MULTISTATE TAX COMMISSION

Working together since 1967 to preserve federalism and tax fairness

To:	Executive Committee
From:	Joe Huddleston
Date:	January 2, 2009
Subject:	Interim Report of Executive Director for January Meeting

This interim report is provided in lieu of a full report because of the proximity of the January meeting to the previous meeting of the Executive Committee in November. It is intended to provide information on a few matters with significant development during the time between the two meetings.

Transition of 401 and 457 Plans

On December 15, 2008, participant accounts in the MTC 401 Plan and 457 Plan accounts with ICMA-RC were liquidated in anticipation of the transfer to Daily Access Corporation/Reliance Trust. The exception to this was that any participant who was invested in the PLUS Fund (a guaranteed investment contract – “GIC”) was given the option to continue to maintain this account with ICMA-RC until October 29, 2009.

On December 16, 2008, the liquidated funds were wired to Daily Access Corporation/Reliance Trust. The new individual accounts have now been established. Initial investment of the transferred funds was done in accordance with the mapping procedures as determined by Aintree Capital, MTC’s investment consultant.

There were participants in both the 401 and 457 plans who elected to keep funds invested in ICMA’s PLUS fund. These funds will remain with ICMA until October 29, 2009, at which time these funds will transfer to Daily Access Corporation/Reliance Trust. MTC will incur no fees for those participants who elected to continue this relationship with ICMA for this additional period of time.

Questionnaire on Changes to Federal Estate and Gift Tax Law

Under The Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), the Federal estate tax is scheduled to be phased out in fiscal year 2010 and then is scheduled to be phased in again at the rates and exemptions that prevailed in fiscal year 2001. This law phased out the Federal credit for state estate taxes over four years replacing it with a deduction in 2005.

As fiscal year 2011 approaches, there is increased interest in how the Federal estate tax should be reestablished. A number of variations of the Federal estate tax have been proposed by members of Congress. Other voices have called for complete repeal of both Federal and State estate taxes; or, to replace all or part of the estate tax with inheritance taxes which are imposed directly on the heirs

An unnamed Senate Finance Committee staffer is interested in finding out whether the states are interested in an AICPA proposal to revert back to 2001 law by reinstating the full state estate tax credit, or to provide another mechanism (such as a surtax) that would allow states to uniformly “piggyback” on the federal estate tax. Currently, there is little uniformity in state estate taxation because many states have decoupled from the federal estate tax and enacted their own estate tax regimes to avoid diminishing tax revenues.

On December 30th, MTC staff sent an email to all state tax administrators asking them to rank their first three preferences on how the Federal estate tax should be reinstated. Two responses have been received so far. Both have chosen not to change current Federal law; that is, Federal estate tax should revert to 2001 law in 2011.

Training

The following MTC courses were provided since the meeting in November:

Corporate Income Tax
December 8-9, 2008 in Boston, Massachusetts (Part 1 only) for 50 participants from Massachusetts. This course was designed to support Massachusetts’ transition to combined reporting.

Nexus School
December 16-17, 2008 in Olympia, Washington for 44 students from Washington, Oregon, and Alaska. Participation in the course completely eliminates the longstanding training credit with the State of Washington.

The following courses and events are currently scheduled:

Corporate Income Tax
April 20-24, 2009 in Charleston, West Virginia (tentative)

Nexus School
February 9-10, 2009 in Baton Rouge, Louisiana (tentative)
April 27-28, 2009 in Topeka, Kansas (tentative)
May 18-19, 2009 in Little Rock, Arkansas

Statistical Sampling for Sales and Use Tax Audits
March 2-5, 2009 in Topeka, Kansas. This course is open to the private sector participants.

Computer Assisted Audit Techniques (2 Parts: Excel & Basic Random Sampling)
March 30-April 1, 2009 in Mitchell, South Dakota. This is the first offering of this course under the new format, where either two or three of the following parts are offered: Excel, Access, and Basic Random Sampling.

The above courses are listed as tentative if venue arrangements have not been finalized. Updates to our schedule as well as registration information can be found at www.mtc.gov or by contacting Antonio Soto at asoto@mtc.gov or 202-508-3846.

Extended Due Dates for 2008 Partnership Returns

The attached letter from Philip M. Zinn of PricewaterhouseCoopers LLP highlights an issue related to the extended due dates of federal partnership returns for 2008, which have been extended five months by the Internal Revenue Service to September 15, 2009. The concern is that states will adopt the same deadline. The letter suggests that states either continue granting a specific six month extension for partnership returns (with no tie to the federal due date) or that they grant an extra 30 days after the federal return is due.

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October 29, 2008

Mr. Joseph Huddleston
Executive Director
Multistate Tax Commission
444 North Capitol Street, NW, Suite 425
Washington DC 20001

Re: Extended Due Dates for 2008 State Partnership Returns

Dear Joe:

We appreciated the opportunity to discuss with you the issues associated with the extended due dates for the 2008 state partnership returns. As we discussed, Treasury Regulation Section 1.6081-2T, which grants the automatic 6 month extension for partnerships to file returns until 10/15, is set to expire on November 8, 2008. Due to significant pressure from the individual tax preparer groups of the American Institute of Certified Public Accountants ("AICPA") and New York State Society of Certified Public Accountants ("NYSSCPA"), it looks like the Internal Revenue Service will move the extended due date for the federal partnership returns for the 2008 to 9/15/09 (granting only a 5 month extension).

Since most States accept the federal extension or grant an automatic 6 month extension, we are extremely concerned the states will follow suit. If the state filing deadline is pushed up to 9/15, it will become extremely burdensome to prepare the states returns, especially since 9/15 is the extended due date for the corporate filings, as well. We are concerned that if the States follow the 5 month extended due date, that the quality of the state returns being prepared will deteriorate as taxpayers and tax preparers will be under significant time pressure to get corporate and partnership federal and state returns out by September 15th.

In order to alleviate these concerns, we believe the States should continue to grant a specific 6 month extension for partnership returns (not tied to federal) or grant an extra 30 days after the federal return is due to complete the state returns, similar to many states' corporate extension language. Another potential alternative would be having an additional extension (say 3 months) for state partnership returns added to the federal 5 month extension (this would be

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similar to New York State and New York City allowing corporate taxpayers to have an additional 3 month extension from the 9/15 filing deadline).

Based on our discussion, you had indicated that you would speak with Jim Eads, Executive Director for the Federation of Tax Administrators about the situation to get a sense if the States were aware of the pending change in filing dates. I'm not sure if that discussion has taken place or not but would welcome the opportunity to speak with both of you on getting this issue in front of the States for their consideration.

If you have any questions or wish to discuss please do not hesitate to call me at (646) 471-7119 or Brian Rebhun at (646) 471-4024.

Sincerely,

Phil

Philip M. Zinn
National Practice Leader for State and Local Tax
PricewaterhouseCoopers LLP

cc:
Brian Rebhun - PricewaterhouseCoopers LLP