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2 **Resolution 99-6**
3 **New York City Commuter Tax and Federal Preemption**

4 **WHEREAS**, the State of New York has enacted a statute that exempts New York
5 residents from the New York City commuter tax while residents of states other than New
6 York remain subject to the tax, and

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8 **WHEREAS**, such a facially discriminatory tax exemption is clearly unconstitutional
9 under the United States Constitution, and

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11 **WHEREAS**, litigation has been filed by residents of states other than New York who are
12 subject to the New York City tax, as well as by the adjacent states acting on behalf of
13 their residents who are subject to the tax, challenging the constitutionality of the
14 exemption, and

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16 **WHEREAS**, the New York state trial court has promptly and correctly ruled that the
17 exemption is unconstitutional as it treats similarly situated commuters to New York City
18 differently, and

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20 **WHEREAS**, H.R. 2014 and S. 1246 have been introduced in the United States Congress
21 that seek to preempt states and political subdivisions of states from enacting
22 discriminatory commuter taxes, and

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24 **WHEREAS**, these bills are unnecessary due to the demonstrated ability of the New York
25 state courts to promptly and correctly provide relief to affected taxpayers, now therefore
26 be it

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28 **RESOLVED**, that the Multistate Tax Commission respectfully urges the states to refrain
29 from enacting facially unconstitutional tax legislation such as the New York City
30 commuter tax exemption, and

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32 **BE IT FINALLY RESOLVED**, that the Multistate Tax Commission respectfully urges
33 the Congress not to overreact to precipitate state legislative action through federal
34 legislation that could have unintended consequences affecting the legitimate exercise of
35 state sovereignty in taxation.

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37 Adopted the 30th day of July 1999, by the Multistate Tax Commission.
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41 Attest: _____
42 Dan R. Bucks
43 Executive Director
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