program

The Commission continues to develop its joint audit program. Under it, Commission auditors perform audits on interstate corporations on behalf of several states at the same time.

Difficulties

Given full uniformity, there would be no reason why one income tax audit performed in this way on a corporate taxpayer should not suffice for all states. The fact is, however, that the diversity referred to above still poses great difficulties for such an audit program. Increased uniformity is a must if the program is ever to achieve its tremendous potential.

Toward Internal Uniformity

Many state tax administrators and corporate tax personnel defend such diversity in the workings of state income tax statutes and procedures. They base their contention on the idea that the states should be allowed to utilize varying tax systems to attract and to keep business as well as to fund state needs.

Few people argue with that idea. But there appears to be a growing realization that the idea does not provide a sound base for the great variety in the internal workings of a tax on corporate net income. It is one thing to provide alternative approaches to a tax system from state to state. It is quite another

WESTPO’s Phil Burgess discusses the pending federal severance tax legislation to make the working of the system so difficult that the system itself loses respect and becomes the subject of attack from all sides.

Corporate Response

Such lack of respect seems to be amply demonstrated by the continuing efforts of a handful of corporations to deny to the MTC auditors access to factual information which is necessary to the successful and accurate determination of tax liability to the various states.

In most instances, corporations do provide MTC auditors with full information and then turn to the normal protest and appeal procedures at the state level for resolution of any disputes concerning the auditors’ conclusions. This is the correct manner in which to handle such matters, in our opinion.

Litigation

Meanwhile, in litigation which affects directly or indirectly the efforts of the
Commission, the following recent developments are of interest:

1) MTC v. International Harvester, Case 78-3746, Circuit Court of Appeals for the Ninth Circuit

International Harvester filed its appeal from a 1978 federal district court order to the Ninth Circuit Court of Appeals in San Francisco. The hearing on the appeal took place on September 11. A decision is pending. Harvester's main contention seems to be that subpoenas issued by several states in 1972 requiring Harvester to submit books and records for an MTC audit constitute harassment in connection with any current attempt to perform that same audit. Harvester also contends that a by-law concerning voting invalidates the Compact.

2) MTC v. U.S. Steel Corp., U.S. District Ct. for Idaho, #10760182

At a hearing on August 26, the Boise Federal Court ordered U.S. Steel to make certain committee minutes available to MTC auditors and to make appropriate personnel available for interviews. A September 5 letter from U.S. Steel's attorney stated that the auditors would be allowed to examine only excerpted minutes. As a result of another hearing on October 16, the Court issued a more definitive order holding, in part, that:

a. The MTC is entitled to conduct an audit of U.S. Steel on a worldwide unitary basis.

b. The MTC has a right of access to information of U.S. Steel and all of its domestic and worldwide subsidiaries which may lead to the discovery of relevant information or may be relevant to the income tax liability of U.S. Steel to the states on whose behalf the MTC is conducting the audit.

c. The MTC may examine such books and records and personnel as may be relevant to the audit, including minutes of U.S. Steel's executive and finance committees and the "51-state breakdown" of factors.

d. After the MTC has established the general areas of inquiry on which its auditors desire to interview personnel of U.S. Steel's tax department, U.S. Steel is to designate which of its personnel have the information necessary to respond, whereupon the interviews are to proceed. The Court also allowed interviews of other corporate personnel.

e. U.S. Steel is to execute and deliver to the MTC waivers for an additional 60 days, i.e. December 31, 1980.

U.S. Steel has filed a Claim for Appeal to the Ninth Circuit Court of Appeals in San Francisco. It has also obtained a stay of the October 16 order pending the appeal. The stay is conditioned upon the taxpayer's waiving of all statutes of limitation during the pendency of the appeal. The MTC is appealing the stay order and is cross appealing certain limitations contained in the October 16 order.

3) Joslin Dry Goods Co. v. Colorado
The sole issue was whether the Department of Revenue could require the taxpayer to file a combined report in light of the following statutory language, it being "undisputed fact that Joslin is part of a unitary business":

"In case of two or more corporations, whether domestic or foreign, owned or controlled directly or indirectly by the same interests, the executive director may distribute or allocate the gross income and deductions between or among such corporations or may require returns on a consolidated basis, if deemed necessary, in order to prevent evasion of taxes and to clearly reflect income."

Joslin argued that a prerequisite to the requiring of a combined report was a showing that such action was necessary "in order to prevent evasion of taxes."

The Court said that a "combined report is distinct from the 'consolidated return' referred to in the statute" and that "the power of the taxing authority to require a combined report is independent of the power to require a consolidated return." Therefore, it held that "the department need not show that a Colorado corporation, such as Joslin, which is a part of a unitary business, is attempting to evade taxes in order to require that that corporation submit a combined report."

The Court quoted with approval the following language from the Appellate Court decision in Caterpillar Tractor Co. v. Lenckos, 77 Ill. App. 3d 90 (1979), a case in which a decision by the Illinois Supreme Court is now pending:

The major advantage of the unitary method is that, with regard to the taxation of a parent company and its various subsidiaries, there is no elevation of form over substance. Without the unitary method there would be a different tax application for an integrated business which is run as a number of separate corporations rather than a single multistate corporation. (See Coca-Cola Co. v. Department of Revenue, (Or. 1975), 533 P.2d 788). Since the whole point of the income tax act is to ascertain that portion of the business which is done within the state, there is no reason to find different results based simply on the formal structure of the business."

Cooper's & Lybrand's Lloyd Looman, key speaker Frank Keesling and Wisconsin Assistant Attorney General Gerald Wilcox

4) Firestone Tire & Rubber Co. v California FTB, Los Angeles Superior Court Cases C31243 & C193836

In April, a Los Angeles Superior Court ruled on factual questions at issue in a case (C31243) filed by Firestone to contest the manner in which the unitary business concept had been applied to it and its subsidiaries by the California Franchise Tax Board. The years in question were November 1, 1959 - October 31, 1963. The relationships of 22 foreign subsidiaries were involved. The Court ruled that 13 were non-unitary but that the remaining 9 were unitary with the parent.

The Court held that there was no legal reason for precluding:

a. the application of the unitary principle to foreign subsidiaries; and
b. the application of the normal three-factor formula to the unitary business in determining income attributable to California.

During the pendancy of C31243, California sought to audit for subsequent years. When Firestone resisted, the Franchise Tax Board filed case C193836 in the Los Angeles Superior Court. That case eventually reached the California Court of Appeal which ruled that the FTB was entitled to injunctive relief preventing Firestone from interfering with the performance of the audit. On remand, the FTB filed a Supplemental Petition asking for an injunction preventing Firestone from interfering with the performance of the audit, including photocopying of pertinent materials, access to corporate minutes and committee minutes and access to key personnel. The Court indicated that it would grant the petition on September 12 but the preliminary injunction order has not yet been entered.

C31243 is being appealed by both parties.

5) Dubuque Packing Company, Appeal No. 79-CV-1176, Div. 6, Shawnee County District Court, Kansas

In August, the Court ruled that by application of the unitary principle, that dividends from affiliated corporations (primarily DISC’s) and interest from Certificates of Deposit and from loans to subsidiaries and employees constitute apportionable business income. The taxpayer is appealing the decision.

6) MTC v. Merck, Oregon Sup. Ct. No. SC26499

On October 7, the Oregon Supreme Court affirmed a decision by the Oregon Tax Court. It required Merck to produce, for examination by MTC auditors, various books and records, including corporate minutes, and to allow MTC interviews of corporate officers in order to make available information which the MTC testified was "relevant and necessary to an audit using the worldwide unitary approach." Merck does not intend to appeal.


This case was remanded by the U.S. Supreme Court to the Idaho Supreme Court earlier this year for reconsideration of the latter's decision in that case (99 Idaho 924) in light of the Mobil decision. ASARCO recently filed a brief with the Idaho court; the Idaho State Tax Commission will shortly file its reply brief. The MTC, joined by several states, will also file a brief. No date has been set for argument.

Missouri’s Prof. Walter Johnson advocates protecting the sales tax base while Colorado’s Prof. Reuben Zubrow prepares to comment and Gene Corrigan listens.

MTC Chief Counsel Dexter
8) Caterpillar Tractor Co. and Towmotor Corporation v. Oregon Department of Revenue, No. 1233, SC 26786.

The Oregon Supreme Court decided this case on October 21, differentiating between a consolidated return and a combined report. The taxpayer admitted that the corporations were engaged in a unitary business subject to combined reporting but argued that the statute required the Department to allow such a taxpayer to file a consolidated return. The court disagreed. Result: each of the unitary corporations doing business in the state must file its own return and must compute its taxable income by the combined reporting method.


In this case, several Missouri subsidiaries owned and rented barges, a towboat and steel-tank trucks to their Missouri parent and another Missouri subsidiary. The lessees operated the vehicles in the interstate transportation of goods. The lessors sought to attribute a large part of their income to other states to whose taxing jurisdiction they did not submit but to which they

Ginger Hudson and Connie Fuerst, MTC Staff

maintained that such income should be "sourced."

The Missouri Supreme Court noted that "The advent of the (Multistate Tax) Compact has simplified the process of determining the entitlement to apportionment taxes by changing the focus of the inquiry from a search for the 'source' of income to a simple showing of jurisdictional 'tax liability' in another state." The Court saw this as a welcome relief from the "tortured process" of discerning the "source" of income.

In 1974, the Missouri statute had been amended to read: "The provisions of this Compact shall apply to any tax levied by the state of Missouri or its political subdivisions." The Court said that, "With this legislative declaration in mind, we conclude that although taxpayers still are given an option on the method of allocation they may use, all other questions reference apportionment of income are to be resolved by reference to the Compact."

"We find no evidence before us that appellants transacted business outside the state," the Court said. Testimony by a corporate officer admitted that none of the corporations, either lessor or lessee, paid any state income tax to any other state "in relation to the business transactions involved here . . . . "Thus," the Court said, "we assume no other state has jurisdiction to subject the taxpayer[s] to a net income tax." The Court did remand the case for a determination as to whether its assumption was valid.

But, the Court noted, "From the record before this Court, we can only assume that the remaining income of these corporations went untaxed by any state. While duplicative taxation is to be spurned, so too is the solution appellants urge upon this Court that would permit an avoidance of taxation by any state."

In so saying, the Court gave strong support to the Full Accountability concept which the Multistate Tax Commission advocates.
Staff Members

Executive Director

Eugene F. Corrigan became the Commission's first staff member in 1969, after resigning his position as chief counsel of the Illinois Department of Revenue's Chicago office. His prior experience included three years as a Sears, Roebuck tax attorney and ten years with the Illinois Department of Revenue. During the mid-sixties, he was also a partner in the Chicago law firm of Stradford, Lafontant, Fisher & Corrigan. He is a graduate of Princeton University and of John Marshall Law School of Chicago. He offices at the Commission's headquarters in Boulder, Colorado.

Chief Counsel

William D. Dexter was an assistant attorney general in Michigan's Treasury Department and in Washington's Revenue Department before becoming the Multistate Tax Commission's Chief Counsel in 1975. His first MTC assignment was to expedite the then languishing case of U.S. Steel, et al. v. Multistate Tax Commission, et al. He pursued that case to early fruition in the U.S. Supreme Court. Meanwhile, he won the Hertz case in the Washington Supreme Court. He has participated in innumerable other cases on behalf of the Commission and states. He has been of counsel to numerous state legal staffs in regard to a variety of state and local tax matters.

Midwest Regional Audit Manager

Eugene Dowd has been with the Commission for over six years. His prior experience includes thirteen years with the California Franchise Tax Board, in Chicago, performing and supervising income tax audits of large multinational corporations. Previously, he had served as the staff internal auditor of the Armour Research Foundation.

Acting National Audit Manager/ Eastern Regional Audit Manager

Morton Kotkin was appointed Eastern Regional Manager effective November 14, 1978. Prior to this appointment, he served with the Commission as a Senior Auditor for four years. Before joining the MTC in 1974, he had been an auditor and field audit supervisor with the New York office of the California State Board of Equalization for 12 years. He has been serving as the Commission's Acting National Audit Manager since July 1, 1980. A native of Brooklyn, New York, he graduated from New York University in 1961 with a Bachelor of Science Degree in Accounting.

Mort Kotkin, MTC Eastern Regional Manager
Multistate Tax Commission Officers *

Gerald Goldberg
Chairman
July 10-August 31, 1980
January 1, 1981-

Ken Cory
Chairman
September 1-December 31, 1980
Vice Chairman, July 10-August 31, 1980

Jenkin L. Palmer
Treasurer

Executive Committee Members

Bob Bullock
Robyn Godwin
Michael Lennen
Fred Muniz

Ex Officio Member
of Executive Committee
Former Commission Chairman

Alan N. Charnes
Byron L. Dorgan

*The three officers are also members of the Executive Committee. Terms of the above officers and committee members end at annual meeting in 1981 except where otherwise indicated.
Multistate Tax Commission

Representatives of Party States of the Multistate Tax Compact

11/1/80

Alaska

Member
Tom Williams
Commissioner of Revenue
Department of Revenue
Pouch S
Juneau, Alaska 99811
(907) 465-2302

Alternate
Joseph T. Donahue
Deputy Commissioner
Department of Revenue
Pouch S
Juneau, Alaska 99811
(907) 465-2302

Arkansas

Member
William D. Gaddy
Director, Arkansas Department of
Finance and Administration
P.O. Box 3278
Little Rock, Arkansas 72203
(501) 371-2242

Alternate
Glen Mourot
Administrator
Office of Tax Administration
Arkansas Department of
Finance and Administration
P.O. Box 1272
Little Rock, Arkansas 72203
(501) 371-1626

Colorado

Member
Alan N. Charnes**
Executive Director
Colorado Dept. of Revenue
1375 Sherman Street
Denver, Colorado 80261
(303) 839-3091

Alternate
Douglas D. Bell
Executive Secretary
Board of Equalization
P.O. Box 1799
Sacramento, California 95808
(916) 445-3956

Member
Kenneth Cory*
State Controller
Chairman, Franchise Tax Board
P.O. Box 1468
Sacramento, California 95807
(916) 445-2636

Alternate
Gerald Goldberg
Executive Officer
Franchise Tax Board
1001 G Street, Suite 302
Sacramento, California 95814
(916) 445-0408

*Chairman of the Board of Equalization represents California in MTC fiscal years beginning in odd-numbered calendar years, and the Chairman of the Franchise Tax Board represents California in MTC fiscal years beginning in even-numbered calendar years. Effective January 1, 1981, however, California's representation will alternate between the BOE Executive Secretary and the FTB Executive Officer for periods which will coincide with MTC fiscal years.

**MTC Chairman 1979-80

Idaho

Member
Jenkin L. Palmer
Commissioner
Department of Revenue and
Taxation
Idaho State Tax Commission
P.O. Box 36
Boise, Idaho 83722
(208) 334-4635

Alternate
Larry G. Looney
Commissioner
Department of Revenue and
Taxation
Idaho State Tax Commission
P.O. Box 36
Boise, Idaho 83707
(208) 334-4634

Alternate
Frank Beckwith
Chief of Taxation
Colorado Department of
Revenue
1375 Sherman Street
Denver, Colorado 80261
(303) 839-3048

Hawaii

Member
George Freitas
Director of Taxation
Hawaii Department of Taxation
P.O. Box 259
Honolulu, Hawaii 96809
(808) 548-7650

Alternate
Wallace Aoki
Deputy Director
Department of Taxation
P.O. Box 259
Honolulu, Hawaii 96809
(808) 548-7562

California

Member
Richard Nevins
Chairman
California State Board of
Equalization
P.O. Box 1799
Sacramento, California 95808
(916) 445-3956
Kansas
Member
Michael Lennm
Secretary of Revenue
Kansas Department of Revenue
State Office Building
Topeka, Kansas 66625
(913) 296-3041

Nebraska
Member
Fred Herrington
State Tax Commissioner
P.O. Box 94818
Lincoln, Nebraska 68509
(402) 471-2971
Alternate
John L. Decker
Deputy State Tax Commissioner
P.O. Box 94818
Lincoln, Nebraska 68509
(402) 471-2971

Michigan
Member
Loren Monroe
State Treasurer
Department of Treasury
Treasuary Building
Lansing, Michigan 48922
(517) 373-3223
Alternate
Sydney Goodman
Commissioner of Revenue
Department of Treasury
Revenue Division
Treasuary Building
Lansing, Michigan 48922
(517) 373-3193

Missouri
Member
Robert Langley
Director of Revenue
Department of Revenue
P.O. Box 311
Jefferson City, Missouri 65101
(314) 751-4450
Alternate
Jay Hartley
Division of Taxation & Collection
Department of Revenue
P.O. Box 629
Jefferson City, Missouri 65101
(314) 751-3608

Montana
Member
Mary L. Craig
Director of Revenue
Montana Department of Revenue
Mitchell Building
Helena, Montana 59601
(406) 449-2460
Alternate
John Clark
Deputy Director of Revenue
Montana Department of Revenue
Mitchell Building
Helena, Montana 59601
(406) 449-2460

North Dakota
Member
Byron L. Dorgan
Tax Commissioner
North Dakota State Tax Department
Bismarck, North Dakota 58505
(701) 224-2770

Oregon
Member
Robyn Godwin
Director
Department of Revenue
204 State Office Building
Salem, Oregon 97310
(503) 378-3363
Alternate
George Weber
Administrator
Audit Division
Department of Revenue
State Capitol
Salem Oregon 97310
(503) 378-3747

South Dakota
Member
R. Van Johnson
Secretary of Revenue
Capitol Lake Plaza
Pierre, South Dakota 57501
(605) 773-3311
Alternate
Orville Dixon
Audit Director
Department of Revenue
Capitol Lake Plaza Building
Pierre, South Dakota 57501
(605) 773-3311
Tax Administrators
Associate Member States
11/1/80

The Commission has made provision for associate membership by Section 13 of its bylaws, as follows:

13. Associate Membership

(a) Associate membership in the Compact may be granted, by a majority vote of the Commission members, to those States which have not effectively enacted the Compact but which have, through legislative enactment, made effective adoption of the Compact dependent upon a subsequent condition or have, through their Governor or through a statutorily established State agency, requested associate membership.

(b) Representatives of such associate members shall not be entitled to vote or to hold a Commission office, but shall otherwise have all the rights of Commission members.

Associate membership is extended especially for states that wish to assist or participate in the discussions and activities of the Commission, even though they have not yet enacted the Compact. This serves two important purposes: (1) it permits and encourages states that feel they lack knowledge about the Commission to become familiar with it through meeting with the members, and (2) it gives the Commission an opportunity to seek the active participation and additional influence of states which are eager to assist in a joint effort in the field of taxation while they consider or work for enactment of the Compact to become full members.
Maryland
Louis L. Goldstein
Comptroller of the Treasury
State Treasury Building
P.O. Box 466
Annapolis, Maryland 21404
(301) 269-3801

Ohio
Edgar L. Lindley
Tax Commissioner
Department of Taxation
P.O. Box 530
Columbus, Ohio 43216
(614) 466-2166

Massachusetts
L. Joyce Hampers
Commissioner
Department of Revenue
100 Cambridge Street
Boston, Massachusetts 02202
(617) 727-4201

Pennsylvania
Howard A. Cohen
Secretary of Revenue
Department of Revenue
207 Finance Building
Harrisburg, Pennsylvania 17127
(717) 783-3680

Minnesota
Clyde E. Allen, Jr.
Commissioner of the Revenue
Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145
(612) 296-3401

Tennessee
Martha Olsen
Commissioner
Department of Revenue
Andrew Jackson State Office Building
Nashville, Tennessee 37242
(615) 741-2461

New Jersey
Sidney Glaser
Director
Division of Taxation
Department of Treasury
West State & Willow Streets
Trenton, New Jersey 08625
(609) 292-5185

West Virginia
David C. Hardesty, Jr.
State Tax Commissioner
State Tax Department
Charleston, West Virginia 25305
(304) 348-2501

Tax Administrators
Non-member States
11/1/80

Connecticut
Oreste Dubno
Commissioner
Tax Department
92 Farmington Avenue
Hartford, Connecticut 06115
(203) 566-7120

Delaware
Robert Chastant
Director of Revenue
Department of Finance
Wilmington State Office Bldg.
9th & French Streets
Wilmington, Delaware 19899
(302) 571-3315

District of Columbia
Carolyn Smith
Director of Finance & Revenue
District of Columbia
Room 4136 Municipal Center
300 Indiana Avenue, N.W.
Washington, D.C. 20001
(202) 727-6020

Florida
Randy Miller
Executive Director
Florida Department of Revenue
102 Carlton Building
Tallahassee, Florida 32304
(904) 488-5050
Illinois
Thomas Johnson
Director
Illinois Department of Revenue
P.O. Box 3681
Springfield, Illinois 62708
(217) 782-6330

Indiana
Donald H. Clark
Commissioner of Revenue
Indiana Department of Revenue
202 State Office Building
Indianapolis, Indiana 46204
(317) 232-2101

Iowa
Gerald D. Bair
Director
Iowa Department of Revenue
Lucas State Office Building
Des Moines, Iowa 50319
(515) 281-3204

Kentucky
Robert H. Allphin
Commissioner
Department of Revenue
State Office Building
Frankfort, Kentucky 50401
(502) 564-3226

Maine
Raymond L. Halperin
State Tax Assessor
Bureau of Taxation
State Office Building
Augusta, Maine 04333
(207) 289-2076

Mississippi
A.C. Lambert
Chairman
Tax Commission
Woolfolk State Office Building
Jackson, Mississippi 39205
(601) 354-6255

New Hampshire
Lloyd M. Price
Commissioner
Department of Revenue
Administration
19 Pillsbury Street
Concord, New Hampshire 03301
(603) 271-2191

New York
James H. Tully, Jr.
Commissioner
New York State Department of Taxation and Finance
Albany, New York 12227
(518) 457-2244

North Carolina
Mark Lynch
Secretary of Revenue
Department of Revenue
P.O. Box 25000
Raleigh, North Carolina 27640
(919) 733-7211

Oklahoma
James E. Walker
Chairman
State Tax Commission
The M.C. Connors Building
2501 N. Lincoln
Oklahoma City, Oklahoma 73194
(405) 521-3115

Rhode Island
John H. Norberg
Tax Administrator
Division of Taxation
Department of Administration
289 Promenade Street
Providence, Rhode Island 02908
(401) 277-3650

South Carolina
Robert C. Wasson
Chairman
Tax Commission
Box 125
Columbia, South Carolina 29214
(803) 758-2691

Vermont
Harriet King
Commissioner of Taxes
Department of Taxes
Pavilion Office Building
Montpelier, Vermont 05602
(802) 828-2505

Virginia
William H. Forst
State Tax Commissioner
Commonwealth of Virginia
Department of Taxation
Richmond, Virginia 23215
(804) 257-8005

Wisconsin
Mark S. Musolf
Secretary of Revenue
Department of Revenue
201 E. Washington Ave.
Madison, Wisconsin 53702
(608) 266-1611

Wyoming
Rudolph Anselmi
Chairman
Wyoming Tax Commission and
Board of Equalization
2200 Carey Avenue
Cheyenne, Wyoming 82001
(307) 777-7307
Multistate Tax Commission  
Boulder, Colorado

We have examined the balance sheet of Multistate Tax Commission at June 30, 1980, and the related statements of changes in fund balance, revenue and incurred expenses and changes in financial position for the year then ended. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the financial statements referred to above present fairly the financial position of Multistate Tax Commission at June 30, 1980, and the results of its operations, changes in fund balance, and changes in financial position for the year then ended in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

Rhode, Scrip, & Associates

August 1, 1980
MULTISTATE TAX COMMISSION

BALANCE SHEET
June 30, 1980

<table>
<thead>
<tr>
<th>ASSETS</th>
</tr>
</thead>
<tbody>
<tr>
<td>CURRENT ASSETS</td>
</tr>
<tr>
<td>Cash</td>
</tr>
<tr>
<td>Accounts receivable--members</td>
</tr>
<tr>
<td>Prepaid expenses</td>
</tr>
<tr>
<td>TOTAL CURRENT ASSETS</td>
</tr>
</tbody>
</table>

PROPERTY AND EQUIPMENT--Note 1
<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office furniture and equipment</td>
<td>71,052</td>
</tr>
<tr>
<td>Leased property under capital leases--Note 2</td>
<td>123,540</td>
</tr>
<tr>
<td>Leasehold improvements</td>
<td>3,562</td>
</tr>
<tr>
<td>Less: Accumulated depreciation and amortization</td>
<td>57,057</td>
</tr>
<tr>
<td>TOTAL PROPERTY AND EQUIPMENT</td>
<td>141,097</td>
</tr>
</tbody>
</table>

OTHER ASSETS
<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expense account advances</td>
<td>4,400</td>
</tr>
<tr>
<td>Deposits</td>
<td>1,626</td>
</tr>
<tr>
<td>Prepaid and unamortized past service pension costs--Note 4</td>
<td>6,130</td>
</tr>
<tr>
<td>TOTAL OTHER ASSETS</td>
<td>12,156</td>
</tr>
</tbody>
</table>

TOTAL ASSETS | 227,454 |
### LIABILITIES AND FUND BALANCE

**CURRENT LIABILITIES**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accounts payable</td>
<td>$11,965</td>
</tr>
<tr>
<td>Payroll taxes payable</td>
<td>4,778</td>
</tr>
<tr>
<td>Accrued pension plan—Note 4</td>
<td>3,448</td>
</tr>
<tr>
<td>Assessments and audit reimbursements collected in advance</td>
<td>26,529</td>
</tr>
<tr>
<td>Current portion of long-term obligations</td>
<td>25,028</td>
</tr>
</tbody>
</table>

**TOTAL CURRENT LIABILITIES** ........................................ $71,748

**LONG-TERM OBLIGATIONS**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Obligations under capital leases—Note 2</td>
<td>108,574</td>
</tr>
<tr>
<td>Note payable—Note 5</td>
<td>14,809</td>
</tr>
<tr>
<td><strong>Less: Current portion</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TOTAL LONG-TERM OBLIGATIONS** ........................................ $98,355

**FUND BALANCE—Exhibit B**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unappropriated fund balance</td>
<td>57,351</td>
</tr>
</tbody>
</table>

**TOTAL FUND BALANCE** ................................................ $57,351

**TOTAL LIABILITIES AND FUND BALANCE** ................................ $227,454

See accompanying notes to financial statements.
MULTISTATE TAX COMMISSION

STATEMENT OF CHANGES IN FUND BALANCE
For the year ended June 30, 1980

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unappropriated Fund Balance</td>
<td>$64,660</td>
</tr>
<tr>
<td>Excess of incurred expenses over revenue--Exhibit C</td>
<td>$(7,309)</td>
</tr>
<tr>
<td>BALANCE--June 30, 1980</td>
<td>$57,351</td>
</tr>
</tbody>
</table>

See accompanying notes to financial statements.
### MULTISTATE TAX COMMISSION

#### STATEMENT OF REVENUE AND INCURRED EXPENSES

For the year ended June 30, 1980

#### REVENUE

- Assessments: $952,935
- Interest: 10,025
- Other revenue: 2,372

**TOTAL REVENUE** ......................................................... 965,132

#### INCURRED EXPENSES

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accounting</td>
<td>7,844</td>
</tr>
<tr>
<td>Bonds and insurance</td>
<td>1,824</td>
</tr>
<tr>
<td>Consulting fees</td>
<td>48,155</td>
</tr>
<tr>
<td>Depreciation and amortization</td>
<td>38,632</td>
</tr>
<tr>
<td>EDP supplies</td>
<td>9,025</td>
</tr>
<tr>
<td>EDP terminal lease expense</td>
<td>34,307</td>
</tr>
<tr>
<td>Employee group insurance</td>
<td>29,721</td>
</tr>
<tr>
<td>Interest expense</td>
<td>23,002</td>
</tr>
<tr>
<td>Legal and legal support</td>
<td>17,488</td>
</tr>
<tr>
<td>Miscellaneous expense</td>
<td>2,739</td>
</tr>
<tr>
<td>Office supplies</td>
<td>7,197</td>
</tr>
<tr>
<td>Pension plan and retirement provision</td>
<td>73,999</td>
</tr>
<tr>
<td>Postage</td>
<td>6,603</td>
</tr>
<tr>
<td>Printing and duplicating</td>
<td>14,397</td>
</tr>
<tr>
<td>Publications</td>
<td>3,292</td>
</tr>
<tr>
<td>Rent</td>
<td>49,315</td>
</tr>
<tr>
<td>Repairs and maintenance</td>
<td>5,389</td>
</tr>
<tr>
<td>Salaries</td>
<td>502,652</td>
</tr>
<tr>
<td>Telephone</td>
<td>24,810</td>
</tr>
<tr>
<td>Travel</td>
<td>68,301</td>
</tr>
<tr>
<td>Utilities</td>
<td>3,409</td>
</tr>
</tbody>
</table>

**TOTAL INCURRED EXPENSES** .......................... 872,441

**TOTAL OF INCURRED EXPENSES OVER REVENUE** ........ 8 (7,309)

See accompanying notes to financial statements.
MULTIrnISTATE TAX COMMISSION

STATEMENT OF CHANGES IN FINANCIAL POSITION
For the year ended June 30, 1980

SOURCES OF WORKING CAPITAL

**Operations:**
- Excess of incurred expenses over revenue—Exhibit C: $ (7,309)
- Add: Charges to operations not requiring the use of working capital:
  - Depreciation and amortization: 38,632
  - Pension plan past service costs paid in prior years and expensed currently: 1,524
  - Net book value of furniture and equipment sold: 1,949
- Total From Operations: 34,796

- Proceeds from equipment purchased under capital lease: 109,000
- Decrease in expense account advances: 800

**TOTAL SOURCES OF WORKING CAPITAL:** 144,596

USES OF WORKING CAPITAL

- Purchase of furniture and equipment: 15,565
- Acquisition of leased equipment under capital lease: 109,000
- Purchase of leasehold improvements: 1,452
- Payments of long-term obligations: 17,625
- Increase in deposits: 120
- Increase in current portion of long-term obligations: 15,766

**TOTAL USES OF WORKING CAPITAL:** 159,528

**DECREASE IN WORKING CAPITAL:** (14,932)

WORKING CAPITAL—Beginning of Year: 17,385

WORKING CAPITAL—End of Year: $ 2,453

CHANGES IN COMPONENTS OF WORKING CAPITAL—Increase (Decrease)

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash</td>
<td>$ 30,685</td>
</tr>
<tr>
<td>Certificates of deposit</td>
<td>(80,000)</td>
</tr>
<tr>
<td>Accounts receivable—members</td>
<td>26,247</td>
</tr>
<tr>
<td>Prepaid pension plan</td>
<td>(675)</td>
</tr>
<tr>
<td>Prepaid expenses</td>
<td>2,897</td>
</tr>
<tr>
<td>Accounts payable</td>
<td>8,253</td>
</tr>
<tr>
<td>Payroll taxes payable</td>
<td>686</td>
</tr>
<tr>
<td>Accrued pension plan</td>
<td>(3,448)</td>
</tr>
<tr>
<td>Assessments and audit reimbursements</td>
<td></td>
</tr>
<tr>
<td>collected in advance</td>
<td></td>
</tr>
<tr>
<td>Current portion of long-term obligations</td>
<td>8,189</td>
</tr>
</tbody>
</table>

**DECREASE IN WORKING CAPITAL** $ (14,932)

See accompanying notes to financial statements.
NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The Multistate Tax 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 multistate business.

The following accounting policies, together with those disclosed elsewhere in the financial statements, represent the significant accounting policies followed in presenting the accompanying financial statements.

(a) Method of Accounting

The Commission uses the accrual method of accounting whereby assessment revenue is recognized in the fiscal year of assessment. Contributions by states for specific purposes are recognized as income during the year of receipt. Other earned revenue is recognized as it is earned. Expenses are recognized as they are incurred.

(b) Property and Equipment

All property and equipment is recorded at cost. Depreciation is provided for on the straight-line basis over the estimated useful lives of the assets which range from 3 to 8 years. Amortization of leasehold improvements is provided for on the straight-line basis over the term of the lease.

NOTE 2 - CAPITALIZED LEASES

Two equipment leases have been recorded as capital leases in accordance with Financial Accounting Standards Board Statement No. 13. The gross amount of the capitalized leases and the accumulated depreciation thereon is included in Property and Equipment in the Balance Sheet. The depreciation of $29,059 is included in depreciation in the Statement of Revenue and Incurred Expenses.

At June 30, 1980, the future minimum lease payments under these leases were:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1981</td>
<td>$39,258</td>
</tr>
<tr>
<td>1982</td>
<td>$39,259</td>
</tr>
<tr>
<td>1983</td>
<td>$16,642</td>
</tr>
<tr>
<td>1984</td>
<td>$14,025</td>
</tr>
<tr>
<td>1985</td>
<td>$2,836</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$152,020</strong></td>
</tr>
</tbody>
</table>
NOTE 3 - INCOME TAXES

In the opinion of legal counsel, the Commission is exempt from Federal income tax 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.

NOTE 4 - PENSION PLAN

The Commission has a defined benefit pension plan covering substantially all of its employees. The total pension expense for the year was $73,949, which includes amortization of prior service costs over 10 years. The Commission's policy is to fund pension cost accrued. The actuarially computed value of vested benefits as of June 30, 1980, is fully funded. A change during the year in certain actuarial assumptions used in computing the normal cost percentage had the effect of reducing net income for the year by approximately $12,000. The plan benefits and plan net assets are presented below:

ACTUARIAL PRESENT VALUE OF ACCUMULATED PLAN BENEFITS AT JUNE 30, 1980:

<table>
<thead>
<tr>
<th>Vested</th>
<th>$179,466</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nonvested</td>
<td>75,975</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$255,441</td>
</tr>
</tbody>
</table>

MARKET VALUE OF NET ASSETS AVAILABLE FOR BENEFITS AT JUNE 30, 1980  $438,588

The assumed rate of return used in determining the actuarial present value of accumulated plan benefits was 5.5% compounded annually.

NOTE 5 - LONG-TERM DEBT

Manufacturer--6% installment note, collateralized by related equipment, payable in monthly installments of $400, including interest, with final payment due November 12, 1983

Balance
June 30, 1980

$ 14,809
NOTE 6 - COMMITMENTS

The Commission rents its primary office facilities in Boulder, Colorado, and secondary office facilities in New York, Illinois, Washington, D.C., and Washington State, under lease agreements with terms expiring on various dates through August 31, 1988. These leases provide for the following minimum annual rentals exclusive of utility charges and certain escalator charges at Boulder:

<table>
<thead>
<tr>
<th>Fiscal Year Ended</th>
<th>Minimum Annual Rental</th>
</tr>
</thead>
<tbody>
<tr>
<td>June 30, 1981</td>
<td>$49,704</td>
</tr>
<tr>
<td>June 30, 1982</td>
<td>48,225</td>
</tr>
<tr>
<td>June 30, 1983</td>
<td>29,917</td>
</tr>
<tr>
<td>June 30, 1984</td>
<td>3,766</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$131,612</strong></td>
</tr>
</tbody>
</table>

The Boulder facilities lease includes certain escalator charges based on various factors including wage index, utility and property tax increases from a base year.

NOTE 7 - CONTINGENCY

A claim for computer service of $11,800 has been billed to the Commission, but has not been recorded or paid. The Commission believes that the claim is in excess of the services contracted. The matter is currently pending and the vendor has not initiated legal action.
Selected Bibliography Of Technical Articles, Books and Publications Related to the MTC


Corrigan, "Interstate Corporate Income Taxation-Recent Revolutions and a Modern Response," 29 Vand. L. Rev. 423.


Hellerstein, "Forward-State Taxation Under the
Commerce Clause: An Historical Perspective,"
29 Vand. L. Rev. 335.


Multinational Corporations and Income Allocation Under Section 482 of the Internal Revenue Code, 89 Harv. L. Rev. 1202.


