



MULTISTATE TAX COMMISSION

Working Together Since 1967 to Preserve Federalism and Tax Fairness

Litigation Committee Report to Executive Committee

May 2009

The MTC Litigation Committee is chaired by Marshall Stranburg, FL. Mark Wainwright and Clark Snelson, UT, are co-vice chairs of the Committee. The Committee held meetings on March 19 and 20, 2009 in Nashville, Tennessee. Fourteen people attended, representing seven states and the MTC staff.

The meeting included presentations from the Legal Division and state representatives on a range of topics including (1) the Comcast case on work-product doctrine's applicability to communications with accountants; (2) application of the 4-R Act to use tax on railroad diesel fuel; (3) net operating loss statutes; and (4) implications of the Polar Tankers cases. The meeting included a presentation by Professor Herwig Schlunk of Vanderbilt Law School on predicting the effects of taxation on population migration. Tom Condon of Massachusetts led the discussion of the Comcast decision. MTC staff led a discussion of federal net operating loss limitations and their application to state tax calculations, with some assistance from Professor Schlunk.

The second day of the meeting included roundtable reports from the states, a discussion of possible responses to the travel restrictions imposed on many state agencies and the implications for future MTC meetings, and a discussion of travel intermediary litigation led by MTC staff.