



A Primer on Multistate Tax Audits

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Agenda

- The Multistate Tax Commission's Joint Audit Program
- Special Issues in Multistate Audits
- Arm's-Length Adjustment Service (ALAS) Project
- Miscellaneous Services and Resources
- Q & A





The MTC's Joint Audit Program



Joint Audit Program

- Operates under authority of the Multistate Tax Compact and state contracts
- The Commission does not have independent assessment or collection authority
- 27 states participate in the program (24 for income tax audits, 17 for sales & use tax audits, and 1 observing state)



Joint Audit Program

- The Audit Committee oversees the Joint Audit Program, including audit selections.
- Joint Audit Program issued proposed assessments totaling nearly \$300 million for participating states for the last four completed fiscal years.



Special Issues In Multistate Audits

Special Issues

- Compact Litigation
 - California, Michigan, Oregon, Texas, Minnesota
- Challenges to Audit Authority





The MTC's Arm's-Length Adjustment Service (ALAS) Project



States Behaving Badly: (Transfer Pricing Status Quo)

- Discretionary “482-type” Authority
 - Example
 - Colo. Rev. Stat. § 39-22-303(6)
 - Limitations on Authority?
- Questionable Audit Techniques
 - Contract Auditors No More?
 - *Microsoft* (DC OAH '12); *BP Products* (settlement)
 - New Jersey, North Carolina
 - An Almanac, Seriously?!?!?

Arms-Length Adjustment Service (ALAS)

- A project of states and the Commission to assist states in the identification, audit, and litigation of transfer-pricing issues
- Estimated billions in state revenue are uncollected each year due to improperly valued transactions between related parties
- Economic and related services are too expensive for states to acquire on their own
- States want to share the expense of developing their in-house capacities



ALAS

- The Commission's Executive Committee approved the design document on May 7, 2015
- Development and initial operation of the service will span four years, beginning upon implementation
- \$2 million annual budget
- Gradual roll out – audit adjustments are anticipated primarily in the third and fourth years



ALAS

Two Major Components –

- **Advanced economic and technical expertise**
Analyze taxpayer-provided transfer-pricing studies and, when appropriate, recommend alternatives to taxpayer positions
- **Enhanced state capacity to use the expertise**
Train state staff, establish information exchanges, help states improve their administrative and compliance processes, expand Joint Audit coverage for related party transactions, help states develop and resolve cases, support states in defending their work in litigation, and update states on developments related to transfer pricing



ALAS

- The core staff will consist of a tax manager with expertise in audit processes, an attorney with related-party and transfer-pricing expertise, and a senior economist with transfer pricing experience
- Other staff will include an internal auditor to conduct non-economic audits of transfer pricing studies that do not require the skills of an economist, e.g., examine calculations, selection of comparable prices, and business purpose
- The design plan anticipates hiring additional in-house, transfer-pricing economists at the fifteenth and twenty-fourth months



ALAS

- A one-time voluntary disclosure period is included in the program design in year two
- Taxpayers and states will be encouraged to use the Commission's existing alternative dispute resolution process to resolve issues consistently between a taxpayer and multiple states
- This ADR process also sufficient for working out advance agreements between a taxpayer and states when the program is mature enough to work through such issues

MTC ALAS Project – More Information Available Online

- The ALAS page on the Commission’s website: <http://www.mtc.gov/The-Commission/Committees/ALAS>
- Previous meeting materials and other reference information is available on this page.





Miscellaneous Services and Resources

Miscellaneous Services & Resources

- National Nexus Program
- Training Programs
- Amicus Briefs





Q & A

Thank You

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