MULTISTATE TAX COMMISSION

Working together since 1967 to preserve federalism and tax fairness

To:	Uniformity Sales and Use Tax Subcommittee
From:	Roxanne Bland, Counsel
Date:	November 7, 2008
Subject:	Telecommunications Transaction Tax Project

For those who may be new to this project, it might be helpful to begin this memorandum with a short account of the history behind the subcommittee's work in this area.

At its May 2006 meeting, the Executive Committee heard a presentation by industry representatives regarding current telecommunications reform activity and offered several suggestions on how the MTC could assist in the effort. In particular, it was suggested that the MTC could work on developing central administration models for telecommunications transaction taxes; assist in encouraging non-SSUTA states to adopt telecommunications definitions in SSUTA; assist in encouraging non-SSUTA states to adopt the telecommunications sourcing rules developed by SSUTA; and encourage non-SSUTA states to adopt protections from class-action lawsuits as contained in SSUTA.

After much discussion, the Executive Committee referred the potential project to the Uniformity Committee and requested its assessment on whether the project would be feasible for the Uniformity Committee to undertake. In turn, the Uniformity Committee referred the matter to the Sales and Use Tax Subcommittee. After several months of information-gathering, the subcommittee decided at its July 2007 meeting to initiate a project to develop a centralized administration model for state and local telecommunications transaction taxes.[1]

[1] Though the Commission is primarily concerned with multistate corporate income and sales and use tax issues, Art. VI.3(a) of the Multistate Tax Compact empowers the Commission to:

Powers.

3. In addition to powers conferred elsewhere in this compact, the Commission shall have power to:

(a) Study State and local tax systems and particular types of State and local taxes.

(b) Develop and recommend proposals for an increase in uniformity or compatibility of State and local tax laws with a view toward encouraging the simplification and improvement of State and local tax law and administration.

The subcommittee appointed a work group to develop three approaches to the centralized collection model, each at a different level of centralization. Proposal I concerns administration for those states where the tax is imposed only at the state level, with revenue sharing to local governments. Proposal II is for states where taxes may be imposed at the state and local level, but are administered at the state level. And Proposal III is a model for states where local taxes are imposed and administered by the local authorities. At its July 2008 meeting, the subcommittee directed the work group to concentrate first on developing Proposal II, and requested that representatives from local governmental organizations be invited to participate in this project.

The local organizations contacted by staff have expressed deep concern over the Committee's decision to take up this project and urges the Committee to consider its views in assessing the value of proceeding with this project. Upon receipt of their written comments, we will distribute them to the subcommittee.

The second attachment is a "policy checklist" for the subcommittee's review. Please note that it is **not** intended to prejudice the subcommittee's discussion of the views of local organizations regarding continuation of the project. The purpose of including the checklist in the materials is to be responsive to the subcommittee's July directive.

(c) Compile and publish such information as would, in its judgment, assist the party States in implementation of the compact and taxpayers in complying with State and local tax laws.

(d) Do all things necessary and incidental to the administration of its functions pursuant to this compact.

TELECOMMUNICATIONS TRANSACTION TAX ADMINISTRATION PROJECT—PROPOSAL II, LOCAL IMPOSITION, STATE ADMINISTRATION

1. Tax Collection Responsibility

   a. Establish a new agency? VA
   b. Revenue agency? IL, UT

2. Administration

   a. Create new administrative procedures?
   b. Employ existing procedures?
      i. Collection procedures for transaction-based taxes generally? (UT)

3. Segregation of Funds; Depository

   a. Establish separate account for taxes collected:
      i. Interest-bearing?
         1. Who is entitled to interest?
      ii. Non-interest bearing?

   b. Account Oversight and Maintenance

      i. State revenue agency?
      ii. Other agency (Treasury, Secretary of State)?
         1. Assumes revenue agency responsible for allocation to local jurisdictions (see below)

4. Distribution of funds to local jurisdictions

   a. Allocation
      i. Formula? VA, FL
      ii. Actual Collections? IL
   b. Remittance schedule? (monthly appears most common)
      i. Assume remittance via EFT?

5. Reimbursement of Administrative Costs

   a. Actual expenditures?
   b. Percentage of collections? KY
   c. Frequency? (monthly appears most common)