



**Multistate Tax Commission Annual Meeting**  
Galt House Hotel  
140 North Fourth Street  
Louisville, Kentucky

**Uniformity Committee Report**  
Holly Coon (Alabama), Chair  
Tommy Hoyt (Texas), Vice-Chair

The Uniformity Committee met in person three times between July 1, 2016 to June 30, 2017—in Kansas City, MO in July, in Houston, TX in December, and in San Diego, CA in March.

Work groups established by the committee have met regularly by telephone. Attendance at the meetings and participation in the work groups has been strong and we thank the state representatives and members of the public who have engaged in our uniformity efforts.

### **Projects by Status**

#### **Adopted by the Commission in 2017**

- Amendments to the General Allocation and Apportionment Regulations – Sections 1 & 17

#### **Currently Before the Commission**

- None

#### **Currently Before the Executive Committee**

- None

#### **Pending Bylaw 7 Survey**

- None

#### **Ongoing Uniformity Committee Projects**

- Art. IV, Section 18 Work Group
- Partnership Work Group
- Model Sales and Use Tax Notice and Reporting Statute Work Group

### **Summary of Current Projects**

Note: The MTC website has a web page for each uniformity project with information on that project.

#### **Art. IV, Section 18 Project** – Chair – Holly Coon, Staff – Bruce Fort

The Commission’s recommended amendments to Article IV, Sections 1 and 17 exclude from the receipts factor any receipts from hedging, securities, loans, and certain other intangibles. This may result in some taxpayers having no receipts factor (or only a di minimis factor), for example, where there is an investment affiliate filing in a state that has separate corporate reporting. The Section 18 work group is considering regulations that would include and source these otherwise excluded receipts (e.g. dividends, gains, interest, etc.) when necessary.

The work group has been meeting weekly by phone for almost two years. (The meetings were temporarily suspended from May until August, 2016, while the Executive Committee considered questions raised by practitioners about the exclusion of hedging and securities receipts under the then-proposed Section 1 and 17 regulations, now adopted. See minutes of the Executive Committee for May and July, 2016.)

The work group resumed its meetings and is currently in the final stages of drafting. The group has made a specific request to members of the public to bring to its attention any circumstances that the draft’s provisions may not sufficiently address—including circumstances involving hedging and investment activity.

#### **Partnership Work Group** – Chair – Tracee Abel, Staff – Helen Hecht

Soon after Congress passed the Bi-partisan Budget Act of 2015, requiring the IRS to implement an entity-level audit and adjustment process for large partnerships, the Uniformity Committee commenced an informational project and then formed a work group to consider how states may adapt to the new regime. The group has held bi-weekly meetings and has had the participation of members of the public including the ABA, AICPA, COST, TEI and IPT (what we all agree to refer to here as the “interested parties”).

At the March 2017 meeting, the Uniformity Committee was asked to expand the scope of the work group to address any entity-level tax issues (that is, issues states would need to consider if imposing a tax on partnership income at the entity level rather than the partner level), which it agreed to do. The committee was also asked to take up the process of amending the Commission’s model for Reporting Federal Tax Adjustments with Accompanying Model Regulations—adopted in 2003. The committee agreed to review any proposed amendments brought forward by the interested parties (while reserving the question of whether it will specifically take up a project to amend the model).

The interested parties have presented a comprehensive proposed “Model Uniform Statute and Regulation for Reporting Adjustments to Federal Taxable Income and Federal Partnership Audit Adjustments” to the work group. The work group has so far focused its discussion on the proposal’s treatment of the partnership audit and adjustment issues.

Model Sales and Use Tax Notice and Reporting Statute – Chair – Phil Horwitz, Staff – Sheldon Laskin

The Executive Committee previously considered a draft model act to provide for remote sellers to report use tax information to states and notify in-state purchasers of a potential tax liability at the time of sale. The Executive Committee tabled the draft pending a decision in *Direct Marketing Ass'n v. Brohl*. The Tenth Circuit has now ruled that the Colorado statute is constitutional and that *Quill* does not apply to the information reporting requirements. *Direct Marketing Ass'n v. Brohl*, 814 F.3d 1129 (2016)(cert. denied).

At the in-person meeting of the Uniformity Committee in March, the committee voted to reconvene a work group and reconsider the draft for any necessary revisions. The group has been having regular meetings by phone, has developed an issue list, and is preparing to begin drafting revisions.

Other

The Uniformity Committee has also been asked to consider a proposal to amend the Commission's Model Statutes for the Collection and Remittance of Lodging Taxes by Accommodations Intermediaries, adopted by the Commission in 2012. This proposal has been submitted by representatives of the hotel and lodging industry and had been informally commented on by representatives of online travel companies and Airbnb. Assuming that industry representatives can come to consensus on needed modifications to the model, the Committee has agreed to review those modifications.