

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 927

6
7 S.P. 313

In Senate, February 28, 1983

8 Referred to the Committee on Taxation. Sent down for concurrence and
9 ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

11 Presented by Senator Wood of York.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Adopt the Multistate Tax
18 Compact.
19

20 Be it enacted by the People of the State of Maine as
21 follows:

22 Sec. 1. 36 MRSA Pt. 10 is enacted to read:

23 PART 10

24 COMPACTS

25 CHAPTER 1001

26 MULTISTATE TAX COMPACT

27 §7001. Compact enacted

1 The "Multistate Tax Compact" is hereby enacted
2 into law and entered into with all jurisdictions
3 legally joining therein, in the form substantially as
4 follows.

5 Article I. Purposes.

6 The purposes of this compact are to:

7 1. Determination of multistate taxpayer and tax
8 liability. Facilitate proper determination of state
9 and local tax liability of multistate taxpayers,
10 including the equitable apportionment of tax bases
11 and settlement of apportionment disputes;

12 2. Uniformity and compatibility. Promote uni-
13 formity or compatibility in significant components of
14 tax systems;

15 3. Taxpayer convenience and compli-
16 ance. Facilitate taxpayer convenience and compliance
17 in the filing of tax returns and in other phases of
18 tax administration; and

19 4. Avoid duplicative taxation.

20 Article II. Definitions.

21 As used in this compact:

22 1. State. "State" means a state of the United
23 States, the District of Columbia, the Commonwealth of
24 Puerto Rico or any territory or possession of the
25 United States;

26 2. Subdivision. "Subdivision" means any govern-
27 mental unit or special district of a state;

28 3. Taxpayer. "Taxpayer" means any corporation,
29 partnership, firm, association, governmental unit or
30 agency or person acting as a business entity in more
31 than one state;

32 4. Income tax. "Income tax" means a tax imposed
33 on or measured by net income including any tax
34 imposed on or measured by an amount arrived at by
35 deducting expenses from gross income, one or more

1 forms of which expenses are not specifically and
2 directly related to particular transactions;

3 5. Capital stock tax. "Capital stock tax" means
4 a tax measured in any way by the capital of a corpo-
5 ration considered in its entirety;

6 6. Gross receipts tax. "Gross receipts tax"
7 means a tax, other than a sales tax, which is imposed
8 on or measured by the gross volume of business, in
9 terms of gross receipts or in other terms, and in the
10 determination of which no deduction is allowed which
11 would constitute the tax an income tax;

12 7. Sales tax. "Sales tax" means a tax imposed
13 with respect to the transfer for a consideration of
14 ownership, possession or custody of tangible personal
15 property or the rendering of services measured by the
16 price of the tangible personal property transferred
17 or services rendered and which is required by state
18 or local law to be separately stated from the sales
19 price by the seller, or which is customarily sepa-
20 rately stated from the sales price, but does not
21 include a tax imposed exclusively on the sale of spe-
22 cifically identified commodity or article or class of
23 commodities or articles;

24 8. Use tax. "Use tax" means a nonrecurring tax,
25 other than a sales tax, which:

26 (a) Is imposed on or with respect to the exer-
27 cise or enjoyment of any right or power over tan-
28 gible personal property incident to the owner-
29 ship, possession or custody of that property or
30 the leasing of that property from another includ-
31 ing any consumption, keeping, retention, or other
32 use of tangible personal property; and

33 (b) Is complementary to a sales tax; and

34 9. Tax. "Tax" means an income tax, capital
35 stock tax, gross receipts tax, sales tax, use tax and
36 any other tax which has a multistate impact, except
37 that the provisions of Articles III, IV and V of this
38 compact shall apply only to the taxes specifically
39 designated therein and the provisions of Article IX
40 of this compact shall apply only in respect to deter-
41 minations pursuant to Article IV.

1 Article III. Elements of Income Tax Laws.

2 1. Taxpayer option, state and local taxes. Any
3 taxpayer subject to an income tax whose income is
4 subject to apportionment and allocation for tax pur-
5 poses pursuant to the laws of a party state or pur-
6 suant to the laws of subdivisions in 2 or more party
7 states may elect to apportion and allocate his income
8 in the manner provided by the laws of that state or
9 by the laws of those states and subdivisions without
10 reference to this compact, or may elect to apportion
11 and allocate in accordance with Article IV. This
12 election for any tax year may be made in all party
13 states or subdivisions thereof or in any one or more
14 of the party states or subdivisions thereof without
15 reference to the election made in others. For the
16 purposes of this paragraph, taxes imposed by subdivi-
17 sions shall be considered separately from state taxes
18 and the apportionment and allocation also may be
19 applied to the entire tax base. In no instance
20 wherein Article IV is employed for all subdivisions
21 of a state may the sum of all apportionments and
22 allocations to subdivisions within a state be greater
23 than the apportionment and allocation that would be
24 assignable to that state if the apportionment or
25 allocation were being made with respect to a state
26 income tax.

27 2. Taxpayer option, short form. Each party
28 state or any subdivision thereof which imposes an
29 income tax shall provide by law that any taxpayer re-
30 quired to file a return, whose only activities within
31 the taxing jurisdiction consist of sales and do not
32 include owning or renting real estate or tangible
33 personal property, and whose dollar volume of gross
34 sales made during the tax year within the state or
35 subdivision, as the case may be, is not in excess of
36 \$100,000, may elect to report and pay any tax due on
37 the basis of a percentage of that volume, and shall
38 adopt rates which shall produce a tax which reason-
39 ably approximates the tax otherwise due. The
40 Multistate Tax Commission, not more than once in 5
41 years, may adjust the \$100,000 figure in order to
42 reflect those changes as may occur in real value of
43 the dollar, and that adjusted figure, upon adoption
44 by the commission, shall replace the \$100,000 figure
45 specifically provided in this paragraph. Each party

1 state and subdivision thereof may make the same elec-
2 tion available to taxpayers additional to those
3 specified in this paragraph.

4 3. Coverage. Nothing in this Article relates to
5 the reporting or payment of any tax other than an
6 income tax.

7 Article IV. Division of Income.

8 1. Definitions. As used in this Article, unless
9 the context otherwise requires:

10 (a) "Business income" means income arising from
11 transactions and activity in the regular course
12 of the taxpayer's trade or business and includes
13 income from tangible and intangible property if
14 the acquisition, management and disposition of
15 the property constitute integral parts of the
16 taxpayer's regular trade or business operations;

17 (b) "Commercial domicile" means the principal
18 place from which the trade or business of the
19 taxpayer is directed or managed;

20 (c) "Compensation" means wages, salaries, com-
21 missions and any other form of remuneration paid
22 to employees for personal services;

23 (d) "Financial organization" means any bank,
24 trust company, savings bank, industrial bank,
25 land bank, safe deposit company, private banker,
26 savings and loan association, credit union,
27 cooperative bank, small loan company, sales
28 finance company, investment company or any type
29 of insurance company;

30 (e) "Nonbusiness income" means all income other
31 than business income;

32 (f) "Public utility" means any business entity:

33 (1) Which owns or operates any plant,
34 equipment, property, franchise or license
35 for the transmission of communications,
36 transportation of goods or persons, except
37 by pipeline or the production, transmission,

1 sale, delivery or furnishing of electricity,
2 water or steam; and

3 (2) Whose rates of charges for goods or
4 services have been established or approved
5 by a federal, state or local government or
6 governmental agency;

7 (g) "Sales" means all gross receipts of the tax-
8 payer not allocated under paragraphs of this
9 Article;

10 (h) "State" means any state of the United
11 States, the District of Columbia, the Common-
12 wealth of Puerto Rico, any territory or posses-
13 sion of the United States and any foreign country
14 or political subdivision thereof; and

15 (i) "This State" means the state in which the
16 relevant tax return is filed or, in the case of
17 application of this Article to the apportionment
18 and allocation of income for local tax purposes,
19 the subdivision or local taxing district in which
20 the relevant tax return is filed.

21 2. Allocation and apportionment of business
22 income. Any taxpayer having income from business ac-
23 tivity which is taxable both within and without this
24 State, other than activity as a financial organiza-
25 tion or public utility or the rendering of purely
26 personal services by an individual, shall allocate
27 and apportion his net income as provided in this
28 Article. If a taxpayer has income from business ac-
29 tivity as a public utility but derives the greater
30 percentage of his income from activities subject to
31 this Article, the taxpayer may elect to allocate and
32 apportion his entire net income as provided in this
33 Article.

34 3. Taxpayers taxable in another state. For pur-
35 poses of allocation and apportionment of income under
36 this Article, a taxpayer is taxable in another state,
37 if:

38 (1) In that state he is subject to a net income
39 tax, a franchise tax measured by net income, a
40 franchise tax for the privilege of doing business
41 or a corporate stock tax; or

1 (2) That state has jurisdiction to subject the
2 taxpayer to a net income tax regardless of
3 whether, in fact, the state does or does not.

4 4. Rents and royalties. Rents and royalties
5 from real or tangible personal property, capital
6 gains, interest, dividends or patent or copyright
7 royalties, to the extent that they constitute
8 nonbusiness income, shall be allocated as provided in
9 paragraphs 5 through 8 of this Article.

10 5. Net rents and royalties from real property.

11 (a) Net rents and royalties from real property
12 located in this State are allocable to this
13 State.

14 (b) Net rents and royalties from tangible per-
15 sonal property are allocable to this State:

16 (1) If and to the extent that the property
17 is utilized in this State; or

18 (2) In their entirety if the taxpayer's
19 commercial domicile is in this State and the
20 taxpayer is not organized under the laws of
21 or taxable in the state in which the prop-
22 erty is utilized.

23 (c) The extent of utilization of tangible per-
24 sonal property in a state is determined by multi-
25 plying the rents and royalties by a fraction, the
26 numerator of which is the number of days of
27 physical location of the property in the state
28 during the rental or royalty period in the tax-
29 able year and the denominator of which is the
30 number of days of physical location of the prop-
31 erty everywhere during all rental or royalty
32 periods in the taxable year. If the physical
33 location of the property during the rental or
34 royalty period is unknown or unascertainable by
35 the taxpayer, tangible personal property is util-
36 ized in the state in which the property was
37 located at the time the rental or royalty payer
38 obtained possession.

39 6. Capital gains and losses.

1 (a) Capital gains and losses from sales of real
2 property located in this State are allocable to
3 this State.

4 (b) Capital gains and losses from sales of tan-
5 gible personal property are allocable to this
6 State, if:

7 (1) The property had a situs in this State
8 at the time of the sale; or

9 (2) The taxpayer's commercial domicile is
10 in this State and the taxpayer is not tax-
11 able in the state in which the property had
12 a situs.

13 (c) Capital gains and losses from sales of
14 intangible personal property are allocable to
15 this State, if the taxpayer's commercial domicile
16 is in this State.

17 7. Interest and dividends. Interest and divi-
18 dends are allocable to this State, if the taxpayer's
19 commercial domicile is in this State.

20 8. Patent and copyright royalties.

21 (a) Patent and copyright royalties are allocable
22 to this State:

23 (1) If and to the extent that the patent or
24 copyright is utilized by the payer in this
25 State; or

26 (2) If and to the extent that the patent or
27 copyright is utilized by the payer in a
28 state in which the taxpayer is not taxable
29 and the taxpayer's commercial domicile is in
30 this State.

31 (b) A patent is utilized in a state to the
32 extent that it is employed in production, fabri-
33 cation, manufacturing or other processing in the
34 state or to the extent that a patented product is
35 produced in the state. If the basis of receipts
36 from patent royalties does not permit allocation
37 to states or if the accounting procedures do not

1 reflect states of utilization, the patent is
2 utilized in the state in which the taxpayer's
3 commercial domicile is located.

4 (c) A copyright is utilized in a state to the
5 extent that printing or other publication origi-
6 inates in the state. If the basis of receipts
7 from copyright royalties does not permit alloca-
8 tions to states or if the accounting procedures
9 do not reflect states of utilization, the copy-
10 right is utilized in the state in which the
11 taxpayer's commercial domicile is located.

12 9. Apportionment factors. All business income
13 shall be apportioned to this State by multiplying the
14 income by a fraction, the numerator of which is the
15 property factor plus the payroll factor plus the
16 sales factor and the denominator of which is 3.

17 10. Property factor. The property factor is a
18 fraction, the numerator of which is the average value
19 of the taxpayer's real and tangible personal property
20 owned or rented and used in this State during the tax
21 period and the denominator of which is the average
22 value of all the taxpayer's real and tangible per-
23 sonal property owned or rented and used during the
24 tax period.

25 11. Valuation of property. Property owned by
26 the taxpayer is valued at its original cost. Prop-
27 erty rented by the taxpayer is valued at 8 times the
28 net annual rental rate. Net annual rental rate is
29 the annual rental rate paid by the taxpayer less any
30 annual rental rate received by the taxpayer from
31 subrentals.

32 12. Average value of property. The average
33 value of property shall be determined by averaging
34 the values at the beginning and ending of the tax
35 period, but the tax administrator may require the
36 averaging of monthly values during the tax period if
37 reasonably required to reflect properly the average
38 value of the taxpayer's property.

39 13. Payroll factor. The payroll factor is a
40 fraction, the numerator of which is the total amount
41 paid in this State during the tax period by the tax-

1 payer for compensation and the denominator of which
2 is the total compensation paid everywhere during the
3 tax period.

4 14. Compensation paid in this State. Compensation
5 is paid in this State, if:

6 (a) The individual's service is performed
7 entirely within this State;

8 (b) The individual's service is performed both
9 within and without this State, but the service
10 performed without this State is incidental to the
11 individual's service within the state; or

12 (c) Some of the service is performed in this
13 State and:

14 (1) The base of operations or, if there is
15 no base of operations, the place from which
16 the service is directed or controlled is in
17 this State; or

18 (2) The base of operations or the place
19 from which the service is directed or con-
20 trolled is not in any state in which some
21 part of the service is performed, but the
22 individual's residence is in this State.

23 15. Sales factor. The sales factor is a frac-
24 tion, the numerator of which is the total sales of
25 the taxpayer in this State during the tax period, and
26 the denominator of which is the total sales of the
27 taxpayer everywhere during the tax period.

28 16. Sales of tangible personal property in this
29 state. Sales of tangible personal property are in
30 this State, if:

31 (a) The property is delivered or shipped to a
32 purchaser, other than the United States Govern-
33 ment, within this State regardless of the F.O.B.
34 point or other conditions of the sale; or

35 (b) The property is shipped from an office,
36 store, warehouse, factory or other place of stor-
37 age in this State and:

1 (1) The purchaser is the United States Gov-
2 ernment; or

3 (2) The taxpayer is not taxable in the
4 state of the purchaser.

5 17. Sales in this state other than tangible per-
6 sonal property. Sales, other than sales of tangible
7 personal property, are in this State, if:

8 (a) The income-producing activity is performed
9 in this State; or

10 (b) The income-producing activity is performed
11 both in and outside this State and a greater pro-
12 portion of the income-producing activity is per-
13 formed in this State than in any other state,
14 based on costs of performance.

15 18. Petitions. If the allocation and apportion-
16 ment provisions of this Article do not fairly repre-
17 sent the extent of the taxpayer's business activity
18 in this State, the taxpayer may petition for or the
19 tax administrator may require, in respect to all or
20 any part of the taxpayer's business activity, if
21 reasonable:

22 (a) Separate accounting;

23 (b) The exclusion of any one or more of the fac-
24 tors;

25 (c) The inclusion of one or more additional fac-
26 tors which will fairly represent the taxpayer's
27 business activity in this State; or

28 (d) The employment of any other method to effec-
29 tuate an equitable allocation and apportionment
30 of the taxpayer's income.

31 Article V. Elements of Sales and Use Tax Laws.

32 1. Tax credit. Each purchaser liable for a use
33 tax on tangible personal property shall be entitled
34 to full credit for the combined amount or amounts of
35 legally imposed sales or use taxes paid by him with
36 respect to the same property to another state and any

1 subdivision thereof. The credit shall be applied
2 first against the amount of any use tax due the
3 state, and any unused portion of the credit shall
4 then be applied against the amount of any use tax due
5 a subdivision.

6 2. Exemption certificates, vendor may
7 rely. Whenever a vendor receives and accepts in good
8 faith from a purchaser a resale or other exemption
9 certificate or other written evidence of exemption
10 authorized by the appropriate state or subdivision
11 taxing authority, the vendor shall be relieved of
12 liability for a sales or use tax with respect to the
13 transaction.

14 Article VI. The Commission.

15 1. Organization and management.

16 (a) The Multistate Tax Commission is hereby
17 established. It shall be composed of one
18 "member" from each party state who shall be the
19 head of the state agency charged with the admin-
20 istration of the types of taxes to which this
21 compact applies. If there is more than one such
22 agency the state shall provide by law for the se-
23 lection of the commission member from the heads
24 of the relevant agencies. State law may provide
25 that a member of the commission be represented by
26 an alternate, but only if there is on file with
27 the commission written notification of the desig-
28 nation and identity of the alternate. The attor-
29 ney general of each party state or his designee,
30 or other counsel if the laws of the party state
31 specifically provide, shall be entitled to attend
32 the meetings of the commission, but shall not
33 vote. Those attorneys general, designees, or
34 other counsel shall receive all notices of meet-
35 ings required under paragraph 1 (e) of this Arti-
36 cle.

37 (b) Each party state shall provide by law for
38 the selection of representatives from its sub-
39 divisions affected by this compact to consult
40 with the commission member from that state.

- 1 (c) Each member shall be entitled to one
2 vote. The commission shall not act unless a
3 majority of the members are present, and no ac-
4 tion shall be binding unless approved by a major-
5 ity of the total number of members.
- 6 (d) The commission shall adopt an official seal
7 to be used as it may provide.
- 8 (e) The commission shall hold an annual meeting
9 and other regular meetings as its bylaws may pro-
10 vide and special meetings as its executive com-
11 mittee may determine. The commission bylaws
12 shall specify the dates of the annual and any
13 other regular meetings, and shall provide for the
14 giving of notice of annual, regular and special
15 meetings. Notices of special meetings shall
16 include the reasons therefor and an agenda of the
17 items to be considered.
- 18 (f) The commission shall elect annually, from
19 among its members, a chairman, vice-chairman and
20 treasurer. The commission shall appoint an
21 executive director who shall serve at its pleas-
22 ure, and it shall fix his duties and compensa-
23 tion. The executive director shall be secretary
24 of the commission. The commission shall make
25 provision for the bonding of those of its offi-
26 cers and employees as it may deem appropriate.
- 27 (g) Irrespective of the civil service, personnel
28 or other merit system laws of any party state,
29 the executive director shall appoint or discharge
30 those personnel as may be necessary for the per-
31 formance of the functions of the commission and
32 shall fix their duties and compensation. The
33 commission bylaws shall provide for personnel
34 policies and programs.
- 35 (h) The commission may borrow, accept or con-
36 tract for the services of personnel from any
37 state, the United States or any other governmen-
38 tal entity.
- 39 (i) The commission may accept for any of its
40 purposes and functions any and all donations and
41 grants of money, equipment, supplies, materials

1 and services, conditional or otherwise, from any
2 governmental entity, and may utilize and dispose
3 of the same.

4 (j) The commission may establish one or more
5 offices for the transacting of its business.

6 (k) The commission shall adopt bylaws for the
7 conduct of its business. The commission shall
8 publish its bylaws in convenient form, and shall
9 file a copy of the bylaws and any amendments
10 thereto with the appropriate agency or officer in
11 each of the party states.

12 (l) The commission annually shall make to the
13 governor and legislature of each party state, a
14 report covering its activities for the preceding
15 year. Any donation or grant accepted by the com-
16 mission or services borrowed shall be reported in
17 the annual report of the commission, and shall
18 include the nature, amount and conditions, if
19 any, of the donation, gift, grant or services
20 borrowed and the identity of the donor or lender.
21 The commission may make additional reports as it
22 may deem desirable.

23 2. Committees.

24 (a) To assist in the conduct of its business
25 when the full commission is not meeting, the com-
26 mission shall have an executive committee of 7
27 members, including the chairman, vice-chairman,
28 treasurer and 4 other members elected annually by
29 the commission. The executive committee, subject
30 to the provisions of this compact and consistent
31 with the policies of the commission, shall func-
32 tion as provided in the bylaws of the commission.

33 (b) The commission may establish advisory and
34 technical committees, membership on which may
35 include private persons and public officials, in
36 furthering any of its activities. These commit-
37 tees may consider any matter of concern to the
38 commission, including problems of special inter-
39 est to any party state and problems dealing with
40 particular types of taxes.

1 (c) The commission may establish such additional
2 committees as its bylaws may provide.

3 3. Powers. In addition to powers conferred
4 elsewhere in this compact, the commission shall have
5 power to:

6 (a) Study state and local tax systems and par-
7 ticular types of state and local taxes;

8 (b) Develop and recommend proposals for an
9 increase in uniformity or compatibility of state
10 and local tax laws with a view toward encouraging
11 the simplification and improvement of state and
12 local tax law and administration;

13 (c) Compile and publish information as in its
14 judgment would assist the party states in imple-
15 mentation of the compact and taxpayers in comply-
16 ing with state and local tax laws; and

17 (d) Do all things necessary and incidental to
18 the administration of its functions pursuant to
19 this compact.

20 4. Finance.

21 (a) The commission shall submit to the governor
22 or designated officer or officers of each party
23 state, a budget of its estimated expenditures for
24 that period as may be required by the laws of
25 that state for presentation to the legislature
26 thereof.

27 (b) Each of the commission's budgets of esti-
28 ated expenditures shall contain specific recom-
29 mendations of the amounts to be appropriated by
30 each of the party states. The total amount of
31 appropriations requested under any such budget
32 shall be apportioned among the party states as
33 follows: 1/10th in equal shares; and the remain-
34 der in proportion to the amount of revenue col-
35 lected by each party state and its subdivisions
36 from income taxes, capital stock taxes, gross
37 receipts taxes, sales and use taxes. In deter-
38 mining those amounts, the commission shall employ
39 such available public sources of information as,

1 in its judgment, present the most equitable and
2 accurate comparisons among the party states.
3 Each of the commission's budgets of estimated
4 expenditures and requests for appropriations
5 shall indicate the sources used in obtaining
6 information employed in applying the formula con-
7 tained in this paragraph.

8 (c) The commission shall not pledge the credit
9 of any party state. The commission may meet any
10 of its obligations in whole or in part with funds
11 available to it under paragraph 1 (i) of this
12 Article: Provided that the commission takes
13 specified action setting aside those funds prior
14 to incurring any obligation to be met in whole or
15 in part in that manner. Except where the commis-
16 sion makes use of funds available to it under
17 paragraph 1 (i), the commission shall not incur
18 any obligation prior to the allotment of funds by
19 the party states adequate to meet the same.

20 (d) The commission shall keep accurate accounts
21 of all receipts and disbursements. The receipts
22 and disbursements of the commission shall be sub-
23 ject to the audit and accounting procedures
24 established under its bylaws. All receipts and
25 disbursements of funds handled by the commission
26 shall be audited yearly by a certified or li-
27 censed public accountant and the report of the
28 audit shall be included in and become part of the
29 annual report of the commission.

30 (e) The accounts of the commission shall be open
31 at any reasonable time for inspection by duly
32 constituted officers of the party states and by
33 any persons authorized by the commission.

34 (f) Nothing contained in this Article may be
35 construed to prevent commission compliance with
36 laws relating to audit or inspection of accounts
37 by or on behalf of any government contributing to
38 the support of the commission.

39 Article VII. Uniform Regulations and Forms.

40 1. Adoption by commission. Whenever any 2 or
41 more party states, or subdivisions of party states,

1 have uniform similar provisions of law relating to an
2 income tax, capital stock tax, gross receipts tax,
3 sales or use tax, the commission may adopt uniform
4 regulations for any phase of the administration of
5 that law, including assertion of jurisdiction to tax,
6 or prescribing uniform tax forms. The commission may
7 also act with respect to the provisions of Article IV
8 of this compact.

9 2. Public hearing. Prior to the adoption of any
10 regulation, the commission shall:

11 (a) As provided in its bylaws, hold at least one
12 public hearing on due notice to all affected
13 party states and subdivisions thereof and to all
14 taxpayers and other persons who have made timely
15 request of the commission for advance notice of
16 its regulation-making proceedings; and

17 (b) Afforded all affected party states and sub-
18 divisions and interested persons an opportunity
19 to submit relevant written data and views, which
20 shall be considered fully by the commission.

21 3. Submission of regulations to states. The
22 commission shall submit any regulations adopted by it
23 to the appropriate officials of all party states and
24 subdivisions to which they might apply. Each such
25 state and subdivision shall consider any such regula-
26 tion for adoption in accordance with its own laws and
27 procedures.

28 Article VIII. Interstate Audits.

29 1. Application. This Article shall be in force
30 only in those party states that specifically provide
31 therefor by statute.

32 2. Request for commission audit. Any party
33 state or subdivision thereof desiring to make or par-
34 ticipate in an audit of any accounts, books, papers,
35 records or other documents may request the commission
36 to perform the audit on its behalf. In responding to
37 the request, the commission shall have access to and
38 may examine, at any reasonable time, those accounts,
39 books, papers, records and other documents and any
40 relevant property or stock of merchandise. The com-

1 mission may enter into agreements with party states
2 or their subdivisions for assistance in performance
3 of the audit. The commission shall make charges, to
4 be paid by the state or local government or govern-
5 ments for which it performs the service, for any
6 audits performed by it in order to reimburse itself
7 for the actual costs incurred in making the audit.

8 3. Attendance of persons. The commission may
9 require the attendance of any person within the state
10 where it is conducting an audit or part thereof at a
11 time and place fixed by it within that state for the
12 purpose of giving testimony with respect to any ac-
13 count, book, papers, document, other record, property
14 or stock of merchandise being examined in connection
15 with the audit. If the person is not within the
16 jurisdiction, he may be required to attend for that
17 purpose at any time and place fixed by the commission
18 within the state of which it is a resident; provided
19 that that state has adopted this Article.

20 4. Compulsory process. The commission may apply
21 to any court having power to issue compulsory process
22 for orders in aid of its powers and responsibilities
23 pursuant to this Article and any and all such courts
24 shall have jurisdiction to issue those orders. Fail-
25 ure of any person to obey any such order shall be
26 punishable as contempt of the issuing court. If the
27 party or subject matter on account of which the com-
28 mission seeks an order is within the jurisdiction of
29 the court to which application is made, that applica-
30 tion may be to a court in the state or subdivision on
31 behalf of which the audit is being made or a court in
32 the state in which the object of the order being
33 sought is situated. The provisions of this paragraph
34 apply only to courts in a state that has adopted this
35 Article.

36 5. Denial of audit request. The commission may
37 decline to perform any audit requested, if it finds
38 that its available personnel or other resources are
39 insufficient for the purpose or that, in the terms
40 requested, the audit is impracticable of satisfactory
41 performance. If the commission, on the basis of its
42 experience, has reason to believe that an audit of a
43 particular taxpayer, either at a particular time or
44 on a particular schedule, would be of interest to a

1 number of party states or their subdivisions, it may
2 offer to make the audit or audits, the offer to be
3 contingent on sufficient participation therein as
4 determined by the commission.

5 6. Availability of information. Information
6 obtained by any audit pursuant to this Article shall
7 be confidential and available only for tax purposes
8 to party states, their subdivisions or the United
9 States. Availability of information shall be in ac-
10 cordance with the laws of the states or subdivisions
11 on whose account the commission performs the audit,
12 and only through the appropriate agencies or officers
13 of those states or subdivisions. Nothing in this
14 Article may be construed to require any taxpayer to
15 keep records for any period not otherwise required by
16 law.

17 7. Effect on other cooperative audit arrange-
18 ments. Other arrangements made or authorized pur-
19 suant to law for cooperative audit by or on behalf of
20 the party states or any of their subdivisions are not
21 superseded or invalidated by this Article.

22 8. Change against taxpayers for audit. In no
23 event may the commission make any charge against a
24 taxpayer for an audit.

25 9. Definition. As used in this Article, "tax,"
26 in addition to the meaning ascribed to it in Article
27 II, means any tax or license fee imposed in whole or
28 in part for revenue purposes.

29 Article IX. Arbitration.

30 1. Adoption of regulation. Whenever the commis-
31 sion finds a need for settling disputes concerning
32 apportionments and allocations by arbitration, it may
33 adopt a regulation placing this Article in effect,
34 notwithstanding the provisions of Article VII.

35 2. Arbitration panel. The commission shall
36 select and maintain an arbitration panel composed of
37 officers and employees of state and local governments
38 and private persons who shall be knowledgeable and
39 experienced in matters of tax law and administration.

1 3. Securing arbitration. Whenever a taxpayer
2 who has elected to employ Article IV, or whenever the
3 laws of the party state or subdivision thereof are
4 substantially identical with the relevant provisions
5 of Article IV, the taxpayer, by written notice to the
6 commission and to each party state or subdivision
7 thereof that would be affected, may secure arbitra-
8 tion of an apportionment or allocation, if he is dis-
9 satisfied with the final administrative determination
10 of the tax agency of the state or subdivision with
11 respect thereto on the ground that it would subject
12 him to double or multiple taxation by 2 or more party
13 states or subdivisions thereof. Each party state and
14 subdivision thereof hereby consents to the arbitra-
15 tion as provided herein, and agrees to be bound
16 thereby.

17 4. Arbitration board; composition. The arbitra-
18 tion board shall be composed of one person selected
19 by the taxpayer, one by the agency or agencies
20 involved, and one member of the commission's arbitra-
21 tion panel. If the agencies involved are unable to
22 agree on the person to be selected by them, that
23 person shall be selected by lot from the total
24 membership of the arbitration panel. The 2 persons
25 selected for the board in the manner provided by the
26 foregoing provisions of this paragraph shall jointly
27 select the 3rd member of the board. If they are
28 unable to agree on the selection, the 3rd member
29 shall be selected by lot from among the total member-
30 ship of the arbitration panel. No member of a board
31 selected by lot may be qualified to serve if he is an
32 officer or employee or is otherwise affiliated with
33 any party to the arbitration proceeding. Residence
34 within the jurisdiction of a party to the arbitration
35 proceeding shall not constitute affiliation within
36 the meaning of this paragraph.

37 5. Board to sit in state or subdivision party to
38 the proceedings. The board may sit in any state or
39 subdivision party to the proceeding, in the state of
40 the taxpayer's incorporation, residence or domicile,
41 in any state where the taxpayer does business, or in
42 any place that it finds most appropriate for gaining
43 access to evidence relevant to the matter before it.

1 6. Notice. The board shall give due notice of
2 the time and places of its hearings. The parties
3 shall be entitled to be heard, to present evidence,
4 and to examine and cross-examine witnesses. The
5 board shall act by majority vote.

6 7. Powers of board. The board shall have power
7 to administer oaths, take testimony, subpoena and re-
8 quire the attendance of witnesses and the production
9 of accounts, books, papers, records and other docu-
10 ments, and issue commissions to take testimony. Sub-
11 poenas may be signed by any member of the board. In
12 case of failure to obey a subpoena, and upon applica-
13 tion by the board, any judge of a court of competent
14 jurisdiction of the state in which the board is sit-
15 ting or in which the person to whom the subpoena is
16 directed may be found may make an order requiring
17 compliance with the subpoena, and the court may
18 punish failure to obey the order as a contempt. The
19 provisions of this paragraph apply only in states
20 that have adopted this Article.

21 8. Expenses and costs. Unless the parties
22 otherwise agree, the expenses and other costs of the
23 arbitration shall be assessed and allocated among the
24 parties by the board in such manner as it may deter-
25 mine. The commission shall fix a schedule of compen-
26 sation for members of arbitration boards and of other
27 allowable expenses and costs. No officer or employee
28 of a state or local government who serves as a member
29 of a board may be entitled to compensation therefor
30 unless he is required on account of his service to
31 forego the regular compensation attaching to his
32 public employment, but any such board member shall be
33 entitled to expenses.

34 9. Determination. The board shall determine the
35 disputed apportionment or allocation and any matters
36 necessary thereto. The determinations of the board
37 shall be final for purposes of making the apportion-
38 ment or allocation, but for no other purpose.

39 10. Filing. The board shall file with the com-
40 mission and with each tax agency represented in the
41 proceeding: The determination of the board; the
42 board's written statement of its reasons therefor;
43 the record of the board's proceedings; and any other

1 documents required by the arbitration rules of the
2 commission to be filed.

3 11. Publication of determination. The commis-
4 sion shall publish the determinations of boards
5 together with the statements of the reasons therefor.

6 12. Rules. The commission shall adopt and pub-
7 lish rules of procedure and practice and shall file a
8 copy of those rules and of any amendment thereto with
9 the appropriate agency or officer in each of the
10 party states.

11 13. Written compromises. Nothing contained
12 herein may prevent at any time a written compromise
13 of any matter or matters in dispute, if otherwise
14 lawful, by the parties to the arbitration proceed-
15 ings.

16 Article X. Entry Into Force and Withdrawal.

17 1. Effect. This compact shall enter into force
18 when enacted into law by any 7 states. Thereafter,
19 this compact shall become effective as to any other
20 state upon its enactment thereof. The commission
21 shall arrange for notification of all party states
22 whenever there is a new enactment of the compact.

23 2. Withdrawal of party state. Any party state
24 may withdraw from this compact by enacting a statute
25 repealing the same. No withdrawal may affect any
26 liability already incurred by or chargeable to a
27 party state prior to the time of that withdrawal.

28 3. Proceedings commenced before withdrawal. No
29 proceeding commenced before an arbitration board
30 prior to the withdrawal of a state and to which the
31 withdrawing state or any subdivision thereof is a
32 party may be discontinued or terminated by the with-
33 drawal, nor may the board thereby lose jurisdiction
34 over any of the parties to the proceeding necessary
35 to make a binding determination therein.

36 Article XI. Effect on Other Laws and Jurisdiction.

37 Nothing in this compact may be construed to:

1 (a) Affect the power of any state or subdivision
2 thereof to fix rates of taxation, except that a
3 party state shall be obligated to implement Arti-
4 cle III 2 of this compact;

5 (b) Apply to any tax or fixed fee imposed for
6 the registration of a motor vehicle or any tax on
7 motor fuel, other than a sales tax: Provided
8 that the definition of "tax" in Article VIII 9
9 may apply for the purposes of that Article and
10 the commission's powers of study and recommenda-
11 tion pursuant to Article VI 3 may apply;

12 (c) Withdraw or limit the jurisdiction of any
13 state or local court or administrative officer or
14 body with respect to any person, corporation or
15 other entity or subject matter, except to the
16 extent that that jurisdiction is expressly con-
17 ferred by or pursuant to this compact upon
18 another agency or body; or

19 (d) Supersede or limit the jurisdiction of any
20 court of the United States.

21 Article XII. Construction and Severability.

22 This compact shall be liberally construed so as
23 to effectuate its purposes . The provisions of this
24 compact shall be severable and if any phrase, clause,
25 sentence or provision of this compact is declared to
26 be contrary to the constitution of any state or of
27 the United States or the applicability thereof to any
28 government, agency, person or circumstance is held
29 invalid, the validity of the remainder of this com-
30 compact and the applicability thereof to any government,
31 agency, person or circumstance shall not be affected
32 thereby. If this compact shall be held contrary to
33 the constitution of any state participating therein,
34 the compact shall remain in full force and effect as
35 to the remaining party states and in full force and
36 effect as to the state affected as to all severable
37 matters.

38 §7002. Optional income tax reporting of certain tax-
39 payers

1 1. Definition. As used in this chapter, unless
2 the context otherwise indicates, the following terms
3 have the following meanings.

4 A. "Taxpayer" means any individual, estate,
5 trust, partner or corporation required to file a
6 return under Part 8.

7 2. Optional reporting. Any taxpayer required to
8 file a return under Part 8, whose only activities
9 within this State consist of sales and do not include
10 owning or renting real estate or tangible personal
11 property, and whose dollar volume of gross sales made
12 during the taxable year under Part 8 within this
13 State is not in excess of \$100,000, may elect to
14 report and pay any tax due on the basis of a percent-
15 age of that volume.

16 The State Tax Assessor, acting under the Maine Admin-
17 istrative Procedure Act, Title 5, chapter 375, shall
18 adopt a rule which specifies tax rates for taxpayers
19 reporting in accordance with this section, which
20 rates reasonably approximate the tax otherwise due by
21 the taxpayer under Part 8. The rates shall be the
22 rates applicable to any taxpayer electing to file in
23 accordance with this section.

24 §7003. Representation

25 The State Tax Assessor shall represent this State
26 on the Multistate Tax Commission.

27 §7004. Alternate representative

28 The member representing this State on the
29 Multistate Tax Commission may be represented thereon
30 by an alternate designated by him. Any such alter-
31 nate shall be the Deputy State Tax Assessor or a
32 director of a division.

33 §7005. Subdivision representation

34 The Governor shall appoint 3 persons who are
35 representative of subdivisions affected or likely to
36 be affected by the Multistate Tax Compact, from among
37 persons nominated by the Maine Municipal Association.
38 The member of the commission representing this State,

1 and any alternate designated by him, shall consult
2 regularly with these appointees, in accordance with
3 Article VI 1 (b) of the compact.

4 §7006. Multistate Tax Compact Advisory Committee

5 There is hereby established the Multistate Tax
6 Compact Advisory Committee composed of the member of
7 the Multistate Tax Commission representing this
8 State, any alternate designated by him, the Attorney
9 General or his designee, and 2 members of the Senate,
10 appointed by the President thereof and 2 members of
11 the House of Representatives appointed by the Speaker
12 thereof. The chairman shall be the member of the
13 commission representing this State. The committee
14 shall meet on the call of its chairman or at the
15 request of a majority of its members, but in any
16 event it shall meet not less than 3 times in each
17 year. The committee may consider any and all matters
18 relating to recommendations of the Multistate Tax
19 Commission and the activities of the members in
20 representing this State thereon.

21 §7007. Interaudits

22 Article VIII of the Multistate Tax Compact relat-
23 ing to interaudits shall be in force in and with
24 respect to this State.

25 Sec. 2. Appropriation. The following funds are
26 appropriated from the General Fund to carry out the
27 purposes of this Act.

28 1983-84

29 FINANCE AND ADMINISTRATION,
30 DEPARTMENT OF

31 Multistate Tax Commission

32 All Other \$50,000

33 STATEMENT OF FACT

34 This bill enacts the Multistate Tax Compact. The
35 Multistate Tax Compact is an interstate compact. It

1 has been enacted into law by at least 19 states as of
2 1978.

3 Designed to encourage uniformity in state tax
4 laws applicable to interstate business, it also aims
5 at improving the administration of state taxes with
6 respect to that business. Toward this end, it con-
7 tains a provision authorizing cooperative or joint
8 auditing. The compact also contains the Uniform
9 Division of Income for Tax Purposes Act, UDITPA,
10 which is used to determine how much of a corporate
11 business income is properly subject to taxation in
12 each state in which it does business. UDITPA has
13 already been independently enacted by Maine as Title
14 36, chapter 821.

15 The Multistate Tax Commission is the operational
16 agency created by, and operating on behalf of, the
17 member states of the Multistate Tax Compact. The
18 members of the commission are the tax administrators
19 of the regular member states.

20 These members meet 3 times each year on a regular
21 basis. They also attend an occasional special meet-
22 ing. Between meetings, the affairs of the commission
23 are supervised by an executive committee. This com-
24 mittee consists of 7 of the members. It includes the
25 chairman, the vice-chairman and the treasurer of the
26 commission. It meets upon call of the chairman.

27 The day-to-day activities of the commission are
28 conducted by a staff which is headed by the Executive
29 Director. The headquarters office is located in
30 Boulder, Colorado. Audit offices are maintained in
31 Chicago and New York City.

32 The purposes of the Multistate Tax Compact are
33 to:

34 1. Facilitate proper determination of state and
35 local tax liability of multistate taxpayers, includ-
36 ing the equitable apportionment of tax bases and
37 settlement of apportionment disputes;

38 2. Promote uniformity or compatibility in sig-
39 nificant components of tax systems;

1 3. Facilitate taxpayer convenience and compli-
2 ance in the filing of tax returns and in other phases
3 of tax administration; and

4 4. Avoid duplicative taxation.

5 In pursuit of these purposes, the Multistate Tax
6 Commission and the member states are seeking to
7 establish rational ground rules for the solution of
8 interstate tax problems.

9 The Multistate Tax Commission constitutes an
10 attempt by the states to resolve interstate tax prob-
11 lems for the states and for business taxpayers. Its
12 success will preserve to the states, through coopera-
13 tion among themselves, the right to administer their
14 own tax programs and the ability to do so effi-
15 ciently. The alternative may be federal legislative
16 constriction of state tax administration powers until
17 state sovereignty itself may be a questionable
18 entity.

19 The Multistate Tax Commission promotes uniformly
20 efficient state tax administration practices. It
21 takes an active part in implementing that uniformity.
22 Its joint auditing program provides the type of
23 expertise on the firing line which assures equitable
24 treatment for taxpayers and improved compliance by
25 them with the tax laws of its members states.

26 The Multistate Tax Commission differs from any
27 other tax organization in that it provides an effec-
28 tive joint auditing service and in that it actually
29 gets involved with its member states in helping them
30 to improve compliance with state tax laws. Obvious
31 efficiencies are derived from having experienced
32 auditors permanently located in major cities for the
33 purpose of auditing large corporations there for many
34 states at the same time.

35 The Multistate Tax Commission recognizes that
36 lack of uniform tax administration practices can
37 cause substantial problems for business. The commis-
38 sion works toward uniform simplicity in compliance
39 procedures to the full extent possible. It knows
40 that uniformly equitable treatment of taxpayers is a
41 prerequisite to good tax administration. It is

1 therefore as concerned as is any taxpayer that all
2 taxpayers be treated fairly.

3 Included among its concerns is the need to be
4 able to assure each complying taxpayer that all other
5 taxpayers, especially the large complex
6 multicorporate business taxpayers, are complying with
7 the tax laws of the states. An effective joint audit
8 program on the part of all of those states, such as
9 that being developed by the Multistate Tax Commis-
10 sion, can give that assurance.

11 In addition to the 19 member states referred to,
12 13 states are associate members of the Multistate Tax
13 Commission, their governors having requested this
14 "observational" status. As more states become
15 associate members and as more associate member states
16 enact the compact, the commission will become
17 increasingly effective in accomplishing its purposes.

18

2036020783