



NATIONAL CONFERENCE *of* STATE LEGISLATURES

*The Forum for America's Ideas*

September 27, 2012

Joe Huddleston  
Executive Director  
Multistate Tax Commission  
444 North Capitol Street, NW  
Washington, D.C. 20001

**Terie T. Norelli**  
*Minority Leader  
New Hampshire House  
President, NCSL*

**Patsy Spaw**  
*Secretary of the Texas Senate  
Staff Chair, NCSL*

**William Pound**  
*Executive Director*

Dear Mr. Huddleston:

The NCSL Executive Committee Task Force on State and Local Taxation appreciates the participation of the Multistate Tax Commission's (MTC) leadership at the recent NCSL meeting in Chicago. The Task Force also values the merits of the MTC as it works to promote uniformity and compatibility across state and local tax systems. However, as previously indicated, the Task Force is concerned about the MTC's continued effort to revise Article IV of the MTC Compact (which contains the language of the Uniform Division of Income for Tax Purposes (UDITPA)).

Exacerbating our longstanding concern over the UDITPA project is the recent ruling of the California Court of Appeals in *Gillette*. That case raises serious questions about what it means for a state to be a member of the Compact and what it means for the MTC to be engaged in rewriting Compact language.

While we acknowledge that the Appellate Court vacated its decision on August 9<sup>th</sup> and will issue another ruling, it initially held that a state that is a member of the Compact must offer taxpayers the option to use the Compact's equally-weighted three-factor apportionment formula in addition to any state-specific apportionment formula, which would essentially deny state elected policymakers from having control over tax policy decisions addressed by the Compact. The case recently led to California's legislature withdrawal from Compact membership. We are concerned that other states may also withdraw to ensure their legislative ability to modify apportionment or other issues covered by the Compact.

In light of the threat this case poses to a state legislature's ability to control tax policy decisions, we request that the MTC continue to suspend the UDITPA rewrite project until the *Gillette* case is ultimately resolved by the courts.

Thank you for your consideration of our request. If you have questions or would like additional information, please contact us or Neal Osten, in NCSL's Washington office at [neal.osten@ncsl.org](mailto:neal.osten@ncsl.org).

Sincerely,

Senator Pam Althoff, Illinois  
Co-Chairs, NCSL Executive Committee Task Force on State and Local Taxation  
of Communications & Electronic Commerce

Delegate Shelia Hixson, Maryland  
Co-Chairs, NCSL Executive Committee Task Force on State and Local Taxation  
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