

Multistate Tax Commission



EUGENE F. CORRIGAN, Executive Director

February 27, 1981

To: Executive Committee Members

CA7 From: Eugene F. Corrigan, Executive Director

Re: Meeting with Airline Representatives
February 11, 1981

Present at the meeting were Dave West, Air Transport Association; Bill Dowd, TWA Tax Research Manager and Chairman of the ATA Task Force in Interstate Taxation; and Gene Corrigan.

Dave West and Bill Dowd expressed concern that some states are determining their current approach on a self-serving basis. If this is a developing pattern, then it seems to behoove the airlines to help the states to expedite movement toward adoption of a uniform regulation. This seems to be the case..

Dave West and Bill Dowd objected to the MTC regulation pending for airlines, which is, they said, 100% terminal oriented. They said that current discussions with several states tend to center on the California approach which is based 80% on "line haul" activities (air time or revenue miles or revenue passenger miles in the state over those everywhere on each flight) and 20% on terminal activities (arrivals and departures — but actually on departures only since there is an arrival for every departure). Historically, the airlines have considered the line haul factors to be the only proper ones to be used. However, the airlines have now indicated a willingness to compromise along the lines of the California approach.

Mr. West said that the California approach involves a three-factor formula comprised of property, payroll and revenues. For this purpose: property is situs property plus an apportioned share of flight property; payroll is ground personnel payroll plus an apportioned share of flight crew payroll; and revenue is based on a combination of an 80% line haul factor and a 20% terminal factor. The airlines propose that the line haul factor to be considered be air time by fleet type, i.e. 747, DC-10, etc., and that the terminal factor be arrivals and departures.

Mr. Corrigan said that the MTC states are very much concerned about nowhere income, as is he. He also emphasized that the member states want to take a unified position on the airlines regulation soon and that he needs early input from the ATA if the states are to give serious and substantial consideration, to modifying the 100% terminal approach of the MTC proposed regulation.

The line haul ratio, which would be the weighted gross receipts factor ratio, would also be applied to flight property and flight wages in connection with the other two factors. The latter factors would also include in-state non-flight or "terminal" property and payroll. Mr. West and Mr. Dowd emphasized that the inclusion of these items in addition to apportioned flight property and payroll would constitute a major concession compared to the pure line haul ratio which the airlines favor.

Mr. Corrigan expressed concern that any use of line haul figures produces nowhere income. It is difficult to determine the extent of such a result. Mr. Corrigan asked Messrs. Dowd and West to provide him with representative statistics that would document the impact of the compromise approach discussed by the airlines.

Mr. West and Mr. Dowd noted that the 80/20 approach requires a minimum number of statistics: air miles (air time) and departures. They said that these statistics would be kept consistently. In the line haul figures, the air time figures are weighted by type of plane. For example, the air time of a 747 would weigh heavier in the ratio than would that of a 737 or a DC-9. They maintained that a ton of passenger revenue reflects greater economic activities than does a ton of freight revenue or a ton of mail revenue.

Mr. Corrigan requested that Mr. West and Mr. Dowd point out what in the proposed MTC regulation would give the airlines the greatest difficulty from the standpoint of statistics if the MTC were to adopt that regulation. Mr. West and Mr. Dowd said that the ratio of ground time for flight personnel (in the payroll factor) is completely irrelevant; that the necessary statistics concerning ground time are not kept by the airlines; and that flight time is "block to block" time, i.e. from the time when the blocks are removed from the wheels to start the flight until the time when the blocks are set at the wheels at the end of the flight. They also emphasized again their preference for revenues from passengers, freight and mail as determinants of economic activity. They said that ground time has little or no relationship to such activity.

It is not clear to Mr. Corrigan that the varying weighting of economic activities is significant for apportionment purposes if a full accountability (i.e. elimination of nowhere income) approach is adopted since income not attributed to one state would be attributed to others. (As mentioned earlier, the airlines were requested through ATA to provide additional data which would permit an evaluation of the proposals discussed.)

Nor is it clear even to the airlines whether originating and terminating tonnage statistics will or will not continue to be maintained by the airlines despite the elimination of CAB requirements that they be kept; although it seems likely that they will.

It is clear, however, that the dissolution of the CAB does result in a need to revamp the proposed MTC regulation if the member states decide to adopt the 100% terminal approach contained in it. If such a revamping is to take place, then one may well question why, given the member states' often reiterated preference for full apportionment of all income, there should not be eliminated from the proposal any reference to nonbusiness income. This would involve eliminating all of paragraph (2) and all of paragraph (1) except the first sentence and renumbering the present paragraph (3) to (2).

Furthermore, it is to be hoped that the apportionment process will be simplified to the full extent possible, regardless of which philosophical approach is to be adopted.

At adjournment, Messrs. West and Dowd emphasized again that the 80/20 approach which was discussed represents a major departure from the historic airlines position which favored 100% line haul considerations.

We will report further as soon as we have received the ATA statistics.

cc: Member TA's