



MULTISTATE TAX COMMISSION

Working Together Since 1967 to Preserve Federalism and Tax Fairness

Litigation Committee Report to Executive Committee

November 2008

The MTC Litigation Committee is chaired by Marshall Stranburg, Florida Department of Revenue. Mark Wainwright and Clark Snelson, Utah Office of the Attorney General, are co-vice chairs of the Committee.

• **In-Person Meeting**

The Multistate Tax Commission Litigation Committee met July 28 and 29 in Santa Fe, New Mexico. The meeting included presentations from our members and the MTC legal staff on a range of topics covering both emerging litigation and implications from recent decisions. Topics included implications of recent U.S. Supreme Court decisions in *Meadwestvaco* and *Davis*, nexus issues related to pass-through entities, litigation regarding sales factor sourcing for intangibles and services, strategies for minimizing taxpayer attorneys fees, and litigation related to hotel intermediaries. As usual, we also discussed recent State court decisions, and collaborated on pending litigation.

• **Bi-Monthly Government Tax Attorney Teleconferences**

We've hosted two state tax attorney teleconferences since July. The first was held September 25, 2008 and included a presentation from Bill Porter of the Massachusetts Office of Attorney General and Tom Condon of the Massachusetts Department of Revenue on the assertion of attorney/client and work product privileges to bar disclosure of tax planning documents.

The second teleconference, held November 13, 2008, included a presentation from Wade "Trip" Tomlinson, a partner at Pope McGlamry Kilpatrick and Morrison in Columbus, GA Steve Wolens, a partner in McCool Smith in Dallas, TX and Irv Foley, a partner in Foley Bryant Holloway & Raluy in Louisville, KY, regarding the status of the hotel intermediary occupancy tax cases currently pending in a number of states.

• **October Meeting Concurrent with Hartman SALT Forum**

We organized an in-person meeting for litigation committee members attending the October 2008 in conjunction with the Hartman SALT Forum. At the meeting we discussed recent State court decisions, heard a presentation on tax sheltering issues, and collaborated on pending litigation.

• **Paull Mines Award**

On July 30, 2008, we presented Jim Peters was presented with the first annual Paull Mines Award for Contribution to State Tax Jurisprudence.