



# MULTISTATE TAX COMMISSION

## **ANNUAL REPORT FOR FISCAL YEAR 2013** (July 1, 2012 – June 30, 2013)

### —TABLE OF CONTENTS—

State Membership as of July 1, 2013

Overview of Actions Taken by Multistate Tax Commission

Report of the Executive Committee

Report of the Audit Committee

Report of the Litigation Committee

Report of the Nexus Committee

Report of the Training Program

Report of the Uniformity Committee

Report of the Executive Director

Financial Statements and Report of Independent Certified Public Accountants  
for the Years Ended June 30, 2013 and 2012

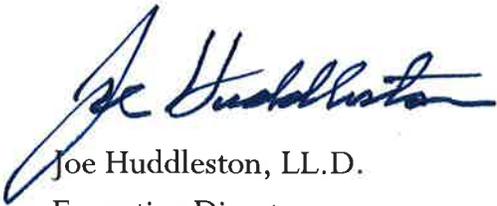
*Message from the Executive Director*

I am pleased to present the 2013 Annual Report of the Multistate Tax Commission, covering the activities of the Commission and its various committees and staff during the time period July 1, 2012, to June 30, 2013. This annual report presents a convenient compilation of reports presented to the Commission at its 2013 annual meeting in July, as well as the *Financial Statements and Report of Independent Certified Public Accountants for the Years Ended June 30, 2013 and 2012*.

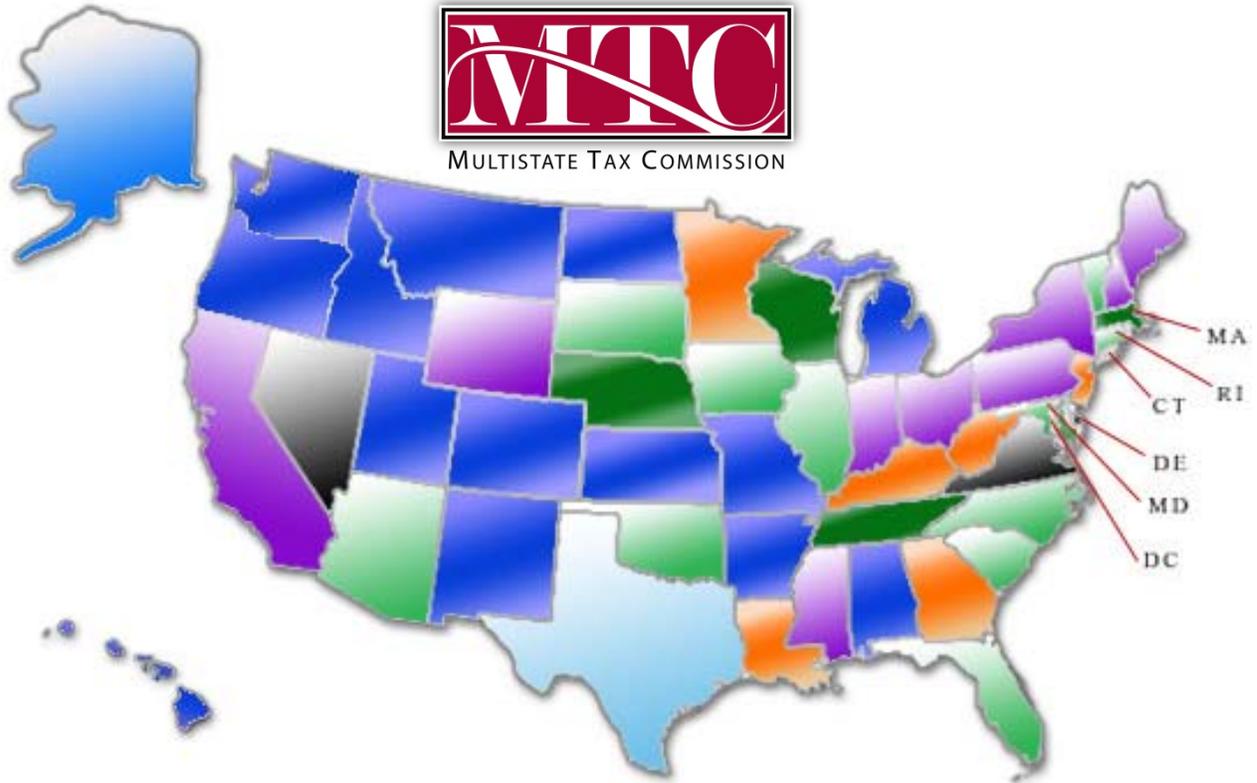
The Multistate Tax Commission (MTC) is an intergovernmental state tax agency whose mission is to achieve fairness by promoting compliance and consistent tax policy and practice, and to preserve the sovereignty of state and local governments over their tax systems. Our vision is that before the end of this decade, the MTC will be recognized as the “gold standard” for tax policy development, the primary authority for the public and public officials on issues of state and local tax uniformity and fairness, and the leading resource for ensuring equitable tax compliance.

I am committed to achieving this vision, but I ask for your input and support as the Commission works to achieve it. This Annual Report of the Multistate Tax Commission — by nature, a backward look at the Commission’s activities — will provide you with information that will be helpful to you in providing us that input and support. I look forward to hearing from you.

Respectfully,



Joe Huddleston, LL.D.  
Executive Director



| Compact Members        | Sovereignty Members | Associate & Project Members |
|------------------------|---------------------|-----------------------------|
| Alabama*†              | Georgia*†           | Arizona†                    |
| Alaska*                | Kentucky*†          | California                  |
| Arkansas*†             | Louisiana*†         | Connecticut†                |
| Colorado*†             | Minnesota†          | Florida†                    |
| District of Columbia*† | New Jersey*†        | Illinois*                   |
| Hawaii*†               | West Virginia*†     | Indiana                     |
| Idaho*†                |                     | Iowa†                       |
| Kansas*†               |                     | Maine                       |
| Michigan*†             |                     | Maryland†                   |
| Missouri*†             |                     | Massachusetts*†             |
| Montana*†              |                     | Mississippi                 |
| New Mexico*†           |                     | Nebraska*†                  |
| North Dakota*†         |                     | New Hampshire               |
| Oregon*†               |                     | New York                    |
| Texas*†                |                     | North Carolina†             |
| Utah*†                 |                     | Ohio                        |
| Washington*†           |                     | Oklahoma†                   |
|                        |                     | Pennsylvania                |
|                        |                     | Rhode Island                |
|                        |                     | South Carolina†             |
|                        |                     | South Dakota†               |
|                        |                     | Tennessee*†                 |
|                        |                     | Vermont†                    |
|                        |                     | Wisconsin*†                 |
|                        |                     | Wyoming                     |

\*Joint Audit Program Member  
†National Nexus Program Member

## Overview of Actions Taken by Multistate Tax Commission

The Commission held its Annual Business Meeting, as required by Article VI of the Multistate Tax Compact, on August 1, 2012, in Grand Rapids, Michigan.

The Commission took the following actions during July 1, 2012 to June 30, 2013:

- Approved the Commission Budget for 2012-2013.
- Accepted committee reports and ratified the actions of the Executive Committee for the previous program year.
- Adopted a *Model Statute for Communications Transaction Tax Centralized Administration* as a uniformity recommendation to the states.
- Adopted *Model Statutes for the Collection and Remittance of Lodging Taxes by Accommodations Intermediaries* as a uniformity recommendation to the states.
- Adopted Resolution 01-2012, *Resolution in Support of and Appreciation of the Uniformity and Interstate Cooperation Projects of the Federation of Tax Administrators*
- Elected Cory Fong, Tax Commissioner, North Dakota, as Chair.
- Elected Alana M. Barragán-Scott, Director, Missouri Department of Revenue, as Vice Chair.
- Elected Julie P. Magee, Revenue Commissioner, Alabama, as Treasurer.
- Elected Susan Combs, Texas Comptroller of Public Accounts; Andy Dillon, Michigan State Treasurer; Myron Frans, Commissioner of Revenue, Minnesota; and Demesia Padilla, Secretary of Taxation and Revenue, New Mexico, as at-large members of the Executive Committee.

The Commission did not accept any donation or grant, or borrow any services during the period covered by this report.



MULTISTATE TAX COMMISSION

To: Multistate Tax Commission  
From: Joe Huddleston, Executive Director  
Date: July 16, 2013  
Subject: 2013 Executive Committee Annual Report

---

The Executive Committee met four times during the period July 1, 2012, to June 30, 2013:

- July 28<sup>th</sup> in Grand Rapids, Michigan
- December 6<sup>th</sup> in Denver, Colorado
- May 9<sup>th</sup> in Washington, D.C.

The meetings were regular meetings through which the committee provided oversight and direction to the activities of the Commission.

The following members of the Commission were elected to serve as Commission officers and members of the Executive Committee for fiscal year 2013:

- Chairman: Cory Fong (North Dakota)
- Vice Chairman: Alana M. Barragán-Scott (Missouri)
- Treasurer: Julie P. Magee (Alabama)
- At-large: Susan Combs, Texas Comptroller of Public Accounts; Andy Dillon, State Treasurer, Michigan; Myron Frans, Commissioner of Revenue, Minnesota; and Demesia Padilla, Secretary of Taxation and Revenue, New Mexico.

In December, Alana M. Barragán-Scott accepted an appointment as the Director of the Missouri Administrative Hearings Commission; this resulted in a vacancy in the office of vice-chair. The Chair appointed Julie Magee to serve out the remainder of Ms. Barragán-Scott's term. This resulted in a vacancy in the office of treasurer, and the Chair appointed Demesia Padilla to serve out the remainder of Ms. Magee's term. The Chair then appointed Rich Jackson, Chairman of the Idaho State Tax Commission, to serve out the remainder of Ms. Padilla's at-large term. All appointees were duly elected by the Executive Committee in accordance with the bylaws on May 9, 2013.

The Executive Committee took the following actions during fiscal year 2013:

- Approved the efforts and completed work of the Strategic Planning Steering Committee for fiscal year 2012, including a review and revision of the mission statement, a statement of values, a vision statement, and strategic goals areas that

- supported the mission, vision, and values of the Commission (including initial focus on the two goal areas of the engagement and compliance).
- Took no action but retained Recommended Amendments to Compact Article IV to allow more time for states, as well as stakeholders, to review the proposal.
  - Took no action but retained a Model Sales & Use Tax Notice and Reporting proposal pending the final resolution of litigation in Colorado.
  - Accepted New Mexico's offer of hosting the Commission's annual meeting in 2014.
  - Approved the audited financial statements as reported in an independent auditor report for fiscal year July 1, 2011 – June 30, 2012.
  - Considered a report regarding a complaint filed July 26, 2012, pursuant to Commission Public Participation Policy §24, and directed staff to develop recommended amendments to the bylaws and public participation policy with respect to notice requirements for Commission meetings and hearings.
  - Referred a Model Statute Regarding Partnership or Pass-Through Entity Income That Is Ultimately Realized by an Entity that is Not Subject to Income Tax back to the Uniformity Committee for them to consider additional language proposed by a member of the Uniformity Committee's working group for the project.
  - Directed a public hearing be held pursuant to Art. VII of the Multistate Tax Compact regarding proposed Recommended Amendments to Compact Article IV, as amended by the committee.
  - Elected Julie P. Magee, Alabama Revenue Commissioner, to serve out the unexpired portion of Alana M. Barragán-Scott's term as Commission Vice Chair.
  - Elected Demesia Padilla, New Mexico's Secretary of Taxation & Revenue, to serve out the unexpired portion of Julie P. Magee's term as Commission Treasurer.
  - Elected Rich Jackson, Chairman of the Idaho Tax Commission, to serve out the unexpired portion of Demesia Padilla's at-large position on the Executive Committee.
  - Approved the proposed 2013-2014 budget for the Commission.
  - Approved Recommended Amendments to Public Participation Policy and Bylaws Regarding Notice Requirements for adoption by the Commission and directed that requisite notice be provided so that they would be considered at the Commission's annual business meeting schedule for July 24, 2013.

- Considered the Model Statute for Partnership or Pass-Through Entity Income Ultimately Realized by an Entity That Is Not Subject to Income Tax and directed that the project be concluded by staff preparation of a final project report.
- Referred a Proposed Resolution in Support of State Consideration of the Streamlined Sales and Use Tax Agreement's Telecommunications Sourcing Rules and Definitions to the Resolutions Committee.

The Executive Committee undertook additional actions during fiscal year 2013 that are recorded in the minutes of its meetings.

## **Annual Report of the Audit Committee and Audit Program**



**Multistate Tax Commission  
July 2013**

**Rick DeBano, Chair, MTC Audit Committee  
Frank Hales, Vice Chair, MTC Audit Committee  
Les Koenig, Director, MTC Joint Audit Program**

The following report reflects the activities of the MTC Audit Committee and the Audit Program for the 2012-2013 fiscal year.

### **\* AUDIT COMMITTEE \***

The audit committee met three times in fiscal year 2013. They first met on July 31, 2011 in Grand Rapids, Michigan. There were 47 members, guests and staff present at the meeting. There were 36 individuals representing 24 audit program states present. There were no members of the public present at the meeting.

The audit committee reviewed the status of all the audits in progress. A discussion was held on 14 income tax and 3 sales tax audits that had significant issues. The audit committee expressed its satisfaction with the status of the audits in progress.

The audit committee conducted a round table discussion regarding audit leads and issues that individual states are experiencing.

Five individuals from the audit committee met on August 2 and 3 with Elizabeth Harchenko as part of the compliance subcommittee to recommend issues to bring to executive committee to improve the audit program. Also in attendance were Les Koenig, Harold Jennings, Cathy Felix and Larry Shinder representing the MTC audit program.

The audit committee met a second time via a teleconference on November 29, 2012 with 41 members, guests and staff present. There were 35 individuals representing 25 states present for the meeting. A report on two separate committees for strategic planning was given. The 2 committees are audit

selection and no change audits. These two committees continue to meet and will have reports ready for the March audit committee meeting.

The audit program reported on numerous audits in progress and the audit committee expressed satisfaction with the status of the audits. The audit committee also selected 16 companies for sales tax audits for the MTC audit program.

The audit committee met in person a third time on March 7, 2013 in St Louis. There were 52 members, guests and staff present in person or via a teleconference. There were 38 individuals representing 21 states present at the meeting. The majority of the time was spent discussing the 2 strategic plans under way. Recommendations from the full committee were given to the 2 committees working on these projects. The audit committee also spent time during the closed session discussing audits in progress.

The committee on audit selection and the committee on no change audit each met several times via a teleconference during the period of November 2012 through June 2013.

#### **\* AUDIT PROGRAM \***

#### **PRODUCTIVITY**

Audit Program completed 5 and parts of 9 income tax audits for fiscal year 2013. The Audit Program also completed 12 sales tax audits and parts of 4 other audit for the same period. There are 22 income and 31 sales tax audits in progress. There were several income and sales tax cases that were delayed by the taxpayers due to turn over in their tax staffs or taxpayers being sold.

The MTC Audit Program proposed assessments of \$36,337,606 for income tax and \$11,348,429 for sales tax.

#### **STAFFING**

Alexis Douglas was hired to fill vacant sales tax position in December. The vacant administrative assistant position was filled by Michelle Becker in December.

#### **TRAINING**

Jeff Silver and Larry Shinder participated as instructors in an income tax course in Montana in October, 2012. Jeff and Cathy Felix participated in an income course in Hawaii in January. Also, Harold Jennings and Bob Schauer

participated in sampling classes in New Mexico in September 2012 and Alabama in February 2013. Les Koenig conducted income tax training in Michigan in April 2013

**TRENDS IN PRODUCTIVITY**  
**MTC JOINT AUDIT PROGRAM**  
**AUDIT HOUR ANALYSIS**  
**6/97- 6/13**

|  | 6/97      | 6/98      | 6/99      | 6/00      | 6/01      | 6/02      | 6/03      | 6/04      | 6/05      | 6/06      | 6/07      | 6/08      | 6/09      | 6/10      | 6/11       | 6/12      | 6/13      |
|--|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|------------|-----------|-----------|
| Income Tax<br>Total Audits             | 10        | 9         | 7         | 10        | 8         | 7         | 8         | 7         | 7         | 9         | 7         | 7         | 3         | 6         | 6          | 4         | 5         |
| Total States<br>Audited                | 152       | 120       | 186       | 251       | 131       | 166       | 165       | 266       | 196       | 175       | 141       | 209       | 79        | 152       | 309        | 131       | 150       |
| Total<br>Hours                         | 12249     | 10012     | 10060     | 13133     | 8684      | 9396      | 10556     | 12012     | 12617     | 12514     | 9361      | 17570     | 6440      | 10445     | 25649      | 11937     | 12836     |
| <b>Average<br/>Hours<br/>Per State</b> | <b>81</b> | <b>83</b> | <b>55</b> | <b>52</b> | <b>66</b> | <b>57</b> | <b>64</b> | <b>45</b> | <b>64</b> | <b>72</b> | <b>66</b> | <b>84</b> | <b>81</b> | <b>69</b> | <b>83</b>  | <b>91</b> | <b>86</b> |
| Sales Tax<br>Total Audits              | 14        | 10        | 16        | 11        | 14        | 13        | 11        | 10        | 11        | 6         | 15        | 9         | 10        | 12        | 5          | 5         | 12        |
| Total States<br>Audited                | 143       | 97        | 184       | 102       | 158       | 159       | 145       | 154       | 160       | 77        | 187       | 97        | 120       | 147       | 65         | 59        | 163       |
| Total<br>Hours                         | 11349     | 7721      | 7438      | 9062      | 11900     | 8850      | 8792      | 10943     | 6133      | 4946      | 13296     | 7818      | 7265      | 10772     | 7200       | 5000      | 13195     |
| <b>Average<br/>Hours<br/>Per State</b> | <b>79</b> | <b>80</b> | <b>40</b> | <b>89</b> | <b>75</b> | <b>56</b> | <b>61</b> | <b>71</b> | <b>38</b> | <b>64</b> | <b>71</b> | <b>80</b> | <b>61</b> | <b>73</b> | <b>110</b> | <b>85</b> | <b>81</b> |
| Total Both<br>Taxes<br>Total Audits    | 24        | 19        | 23        | 21        | 22        | 20        | 19        | 17        | 18        | 15        | 22        | 16        | 13        | 18        | 11         | 9         | 17        |
| Total States<br>Audited                | 295       | 217       | 370       | 353       | 289       | 325       | 310       | 420       | 336       | 252       | 328       | 306       | 199       | 299       | 374        | 190       | 313       |
| Total<br>Hours                         | 23598     | 17733     | 17498     | 22195     | 20584     | 18246     | 19348     | 22955     | 18750     | 17460     | 22657     | 25388     | 13705     | 21217     | 32849      | 16937     | 26031     |
| <b>Average<br/>Hours<br/>Per State</b> | <b>80</b> | <b>82</b> | <b>48</b> | <b>63</b> | <b>71</b> | <b>56</b> | <b>62</b> | <b>55</b> | <b>56</b> | <b>70</b> | <b>69</b> | <b>83</b> | <b>69</b> | <b>71</b> | <b>88</b>  | <b>89</b> | <b>83</b> |



MULTISTATE TAX COMMISSION

**To: Cory Fong, Commission Chair  
Members of the Commission**

**From: Marshall Stranburg, Litigation Committee Chair  
Clark Snelson, Litigation Committee Vice-Chair  
Mark Wainwright, Litigation Committee Vice-Chair**

**Re: Litigation Committee Report for Fiscal Year 2013**

**Date: July 16, 2013**

---

### **Litigation Committee**

The litigation committee met twice this fiscal year. For both meetings, attendance was up compared to prior years. The first meeting was held during the Commission's July 2012 annual meeting in Grand Rapids, Michigan. There the committee's agenda included (1) staff reports on recent U.S. Supreme Court and Congressional activity, and (2) a report from Ben Miller, Counsel, Multistate Tax Affairs Retired Annuitant, California Franchise Tax Board, on sourcing income from sales and licensing of pre-written software. The second meeting was held March 7-8, 2013, in St. Louis, Missouri. At that meeting the committee's agenda included staff presentations on (1) federal activity affecting state taxation, (2) Multistate Tax Compact article III election litigation, and (3) class actions and the false claims act in the context of state taxation. Both meetings were adjourned following the presentations so that members could attend the information and training session for state tax attorneys, where attendees heard presentations on state litigation of multistate interest. The committee's next meeting is scheduled for San Diego, California, on July 23, 2013.

### **Paul Mines Award**

Michael Fatale, Chief of Rulings and Regulations for the Massachusetts Department of Revenue, was presented with the fifth annual Paul Mines Award for significant contribution to state tax jurisprudence at the Commission's annual meeting in July, 2012.



To: Multistate Tax Commission  
From: Lennie Collins, Nexus Committee Chair  
Re: Nexus Committee Activities FY2013

This annual report includes non-confidential activities of the Nexus Committee during fiscal year 2013 (July 1, 2012 through June 30, 2013).

The committee met at Grand Rapids, Michigan on July 31, 2012.

- Forty-three people attended (five by telephone):
  - thirty-four state representatives on behalf of twenty states,
  - four Commission staff,
  - four industry representatives, and
  - one member of the press.
- The director of the National Nexus Program made a report.
- Staff reported that in the just-closed 2012 fiscal year (July 1, 2011 – June 30, 2012) the Nexus Program recovered through multi-state voluntary disclosure \$12.5 million on behalf of Nexus-member states and \$2.7 million on behalf of states not members of Nexus. These amounts exclude interest and the future value of new taxpayers.
- The committee considered whether to continue offering the Commission's multi-state voluntary disclosure program to non-Nexus states. All non-member states may currently participate without charge; non-members Delaware, Ohio, Nevada, New York, and California (Franchise Tax Board only) do not participate.
- The committee reviewed certain proposed changes to the template contract used for multi-state voluntary disclosure and to the *Procedures of Multi-state Voluntary Disclosure*, which is the codified body of rules governing the Commission's disclosure program.

- The committee formed a work group to revise the National Nexus Program Charter. The charter sets forth the program's general goals and activities. It has not been changed for more than a decade and should be redrafted to reflect current practice.

The committee met at St. Louis, Missouri on March 7, 2013.

- Twenty-five people attended (six by telephone):
  - twenty-five state representatives on behalf of seventeen states,
  - four Commission staff, and
  - three industry representatives.
- Staff reported that in the period July 1, 2012 through February 22, 2013 the Nexus Program recovered \$3 million on behalf of Nexus states and \$1.3 million on behalf of non-Nexus states through multi-state voluntary disclosure.
- The committee approved a motion requesting that staff not open new multi-state voluntary-disclosure cases with non-Nexus states after June 30, 2014. The committee believes that it is unfair, and a disincentive to participate, that some states pay and some do not. The delayed implementation will allow non-member states time to join and pay if they want to continue receiving benefits.
- The committee reviewed certain changes to the template contract used for multi-state voluntary disclosure and to the *Procedures of Multi-state Voluntary Disclosure*, including an extension of the time for a taxpayer to accept or reject an offer from 28 days to 60 days.
- *The committee will ask that the executive committee approve Nexus' revised charter.* A work group presented a revised, draft Charter for the National Nexus Program and its committee. The committee recommends that the Executive Committee approve it to replace the current Charter. The current Charter was created as part of a strategic planning process in about 2002. The major revisions are:
  - it is more concise,
  - it defines the program's purpose and desired results more generally (this approach is more appropriate to a foundational document), and

- it removes reference to dormant functions:
  - developing a uniform nexus standard (the Nexus Program's purpose initially included development of nexus-related uniformity recommendations); and
  - sharing between states taxpayers' apportionment factors as reported in audits (only one state provided full data; taxpayers opposed the project; and states discontinued it in about 2003 after about two years of operation).
- The committee requested that staff explore the idea of moving from two meetings per year to three to allow more time for roundtable discussions and informal consultations about nexus policy and compliance strategies (the committee met thrice annually until about 2009, when the Commission cut the third meeting to reduce costs).



*Maximizing the synergies of multi-state tax cooperation*

To: Members, Multistate Tax Commission  
From: Ken Beier, Training Director  
Date: July 22, 2013  
Subject: Training Program Report

---

The Commission training program reached 354 participants during the year. This includes 277 participants at eight in-person training courses, and the 2012 Annual Conference in Grand Rapids, Michigan. Details on events from the past year and scheduled for the coming year follow. We also encourage you to consider hosting an MTC course in your state.

### **Courses Offered in 2012-2013**

The following MTC courses were offered during the year:

#### Corporate Income Tax

October 1-4, 2012 in Helena, Montana for 32 students  
January 14-17, 2013 in Honolulu, Hawaii for 27 students

#### Statistical Sampling for Sales and Use Tax Audits

August 27-30, 2012 in Albuquerque, New Mexico for 30 students  
February 4-7, 2013 in Hoover, Alabama for 24 students

#### Nexus School

September 19-20, 2012 in St. Paul, Minnesota for 38 students  
December 11-12, 2012 in Salt Lake City, Utah for 33 students  
February 12-13, 2013 in Salem, Oregon for 17 students  
April 23-24, 2013 in Phoenix, Arizona for 58 students  
June 4-5, 2013 in Bismarck, North Dakota for 18 students

All participants for these courses were state and local government personnel, except for the statistical sampling course in Hoover, Alabama where there were three private sector attendees.

In addition to training courses, the Commission provided corporate income tax training materials, and in-person orientation for the audit portion of the training, to the Michigan Department of Treasury in March and April of this year. These materials supported

training for Michigan staff members, as they begin to audit combined returns under the Michigan Business Tax and Corporate Income Tax.

The training program also supported the 45<sup>th</sup> Annual Conference in Grand Rapids, Michigan for 77 participants.

### **Courses Schedule for 2013-2014**

The following courses are currently scheduled:

#### Corporate Income Tax

October 7-10, 2013, Washington, DC (pending final arrangements)  
Early 2014, Denver, Colorado

#### Statistical Sampling for Sales and Use Tax Audits

October 15-18, 2013, Wheat Ridge, Colorado  
February 10-14, 2014, Hoover, Alabama (offered through the Alabama Local Tax Institute of Standards and Training)

The February 2014 statistical sampling course is being presented under an agreement with Center for Governmental Services (CGS) at Auburn University. CGS administers the Certified Revenue Examiner Program for the Alabama Local Tax Institute of Standards and Training (ALTIST). Sales and use tax examiners who perform audits for local governments in Alabama are certified ALTIST. The course will be open to other participants who register through CGS.

We are currently discussing potential dates for the Nexus School and other courses with several states; and encourage states to contact us as early as possibly regarding hosting a class. Some of our courses have a waiting list for potential host states, and we like to get classes on the schedule as early as possible, so that personnel from all states are able to participate. Updates to our schedule and registration information can be found at [www.mtc.gov](http://www.mtc.gov) or by contacting MTC Training Manager, Antonio Soto at 202-650-0296.

### **NASBA Certification and Continuation Education Credit**

The Commission continues its registration with the National Association of State Boards of Accountancy (NASBA) as a CPE sponsor. This registration is for “group-live” programs. Accounting boards in 47 states and the District of Columbia recognize NASBA certification for granting of CPE credit for in-person courses. The Commission also certifies attendance for CLE credit at Commission sponsored events.

### **Training Fees and Host State Credit**

The current fee schedule has been in place since October 2012 and no change in fees is expected for the coming year. The Commission provides a host state credit of up to \$3000 for each course. The credit is for support related to the course and applies to tuition for host state students.



MULTISTATE TAX COMMISSION

**To: Cory Fong, Commission Chair  
Members of the Commission**

**From: Wood Miller, Uniformity Committee Chair  
Richard Cram, Sales & Use Tax Uniformity Subcommittee Chair  
Robynn Wilson, Income & Franchise Tax Uniformity Subcommittee Chair**

**Re: Uniformity Committee Report for Fiscal Year 2013**

**Date: July 16, 2013**

---

The commission develops model state tax laws for states to consider adopting. Proposed model laws may be suggested by our executive committee, a standing committee, a single state, a taxpayer, taxpayer groups, or any other member of the public. Once members have identified a model to develop, initial drafting takes place in our subcommittees. The subcommittees appoint work groups and drafting groups, as needed. Lennie Collins, North Carolina Department of Revenue, chairs a membership/industry work group for the financial institutions apportionment project. All committee, subcommittee, work group and drafting group meetings and teleconferences are public and public participation is encouraged.

Through this fiscal year, the committee and subcommittees have met twice in person; the sales & use tax uniformity subcommittee has met three times by teleconference; and the income & franchise tax uniformity subcommittee has met once by teleconference. Drafting groups and work groups associated with various uniformity projects have met regularly by teleconference.

### **Projects by Status**

Currently before the Commission:

1. Communications Definition and Sourcing (Resolution)

Currently before the Executive Committee:

1. UDITPA related amendments for corporate income tax apportionment
  - o Sales Factor Sourcing for Services and Intangibles
  - o Definition of "Sales"
  - o Factor Weighting
  - o Definition of Business Income
  - o Section 18 Distortion Relief
2. Sales and Use Tax Notice and Reporting
3. Partnership or Pass-Through Entity Income Ultimately Realized by an Entity That Is Not Subject to Income Tax

Under Development or Consideration at the Uniformity Committee and Subcommittees:

#### Income & Franchise Tax

1. Financial Institutions Apportionment, Amendment
2. Process Improvements
3. Section 482 Authority (ended)

#### Sales & Use Tax

1. Model Nexus Statute
2. Model Provisions Concerning Class Action and False Claims

## Project Summaries

### Currently Before the Commission

1. ***Communications Definition and Sourcing (Resolution)*** The telecommunications industry requested this project at the executive committee. The executive committee forwarded the proposal to the uniformity subcommittee. The industry asked the subcommittee to develop uniform rules for communications sourcing, sourcing definitions, and tax base/exemptions definitions. Since the Streamlined Sales and Use Tax Agreement already covers these topics, rather than develop its own set of model rules and definitions (which may vary from Streamlined), the uniformity committee has recommended a commission resolution encouraging states to consider adoption of Streamlined's sourcing rules, definitions, and tax base/exemptions definitions. A draft resolution is now before the resolutions committee for presentation to the Commission.

### Currently Before the Executive Committee

1. ***Compact Art.IV [UDITPA] amendments.*** Article IV of the Multistate Tax Compact contains UDITPA virtually word for word. In July 2009, the executive committee directed the uniformity committee to begin drafting model amendments for five of its provisions: **section 17 sales factor numerator sourcing, definition "sales," definition "business income," factor weighting, clarification of section 18 distortion relief,** and instructed the uniformity committee to report back if it recommends the scope of review be changed. In December 2009, Richard Pomp, Prentiss Willson, and Michael McIntyre provided an educational foundation on UDITPA background and apportionment concepts. The uniformity subcommittee, working with a drafting group, recommended amendments for each of these five provisions. The executive committee began its consideration of whether to approve the models for public hearing in December, 2011, and asked for uniformity committee clarifications. Those clarifications were made and the executive committee took the matter up again in May, 2012. After discussion at that meeting, the July 2012 meeting, and the December 2012 meeting, the executive committee approved the proposals for public hearing. Public hearing was held March 27, 2013, with Professor Richard Pomp serving as hearing officer.

2. ***Sales and Use Tax Notice and Reporting.*** At its March, 2010 meetings, the subcommittee initiated two projects related to sales and use tax education and enforcement: (1) a sales and use tax notice and reporting model, and (2) an associate nexus model (the associate nexus model is discussed below). The subcommittee determined it would work first on the sales and use tax notice and reporting model. The resulting proposal requires sellers who are not collecting sales or use tax to notify purchasers of a potential tax liability at the time of sale if the product is to be delivered into the state. Sellers are also required to make annual reports to each such purchaser and an annual report to the state. De minimis exceptions and penalties are provided. The uniformity committee approved a draft in early March, 2011. Later that month, the executive committee approved the draft for public hearing. The hearing was held, and the hearing officer's report and recommendations were presented to the executive committee, which recommended approval of the proposal to the commission. The proposal was not placed on the commission's agenda, however, because it had not passed the bylaw 7 survey at that point. The proposal came back before the executive committee in December, 2011, and clarifications were requested. The uniformity committee made those clarifications and the executive committee took the matter up again in May, 2012. During that meeting, the executive committee voted to retain the proposal pending further discussion after the 10<sup>th</sup> Circuit has issued its opinion in *Direct Marketing Association v. Brohl*, D.C. No. 10-cv-01546-REB-CBS (10<sup>th</sup> Circuit).

3. ***Partnership or Pass-Through Entity Income Ultimately Realized by an Entity That Is Not Subject to Income Tax.*** This project addresses tax gap issues that arise when a pass-through entity is

owned by another entity that is not subject to corporate income tax. The subcommittee appointed a drafting group to list issues and options. After considering several alternative approaches and receiving significant input from the insurance industry, the subcommittee chose its preferred approach and directed that a draft be developed. After several meetings and teleconferences, the subcommittee voted to approve a draft in at its in-person meeting in December 2010. In March 2011, the executive committee approved the proposal for public hearing. The hearing was held and a hearing officer's report and recommendations were provided to the executive committee, which discussed the matter in June and continued the discussion to its meeting in July, 2011. At the July, 2011 meeting, the executive committee requested the uniformity committee work with industry on its alternative recommendations or amendments to the current recommendation and report back to the executive committee with a matrix of issues and options. The uniformity committee formulated a matrix and reconsidered several options proposed by its members and the insurance industry representatives over teleconferences and three in-person meetings; and completed its recommendation for the executive committee in July 2012. In December 2012, the executive committee asked for the uniformity committee to draft an addition. That was drafted, and the proposed model before the executive committee again in May, 2012. At that May meeting, the executive committee considered the proposal and directed that the project be concluded by staff preparation of a final project report.

### Under Development or Consideration at the Uniformity Committee

#### Income & Franchise Tax Uniformity Subcommittee

**1. Financial Institutions Apportionment, Amendment.** The subcommittee's work group, which includes representatives from several states and the banking industry, identified problems with the current MTC financial institutions model and proposed conceptual amendments for addressing them. The amendments included clarifications to the property factor rule for sourcing loans (based on SINAA – solicitation, investigation, negotiation, approval and administration); new receipts factor rules for sourcing ATM fees, merchant discounts, and trust account fees; and revisions to the receipts factor rule that requires use of "cost of performance" for sourcing any receipts not otherwise specified. The subcommittee agreed with the work group's conceptual recommendations, and directed the work group to draft amendments accordingly. The work group completed a draft of recommended changes to the receipts factor and certain definitions, which the subcommittee has reviewed, amended, and preliminarily approved. The work group has now begun drafting amendments to the property factor – in particular, it is reviewing the sourcing of loans using the "SINAA" approach. When the property factor provision is complete, the subcommittee will consider the proposal as a whole.

**2. Process Improvements.** The commission's strategic planning committee has identified four strategic goal areas - areas in which MTC must focus in order to achieve its vision. One of these areas relates to the uniformity process:

Uniformity – Our goal is to increase uniformity in tax policy and administrative practices among the states. Achievement of the MTC's uniformity goal will be reflected by:

- Greater adoption of uniformity recommendations by state and local tax jurisdictions.
- Uniformity projects will have the greatest value to the states and stakeholders.
- More multistate tax issues will be referred first to the MTC for recommendation or resolution by the states, taxpayers and the federal government.

The income & franchise tax uniformity subcommittee began considering the current uniformity process: how projects are currently chosen; the current development process and how long it generally takes for each step, from initiation to commission approval; how a project's progress is planned, communicated, and tracked; how the finished product is made accessible to states and the public for consideration; and tools for tracking or recording progress of all current and completed projects. The goal is to get a better understanding of the current process. In the course of this effort, improvements may be identified that could feed into the strategic planning process when that committee is ready to turn its attention our

way; or, depending on what the scope of the suggested improvement is, it may even be reasonable to go ahead and implement. At its March meeting, the subcommittee reviewed proposed improvements to the uniformity process web pages and recommended that those changes be made. The strategic planning committee has now asked the uniformity committee for recommendations on another project to undertake. A workgroup has been established to make preliminary recommendations to the uniformity committee.

**3. Section 482 Authority (ended).** At its July 2012 meeting, the subcommittee heard a presentation regarding a possible project to draft one or more regulations establishing guidelines for states to use in making adjustments of income and expenses for state tax purposes, either domestically or internationally, under IRC Section 482 and state versions of that statute. The methodologies of such model regulations could be significantly different than federal methodologies, including use of combined reporting or other apportionment based approaches. The subcommittee solicited input from taxpayer groups on the desirability, practicality, or any other thoughts regarding the possible initiation of such a project and the contours any such project might take before proceeding further. After receiving several educational memorandums from staff, hearing from the public, and lively discussion by the subcommittee, the subcommittee determined not to initiate a uniformity project at this time.

#### Sales & Use Tax Uniformity Subcommittee

**1. Nexus Statute.** A first draft of a proposal New York style “associate nexus” statute was presented during the uniformity committee teleconference in October, 2011. That draft largely followed so-called “Amazon” legislation first adopted in New York. A second draft was prepared for the July 2012 meeting that also largely followed the New York legislation and included aspects of the similar legislation adopted by California. The subcommittee has benefited considerably from comments and input by representatives from New York and California. The subcommittee held a teleconference in October, 2012 which resulted in a third draft incorporating elements of the MTC affiliate nexus statute. This draft was reviewed and discussed during the December 2012 meeting. During that meeting, the subcommittee voted to expand the project to create a model sales & use tax nexus statute. A work group was formed and has met to review nexus research, develop a policy checklist, and identify state legislation that could serve as a template for the model. That checklist and research will be considered at the July 2013 meeting.

**2. Model Provisions Concerning Class Actions and False Claims.** This project was originally requested by the telecommunications industry. Industry representatives gave a presentation in July 2012 on the class action difficulties faced from over collection of tax from communications customers. In December, 2012, after hearing input from COST and others, the project was expanded to include all industries, not just communications, and to include a look at false claims acts. So the project now encompasses protecting retailers in general from class action lawsuits in both under and over collection situations. The subcommittee met with the litigation committee in February, 2013, to review a class action model recommended by the American Bar Association. In March, 2013, the subcommittee directed staff to provide an overview of state laws on class action and false claims acts in the state tax context. That research will be reviewed by the subcommittee at its July 2013 meeting.



To: Multistate Tax Commission  
From: Joe Huddleston  
Date: July 17, 2013  
Subject: 2013 Annual Report of the Executive Director

---

This report is a summary of the Commission's organizational and staff activities for the period July 1, 2012, through June 30, 2013.

## I. Programs & Activities

### A. Joint Audit Program

The audit division completed 5 and parts of 9 income tax audits for fiscal year 2013. The audit division also completed 12 sales tax audits and parts of 4 other sales tax audits for fiscal year 2013. There are currently 22 income and 31 sales tax audits in progress. Proposed assessments for fiscal year 2013 from these audits total \$47,686,035.

The following chart summarizes hourly data for completed audits for fiscal year end June 30, 2013:

|                                | <b>Income &amp; Franchise</b> | <b>Sales &amp; Use</b> | <b>Total</b> |
|--------------------------------|-------------------------------|------------------------|--------------|
| <b>Total Audits</b>            | 5                             | 12                     | 17           |
| <b>Total States Audited</b>    | 150                           | 163                    | 313          |
| <b>Total Hours</b>             | 12,836                        | 13,195                 | 26,031       |
| <b>Average Hours per State</b> | 86                            | 81                     | 83           |

Aside from the meetings of the Audit Committee, states in numerous audits have met with staff via teleconferences to discuss particular audits in progress and issues specific to those audits.

Audit division staff provided instruction at three income tax training classes and two sampling classes during this fiscal year.

## **B. National Nexus Program**

In fiscal year 2013, the Commission completed 571 voluntary disclosure contracts; recovered \$9,277,480 on behalf of National Nexus Program member-states (compare to \$12.5 million recovered in FY 2012); and recovered \$1,564,900 on behalf of non-member states. These amounts do not include interest or the future value of new taxpayers.

Nexus staff continued its work to keep the multi-state voluntary disclosure documents and process as uniform as possible among states while meeting each state's requirements:

- Worked with the Nexus Committee to develop a policy to address non-Nexus-members participating in multi-state voluntary disclosure services. Staff will implement the committee's recommendation to discontinue non-member participation as of July 1, 2014. Discontinuing free services will incentivize non-members to join, be fair to member states, and free up staff time to speed the processing of member-state cases.
- Worked with the Nexus Committee to amend the template voluntary disclosure contract and the corresponding Procedures of Multi-state Voluntary Disclosure to address specific state concerns within the standard documents.
- Worked with the Nexus Committee to prepare suggestions for the Executive Committee regarding updates to the NNP charter to reflect changes in actual activities. The committee expects to present these to the Executive Committee for consideration at its July meeting.

The Commission offered on its website to assist taxpayers with general nexus questions. The Commission also started offering citations to primary sources to jump-start a taxpayer's state-specific research.

Nexus staff is focusing on reaching out to states to ensure that they know all the services the Commission offers and to increase sovereignty membership and membership in the Audit and Nexus programs. Staff is meeting in person with top revenue officials when it is cost-effective. Staff has met so far with officials from Indiana, Arizona, Virginia, and Maryland. Staff is letting states know that non-members will not be able to participate in multi-state voluntary disclosure as of July 1, 2014.

Nexus staff launched a project to encourage states that do not presently have a link on their voluntary disclosure page to add one that links to the Commission's page. A number of states have agreed to do so, some declined, and we're working on the rest.

Nexus staff taught a Nexus School in St. Paul, Salem, Salt Lake City, Phoenix, and Bismarck. Nexus staff substantially revised and updated much of the material in the Nexus School written materials in advance of the Salt Lake City school and has

continued to update it in advance of each school. In addition, staff presented the nexus portion of the Income Tax School in Helena.

Nexus Director Thomas Shimkin presented with a representative of the Council on State Taxation at two web-based conferences for the Bureau of National Affairs. They discussed the results of BNA's annual survey of states regarding nexus policy.

### **C. Legal Division**

The legal division staffs two standing committees: uniformity and litigation. The division also holds regular state tax attorney teleconferences; participates as speakers at conferences, symposiums and institutes; and teaches the commission's corporate income tax and nexus training courses. The division provides individual state support on request by filing amicus briefs in state and federal courts; consulting in litigation matters; and reviewing draft statutes, regulations, and legal briefs. The division also provides legal support for the commission's audit division, training division, and general administration, including analysis of federal legislation affecting state taxation.

#### Uniformity Work

Through the end of this fiscal year, the division has staffed two in-person meetings of the uniformity committee and subcommittees, three teleconferences for the sales & use tax uniformity subcommittee, and one teleconference for the income & franchise tax uniformity subcommittee, and innumerable teleconferences for drafting groups and workgroups associated with various uniformity projects. The legal division staffed 12 uniformity proposals under consideration by the executive and uniformity committees, in addition to developing improvements to the uniformity process:

- *Telecommunications Definition and Sourcing* (resolution under consideration by resolutions committee for presentation to full commission)
- *Amendments to UDITPA and Compact Art. IV related provisions* (pending completion of hearing officers report; hearing conducted March 27, 2013 by Professor Richard Pomp)
  - Definition of "sales" - Compact Art.IV(1)(g)
  - Sales factor sourcing - Compact Art.IV.17
  - Factor weighting - Compact Art.IV.9
  - Definition of "business income" - Compact Art. IV.1(a)
  - Distortion relief - Compact Art. IV.18
- *Model Sales & Use Tax Notice and Reporting Statute* (pending executive committee consideration after bylaw 7 survey; awaiting decision by the United States Court of Appeals for the 10th Circuit in *Direct Marketing Association v. Brohl*, D.C. No. 10-cv-01546-REB-CBS)

- *Model Statute Regarding Partnership or Pass-Through Entity Income Ultimately Realized by an Entity That Is Not Subject to Income Tax* (the executive committee considered the proposal and directed that the project be concluded by staff preparation of a final project report.)
- *Model Nexus Statute* (under development at uniformity subcommittee)
- *Amendments to MTC Model Financial Institutions Apportionment* (under development at uniformity subcommittee)
- *Model Provisions Concerning Class Actions and False Claims* (under development at uniformity subcommittee)
- *Possible New Project to Develop Regulations for the Exercise of State Section 482 Authority* (subcommittee determined it would not initiate a project.)

#### Litigation Committee Work

Legal division supported the litigation committee by organizing and making presentations for the July 2012 in-person meetings in Grand Rapids, Michigan and the March 2013 in-person meetings in St. Louis, Missouri. In addition, legal division organized information and training sessions for state tax attorneys, including two in-person sessions and seven teleconference sessions. All meetings and teleconferences have been well attended. Attendance for teleconference meetings generally included up to 50 state attorneys from more than 35 states.

#### Legal Assistance to States

The legal division consulted with individual states regarding significant on-going litigation strategy and briefs, draft legislation, and draft regulations. During this fiscal year, *amicus curiae* briefs were filed in the following cases:

- *Harris Corporation and Consolidated Subsidiaries v. Arizona Dep't of Revenue* (Arizona Court of Appeals) filed August 15, 2012
- *First Data Corporation et al. v. Arizona Dep't of Revenue*, (Arizona Court of Appeals) filed August 15, 2012
- *Barnesandnoble.com v. New Mexico Taxation and Revenue Department* (New Mexico Supreme Court) filed October 15, 2012
- *Home Depot USA, Inc. and Affiliates v. Arizona Dep't of Revenue*. (Arizona Court of Appeals) filed October 16 2012
- *Performance Marketing Association, Inc. v. Hamer* (Illinois Supreme Court) filed December 5, 2012.

### Commission Support

The legal division provides support for the commission's general administration by addressing open meetings issues, records requests, researching and making recommendations for record retention policies, resolving lease disputes, and filing corporate registrations and reports. During the fiscal year, the division provided legal assistance to the commission's audit division on a number of challenging audit related issues and has addressed several public participation issues and records requests. Legal division has also provided support for the Commission's training division by teaching the following classes:

- Nexus Training (September 19-20, 2012; in St. Paul, Minnesota)
- Combined Reporting Training (October 1-4, 2012 in Helena, Montana)
- Nexus Training (December 11-12, 2012; Salt Lake City, Utah)
- Combined Reporting Training (January 14-15, in Honolulu, Hawaii)
- Nexus Training (February 12-13, 2013; Salem, Oregon)
- Nexus Training (April 23-24, 2013; Phoenix, Arizona)
- Nexus Training (June 4-5, 2013 in Bismarck, North Dakota)

#### **D. Policy Research**

*Uniformity Project on Revising Model Statute on Apportioning Income of Financial Institutions* — the policy research director continues to work with other MTC staff, state revenue agency personnel, and industry representatives to develop a model apportionment statute. Policy Research staff helped develop methods for situsing loan bundles for property factor in apportionment formula. Policy Research staff also wrote memorandum on possible adoption of alternative apportionment formula for financial institutions.

#### *Multistate Tax Commission Review* —

A winter 2013 issue was published digitally on the Commission's website:

- Article by former Research Intern André Barbé on a comparison of sales taxes and gross receipts taxes, *Pyramiding, Productive Efficiency, and Revenue under a Gross Receipts Tax*.
- Article by Bob Schauer and Harold Jennings Elliott Dubin on dealing with troublesome IT personnel, *The Überexpert*.
- Article by former Research Interns Yi Feng and Matt Wade on the effect of imposing sales taxes on remote commerce, *An Analysis of Business to Consumer Electronic Commerce Sales and Use Tax Compliance on Revenue Collections*.

A summer 2013 issue is under development. Topics include:

- Federal tax reform of corporate taxation and potential impact on states, being written with current policy research interns.
- Review of state and local finances.

*Other Activities —*

- Supports staff efforts in addressing federal legislation with implications for state and local taxation.
- Monitor state adoption of MTC model statutes, regulations, and guidelines.
- Elected to Advisory Board of National Tax Association
- Presentation of overview of U.S. Sales & Use taxes to visiting officials of Japanese housing agencies at National Association of Home Builders, October 5, 2012.
- Organized session on sales taxes for Federation of Tax Administrators Revenue Estimating and Research Conference in Providence, Rhode Island, October 21-24, 2012
- Hosted Tax Economists Forum Breakfast in Washington, D.C., December 12, 2012.
- Hosted Tax Economists Forum Breakfast in Washington, D.C., February 13, 2013.
- Presentation of state and local government tax simplification efforts at Louisiana Multi-Parish Tax Commission in New Orleans, April 4, 2013.
- Organizing, with Prof. Gary Wagner, ODU, State and Local Government Session of NTA Spring Symposium on May 17, 2013: *State and Local Finances after the Great Depression*.
- Began process of recruiting summer policy research interns.
- Organizing session on state corporate income taxes for the National Tax Association's Annual Meeting in Tampa, Florida, November 21-23, 2013.
- Hired and managing two summer policy research interns.

**E. Training**

Training Program staff supported the following training activities since July 1, 2012:

- Statistical Sampling for Sales and Use Tax Audits

August 27-30, 2012 in Albuquerque, New Mexico for 30 students from New Mexico.

February 4-7, 2013 in Hoover, Alabama for 24 students from Alabama, Maryland, the private sector, and the Commission.

- Nexus School

September 19-20, 2012 in St. Paul, Minnesota for 38 students from Alabama, Alaska, Michigan, Minnesota, Mississippi, Montana, South Carolina, South Dakota, Washington and West Virginia.

December 11-12, 2012 in Salt Lake City, Utah for 33 students from Utah, Idaho, Arizona and the Commission.

February 12-13, 2013 in Salem, Oregon for 17 students from Oregon, Maryland and the Commission.

April 23-24, 2013 in Phoenix, Arizona for 58 students from the Arizona Department of Revenue and the Commission.

June 4-5, 2013 in Bismarck, North Dakota for 18 students from North Dakota and South Dakota.

- Corporate Income Tax

October 1-4, 2012 in Helena, Montana for 32 students from Alabama, Alaska, Colorado, Idaho, Mississippi, Montana and Nebraska.

January 14-17, 2013 in Honolulu, Hawaii for 27 students from the Hawaii Department of Taxation.

The Training Program provided corporate income tax training materials and a “train the trainer” session for the audit portion of these materials for the Michigan Department of Treasury in April, 2013. These materials supported training for Michigan staff members as they begin to audit combined returns for the Michigan Business Tax and Corporate Income Tax.

The director of training was the principal coordinator of the August 1, 2012, annual meeting conference in Grand Rapids, Michigan. He is coordinating the July 24, 2013 annual meeting conference in San Diego, California.

## **II. Administration**

On October 15, 2012, after more than 21 years of service to the Commission, Jerry Schleeter retired. Jerry had been the administrative assistant for the Audit Program and was located in the Chicago office.

On November 29, 2012, the New York University School of Continuing and Professional Studies presented the 11th annual award for Outstanding Achievement in State and Local Taxation to Joe Huddleston, Esq., LL.D., in recognition of his unparalleled contributions in all areas of state and local taxation.

On December 3, 2012, Kristin Shuttz began work as an Administrative and Audit Assistant for the Audit Program. She quit after one day for personal reasons.

On January 1, 2013, Amber Kirby, Assistant to the Director, National Nexus Program, left employment with the Commission to join PricewaterhouseCoopers.

On January 1, 2013 the following people joined the staff of the Multistate Tax Commission as full-time employees:

- Benjamin Abalos, Associate Director of the National Nexus Program. Ben had been the Project Manager, Data Sharing Initiative, from November 2011 to December 2012.
- Michelle Becker, Administrative Assistant for the Joint Audit Program, based in the Commission's Chicago office.
- Lila Disque, Counsel with our legal division. Lila had been an intern for legal division since April 2012 and is based in the Commission's D.C. office.
- Alexis Douglas, Auditor (sales and use taxes). Alexis had previously been employed for a number of years with the Texas Comptroller's office as an auditor. She is based in the Commission's Chicago office.

Amyia McCarthy, a 2013 J.D. candidate from Atlanta's John Marshall Law School, joined the National Nexus Program as an intern during the spring 2013 semester.

The following positions were eliminated as of April 30, 2013, as part of actions taken to control expenditures within the proposed budget for fiscal year 2014:

- Administrative Assistant/Receptionist (Donna Banks)
- Publications Coordinator (Teresa Nelson)

In June, two academic summer interns began part-time work with our director of Policy Research: Bree Asci of Bridgewater State University and Leighla Philpott of Fairmont State University.

### **III. Correspondence**

I sent two letters to the National Governors Association regarding federal legislative efforts with state tax implications:

- Letter to Director, Office of Federal Relations, National Governors Association, on federal digital goods legislation, January 4, 2013.
- Letter to Director, Office of Federal Relations, National Governors Association, on federal digital goods legislation, April 3, 2013.

#### IV. Outside Presentations & Events

The following are the programs, conferences, and other events of outside organizations at which members of the staff represented the Commission during the reporting period:

##### JULY

- NYU Summer Institute in Taxation, State Taxation II; New York, New York (Huddleston)
- Tax Economists Forum, *Fixing The System: An Analysis Of Alternative Proposals For The Reform Of International Tax*; Washington, D.C. (Huddleston)
- BNA Online Seminar; *Cloudy with a Chance of Nexus: Analyzing Bloomberg BNA's 2012 Survey of State Tax Departments* (Shimkin); Washington, D.C.
- SEATA 62<sup>nd</sup> Annual Conference; *Litigation Trends and Perspectives* (Sicilian); *State Tax Programs, Policies and Uniformity—A National Perspective* (Huddleston); *Combined Reporting—Unfinished Business* (Sicilian); White Sulphur Springs, West Virginia (Matson)

##### AUGUST

- NCSL Task Force Meeting; Chicago, Illinois (Huddleston, Sicilian)
- BNA State Tax Advisory Board Roundtable, Washington, D.C. (Matson)
- Georgetown Advanced State and Local Tax Institute; *Issues in Apportionment* (Sicilian); Moderator, *State Commissioner Priorities in 2012* (Huddleston); Washington, D.C.
- National Taxpayers Conference Annual Meeting; Washington, D.C. (Huddleston, Dubin)
- Tax Executives Institute Philadelphia Chapter State and Local Tax Committee Roundtable; King of Prussia, Pennsylvania (Huddleston)
- BNA Online Seminar; *Cloudy with a Chance of Nexus: Analyzing Bloomberg BNA's 2012 Survey of State Tax Departments* (Shimkin); Washington, D.C.

##### SEPTEMBER

- Guest Lecturer, Georgetown Law School LL.M. program; Washington, D.C. (Sicilian)
- American Bar Association Section of Taxation Joint Fall CLE Meeting; Boston, Massachusetts (Sicilian)

##### OCTOBER

- Annual Meeting of North Eastern State Tax Officials Association; Portsmouth, New Hampshire (Huddleston)
- Tax Analysts Conference, *Taxes and the Poor*; Washington, D.C. (Huddleston)
- Western States Association of Tax Administrators Conference; Redondo Beach, California (Huddleston)
- Stafford Seminars, *Update on Nexus Litigation, Legislation, and Rulemaking* (Sicilian), Online Presentation

- Federation of Tax Administrators Revenue Estimating and Research Conference; Providence, Rhode Island (Dubin)

#### NOVEMBER

- California Tax Policy Conference; Coronado, California (Huddleston)
- Institute for Professionals in Taxation, Income Tax Symposium; *Tax Official's Take on Income Tax Issues* (Sicilian); Arlington, Virginia
- AICPA National Tax Conference; Washington, D.C. (Huddleston)
- Hartman State and Local Tax Forum; *Alternative Apportionment* (Sicilian); *Legislating Nexus Standards* (Fort); Nashville, Tennessee (Matson)
- National Tax Association Annual Meeting; Providence, Rhode Island (Dubin)
- New England State and Local Tax Forum; Needham, Massachusetts (Huddleston)
- New Jersey Society of CPAs Multistate Tax Conference; *The Battle over Nexus and What Your Clients Need to Know about Proposed Federal Legislation – a State Government Perspective* (Matson); Edison, New Jersey
- Career night for students at Kogod School of Business, American University, Washington, D.C. (Shimkin)
- New York University Institute on State and Local Taxation; *Issue Potpourri—Alternative Apportionment, Including Throwout* (Huddleston); *Issue Potpourri—State Use of Section 482 Authority in Non-Recognition Transactions* (Fort); New York, New York

#### DECEMBER

- COST Mid-Atlantic Regional State Tax Seminar; *Multistate Tax Commission Update* (Matson); Falls Church, Virginia

#### JANUARY

- New York State Bar Association meeting; *Nexus, Nexus, What's All the Fuss* (Sicilian); New York, New York
- American Bar Association meeting; *Is the Multistate Tax Compact Apportionment Election Still Available?* (Sicilian); Orlando, Florida
- Cornell State & Local Tax Group Luncheon; *Multistate Tax Commission Update* (Huddleston); New York, New York
- 22<sup>nd</sup> Annual Ohio State Tax Conference; *Major Trends & Developments in State Business Taxation Including Election Results & New Legislative Initiatives, Increased Enforcement, Expansion of Tax Credits to Retain & Attract Business, Main Street Fairness Act, and Tax Reform in States—A Lively & Free-Wheeling Panel Discussion* (Huddleston); Columbus, Ohio

FEBRUARY

- Deloitte and Florida Bar Tax Section's National Multistate Tax Symposium; *Point/Counterpoint: Tax Uniformity Amongst States—State Sovereignty vs. Federalism* (Huddleston); Orlando, Florida
- NYU State Tax Group Lunch Meeting; *Multistate Tax Commission Update* (Matson); New York, New York
- Tax Analysts conference, *The Future of Federal Income Tax*, Washington, D.C. (Dubin, Huddleston)
- Brookings Institute, *Real Specifics: 15 Ways to Rethink the Federal Budget—Part II: Addressing Entitlements, Taxation, and Revenues*, Washington, D.C. (Dubin, Huddleston)

MARCH

- Tax Executive Institute's 63rd Midyear Conference; *Effect of Federal Income Tax Reform on the States* (Huddleston); Washington, D.C.
- ABA/IPT Advanced Tax Seminars; *State and Local Income Tax Update* (Sicilian); *Ask the Experts* (Sicilian); New Orleans, Louisiana

APRIL

- American Tax Policy Institute & Rice University's Baker Institute conference, *Reforming the U.S. System For Taxing International Income*, Washington, D.C. (Huddleston)
- Louisiana Multi-Parish Tax Commission; *State Tax Reform Efforts* (Dubin); New Orleans, Louisiana

MAY

- 2013 J. Nelson Young Tax Institute; *Operations & Functions of the Multistate Tax Commission: A National Perspective on State Taxation* (Huddleston); Chapel Hill, North Carolina
- BNA Online Seminar, *2013 State Tax Department Policy Trends Including Nexus Positions* (Shimkin); Washington, D.C.
- New Mexico Tax Research Institute Annual Conference; *State Tax Developments* (Fort); Albuquerque, New Mexico
- American Bar Association Section of Taxation May Meeting; State & Local Tax Committee Luncheon, *Recent State Tax Cases Affecting Taxpayer Income Tax Elections & the MTC* (Matson); *Sales of Other Than Tangible Personal Property: The Pros and Cons of Market-Based Sourcing* (Sicilian); Washington, D.C. (Huddleston)
- National Tax Association Spring Symposium, Washington, D.C. (Dubin)
- Oregon Bar Association; *UDITPA Amendments* (Sicilian); Teleconference Presentation
- Ernst & Young Domestic Tax Quarterly Webcast Series: *A Focus on State Tax Matters* (Huddleston); Washington, D.C.

JUNE

- Federation of Tax Administrators Annual Meeting; Moderator, *Perspectives on Emerging State Tax Issues* (Sicilian); *Due Process Clause Developments* (Matson); *Multistate Tax Commission Update* (Huddleston); Albuquerque, New Mexico
- Institute for Professionals in Taxation Basic and Advanced State Income Tax School; *Related Party Transactions* (Sicilian); *Ethical Dilemmas in the Tax World* (Sicilian); Atlanta, Georgia

### Technology Addendum

The Technology Committee was inactivated by the Executive Committee in June of 2011; during the time this committee is inactive, the Executive Director is responsible for providing this technology update with this report.

Configuration of DSI related hardware, functionality, and security testing was completed. The technology portion of the data sharing initiative (DSI) project has been completed. Data was received, by physical media and secure electronic transfer, stored, encrypted and accessed successfully on the DSI isolated network. The virtual machines, as well as the substantiating documentation have been archived.

A new secure email system has been put in place. The new system is a Linux hardened appliance that provides additional functionality (i.e. registered users on the system can send secure emails to other registered users, not just Commission staff).

The new Exchange 2010 email server is in place and is currently coexisting with the Exchange 2003 server. Mailbox migration has begun and soon the Exchange 2003 server will be decommissioned.

All internal switching hardware has been upgraded to Juniper Gigabit switches. This will increase the speed at which internal users will be able to access their files and email in the DC office. The switches in the New York and Chicago offices have also been successfully upgraded to Juniper Gigabit (POE) switches.

The commission is in the final stage of the telephone transition system. We are currently working the Chicago office and Joint Audit Program teleworkers. This process includes the installation of Business High Speed Internet and VoIP telephones. VoIP telephones have already been implemented at the D.C. and Pearl River offices as well as for the legal division and director of training (all teleworkers).

The Commission is working with Quality Assessment Solutions, LLC, regarding a centralized contact and membership management database. The application is in the final stages of testing. What is now dubbed the "State Contact Portal" (*scp.mtc.gov*) is outward facing and accessible from the Internet. The deputy executive director and network administrator are identifying programmatic items that need to be addressed before publicizing the application.

The network administrator has also been working with National Nexus Program staff to provide technical support voluntary disclosure application system. A six-month support agreement has been agreed upon and a few of the immediate concerns are being addressed. Before the end of the six months we will reassess the agreement and decide how to best move forward at that point.

The need for a way to securely transfer large (over 10 MB) files has become an issue as MTC staff has expressed an increasing need to share these large files with tax

payers and state personnel. The Network Administrator is looking in to possible solutions that not only provide the transfer functionality, but also meet the security requirements of these documents.

An SSL-VPN appliance has been installed in the Chicago office and is in the process of being configured to allow real time access to files on the Chicago server for Audit staff.

Uninterrupted Power Supply (UPS) units with network manageability were installed in the New York and Chicago offices. These will allow the selected computers to shut down gracefully in the event of a power failure. The Network manageability allows the Network Administrator to more closely monitor and troubleshoot power issues in the remote offices from the DC office.

MTC Website

The Commission’s website provides a one-stop resource for state tax agencies and taxpayers with respect to the activities of the MTC. During the period of July 1, 2012 to June 30, 2013, the website was viewed a total of 396,860 times, an increase of 16% from last year. We received 63% new visitors and 37% returning visitors throughout the year.

Our top three web pages include the Sales and Use Certificate webpage with 18% of pageviews followed by our homepage with 13% and Member States map webpage with 5%. The Sales and Use Certificate webpage consists of a downloadable Uniform Sales and Use Tax Certificate Multijurisdictional form and a frequent asked questions webpage. Our homepage includes the daily commission news and events. The Member States webpage contains an up-to-date status of the commission members and program participation.

In the future, the commission is seeking way to improve its overall website functionally. In the upcoming months the website will undergo a comprehensive migration to Kentico CMS (content management system). The new content management system will provide an easier, flexible, and more stable platform for managing content, including desired improvements to the uniformity information on the website.

Jul 1, 2012 - Jun 30, 2013: ● Visits  
 Jul 2, 2011 - Jun 30, 2012: ● Visits



|    | Page Title                                | Total Page Views | Unique Page Views | Average Time on Page in minutes |
|----|---|------------------|-------------------|---------------------------------|
| 1  | Sales and Use Certificate                 | 87,691           | 64,305            | 0:02:14                         |
| 2  | Homepage                                  | 60,869           | 46,962            | 0:01:12                         |
| 3  | State Map                                 | 20,298           | 12,225            | 0:01:49                         |
| 4  | MTC Compact                               | 17,694           | 10,059            | 0:00:27                         |
| 5  | FAQ's Sales and Use Certificate           | 9,132            | 7,743             | 0:02:32                         |
| 6  | About the Nexus Program                   | 8,721            | 6,065             | 0:00:34                         |
| 7  | Overview Multi-state Voluntary Disclosure | 6,591            | 4,833             | 0:02:01                         |
| 8  | MTC Compact IV. Division of Income        | 6,498            | 5,201             | 0:01:41                         |
| 9  | Uniformity Adopted Recommendations        | 6,428            | 3,388             | 0:02:02                         |
| 10 | About the MTC                             | 5,986            | 4,592             | 0:01:25                         |

### Interesting Facts

- Average visit duration was 2 minutes and 12 seconds.
- A total of 3,779 visits came from mobile devices and 2,407 from tablets.
- The top five states/jurisdictions visitors are from *California* 8.20%, *Texas* 7.30%, *Illinois* 6.70%, *New York* 6.20% and the *District of Columbia* with 5.40%
- The website received a total of 140,683 visitors with 50% from Google's search engine, 20% direct traffic with no referral, and 8% from the Bing search engine.

---

**MULTISTATE TAX  
COMMISSION**

**Financial Statements and  
Report of Independent Certified  
Public Accountants**

**For the Years Ended  
June 30, 2013 and 2012**

---

**LSWG**

**Linton Shafer Warfield & Garrett, P.A.**  
CERTIFIED PUBLIC ACCOUNTANTS

**MULTISTATE TAX COMMISSION**  
**Table of Contents**  
**June 30, 2013 and 2012**

|  | <u>Page</u> |
|--|-------------|
| Report of Independent Certified Public Accountants                                       | 1-2         |
| <b>Financial Statements</b>  |             |
| Balance Sheets   | 3-4         |
| Statements of Revenue and Expenses and Changes<br>in Fund Balance - Unappropriated Funds | 5-6         |
| Statements of Changes in Fund Balance – Appropriated Funds                               | 7-8         |
| Statements of Changes in Fund Balance – Restricted Funds                                 | 9           |
| Statements of Cash Flows   | 10          |
| Notes to Financial Statements  | 11-17       |
| <b>Additional Information</b>  |             |
| Report of Independent Certified Public Accountants on<br>Additional Information          | 18          |
| Schedule of Expenses   | 19          |



Linton Shafer Warfield & Garrett, P.A.  
CERTIFIED PUBLIC ACCOUNTANTS

JENNIFER P. CLINGAN, CPA  
EDWARD T. GARRETT, CPA  
MEREDITH C. HARSHMAN, CPA  
KEVIN R. HESSLER, CPA  
LISA D. LANDAVERDE, CPA  
DONALD C. LINTON, CPA, CFP, PFS  
JOSEPH M. MCCATHRAN, CPA  
BRIAN E. RIPPEON, CPA  
BARBARA CLINE-ROMAN, CPA  
RONALD W. SHAFER, CPA  
DOUGLAS C. WARFIELD, CPA, CVA

## **Report of Independent Certified Public Accountants**

To the Executive Committee of  
Multistate Tax Commission

We have audited the accompanying financial statements of Multistate Tax Commission, which comprise the balance sheets as of June 30, 2013 and 2012, and the related statements of revenue and expenses and changes in fund balance and cash flows for the years then ended, and the related notes to the financial statements.

### **Management's Responsibility for the Financial Statements**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### **Auditor's Responsibility**

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

**Opinion**

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Multistate Tax Commission as of June 30, 2013 and 2012, and the changes in its fund balances and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

*Linton Shafer Warfield & Garrett*

October 8, 2013

**MULTISTATE TAX COMMISSION**

MULTISTATE TAX COMMISSION

Balance Sheets

June 30,

ASSETS

|   | <u>2013</u>             | <u>2012</u>             |
|---|-------------------------|-------------------------|
| <b>Current Assets</b>                           |                         |                         |
| Cash and cash equivalents                       | \$ 916,354              | \$ 1,574,744            |
| Accounts receivable                             |                         |                         |
| Schools   | 8,135                   | 47,120                  |
| Fees  | -                       | 225,000                 |
| Accrued interest                                | 23,697                  | 23,171                  |
| Prepaid expenses                                | 34,995                  | 71,300                  |
| Total Current Assets                            | <u>983,181</u>          | <u>1,941,335</u>        |
| <br><b>Property and Equipment - at Cost</b>     |                         |                         |
| Office furniture and equipment                  | 625,025                 | 709,622                 |
| Leasehold improvements                          | 236,147                 | 236,147                 |
| Less: accumulated depreciation and amortization | <u>(679,437)</u>        | <u>(680,353)</u>        |
| Property and Equipment - Net                    | <u>181,735</u>          | <u>265,416</u>          |
| <br><b>Other Assets</b>                         |                         |                         |
| Investments                                     | 4,410,660               | 3,851,745               |
| Expense account advances                        | 8,400                   | 7,600                   |
| Deposits  | 6,165                   | 6,165                   |
| Total Other Assets                              | <u>4,425,225</u>        | <u>3,865,510</u>        |
| <br><b>TOTAL ASSETS</b>                         | <br><u>\$ 5,590,141</u> | <br><u>\$ 6,072,261</u> |

## LIABILITIES

|   | <u>2013</u>        | <u>2012</u>        |
|---|--------------------|--------------------|
| <b>Current Liabilities</b>                            |                    |                    |
| Accounts payable                                      | \$ 17,714          | \$ 58,607          |
| Accrued salaries and vacation pay                     | 389,399            | 352,225            |
| Unearned membership, program and<br>registration fees | <u>193,396</u>     | <u>470,275</u>     |
| Total Current Liabilities                             | <u>600,509</u>     | <u>881,107</u>     |
| <br><b>TOTAL LIABILITIES</b>                          | <br><u>600,509</u> | <br><u>881,107</u> |

Commitments and Contingencies - Note 3

|  |                         |                         |
|--|-------------------------|-------------------------|
| <b>Fund Balances</b>                           |                         |                         |
| Unappropriated                                 | 3,218,704               | 3,457,302               |
| Appropriated                                   | 587,421                 | 609,087                 |
| Restricted                                     | <u>1,183,507</u>        | <u>1,124,765</u>        |
| Total Fund Balances                            | <u>4,989,632</u>        | <u>5,191,154</u>        |
| <br><b>TOTAL LIABILITIES AND FUND BALANCES</b> | <br><u>\$ 5,590,141</u> | <br><u>\$ 6,072,261</u> |

The accompanying notes are an integral part of these statements.

**MULTISTATE TAX COMMISSION**  
**Statements of Revenue and Expenses**  
**and Changes in Fund Balance**  
**Unappropriated Funds**  
**For the Years Ended June 30,**

|   | <u>2013</u>         | <u>2012</u>         |
|---|---------------------|---------------------|
| <b>Revenue - Unappropriated and Appropriated</b>  |                     |                     |
| Assessments                                       | \$ 5,641,741        | \$ 6,055,821        |
| Interest and dividends                            | 175,806             | 155,062             |
| Realized gain (loss) on investments               | (18,288)            | 18,946              |
| Unrealized gain (loss) on investments             | (69,354)            | (4,326)             |
| Other income                                      |                     |                     |
| Training fees                                     | 215,570             | 166,634             |
| Miscellaneous                                     | 16,922              | 17,202              |
| Total Revenue                                     | <u>5,962,397</u>    | <u>6,409,339</u>    |
| <b>Expenses - Unappropriated and Appropriated</b> |                     |                     |
| Accounting  | 15,356              | 14,978              |
| Bonds and insurance                               | 16,355              | 16,371              |
| Conferences and training schools                  | 133,203             | 85,902              |
| Depreciation and amortization                     | 91,628              | 93,637              |
| Bond amortization                                 | 67,665              | 74,483              |
| Employee benefits                                 | 964,301             | 892,064             |
| Miscellaneous                                     | 18,594              | 18,384              |
| Consumable supplies                               | 40,535              | 55,394              |
| Postage   | 23,015              | 21,511              |
| Printing and duplicating                          | 20,274              | 17,455              |
| Professional services                             | 234,535             | 238,279             |
| Publications and electronic resources             | 29,492              | 26,906              |
| Recruitment                                       | 2,385               | 419                 |
| Rent  | 230,476             | 240,591             |
| Repairs and maintenance                           | 19,256              | 20,679              |
| Retirement plan                                   | 434,060             | 405,056             |
| Salaries  | 3,610,640           | 3,323,609           |
| Software licenses                                 | 5,474               | 3,031               |
| Staff training                                    | 9,657               | 13,147              |
| Subscriptions, publications, dues                 | 44,945              | 46,203              |
| Unified communications                            | 44,715              | 56,212              |
| Travel  | 283,499             | 238,316             |
| Allocation of administrative expenses             | (117,399)           | (123,519)           |
| Total Expenses                                    | <u>\$ 6,222,661</u> | <u>\$ 5,779,108</u> |

(continued)

**MULTISTATE TAX COMMISSION**  
**Statements of Revenue and Expenses**  
**and Changes in Fund Balance**  
**Unappropriated Funds**  
**For the Years Ended June 30,**

|  | 2013             | 2012             |
|--|------------------|------------------|
| <b>Excess of Revenue Over (Under) Expenses</b>                   | \$ (260,264)     | \$ 630,231       |
| Transfer (to) from Appropriated Fund Balance                     | 21,666           | 39,889           |
| Transfer from Restricted Fund Balance                            | -                | -                |
| Total Amount Transferred   | 21,666           | 39,889           |
| <br><b>FUND BALANCE - Unappropriated -<br/>Beginning of Year</b> | <br>3,457,302    | <br>2,787,182    |
| <br><b>FUND BALANCE - Unappropriated -<br/>End of Year</b>       | <br>\$ 3,218,704 | <br>\$ 3,457,302 |

The accompanying notes are an integral part of these financial statements.

**THIS PAGE LEFT BLANK INTENTIONALLY.**

**MULTISTATE TAX COMMISSION**  
**Statements of Changes in Fund Balance**  
**Appropriated Funds**  
**For the Years Ended June 30, 2013 and 2012**

|   | <u>State Tax<br/>Compliance</u> | <u>Federalism<br/>At Risk</u> | <u>Federal Tax<br/>Information<br/>Data Sharing<br/>Initiative</u> |
|---|---------------------------------|-------------------------------|--|
| Fund Balance - June 30, 2011                                    | \$ 23,918                       | \$ 25,146                     | \$ 86,556  |
| Transfer to Unappropriated<br>Fund Balance                      | <u>(23,918)</u>                 | <u>(25,146)</u>               | <u>(52,390)</u>  |
| Net Amount Transferred (To)<br>From Unappropriated Fund Balance | <u>(23,918)</u>                 | <u>(25,146)</u>               | <u>(52,390)</u>  |
| Fund Balance - June 30, 2012                                    | <u>\$ -</u>                     | <u>\$ -</u>                   | 34,166   |
| Transfer (to) from Unappropriated<br>Fund Balance               |                                 |                               | <u>(34,166)</u>  |
| Net Amount Transferred (To)<br>From Unappropriated Fund Balance |                                 |                               | <u>(34,166)</u>  |
| Fund Balance - June 30, 2013                                    |                                 |                               | <u>\$ -</u>  |

| <b>Equipment Reserve</b> | <b>Enterprise Automation Project</b> | <b>Nexus Activities</b> | <b>Membership Development and Relations</b> | <b>Total</b>      |
|--------------------------|--------------------------------------|-------------------------|---|-------------------|
| \$ 6,706                 | \$ 387,795                           | \$ 90,000               | \$ 28,855                                   | \$ 648,976        |
| <u>12,500</u>            | <u>167,920</u>                       | <u>(90,000)</u>         | <u>(28,855)</u>                             | <u>(39,889)</u>   |
| <u>12,500</u>            | <u>167,920</u>                       | <u>(90,000)</u>         | <u>(28,855)</u>                             | <u>(39,889)</u>   |
| 19,206                   | 555,715                              | <u>\$ -</u>             | <u>\$ -</u>                                 | 609,087           |
| <u>12,500</u>            | <u>-</u>                             |                         |   | <u>(21,666)</u>   |
| <u>12,500</u>            | <u>-</u>                             |                         |   | <u>(21,666)</u>   |
| <u>\$ 31,706</u>         | <u>\$ 555,715</u>                    |                         |   | <u>\$ 587,421</u> |

The accompanying notes are an integral part of these statements.

**MULTISTATE TAX COMMISSION**  
**Statements of Changes in Fund Balance**  
**Restricted Funds**  
**For the Years Ended June 30, 2013 and 2012**

|  | <u>4R Project</u> | <u>Nexus<br/>Program</u> | <u>Total</u>        |
|--|-------------------|--------------------------|---------------------|
| Fund Balance - June 30, 2011               | \$ 42,694         | \$ 1,011,574             | \$ 1,054,268        |
| Revenue                                    | -                 | 761,346                  | 761,346             |
| Expenses                                   | <u>-</u>          | <u>690,849</u>           | <u>690,849</u>      |
| Excess of Revenue Over Expenses            | <u>-</u>          | <u>70,497</u>            | <u>70,497</u>       |
| Fund Balance - June 30, 2012               | 42,694            | 1,082,071                | 1,124,765           |
| Revenue                                    | -                 | 758,799                  | 758,799             |
| Expenses                                   | <u>-</u>          | <u>700,057</u>           | <u>700,057</u>      |
| Excess of Revenue Over Expenses            | <u>-</u>          | <u>58,742</u>            | <u>58,742</u>       |
| Transfer to Unappropriated<br>Fund Balance | <u>-</u>          | <u>-</u>                 | <u>-</u>            |
| Fund Balance - June 30, 2013               | <u>\$ 42,694</u>  | <u>\$ 1,140,813</u>      | <u>\$ 1,183,507</u> |

The accompanying notes are an integral part of these statements.

**MULTISTATE TAX COMMISSION**  
**Statements of Cash Flows**  
**For the Years Ended June 30, 2013 and 2012**

|   | <b>2013</b>  | <b>2012</b>  |
|---|--------------|--------------|
| <b>Increase (Decrease) in Cash and Cash Equivalents</b>   |              |              |
| <b>Cash Flows From Operating Activities</b>   |              |              |
| Excess of revenue over (under) expenses   | \$ (201,522) | \$ 700,728   |
| Adjustments to reconcile excess of revenue over (under) expenses to net cash provided by operating activities |              |              |
| Depreciation  | 95,482       | 97,769       |
| Bond amortization   | 67,665       | 74,483       |
| Loss on disposal of property and equipment  | 2,761        | -            |
| Unrealized loss on investments  | 69,354       | 4,326        |
| Realized (gain) loss on sale of investments   | 18,288       | (18,946)     |
| Changes in assets and liabilities   |              |              |
| Accounts receivable   |              |              |
| Schools   | 38,985       | (24,420)     |
| Fees  | 225,000      | (110,100)    |
| Prepaid expenses and accrued interest   | 35,779       | (18,387)     |
| Expense account advances  | (800)        | (400)        |
| Accounts payable  | (40,893)     | 35,259       |
| Payroll taxes withheld and accrued  | -            | (37,189)     |
| Accrued salaries and vacation pay   | 37,174       | (808)        |
| Unearned membership, program and registration fees  | (276,879)    | 6,616        |
| Net Cash Provided by Operating Activities   | 70,394       | 708,931      |
| <b>Cash Flows From Investing Activities</b>   |              |              |
| Purchase of property and equipment  | (15,562)     | (44,591)     |
| Proceeds from sale of property and equipment  | 1,000        | -            |
| Purchase of investments   | (2,176,889)  | (748,693)    |
| Proceeds from sale of investments   | 1,462,667    | 439,159      |
| Net Cash Used in Investing Activities   | (728,784)    | (354,125)    |
| Net Increase (Decrease) in Cash and Cash Equivalents  | (658,390)    | 354,806      |
| Cash and Cash Equivalents - Beginning of Year   | 1,574,744    | 1,219,938    |
| Cash and Cash Equivalents - End of Year   | \$ 916,354   | \$ 1,574,744 |
| <b>Supplemental Disclosures</b>   |              |              |
| Income taxes paid   | \$ -         | \$ -         |
| Interest paid   | \$ -         | \$ -         |

The accompanying notes are an integral part of these financial statements.

**MULTISTATE TAX COMMISSION**  
**Notes to Financial Statements**  
**June 30, 2013 and 2012**

**1. Summary of Significant Accounting Policies**

The Multistate Tax Commission (the Commission) was organized in 1967. It was established by the Multistate Tax Compact, which became effective August 4, 1967. The Commission is an intergovernmental state tax agency working on behalf of states and taxpayers to administer, equitable and efficiently, tax laws that apply to multistate and multinational enterprises.

**Cash Equivalents**

For purposes of the statement of cash flows, the Commission considers all highly liquid instruments purchased with a maturity of three months or less to be cash equivalents.

**Accounts Receivable**

Accounts receivable are stated at the amount management expects to collect from outstanding balances. The Commission considers accounts receivable to be fully collectible; accordingly, no allowance for doubtful accounts is required. If amounts become uncollectible, they will be charged to operations when that determination is made.

**Property and Equipment**

Property and equipment are defined as assets with an initial, individual cost of more than \$500 and an estimated useful life of one year or more. All property and equipment is stated at cost and depreciated using straight-line and accelerated methods based upon estimated useful lives as follows: Leasehold Improvements - 5 years and Office Furniture and Equipment - 5 to 7 years.

Expenditures for maintenance and repairs are charged to the appropriate expense accounts as incurred. Expenditures for renewals or betterments which materially extend the useful lives of assets or increase their productivity are capitalized at cost. The costs and related allowances for depreciation of assets retired or otherwise disposed of are eliminated from the accounts. The resulting gains or losses are included in the determination of excess of revenue over expenses.

**Unearned Membership, Program and Registration Fees**

Assessments and audit reimbursements are due from the respective states on July 1st of each year (unless other specific arrangements are made with a State) and cover the following twelve-month period. Assessments received prior to July 1st for the following year are unearned and considered deferred income until recognized as revenue in the following year.

**MULTISTATE TAX COMMISSION**  
**Notes to Financial Statements**  
**June 30, 2013 and 2012**

**1. Summary of Significant Accounting Policies (continued)**

**Income Taxes**

In the opinion of legal counsel, the Commission is exempt from Federal income taxes as well as from other Federal taxes as an organization of a group of States or as an instrumentality of those States. Therefore, no provision has been made in the financial statements for Federal income taxes.

**Fair Value**

Financial Accounting Standards Board (FASB) Codification Standards defines fair value, establishes a framework for measuring fair value, and expands disclosures about fair value measurements and establish a hierarchy for valuation inputs.

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. A fair value measurement assumes that the transaction to sell the asset or transfer the liability occurs in the principal market for the asset or liability or, in the absence of a principal market, the most advantageous market. Valuation techniques that are consistent with the market, income or cost approach are used to measure fair value.

The fair value hierarchy prioritizes the inputs to valuation techniques used to measure fair value into three broad levels:

- Level 1 - inputs are based upon unadjusted quoted prices for identical instruments traded in active markets.
- Level 2 - inputs are based upon quoted prices for similar instruments in active markets, quoted prices for identical or similar instruments in markets that are not active, and model-based valuation techniques for which all significant assumptions are observable in the market or can be corroborated by observable market data for substantially the full term of the assets or liabilities.
- Level 3 - inputs are generally unobservable and typically reflect management's estimates of assumptions that market participants would use in pricing the asset or liability. The fair values are therefore determined using model-based techniques that include option pricing models, discounted cash flow models, and similar techniques.

**MULTISTATE TAX COMMISSION**  
**Notes to Financial Statements**  
**June 30, 2013 and 2012**

**2. Defined Contribution Plan**

Effective June 30, 1986, the Commission adopted a defined contribution plan to be funded at a rate of 12.4% of each participating individual's annual salary. To participate in this plan, employees are required to work more than certain pre-determined hourly and monthly levels throughout the plan year. The total expense relating to the defined contribution plan for the years ended June 30, 2013 and 2012 was \$469,129 and \$438,972, respectively.

**3. Commitments**

The Commission rents its office facilities in Washington, D.C., New York, and Illinois under lease agreements with terms expiring on various dates through January 31, 2020. These leases provide for the following minimum annual base rentals exclusive of utility charges and certain escalation charges:

| <u>Fiscal Year Ended:</u> | <u>Minimum<br/>Annual Payment</u> |
|---------------------------|-----------------------------------|
| 2014                      | \$ 368,854                        |
| 2015                      | 364,677                           |
| 2016                      | 360,904                           |
| 2017                      | 337,686                           |
| 2018                      | 342,441                           |

The leases include certain escalation charges based on various factors including utility, operating expense and property tax increases from a base year. Rent expense, exclusive of utility charges and real estate taxes, for the years ended June 30, 2013 and 2012 was \$366,187 and \$383,925, respectively.

**4. Appropriated Fund Balances**

The Commission's Executive Committee authorized the Enterprise Automation fund in the amount of \$73,000 during the year ended June 30, 1997. An additional \$882,218 has been authorized in subsequent years. The purpose of this fund is to provide support, through professional services, for developing enterprise-wide applications for managing the Commission information resources in a manner that enhances its operations. For the years ended June 30, 2013 and 2012 the Enterprise Automation fund balance was \$555,715.

**MULTISTATE TAX COMMISSION**  
**Notes to Financial Statements**  
**June 30, 2013 and 2012**

**4. Appropriated Fund Balances (continued)**

The Commission's Executive Committee authorized the Nexus Activities fund in the amount of \$80,000 during the year ended June 30, 1997. An additional net amount of \$20,000 has been authorized in subsequent years. The purpose of this fund is to provide support for Commission nexus activities including, a) research and writing on Constitutional nexus issues and b) a reserve for professional services to support work on potential nexus cases in litigation. In 2012, the Executive Commission approved the transfer of these funds to the Enterprise Automation Project. For the years ended June 30, 2013 and 2012, the Nexus Activities fund balance was \$0.

The Commission's Executive Committee authorized the Membership Development and Relations fund in the amount of \$150,000 during the year ended June 30, 2000. The purpose of this fund is to support efforts aimed at increasing membership. In 2012, the Executive Commission approved the transfer of these funds to the Enterprise Automation Project. For the years ended June 30, 2013 and 2012, the Membership Development fund balance was \$0.

The Commission's Executive Committee authorized the State Tax Compliance fund in the amount of \$23,918 during the year ended June 30, 2004. The purpose of this fund is to support the implementation of the recommendations of the Commission's State Tax Compliance Initiative and the measures to improve state tax compliance by multistate taxpayers as approved by the Executive Committee or Commission. In 2012, the Executive Commission approved the transfer of these funds to the Enterprise Automation Project. For the years ended June 30, 2013 and 2012, the State Tax Compliance fund balance was \$0.

The Commission's Executive Committee authorized the Federalism at Risk fund in the amount of \$120,000 during the year ended June 30, 2002. The purpose of this fund is to provide support for an inquiry to assess the status of state and local tax systems. This inquiry culminated in a written report published in 2003. In 2012, the Executive Commission approved the transfer of these funds to the Enterprise Automation Project. For the years ended June 30, 2013 and 2012, the Federalism at Risk fund balance was \$0.

The Commission's Executive Committee authorized the Equipment Reserve fund in the amount of \$17,500 during the year ended June 30, 2009. An additional \$55,000 has been authorized in subsequent years. The purpose of this fund is to provide support for purchases of computer equipment for the Commission's audit program and information technology department. For the years ended June 30, 2013 and 2012, the Equipment Reserve fund balances were \$31,706 and \$19,206, respectively.

**MULTISTATE TAX COMMISSION**  
**Notes to Financial Statements**  
**June 30, 2013 and 2012**

**4. Appropriated Fund Balances (continued)**

The Commission's Executive Committee authorized the Federal Tax Information Data Sharing Initiative fund in the amount of \$86,556 during the year ended June 30, 2011. The purpose of this fund is to establish and monitor the operation of the Commission as an agent and representative of those states requesting contractor services with respect to federal tax information (FTI). For the years ended June 30, 2013 and 2012, the Federal Tax Information Data Sharing Initiative fund balances were \$0 and \$34,166, respectively.

**5. Restricted Fund Balances**

During the year ended June 30, 1988, the 4R Program was established whereby contributions received are restricted to use for supporting education, lobbying and legal expenses related to this property tax project. The purpose of the project is to provide for research activities as well as to seek favorable changes in Federal laws which are related to property tax restrictions of state and local governments.

During the year ended June 30, 1991, the National Nexus program was established. This program, funded by participating states, aims to encourage and secure taxpayer compliance with current state laws, a liability resolution process, and information sharing among member states. The contributions received from the participating states are restricted for this purpose.

**6. Deferred Compensation Plan**

The Commission offers employees a deferred compensation plan in accordance with Internal Revenue Code Section 457. The plan permits employees to defer a portion of their salary until future years. Participation in the plan is optional. The deferred compensation is not available to employees until termination, retirement, death or unforeseeable emergency. In accordance with federal law, participants' deferred compensation under the plan is trustee and thus shielded against the claims of the creditors of the Commission and therefore, not included in these financial statements.

The Commission believes it has no liability for losses under the plan but does have a duty of due care that would be required of an ordinary prudent investor. Investments are managed by the plan's trustee, and the plan provides approximately twenty investment options or a combination thereof. The participants make the choice of the investment option(s).

**MULTISTATE TAX COMMISSION**  
**Notes to Financial Statements**  
**June 30, 2013 and 2012**

**7. Investments**

The following is a summary of investments along with their respective fair values, all of which are considered level one:

|                                     | Cost<br>2013        | Market<br>2013      | Cost<br>2012        | Market<br>2012      |
|-------------------------------------|---------------------|---------------------|---------------------|---------------------|
| <b>Investments</b>                  |                     |                     |                     |                     |
| Mutual funds                        | \$ 1,433,386        | \$ 1,425,381        | \$ 868,954          | \$ 899,497          |
| Money market funds                  | 25,111              | 25,111              | -                   | -                   |
| Corporate bonds                     | 320,207             | 312,336             | -                   | -                   |
| Corporate stock                     | 214,719             | 214,460             | -                   | -                   |
| US Government and Agency securities | <u>2,431,587</u>    | <u>2,433,372</u>    | <u>2,897,245</u>    | <u>2,952,248</u>    |
| <b>Total Investments</b>            | <u>\$ 4,425,010</u> | <u>\$ 4,410,660</u> | <u>\$ 3,766,199</u> | <u>\$ 3,851,745</u> |

The Commission invests in a professionally managed portfolio that contains mutual funds. Such investments are exposed to various risks such as interest rates, market and credit. Due to the level of risk associated with such investments and the level of uncertainty related to changes in the value of such investments, it is at least reasonably possible that changes in risks in the near term would materially affect investment balances and the amounts reported in the financial statements.

**8. Allocation of Administrative Expenses**

The administrative costs of providing the various programs and other activities have been allocated among the programs and supporting services, based on total operating costs.

**9. Use of Estimates**

In preparing financial statements in conformity with generally accepted accounting principles, management is required to make estimates and assumptions that affect the reported amounts of assets and liabilities, the reported amounts of revenues and expenses during the reporting period, and disclosures. Actual results could differ from those estimates.

**MULTISTATE TAX COMMISSION**  
**Notes to Financial Statements**  
**June 30, 2013 and 2012**

**10. Concentration of Credit Risk**

Cash held by the Commission in bank accounts may at times exceed the Federal Deposit Insurance Corporation (FDIC) coverage limit. Management believes the Commission is not exposed to any significant credit risk related to cash.

**11. Subsequent Events**

Management has evaluated subsequent events through October 8, 2013, the date that the financial statements were available to be issued. There were no significant events to report.

**ADDITIONAL INFORMATION**



Linton Shafer Warfield & Garrett, P.A.  
CERTIFIED PUBLIC ACCOUNTANTS

JENNIFER P. CLINGAN, CPA  
EDWARD T. GARRETT, CPA  
MEREDITH C. HARSHMAN, CPA  
KEVIN R. HESSLER, CPA  
LISA D. LANDAVERDE, CPA  
DONALD C. LINTON, CPA, CFP, PFS  
JOSEPH M. MCCATHRAN, CPA  
BRIAN E. RIPPEON, CPA  
BARBARA CLINE-ROMAN, CPA  
RONALD W. SHAFER, CPA  
DOUGLAS C. WARFIELD, CPA, CVA

**Report of Independent Certified Public Accountants  
on Additional Information**

To the Executive Committee of  
Multistate Tax Commission

We have audited the financial statements of Multistate Tax Commission as of and for the year ended June 30, 2013, and have issued our report thereon dated October 8, 2013, which contained an unmodified opinion on those financial statements. Our audit was performed for the purpose of forming an opinion on the financial statements as a whole. The schedule of expenses is presented for purposes of additional analysis and is not a required part of the financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the financial statements taken as a whole.

*Linton Shafer Warfield & Garrett*

October 8, 2013

**MULTISTATE TAX COMMISSION**

Schedule of Expenses  
For the Year Ended  
June 30, 2013

|                                       | Unappropriated and Appropriated Funds |                     |                         |                         |                        |                                       | Restricted Funds       |                        |                     |  |
|---------------------------------------|---------------------------------------|---------------------|-------------------------|-------------------------|------------------------|---------------------------------------|------------------------|------------------------|---------------------|--|
|                                       | Federal Tax                           |                     |                         |                         |                        |                                       | Total                  |                        |                     |  |
|                                       | General Expenses                      | Audit Program       | Data Sharing Initiative | Administrative Expenses | Training and Education | Unappropriated and Appropriated Funds | National Nexus Program | Total Restricted Funds | Total All Funds     |  |
| Accounting                            | \$ 11,000                             | \$ -                | \$ -                    | \$ 4,356                | \$ -                   | \$ 15,356                             | \$ -                   | \$ -                   | \$ 15,356           |  |
| Bonds and insurance                   | -                                     | -                   | -                       | 16,355                  | -                      | 16,355                                | -                      | -                      | 16,355              |  |
| Conferences and training schools      | 95,347                                | 6,515               | -                       | 733                     | 30,608                 | 133,203                               | 5,937                  | 5,937                  | 139,140             |  |
| Depreciation and amortization         | -                                     | 9,800               | -                       | 81,828                  | -                      | 91,628                                | 3,854                  | 3,854                  | 95,482              |  |
| Bond amortization                     | 67,665                                | -                   | -                       | -                       | -                      | 67,665                                | -                      | -                      | 67,665              |  |
| Employee benefits                     | 197,087                               | 574,719             | 2,239                   | 155,959                 | 34,297                 | 964,301                               | 81,200                 | 81,200                 | 1,045,501           |  |
| Miscellaneous                         | 1,340                                 | 6,341               | -                       | 8,447                   | 2,466                  | 18,594                                | 539                    | 539                    | 19,133              |  |
| Consumable supplies                   | 4,207                                 | 13,206              | -                       | 17,907                  | 5,215                  | 40,535                                | 4,505                  | 4,505                  | 45,040              |  |
| Postage                               | 3,949                                 | 8,075               | -                       | 5,927                   | 5,064                  | 23,015                                | 7,246                  | 7,246                  | 30,261              |  |
| Printing and duplicating              | 730                                   | 2,766               | -                       | 5,932                   | 10,846                 | 20,274                                | 495                    | 495                    | 20,769              |  |
| Professional services                 | 190,790                               | 2,067               | -                       | 30,253                  | 11,425                 | 234,535                               | 748                    | 748                    | 235,283             |  |
| Publications and electronic resources | 4,899                                 | 9,497               | -                       | 15,096                  | -                      | 29,492                                | -                      | -                      | 29,492              |  |
| Recruitment                           | -                                     | 2,190               | -                       | 195                     | -                      | 2,385                                 | 12                     | 12                     | 2,397               |  |
| Rent                                  | 32,281                                | 81,229              | -                       | 116,966                 | -                      | 230,476                               | 135,711                | 135,711                | 366,187             |  |
| Repairs and maintenance               | -                                     | 2,213               | -                       | 17,043                  | -                      | 19,256                                | -                      | -                      | 19,256              |  |
| Retirement plan                       | 102,311                               | 254,552             | -                       | 63,758                  | 13,439                 | 434,060                               | 35,069                 | 35,069                 | 469,129             |  |
| Salaries                              | 871,184                               | 2,076,113           | 31,927                  | 523,040                 | 108,376                | 3,610,640                             | 283,999                | 283,999                | 3,894,639           |  |
| Software licenses                     | 6                                     | 1,799               | -                       | 3,669                   | -                      | 5,474                                 | -                      | -                      | 5,474               |  |
| Staff training                        | 3,073                                 | -                   | -                       | 6,085                   | 499                    | 9,657                                 | 3,500                  | 3,500                  | 13,157              |  |
| Subscriptions, publications, dues     | 25,598                                | 9,031               | -                       | 9,393                   | 923                    | 44,945                                | 9,046                  | 9,046                  | 53,991              |  |
| Unified communications                | 11,189                                | 22,005              | -                       | 11,079                  | 442                    | 44,715                                | 2,873                  | 2,873                  | 47,588              |  |
| Travel                                | 80,111                                | 143,447             | -                       | 21,004                  | 38,937                 | 283,499                               | 7,924                  | 7,924                  | 291,423             |  |
| Allocation of administrative expenses | 345,376                               | 652,250             | -                       | (1,15,025)              | -                      | (117,399)                             | 117,399                | 117,399                | -                   |  |
| <b>Total Expenses</b>                 | <b>\$ 2,048,143</b>                   | <b>\$ 3,877,815</b> | <b>\$ 34,166</b>        | <b>\$ -</b>             | <b>\$ 262,537</b>      | <b>\$ 6,222,661</b>                   | <b>\$ 700,057</b>      | <b>\$ 700,057</b>      | <b>\$ 6,922,718</b> |  |