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Executive Director, Gregory S. Matson and
MTC Executive Committee Members
Headquarters Office
444 North Capitol Street, N.W., Suite 425
Washington, DC 20001

RE: Suggested Modifications to the *Statement of Information Concerning Practices of Multistate Tax Commission and Signatory States under Public Law 86-272 – Proposed Fourth revision to be adopted by the Multistate Tax Commission*

Dear Executive Director Matson and Members of the Executive Committee:

Suggestions to the above are respectfully submitted by Bernard D. Copping (B. D.), CPA, MST, former Michigan Revenue Commission (1997-1999) and member of the MTC's Executive Committee.

A. Expand the examples provided in Section C of the proposed revision to the MTC's PL 86-272 Statement to include, but not be limited to:

   - SaaS;
   - Cloud computing;
   - Accessing databases on-line;
   - Server Farms; and
   - Purchasing downloadable or hardcopies of software, operating systems, databases, etc.

B. Consider adding threshold amounts of gross revenues (and payroll and property?) to be required before businesses that meet the above proposed expanded nexus criteria are actually required to file and pay net income taxes. See below for two suggested standards that states could adopt, so that businesses with minimal sales into a state would not be required to file net income tax returns in almost every state.

A. Factor Presence Nexus Standard for Business Activity Taxes
Approved by the Multistate Tax Commission October 17, 2002

The Commission adopted the following uniformity proposal as part of an amendment to MTC Policy Statement 02-02, Ensuring the Equity, Integrity and Viability of State Income Tax Systems, approved on October 17, 2002. This factor presence nexus standard is intended to represent a simple, certain and equitable standard for the collection of state business activity taxes.

Alternative 1: Substantial nexus is established if any of the following thresholds is exceeded during the tax period:

(a) a dollar amount of $50,000 of property; or
(b) a dollar amount of $50,000 of payroll; or
(c) a dollar amount of $500,000 of sales; or
(d) twenty-five percent of total property, total payroll or total sales.

Consider using solely the $500,000 dollar amount of sales.

OR

B. Almost all the states have now adopted the *Wayfair*-like nexus standard for imposition of the requirement to register for the collection and remittance of sales or use taxes on sales into their respective states. The standard requires that if a seller meets a designated minimum gross revenue threshold or a certain number of transactions in a prior calendar year, as established by the state, the seller must collect and remit sales or use taxes.

Alternative 2: As an alternative to the states adopting the MTC's Factor Presence Nexus Standards, each state could be given the option to adopt the gross revenue threshold it adopted under *Wayfair* for purposes of establishing sales and use tax nexus with its state. This approach would provide a uniform minimum gross revenue nexus standard for each individual state for both net income and sales and use tax purposes.

Thank you for considering these proposals and I hope you find them helpful.

Sincerely,

Bernard D. Copping, CPA, MST