Sourcing Sales of Electricity

- Wholesale Competition
- Retail Competition
- State Studies and Regulations
- Tangible Personal Property vs. Service
- Recent Cases
- Next Steps

Image courtesy of xedos4 / FreeDigitalPhotos.net.
Sourcing Sales of Electricity

- UDITPA Was not Intended to Apply to Regulated Utilities

Image courtesy of xedos4 / FreeDigitalPhotos.net.
Net Generation by Sector

Source: Energy Information Administration, Electric Power Annual, Various Years
Regional Transmission Organizations

Source: Energy Information Administration
Retail Competition

- The map below shows information on the electric industry restructuring. Click on a State for details.
- Restructuring means that a monopoly system of electric utilities has been replaced with competing sellers.

Source: Energy Information Administration
State Studies

- NESTOA
- Arkansas
- Minnesota
- Oklahoma
- Pennsylvania
- Washington
- Federation of Tax Administrators
- National Conference of State Legislators (NCSL)

Image courtesy of xedos4 / FreeDigitalPhotos.net.
State Regulations

• Massachusetts
  Special sales factor rules for electric industry taxpayers.

• Oregon
  Sales is sourced to Oregon if the delivery is to Oregon.
What is Electricity?

For Income Tax Purposes, States Definite Electricity As

- Tangible Personal Property (31)
- Service (6)
- Intangible Property (4)
- Other (2)

Source: Multistate Corporate Tax Guide (Healy and Schadewald), Sales of Electricity, CCH, Wolters Kluwer.

Image courtesy of xedos4 / FreeDigitalPhotos.net.
What is Electricity?

Recent Cases
• Pacificorp (2002)
• Powerex (2012)
• EUA Ocean (2006)

Image courtesy of xedos4 / FreeDigitalPhotos.net.
Next Steps

• Solicit Industry Involvement
• Educational Phase
• Survey the States
• Review NESTOA Proposal and State Regulations
• Review sourcing rules for natural gas

Image courtesy of xedos4 / FreeDigitalPhotos.net.
Sourcing Sales of Electricity

Images courtesy of xedos4 / FreeDigitalPhotos.net.

Master isolated image / FreeDigitalPhotos.net.