

History of Multistate Income Tax Apportionment

1892	National Conference of Commissioners on Uniform Law founded (NCCUSL).
1909	Congress adopts a corporate income tax.
1911	Wisconsin adopts first state income tax.
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1957	NCCUSL adopts the Uniform Division of Income for Tax Purposes Act (UDITPA), which has an equally-weighted three factor formula; payroll, property and sales.
1959	U.S. Supreme Court decided <i>Northwest Portland Cement</i> (358 U.S. 450), which was widely viewed as expanding states' authority to tax interstate business.
1959	Congress passed P.L. 86-272, "temporarily" limiting states' ability to tax some interstate commerce and established the Willis Committee to study the matter.
1964	By 1964, only three states, Alaska, Arkansas, and Kansas, had adopted UDITPA.
1965	The Willis Committee proposed a federally mandated two factor formula, payroll and property, for state income tax apportionment.
1965-67	States rallied to protect their sovereignty over the tax base and many enacted the UDITPA formula directly into their statutes.
1967	The Multistate Tax Compact becomes effective. Article III of the Compact allows a state to maintain its own apportionment method, but requires a state to allow a taxpayer to elect to use Article IV apportionment instead. Article IV contains UDITPA almost <i>verbatim</i> . Many other states adopted UDITPA by joining the MTC. Utah is an early member.
1972	Florida adopts a mandatory super-weighted sales factor and repeals Article III and IV of the Compact. The Multistate Tax Commission (MTC) votes that Florida is still substantially in compliance with the Compact.
1972	States continue to drift away from the equally-weighted three factor formula, increasingly emphasizing the sales factor.
2006	Utah allows a taxpayer to elect to double-weight the sales factor.
2008	Only ten states exclusively require an equally-weighted three factor formula.
2009	Utah legislatively revises the rule for calculating the sales factor for sales of services and intangibles, departing from the UDITPA methodology.
2011	Utah distinguishes between Sales Factor Weighted Taxpayers (SFWT's) and Non Sales Factor Weighted Taxpayers. Multiyear phase-in begins that will require SFWT's to move to a single sales factor formula. The phase-in will be complete for tax year 2013. Other taxpayers may elect to double-weight their sales or use the standard three factor formula.
2012	California Court of Appeals decides <i>Gillette</i> , ruling that California must allow taxpayers to use the standard three factor formula. Its attempt to modify the Compact by subsequent legislation was held invalid. In anticipation of the decision, California had repealed the Compact.
2012	The Michigan Court of Appeals ruled to the contrary in <i>IBM</i> , effectively allowing Michigan to statutorily repeal Articles III and IV.
2013	The California Supreme Court has agreed to review <i>Gillette</i> . The Michigan Supreme Court has been asked by the taxpayer to review <i>IBM</i> . Similar cases are pending in lower courts in Oregon and Texas.
2013	Utah repeals the Multistate Tax Compact. At the same time, Utah reenacted the Multistate Tax Compact without Article III or IV. It is Utah's position that it is now a "new" Compact member. Compare the MTC's decision on Florida in 1972. Single sales factor now required for SFWT's.