



MULTISTATE TAX COMMISSION

Maximizing the synergies of multi-state tax cooperation

To: MTC Class Action and False Claims Act Workgroup

From: Sheldon Laskin

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Subject: Draft Revised Issue List

1. Is the federal tax whistleblower act an appropriate model for the states to consider? If so, what features of the act may require modification in your state? What provisions of the act probably could not be enacted into law in your state? What additional provisions might be necessary for the successful implementation of the act in your state?
2. Is the NY state false claims act and qui tam statute an appropriate model for the states to consider? If so, what features of the act may require modification in your state? What provisions of the act probably could not be enacted into law in your state? What additional provisions might be necessary for the successful implementation of the act in your state?
3. In either event, are minimum filing thresholds to maintain an action a necessary requirement to reduce or eliminate nuisance suits in your state? What is the most appropriate measure of those minimum thresholds (i.e., gross income, sales, some combination of the two, other measures)? Are minimum thresholds a sufficient requirement to reduce or eliminate nuisance suits in your state? If not, what additional requirements might be needed (i.e., an award of attorney fees and expenses if the court finds the action to have been filed for purposes of harassment)?

4. If your state were to adopt a false claim act and qui tam statute, should the state attorney general have primary responsibility to control the litigation? Or should the revenue department? If the attorney general had primary responsibility, is it necessary that he coordinate all filings with the revenue department? If not, what should be the appropriate measure of cooperation between the attorney general and the revenue department?
5. What resources (funds, personnel) would be necessary for your state to implement a whistleblower statute similar to the federal act? How likely is it that those resources would be available when the statute went into effect?
6. What resources (funds, personnel) would be necessary for your state to implement a false claims and qui tam statute similar to New York's? How likely is it that those resources would be available when the statute went into effect?
7. What are the appropriate criteria for a monetary reward to the whistleblower or qui tam plaintiff who substantially contributes to any recovery as a result of information he provided? What are the appropriate criteria to increase or decrease such award? What is the appropriate measure of each such award? What should be the effect on any award if the information provided largely consists of publicly available information?
8. What procedures are necessary and appropriate to provide for appeals of the denial or reduction of any award? Are existing tax appeal procedures adequate and appropriate for such appeals? If not, what additional procedures would be required?