



**To: MTC Executive Committee**  
**From: MTC Staff**  
**Re: State Mediation Survey Results**  
**Date: October 3, 2016**

---

At this Committee's July 28, 2016, the ABA Tax Section's State and Local Tax Committee asked that the following provision be included with proposed amendments to the Commission's Model General Allocation and Apportionment Regulations:

*Whenever a taxpayer is subjected to different sourcing methodologies regarding intangibles or services, by the [State Tax Agency] and one or more other state taxing authorities, the taxpayer may petition for, and the [State Tax Agency] shall participate in, and encourage the other state taxing authorities to participate in, non-binding mediation in accordance with the alternative dispute resolution rules promulgated by the Multistate Tax Commission from time to time, regardless of whether all the state taxing authorities are members of the Multistate Tax Compact.*

(The hearing officer and the Uniformity Committee had rejected this provision.) The Committee directed staff to survey states on their use of mediation generally and whether they would consider multi-state mediation. A total of 22 states responded, at least in part. A summary of the responses is as follows:

- 9 states indicated that they had participated in some kind of mediation
- 3 states cited experience with multi-state mediation
- the most common tax area for mediation was corporate income tax
- 13 states said they would consider multi-state mediation in appropriate cases

Most states that would consider mediation expressed concern about the difficulties of multi-state mediation as well as committing to mediation (even where results are non-binding). States that would *not* consider mediation cited their internal processes for settling tax-related disputes.