

Multistate Tax Commission



**ADOPTION OF MULTISTATE TAX COMMISSION
RECOMMENDED REGULATIONS, GUIDELINES, AND
STATUTES**

As of October 9, 2002

Multistate Tax Commission



ADOPTION OF MTC MODEL STATUTES/REGULATIONS/GUIDELINES

On November 8, 2000, MTC staff electronically mailed a questionnaire to all tax administrators inquiring whether their state, had either formally or informally, adopted any of the Multistate Tax Commission's model statutes/regulations/guidelines. Twenty-six states responded to that initial survey. On July 10, 2002, staff electronically mailed a similar questionnaire to all tax administrators (see attachment). A total of thirty-six states responded to one or both of the surveys. I am pleased to report that a majority of the Compact Member states, and all Project Member states responded. A summary of those responses is attached. Individual state responses are also available.

The following is a list of States that have adopted all or some of the uniformity recommendations adopted by the Multistate Tax Commission. The list was compiled from state responses to the 2002 survey and other sources.

INCOME & APPORTIONMENT

General Allocation & Apportionment: **(25)** AL, AK, AZ, AR, CA-FTB, CO, DC, FL, GA, HI, ID, IN, KS, KY, MO, MT, NE, NM, NC, ND, OK, OR, PA, UT, WI

Construction Contractors: **(10)** AK, AL, CA-FTB, CO, ID, KY, MO, MT, NM, ND, OR, UT

Airlines: **(11)** AK, AL, CO, ID, KS, MO, MT, NE, NM, ND, OR

Railroads: **(12)** AK, AR, CA-FTB, CO, ID, KY, MN, MO, MT, NM, ND, OR, UT

Trucking: **(12)** AL, AK, CA-FTB, CO, ID, MO, MT, NE, NM, ND, OR, UT

Television & Radio Broadcasting: **(8)** AL, AZ, CA-FTB, CO, HI, ID, MO, NH, ND

Publishing: **(4)** AL, CA-FTB, ID, ND

Financial Institutions: (22) AK, AL, AZ, AR, CA-FTB, CO, HI, ID, KS, KY, MA, MD, ME, MO, NH, NM, ND, OH, OR, RI, UT, WA

P.L. 86-272: (25) AK, AL, AR, CA-FTB, CO, CT, DC, FL, HI, ID, IL, KS, LA, ME, MO, MT, NH, NM, ND, OR, RI, SC, SD, TN, UT

Other

Recordkeeping for S&U Purposes: (8) AL, CT, FL, ND, OR, TN, TX, UT

ABA Model S Corporation Income Tax & Modifications: (2) AL, OR

Uniform Protest Statute: (1) TX

Uniform Principles for State Transactional Tax on Telecommunications: (1) TX

S&U Tax Guideline for Computer Software: (2) ND, TX

Model Direct Pay Permit Regulation: (3) ND, OH, TN

Collection of Sales Taxes on Fundraising Transactions: (0)

Funeral Trust: (1) ID

Attached to this survey was a questionnaire regarding state acceptance of the Uniform Sale for Resale Exemption Certificate. Only one state (OK) reported any changes to their conditions on acceptance of the certificate. Staff will report to the Committee at the Fall meeting on this survey.

Respectfully,

Elliott Dubin
Director of Policy Research

State	Allocation & Apportionment of Net Income	Apportionment of Income for Special Industries						ABA Model S Corporation Income Tax Act With Six Proposed Modifications "MOSCITA"	Model Direct Pay Permit Regulation	Collection of Taxes on Fund-raising Transactions	Uniform Protest Statute	Model Record-keeping & Retention Statute	Uniform Principles Governing State Transactional Tax-ation of Telecommu-nications		Applicability of Sales and/or Use Tax to Sales of Computer Software			
		Airlines	Construction Con-tractor	Rail-roads	Trucking	PL 96-272 Guidelines	Television and Radio Broad-casting						Publishing	Financial Institutions		Vendor	Vendor	
Alabama *	Yes <1>	Yes <2>	Yes <1>	Yes <1>	Yes <1>	Phase I<1>	Yes	Yes <1>	No	No	No	No	No	No	No			
Alaska *	Yes <1>	Yes <2>	Yes <1>	Yes <1>	Yes <1>	Phase I<1>	Yes	Yes <1>	No	No	No	No	No	No	No			
Arizona	Yes <1>	No	No	No	No	Phase II	No	No	No	No	No	No	No	No	No			
Arkansas	Yes <1>	No	No	Yes <1>	Yes <1>	Phase II	Yes	No	No	No	No	No	No	No	No			
California *	Yes	No	No	Yes	Yes	Phase II<1>	Yes <1>	Yes	No	No	No	No	No	No	No			
Colorado	Yes	Yes <1>	Yes	Yes	Yes	Phase II	Yes <1>	Yes	No	No	No	No	No	No	No			
Connecticut*	No	No	No	No	No	Phase I<1>	No	No	No	No	No	No	No	No	No			
Delaware	Yes <1>	No	No	No	No	Phase I	No	No	No	No	No	No	No	No	No			
District of Columbia	<2>	No	No	No	No	Phase I	No	No	No	No	No	No	No	No	No			
Florida *	<2>	No	No	No	No	Phase I	No	No	No	No	No	No	No	No	No			
Georgia*	No	No	No	No	No	Phase I	No	No	No	No	No	No	No	No	No			
Hawaii *	Yes	No	No	Yes	Yes	Phase II	Yes	Yes <1>	No	No	No	No	No	No	No			
Idaho *	Yes <1>	No	No	No	No	Phase I	No	Yes <1>	No	No	No	No	No	No	No			
Illinois *	<2>	No	No	No	No	Phase I	No	No	No	No	No	No	No	No	No			
Indiana	Yes <1>	No	No	No	No	Phase I	No	No	No	No	No	No	No	No	No			
Iowa *	No	No	No	No	No	Phase I<1>	No	No	No	No	No	No	No	No	No			
Kansas *	Yes <2>	Yes	No	No	No	(informally)	No	Yes	No	No	No	No	No	No	No			
Kentucky*	Yes	No	No	Yes	Yes	(informally)	No	Yes	No	No	No	No	No	No	No			
Louisiana	No	No	No	No	No	Phase II<1>	No	No	No	No	No	No	No	No	No			
Maine*	No	No	No	No	No	Phase II	No	No	No	No	No	No	No	No	No			
Maryland	No	No	No	No	No	Phase II	No	No	No	No	No	No	No	No	No			
Massachusetts*	No	No	No	No	No	Phase II	No	No	No	No	No	No	No	No	No			
Michigan (Single Business Tax)	No	No	No	No	No	Phase II	No	No	No	No	No	No	No	No	No			
Minnesota*	No	No	No	No	No	Phase I	No	No	No	No	No	No	No	No	No			
Mississippi*	No	No	No	No	No	Phase I	No	No	No	No	No	No	No	No	No			
Missouri *	Yes	Yes	Yes	Yes	Yes	Phase I	Under rev.	Under rev.	No	No	No	No	No	No	No			
Montana *	Yes	Yes	Yes	Yes	Yes	Phase II	Under rev.	Under rev.	No	No	No	No	No	No	No			
Nebraska *	Yes <1>	Yes <1>	No	No	No	Phase II	Under rev.	Under rev.	No	No	No	No	No	No	No			
Nevada	No	No	No	No	No	No corporate income tax	No	No	No	No	No	No	No	No	No			
New Hampshire	No	No	No	No	No	No corporate income tax	No	Yes <3>	No	No	No	No	No	No	No			
New Jersey	No	Yes	Yes	Yes	Yes	Phase II	No	Yes	No	No	No	No	No	No	No			
New Mexico	No	No	No	No	No	Phase II	No	Yes	No	No	No	No	No	No	No			
New York	No	No	No	No	No	Phase II	No	No	No	No	No	No	No	No	No			
North Carolina*	Yes <1>	Sales Factor	No	No	No	Phase II	No	No	No	No	No	No	No	No	No			
North Dakota *	Yes	Yes	No	Yes	Yes	Phase II	Yes	Yes	No	No	No	No	No	No	No			
Ohio*	No <1>	No	No	No	No	Substantially	No	Yes	No	No	No	No	No	No	No			
Oklahoma *	<2>	No	No	No	No	Phase II<1>	No	No	No	No	No	No	No	No	No			
Oregon *	Yes	Yes	Yes	Yes	Yes	Phase II<1>	No	Yes	No	No	No	No	No	No	No			
Pennsylvania*	<2>	No	No	No	No	Phase II<1>	No	Yes	No	No	No	No	No	No	No			
Rhode Island*	No	No	No	No	No	Phase II<1>	No	Yes	No	No	No	No	No	No	No			
South Carolina *	No	No	No	No	No	Phase II<1>	No	Yes	No	No	No	No	No	No	No			
South Dakota*	No	No	No	No	No	Phase II<1>	No	Yes	No	No	No	No	No	No	No			
Tennessee*	No	No	No	No	No	Phase I	No	No	No	No	No	No	No	No	No			
Texas *	No	No	No	No	No	Phase I	No	No	No	No	No	No	No	No	No			
Utah *	Yes	No	Yes	No	No	Phase II<1>	No	Yes	No	No	No	No	No	No	No			
Vermont	No	No	No	No	No	Phase II<1>	No	Yes	No	No	No	No	No	No	No			
Virginia	No	No	No	No	No	Phase II<1>	No	Yes	No	No	No	No	No	No	No			
Washington (Business & Occupation)*	No	No	No	No	No	Phase II<1>	No	Yes	No	No	No	No	No	No	No			
West Virginia*	No	No	No	No	No	Phase II<1>	No	Yes	No	No	No	No	No	No	No			
Wisconsin *	<2>	No	No	No	No	Phase II<1>	No	Yes	No	No	No	No	No	No	No			
Wyoming *	<2>	No	No	No	No	Phase II<1>	No	Yes	No	No	No	No	No	No	No			
Total of Responding States: 35	25	11	10	12	12	No corporate income tax	25	8	4	22	2	3	1	0	1	8	1	1

* Responded to MTC Survey;
 <1> With exceptions or additions
 <2> No formal adoption, but formula is similar to UDITPA; Multistate Tax Commission regulations adopted on modified basis.
 <3> Does not recognize S Corporations.
 N/D Not Determined.
 Sources: Research Institute of America, Commerce Clearing House, and 2000 Multistate Corporate Tax Guide, Aspen Publishers Inc.

Multistate Tax Commission



October 9, 2002
Greetings

Periodically, the Multistate Tax Commission (MTC) surveys the tax and revenue departments of each State to determine which, if any, of the MTC model regulations, guidelines, or statutes your State has adopted, either in whole, or in part. We are again asking your assistance in this effort. Enclosed is a worksheet that contains a list of MTC's Model Regulations, Guidelines, and Statutes. Please note whether, in your judgement, your State has adopted MTC uniformity regulation, guideline, or model statute. Please annotate the applicable law or revenue regulation, if your state has adopted it.

If your state has formally adopted any of the model regulations, guidelines, or statutes listed below, but there are minor changes, you can mark the applicable box: "substantially." If your state has formally adopted any of the model regulations, guidelines, or statutes listed below, with substantial changes, you can mark the applicable box: "With changes." Further, if there are any substantial changes your State has made to any regulation, please note them separately. If your state has not formally adopted any of the model regulations, guidelines, or statutes listed below, you can mark the applicable box: "informally." In addition, if your state has substantially adopted the definitions of the apportionment factors but does not use the UDITPA equally weighted, three factor formula, please mark the applicable box as noted above.

The Model Regulations refer to Corporate Income Tax Allocation and Apportionment Regulations applicable to Article IV of the Multistate Compact and to the Uniform Division of Income for Tax Purposes Act. The Special Industry Rules are noted as follows:

- Reg. IV.18 (d) Construction Contractors
- Reg. IV.18 (e) Airlines
- Reg. IV.18 (f) Railroads
- Reg. IV.18 (g) Trucking Companies
- Reg. IV.18 (h) Television and Radio Broadcasting
- Reg. IV.18 (j) Publishing

We are also requesting your assistance in providing the same information concerning the Model Recordkeeping and Retention Regulation, Model Direct Pay Permit Regulation and the Provision for the Collection of Tax on Fundraising Transactions. Please advise us regarding your State's adoption of the following MTC Model Statutes: the recommended formula for the apportionment and allocation of net income of financial institutions, ABA Model S Corporation Income Tax Act (MOSCITA), the Uniform Protest Statute, and the Uniform Principles Governing State Transactional Taxation of Telecommunications, either the Vendor Version or the Vendee Version, the Applicability of Sales and/or Use Tax to Sales of Computer Software, and the Statement of information Concerning Practices of Multistate Tax Commission and Signatory States Under Public Law 86-272. Phase I refers to the guidelines adopted in 1993 and Phase II refers to the revisions adopted in 1994.

If you need to acquaint yourself with these regulations and guidelines, or need other assistance, please visit our website: <http://www.mtc.gov/uniform/ADOPTED.HTM> , or contact Elliott J. Dubin, Director of Policy Research: (202) 508-3871 (Phone), (202) 624-8819 (FAX), or edubin@mtc.gov email.

Please respond as soon as possible to Elliott Dubin at any of the above addresses. Thank you for your valuable assistance.

Sincerely,

Elliott J. Dubin
Director of Policy Research
(202) 508-3871 (Phone)
(202) 624-8819 (FAX)
edubin@mtc.gov email

enclosure

MULTISTATE TAX COMMISSION MODEL REGULATIONS, STATUTES, AND Guidelines				
Corporate Income Tax Allocation and Apportionment Regulations				
MTC CODE	Description		Adopt MTC Regulation	Applicable State Revenue Code or Regulation
IV.1.(a).	Business and Nonbusiness Income Defined			
IV.1.(b).	Two or More Businesses of a Single Taxpayer			
IV.1.(c).	Business and Nonbusiness Income: Application of Definitions			
IV.1.(d).	Proration of Deductions			
IV.2.(a)	Definitions			
IV.2.(b)(1)	Application of Article IV: Apportionment			
IV.2.(b)(2)	Application of Article IV: Combined Report			
IV.2.(b)(3)	Application of Article IV: Allocation			
IV.2.(c).	Consistency and Uniformity in Reporting			
IV.3.(a).	Taxable in Another State in General			
IV.3.(b).	Taxable in Another State: When a Corporation Is "Subject to" a Tax			
IV.3.(c).	Taxable in Another State: When a State Has Jurisdiction to Subject A Taxpayer to a Net Income Tax			
IV.9.	Apportionment Formula			
	Specify weight of Payroll Factor under "Adopt MTC Regulation" column.			
	Specify weight of Property Factor under "Adopt MTC Regulation" column.			
	Specify weight of Sales Factor under "Adopt MTC Regulation" column.			
IV.10.(a).	Property Factor: In General			
IV.10.(b).	Property Factor: Property Used for Production of Business Income			
IV.10.(c).	Property Factor: Consistency in Reporting			
IV.10.(d).	Property Factor: Numerator			
IV.11.(a).	Property Factor: Valuation of Owned Property			
IV.11.(b).	Property Factor: Valuation of Rented Property			
IV.12.	Property Factor: Averaging Property Values			
IV.12.(a).	Payroll Factor: In General			
IV.13.(b).	Payroll Factor: Denominator			
IV.13.(c).	Payroll Factor: Numerator			
IV.14.	Payroll Factor: Compensation Paid in This State			
IV.15.(a).	Sales Factor: In General			
IV.15.(b).	Sales Factor: Denominator			
IV.14.(c).	Sales Factor: Numerator			
IV.16.(a).	Sales Factor: Sales of Tangible Personal Property in This State			
IV.16.(b).	Sales Factor: Sales of Tangible Personal Property to the United States Government in This State			
IV.17.	Sales Factor: Sales Other Than Sales of Tangible Personal Property in This State			
IV.18.(a).	Special Rules: In General			
IV.18.(b).	Special Rules: Property Factor			
IV.18.(c).	Special Rules: Sales Factor			
Special Industry Rules: IV.18.				
(d)	Construction Contractors			
(e)	Airlines			
(f)	Railroads			
(g)	Trucking Companies			
(h)	Television and Radio Broadcasting			
(i)	[Reserved]			
(j)	Publishing			
Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions				
Section 1: Apportionment and Allocation				
Section 2: Definitions				
Section 4: Property Factor				
Section 5: Payroll Factor				
Appendix A: Definition of Financial Institution				
Model Direct Pay Permit Regulation				
NEW	Uniformity Recommendation Defining the Residence of a Funeral Trust – Statutory or Regulatory Provision			
	Provision for the Collection of Tax on Fundraising Transactions			
MODEL POLICY STATEMENTS AND GUIDELINES				
Statement of Information Concerning Practices of Multistate Tax Commission and Signatory States Under Public Law 86-272				
Applicability of Sales and/or Use Tax to Sales of Computer Software				
Model Recordkeeping and Retention Regulation				
MODEL STATUTES				
Uniform Protest Statute				

MULTISTATE TAX COMMISSION MODEL REGULATIONS, STATUTES, AND Guidelines			
Corporate Income Tax Allocation and Apportionment Regulations			
MTC CODE	Description	Adopt MTC Regulation	Applicable State Revenue Code or Regulation
	ABA Model S Corporation Income Tax Act Six Proposed Modifications		
	Uniform Principles Governing State Transactional Taxation of Telecommunications Vendor Version		
	Vendee Version		
Uniform Sales and Use Tax Certificate - Multijurisdictional			
This section concerns MTC's Uniform Sales and Use Tax Certificate--Multijurisdictional. A copy of the certificate is attached. We ask that you review the certificate and indicate your responses below.			
		Response	Relevant Regulation or Statute
	1. Does your state accept the resale certificate for sales of tangible goods		
	2. Does your state accept the resale certificate for sales of services		
Please provide and specific conditions, instructions, etc. for your state that you wish to include in the instructions accompanying the certificate. Use additional sheet if necessary.			