



Multistate Tax Commission Memorandum

States Working Together Since 1967 . . . To Preserve Federalism and Tax Fairness

To: The Multistate Tax Commission
From: Dan Bucks, Executive Director
Date: July 30, 2004
Subject: 108th Congress Legislative Activity and Multistate Tax Commission Responses: Statement of Application of Commission Policies

The Multistate Tax Commission has interpreted the application of Policy Statements 03-01, 02-02 and 02-01 to specific proposed federal legislation introduced in the 108th Congress as follows:

Statement of Application of Policy Statement 03-01 to Specific Federal Legislative Measures

The Multistate Tax Commission specifically opposes Section 7(a) of the “VoIP Regulatory Freedom Act of 2004”, (S. 2281 and H.R. 4129) insofar as it is an unwarranted preemption of the states’ authority to determine the appropriate tax treatment on the offering or provision of Voice over Internet Protocol services and is unfair to communications service providers whose services and the provision of services are currently subject to tax.

The Multistate Tax Commission opposes H.R. 49, also termed the Internet Nondiscrimination Act as an unwarranted expansion of federal preemption of state taxing authority over the provision of general telecommunications services.

Statement of Application of Policy Statement 03-01 and Amended Policy Resolution 01-08 to Specific Federal Legislative Measures.

The Multistate Tax Commission supports S. 150, the Internet Non-Discrimination Act as amended and approved by the U.S. Senate (passed April 29, 2004), insofar as it limits the duration of the moratorium on state and local taxes on Internet access, preserves “grandfather clauses protecting certain pre-existing taxes, and excludes Voice over Internet Protocol from the scope of the moratorium. As such it conforms more closely to the policy criteria of Amended Policy Resolution 01-08 than the alternative version approved by the U.S. House of Representatives, H.R. 49 (approved September

18, 2003) which would impose a permanent preemption on state authority, expand the preemption broadly to non-income taxes, eliminate “grandfather clauses” protecting pre-existing taxes, create new ambiguities in the definition of “Internet access” and extend the preemption to a broad range of telecommunications services. Accordingly, the Commission has joined with several other state and local organizations, including the National Governors Association and the Federation of Tax Administrators, in supporting S. 150 over H.R. 49.

Statement of Application of Policy Statement 02-02 to Specific Federal Legislative Measures

The Multistate Tax Commission fully supports the various legislation introduced in the 108th Congress intended to curtail the promotion and use of abusive corporate tax shelters, and strongly urges Congress to pass such legislation.

Statement of Application of Policy Statement 03-01 and 02-02 to Specific Federal Legislative Measures

The Multistate Tax Commission strongly opposes H.R. 3220 insofar as it is an unwarranted preemption of the states’ authority to levy tax on the business activities of multistate enterprises, and encourages the creation and use of tax shelters to unfairly shift income away from the jurisdiction where that income is earned, thereby undermining a state’s ability to provide government services not only to the general citizenry, but also to the enterprises doing business within the state.

Statement of Application of Policy Statement 02-01 to Specific Federal Legislative Measures

The Multistate Tax Commission strongly urges states that have not adopted the Streamlined Sales Tax Agreement to pass legislation doing so. The Commission further respectfully urges the Congress, in considering federal legislation authorizing states that have adopted the Agreement to require collection of sales tax on remote sales, to limit its consideration to approve or disapprove of the Agreement as adopted by the states. If the Congress identifies additional issues with respect to sales tax simplification, the Commission respectfully urges the Congress to request states that have adopted the Agreement to consider these additional issues, rather than

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incorporating such into federal legislation as a requirement for the Agreement itself.