



To: Executive Committee  
 From: Greg Matson  
 Date: July 25, 2018  
 Subject: 2017-2018 Annual Report of the Executive Director

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This report is a summary of the Commission's organizational and staff activities for the period July 1, 2017, through June 30, 2018 (unless otherwise noted).

## I. Membership

Virginia became an associate member on July 1, 2018, by operation of Virginia H.B. 373 and approval by the Executive Committee in accordance with Bylaw 13 at its meeting of April 26, 2018.

## II. Programs & Activities

### A. Joint Audit Program

The Joint Audit Program has completed two corporate income tax audit and parts of ten corporate income tax audits for the fiscal year 2018. The program also completed six sales tax audits and parts of five other sales tax audits for fiscal year 2018. There are 22 income and 31 sales tax audits in progress.

The program has proposed assessments of \$45,814,096 for the completed corporate income tax audits and \$2,495,249 for the completed sales tax audits for fiscal year 2018.

The following chart summarizes hourly data for all completed (for all states) audits for the fiscal year end June 30, 2018:

	Income & Franchise	Sales & Use	Total
<b>Total Audits</b>	2	6	8
<b>Total States Audited</b>	35	66	101
<b>Total Hours</b>	7469	8133	15602
<b>Average Hours per State</b>	213	123	154

The Audit Committee met for the first time in fiscal year 2018 on July 31, 2017, in Louisville, Kentucky. During this meeting the committee discussed the progress of current

audits. The committee also reviewed the companies recommended for sales tax audits and voted to add eight of those companies to the sales tax audit inventory.

The committee met again on November 15, 2017, in New Orleans, Louisiana. During this meeting, Bruce Fort, Commission counsel, gave a presentation on recent happenings in the state and local tax area. This was very well received and will become a semi-regular part of the committee meeting. The committee also discussed the progress of the current audits, including the possible early closure of one audit. As usual, the committee ended with the state round table discussion.

The committee last met on April 24, 2018, in Bloomington, Minnesota. This was the third and final meeting for the committee in fiscal year 2018. During the meeting in Bloomington, Bruce Fort made another presentation on recent happenings in the state and local tax area. The committee also recognized and honored Harold Jennings for his many years of service to the Commission. Audit issues that staff was encountering and possibilities on how to deal with those were discussed. The committee also discussed the progress of current audits, and, as usual, ended with the states' round table discussion.

In conjunction with the Commission's all-staff retreat, training for audit staff was held on August 16 and 17, 2017.

## **B. National Nexus Program**

### Multistate Voluntary Disclosure Program

The FY 2018 results are provided below.

- Nexus states' collections: \$18,601,151 (\$19,664,097 in all FY 2017)
- Nexus states' executed contracts: 3,087 (431 in all FY 2017)
- Nexus states' average contract value: \$6,026 (\$45,624 in FY 2017)

The above amounts include funds received by the Commission or paid by the taxpayer directly to the states and reported to the Commission. Interest on back tax paid and the ongoing value of a new taxpayer are not included. The number of executed contracts includes those from the online marketplace seller voluntary disclosure initiative, most of which involved waiver of back tax liability, as well as those from the ongoing Multistate Voluntary Disclosure Program, which do require payment of back taxes for the state lookback period. This accounts for the much higher number of executed contracts and the much lower average contract value. Based on the back-tax liability estimates provided in the applications of taxpayers executing agreements and registering with the states under the initiative, it should result in an estimated \$51,058,614 in annual potential future revenue for the participating states.

### Online Marketplace Seller Voluntary Disclosure Initiative

At its July 31, 2017 meeting in Louisville, the Nexus Committee approved moving forward with the online marketplace seller voluntary disclosure initiative. A total of 25 states, including D.C., participated in the initiative. Most of the participating states offered waiver of back tax liability for both sales and use tax and income/franchise tax to online marketplace sellers with nexus as a result of inventory or other nexus-creating activity by the marketplace facilitator on behalf of the seller, if the seller registers to collect sales and use tax and file income/franchise tax returns prospectively. Four of the participating states required lookback periods. The initial application period was set for August 17 to October 17, 2017, with sellers to be registered to collect sales and use tax by December 1, 2017, and commence filing returns and paying tax due for income/franchise tax. On October 11, 2017, the Nexus Committee conducted an emergency meeting by teleconference to address requests to extend the deadlines. The committee extended the application deadline to November 1, 2017, and changed the registration deadline to the later of December 1, 2017, or 30 days after the seller receives notice that the state has signed the voluntary disclosure agreement. By the end of the November 1 application period, voluntary disclosure applications from a total of 852 online marketplace sellers were received. The initiative has been completed.

### Membership

There are currently thirty-eight participating states (including the District of Columbia) in the program, with Rhode Island having most recently joined effective October 1, 2017. Delaware advised the Commission that it has terminated its participation in the Nexus Program as of the end of FY 2018. Commission staff continues to reach out to non-member states.

### Outreach

A substantial number of inquiries were received regarding the online marketplace seller voluntary disclosure initiative. Program staff engaged in lively and spirited discussions with business owners and taxpayer representatives over the impacts and ramifications of the initiative.

Staff continues to urge states to put a link to the program on their voluntary disclosure web pages.

### Nexus Schools

Program staff co-taught a Nexus School in Atlanta, Georgia, on September 20-21, 2017, hosted by the Georgia Department of Revenue. Please let a member of the Commission staff know if your state would like to host a Nexus School.

### Amnesties

The program posts on its web page a list of upcoming and current state tax amnesties. Please inform program staff if you would like the Commission to post your state's amnesty.

### Staffing

The program presently has four permanent full-time staff members: Richard Cram, Director, Diane Simon-Queen, Voluntary Disclosure Program Manager, Michelle Lewis, Paralegal, and James Lee, hired on March 13, 2018, as Program Specialist. Starting in October 2017, and through late February 2018, Renee Lee, Paralegal, Thomas Emberger, a temporary employee, and James Lee, then a temporary employee, worked full-time for the Program on the online marketplace seller voluntary disclosure initiative. Nianci Lyu, a temporary employee, worked full-time on the initiative during October and November 2017. Angie Molina, a senior at Georgetown University, worked part-time for the Nexus Program beginning July 5, 2017, ending in October 2017.

### **C. Legal Division**

Counsel to the Commission perform the following functions:

- Serve as staff for the uniformity committee and its workgroups;
- Serve as staff for the litigation committees and sponsored training activities;
- Provide legal services to the Commission's audit and nexus programs;
- Conduct training for state employees on various subjects;
- Consult with states on a number of tax policy issues;
- Provide litigation support and amicus briefs;
- Speak at tax conferences and write articles for tax publications; and
- Provide administrative and other legal support.

The Commission added two new counsel in May, Brian Hamer and Chris Barber. Background information on Brian and Chris is covered elsewhere in this report.

### Staffing the Uniformity Committee and Workgroups

In the last year, counsel to the Commission staffed uniformity committee meetings as well as the following uniformity projects:

- The Model Sales and Use Tax Notice and Reporting Statute work group;
- The Partnership Informational Project/ RAR Model Statute work group; and
- The Section 18 Regulatory Project work group.

Work on these projects involved assisting states in identifying issues, analyzing the effects of those issues, reconciling competing considerations, drafting model language,

soliciting comments and suggestions, staffing and preparing information for work group calls and committee meetings, staffing public hearings, and complying with Commission bylaws and other processes.

Staffing the uniformity committee also requires counsel to the Commission to assist in the evaluation of proposed projects. Currently, the committee is considering revision of Section 18 special industry rules, a proposal to adopt a *Finnigan* alternative to its Combined Reporting model statute, and issues related to the *Wayfair* case.

#### Staffing the Litigation Committee and Sponsored Training Activities

In the last year, counsel to the Commission staffed litigation committee meetings as well as the following activities sponsored by the litigation committee:

- An all-day appellate practice training session for state attorneys in August 2017 focusing on brief-writing; and
- An all-day training session for state attorneys in April 2018.

Work on these activities involved soliciting speakers, coordinating subjects and topics, helping with materials and presentations, preparing agendas and CLE materials, and facilitating the involvement of various individuals in other aspects of the preparation.

#### Legal Assistance to Audit and Nexus Programs

Counsel regularly consult with the Joint Audit Program and National Nexus Program personnel on various legal issues. Work on these activities involves reviewing and analyzing audit issues, pursuing taxpayer compliance with information and document requests, updating personnel on emerging issues and developments, and assisting with questions from taxpayers and practitioners.

#### Training for States

Counsel prepare materials and act as trainers for the Commission's general corporate income tax training and the National Nexus Program's nexus schools (covered elsewhere in this report).

#### Consulting on Policy Issues

In the last year, the legal division has hosted informational sessions for a state attorneys and policy officials on the effects of recent federal tax changes on the taxation of multinational business entities, as further discussed below. Counsel regularly respond to questions and requests from state tax policy officials and also consult with state groups (including the National Governors Association and the National Conference of State Legislatures) on tax policy issues. Those issues generally include issues on which the Commission has model laws or issues that the Commission or its committees have studied. The legal division has also been closely involved with educational efforts regarding federal

tax reform. The Commission hosted a teleconference on May 29 as part of its ongoing study of how the recent federal tax reform will affect state taxation.

### Litigation Support and Amicus Briefs

Counsel provide litigation support to states when requested. That work includes advising state attorneys on litigation strategy, use of experts, and evaluation of evidence and legal arguments.

The Commission may also agree to file amicus briefs in cases of significant interest to the Commission and its members. In the past year, counsel prepared amicus briefs in the following cases:

- *Graphic Packaging v. Hegar*, Texas Supreme Court, Docket No. 15-0669 (Texas won);
- *Commissioner v. Associated Bank*, Minnesota Supreme Court Docket No. A17-0923 (Minnesota won);
- *Franchise Tax Board of California v. Gilbert P. Hyatt*, U.S. Supreme Court Docket No. 17-1299, on petition (petition granted); and
- *South Dakota v. Wayfair*, U.S. Supreme Court Docket No. 17-494, on petition (petition granted) and on the merits (South Dakota won).

Counsel are also currently working on amicus briefs in other cases.

### Speaking and Articles

As detailed elsewhere in this report, Counsel regularly speak at tax conferences and seminars around the country. Counsel also prepare articles for publication, including in the last year as part of the State Tax Notes Board Briefs and for the Journal of Multistate Taxation and Incentives, *Government Contributions to Capital – The Known and the Unknown* - for publication August 2018.

### General Legal Support

The legal division provides administrative and legal support for the Commission including addressing open meetings issues, maintaining confidentiality policies, handling records requests and overseeing record retention policies, resolving lease disputes, reviewing contracts, and complying with other regulatory issues, including the Social Security issues detailed elsewhere in this report.

## **D. Policy Research**

The policy research director supports Commission efforts in addressing federal legislation with implications for state and local taxation, monitors state adoption of Commission model statutes, regulations, and guidelines. He is a member of the National Tax Association Advisory Board.

The policy research director is writing a short summary on the impact of federal adoption of territorial taxation on state business income tax bases. He organized and acted as moderator for a session on infrastructure spending and means of financing infrastructure at the 110<sup>th</sup> Annual Conference of the National Tax Association in Philadelphia, Pennsylvania, November 9 through 11, 2017. At that conference, he also discussed two papers on the theory of optimal taxation. He is updating information on current economic conditions and trends in state and local government finance for the Commission's annual meeting this summer.

The policy research director participated in the following periodic local or online economic forums and seminars:

- National Association for Business Economics symposium on transfer pricing – July 18 through July 20
- CQ webinar on federal tax reform – September 7
- Federation of Tax Administrators Revenue Estimating and Research Conference, Omaha, Nebraska, September 23 through 28, and presented a paper on long-term trends in state corporate income taxes
- Tax Economist Forum Breakfast: Jane Gravelle, Congressional Research Service. Analysis of House Tax Reform Plan: A Better Way; at Ernst & Young
- Tax Economist Forum Breakfast: Modeling the Internal Revenue Code in a Heterogeneous General Equilibrium Framework – October 4
- Tax Policy Center discussion with Kevin Hassett, Chair, Council of Economic Advisors, on economic impact of federal tax reform – October 5
- Moody's webinar on the economics of tax reform – October 6
- Tax Economist Forum Breakfast: Incidence of the Corporate Income Tax – October 18
- REMI webinar on economics of tax reform – October 31
- National Tax Association Annual Meeting, Philadelphia, PA: organized and moderated a session on infrastructure spending and financing and discussant for two papers on the theory of optimal taxation infrastructure – November 9
- REMI luncheon on possible impact of federal tax reform on the states – November 30
- Tax Economist Forum Breakfast: Trends in the Distribution of Income – December 13
- Tax Foundation webinar on tax reform and the states – January 9
- Tax Economist Forum Breakfast: Trends in Income Tax Rates over Time – January 17

- Urban Institute seminar on tax reform and the impact on the states – January 24
- Tax Economist Forum Breakfast on state and local excises as substitutes for income, property, and sales taxes – January 31
- Institute for International Economic Law seminar on protection of tax base in internationally competitive environment – February 2
- REMI webinar on tax reform and the states – February 6
- Brookings Institution Seminar on the new business tax landscape – February 14
- Consulted with PEW Foundation staff for the Fiscal Federalism Initiative project on the relationship between federal corporate income tax and state corporate income tax – February 14
- Tax Economist Forum Breakfast on dynamic scoring – February 28
- REMI webinar: Immigration and the Economy – March 6
- Tax Economist Forum Breakfast on tax reform and capital investment – March 14
- REMI luncheon: Tariffs and the Economy – March 29
- Tax Economist Forum Breakfast on tax reform and bonus depreciation – May 2
- Economic Policy Institute – Tax Cuts and Jobs Act (TCJA) and Offshoring – May 7
- National Tax Association Annual Spring Symposium, Washington, D.C. – May 17 and 18
- Tax Economist Forum Breakfast on different types of Value Added Tax – May 30
- Tax Economist Forum Breakfast on effect of TCJA on investment – June 6
- REMI Policy Conference – June 7
- Tax Economist Forum Breakfast on International Tax Issues and TCJA – June 13
- Hosted and organized Tax Economist Forum Breakfast at Hall of the States on State Fiscal Conditions – June 27

The policy director also interviewed candidates for the policy research internship for the summer of 2018. The position has been filled by Parker Armstrong, University of New Hampshire.

#### **E. Legislative Division**

The legislative counsel and director:

- Monitors and analyzes in collaboration with the director of policy research and the legal division federal legislation that affects states;
- Coordinates Commission responses to federal legislation, including joining with the efforts of other organizations, drafting policy positions, and meeting with legislators and staff;
- Educates congressional members and staff about the negative effects of preemption generally and with respect to specific bills;

- Answers questions from member states about federal legislation;
- Monitors state legislation, identifies trends, and consults with states when requested; and
- Increases the visibility and reputation of the Commission through establishing lines of contact to legislators, taxpayer organizations, other multistate governmental organizations, the public, and other stakeholders in federal and state legislation that preempts or substantially affects state taxation.

The legislative counsel created and maintains a public page on the Commission's website to view legislative reports. It may be found on the Commission's web site under the tab *Resources* and then by clicking on *Legislation* from the resulting drop down menu, which then provides an option of viewing either *State Bills* or *Federal Bills* and allows for searching for a bill by number or viewing a list that can be sorted various ways. The Commission recently switched its vendor for state and federal legislative information from CQ Roll Call / CQ StateTrack to Bloomberg Government after careful analysis of the capabilities, cost, and ease of use of each. Bill information is temporarily unavailable on the website while we migrate data to the new system.

The legislative counsel continues to proactively increase the visibility of the Commission and promote it as the "gold standard" for tax policy development. Counsel focuses on state and federal legislators and their staffs; the Congressional Budget Office (providing data to score bills); and multistate organizations such as the National Governor's Association (attendance at weekly meetings of state representatives, coordination with NGA staff), the Federation of Tax Administrators; the Streamlined Sales Tax Governing Board; and the National Conference of State Legislatures Executive Committee Task Force on State and Local Taxation. Awareness of the Commission among state legislators who serve on tax committees has historically been low, so counsel has prioritized developing awareness and relationships among these legislators.

Below are some of the federal bills that legislative counsel is following:

- **RECENTLY INTRODUCED.** Senator Jon Tester (D-Mont.) introduced the *Stop Taxing Our Potential Act* (STOP) on June 28, 2018. It has three cosponsors—Senators Shaheen (D-N.H.), Merkley (D-Ore.), and Hassan (D-N.H.). Montana, Oregon, and New Hampshire are three of the four states that have no sales/use tax (Delaware is the other; Alaska has no state-level sales/use taxes). These states strongly oppose the perceived inconvenience and cost of collecting tax for other states. In addition, each has a strong cultural pride in being sales/use tax free, which makes this bill triply popular at home—with retailers, purchasing businesses, and the public.
- A substantial amount of time and effort has been spent on monitoring the effects on states resulting from federal tax reform. Tax reform became law as P.L. 115-97 (informally the *Tax Cuts and Jobs Act*) on December 22, 2017, with an effective date of January 1, 2018. Amendments to the federal code have caused uncertainty for states and required them to quickly attempt to understand how the changes affect each state's tax policies. Interest deductions, treatment of foreign-source income,

taxation of pass-through income, expensing of capital goods, and myriad other changes must be considered. States appear to be more or less affected by the nature and extent of their conformity to the Internal Revenue Code. States are working hard to identify the conformity provisions to the Code to be retained or discarded and to look at other changes to state law to mitigate resulting tax increases or decreases. The impact on states of tax reform is a critical issue for the Commission and states. Many state bills have been enacted or considered during the recently-concluded sessions (only a few states are currently in session) to address the complications that the federal bill created in state income tax laws.

- *The Consolidated Appropriations Act, 2018*, H.R.1625, P.L.115-141, wrapped all twelve appropriations bills into a single bill, commonly called the omnibus spending bill. As “must pass” legislation, this was an ideal vehicle to insert state preemption bills that otherwise would have had trouble passing. Only one bill of concern made it into the omnibus—§620 of the MOBILE NOW Act of 2017 (further discussed below). It was slipped into the omnibus without debate as a provision of a larger bill regarding wireless spectrum.
- *The Wireless Telecommunications Tax and Fee Collection Fairness Act was amended into the MOBILE NOW Act of 2017 as §620*. MOBILE NOW was enacted into law as P.L. 115-141. The Act preempts state tax authority over certain mobile wireless communications. The scope of preempted activity is unclear. An expansive reading of the preemption provisions would significantly limit state tax authority and hinder collection of taxes related to mobile communication. It further preempts state tax authority by requiring original jurisdiction in federal district court despite the Tax Injunction Act.
- *Remote Transactions Parity Act* (H.R.2193); referred to Subcommittee on Regulatory Reform, Commercial And Antitrust Law of the House Committee on the Judiciary; no hearings or action since referral on May 5, 2017. The provisions of this bill were seriously considered for inclusion in the omnibus spending bill but excluded in the end. The sponsor and others believed that it was critical to have a federal framework for use tax collection in place before the U.S. Supreme Court decided *South Dakota v. Wayfair*. The bill has not moved post-*Wayfair*.
- Representative Kristi Noem (R-S.D. at large) introduced H.Res.790 after she failed to insert the Remote Transactions Parity Act into the omnibus appropriations bill. H.Res.790 was a quixotic attempt to mandate that the Judiciary Committee discharge her bill for the full House to vote on. She gathered no cosponsors. It is dead.
- Marketplace Fairness Act of 2017 (S.976); referred to Senate Committee on Finance; hearing held by Senate Committee on Banking, Housing, and Urban Affairs. Permits member states of the Streamlined Governing Board (SGB) to require remote vendors to collect use tax on behalf of their state’s citizens; allows states not members of the SGB to require remote vendors to collect use tax on behalf of their citizens when they enact enumerated simplifications to their sales and use tax laws.

This bill passed the Senate by a large margin in a previous Congress but made no headway in the House.

- *No Regulation Without Representation Act of 2017* (H.R.2887); referred to the House Committee on the Judiciary. This bill would prohibit a state from enacting any law, regulation, or policy that affects any other state or its residents. It applies beyond tax law. It is so absurd and sweeping that it is unlikely to advance, and has not since introduction and a hearing.
- *Mobile Workforce State Income Tax Simplification Act of 2017* (H.R.1393); approved by the House in a ‘suspension of the rules’ voice vote (‘suspension’ is supposed to be reserved for uncontroversial bills). H.R.1393 is pending in the Senate Committee on Finance.
- *Mobile Workforce State Income Tax Simplification Act of 2017* (S.540); referred to Senate Committee on Finance. See H.R.1393, above. With the House approval of H.R.1393, the Senate Finance Committee has two Mobile Workforce bills pending. A hearing on S.540 was held on June 14, 2017, by the Committee on Small Business and Entrepreneurship (not the committee of official jurisdiction). No further action is likely this Congress.
- *End Discriminatory State Taxes for Automobile Renters Act of 2017* (H.R.2024 and companion S.1159); the House Committee on the Judiciary referred it to a subcommittee on May 1, 2017, where there has been no action. The Senate bill, S.1159, resides without action in the Senate Committee on Finance. The bills would prohibit taxation of automobile rentals at a rate higher than a state’s general sales tax rate.
- *No Tax Subsidies for Stadiums Act* (H.R.811); this eponymous bill was referred to Ways and Means; there has been no further action (a very minor provision in the *Tax Cuts and Jobs Act* affected private municipal bond issues; such bonds are often used to build stadiums).
- *Tax Filing Simplification Act of 2017* (S.912) by Senator Elizabeth Warren (D-Mass.) would have the IRS at the taxpayer's option prepare the taxpayer's return when there are no complicated issues; allow taxpayers to download their tax information from third parties; and provide online software to prepare and submit returns. It is dormant in the Senate Finance Committee. Its companion bill, H.R.3511 by Rep. Brad Sherman (D-Cal.30), is dormant in Ways and Means.

The legislative counsel continues to monitor state legislation, particularly bills in response to federal tax reform and the *Wayfair* decision.

## **F. Training**

The Training staff supported the following activities since July 1, 2017:

Nexus School

September 20- 21, 2017, in Atlanta, Georgia, for 33 participants from the Alabama Department of Revenue, the Georgia Department of Revenue, the Idaho State Tax Commission, the Kentucky Department of Revenue, the New Jersey Division of Taxation, and the South Carolina Department of Revenue.

Corporate Income Tax training

March 20 – 23, 2018, in Atlanta, Georgia, for 38 participants from the Alabama Department of Revenue, the Colorado Department of Revenue, the Georgia Department of Revenue, and the South Carolina Department of Revenue.

On September 26 and 27, 2017, Larry Shinder from the Joint Audit Program, along with Bruce Fort from the legal division, provided the Vermont Department of Taxation with income tax training. The training was geared to specific topics requested by Vermont on issues they have encountered during audits.

The events and training staff coordinated the logistics of the 50<sup>th</sup> Annual Conference in Louisville, Kentucky, July 31 – August 3, 2017, which included an off-site reception and dinner at Churchill Down's Kentucky Derby Museum. Staff provided onsite assistance to special invited guests Eugene Corrigan and James Peters, and the Kentucky Department of Revenue provided staff — Melinda M. Hill, Deputy Commissioner, and Stacy Ball from the commissioner's office — to assist with onsite activities. Staff also coordinated logistics for the 2017 Fall Committee Meetings and the 2018 Spring Committee Meetings.

The events and training staff have been the principal coordinators of the 51<sup>st</sup> Annual Conference and Committee Meetings. Staff has also worked on preparations for the 2018 Fall Committee Meetings, 2019 Spring Committee Meetings, and 52<sup>nd</sup> Annual Conference and Committee Meetings.

The events and training staff coordinated logistics for the Commission's staff retreat and auditor training which occurred in Itasca, Illinois, August 15–17, 2017.

The events manager attended the National Association of State Boards of Accountancy's 2017 National Registry of CPE Sponsors Summit September 26–27, in Nashville, Tennessee.

### **III. Administration**

An all-staff retreat was held in Itasca, Illinois, August 15 and 16, 2017. The highlight of the retreat was a day-long presentation by Leading Edge on team building. Other presentations made during the retreat were on topics such as the Commission's updated personnel manual and information and technology security. At the conclusion of the retreat, the Joint Audit Program remained in Itasca on August 16 and 17 for staff training.

Larry Shinder was promoted to field audit supervisor effective January 1, 2018. Larry has worked for the Commission since October 1997.

Renee Lee ended her employment as a paralegal with the legal division on February 23, 2018. Renee had been with the Commission since October 2016.

Sheldon Laskin retired on February 28, 2018, with over 19 years of service to the Commission. Sheldon was the Director of the National Nexus Program from his hiring in 1998 until 2007 when he joined the legal division as counsel.

James Lee was hired on March 13, 2018, as a program specialist in the National Nexus Program. Since November 2017, James had been working for the program as a temporary employee for the on-line seller voluntary disclosure initiative.

On May 16, 2018, Chris Barber and Brian Hamer were hired to fill vacancies in the legal department. Chris was a legal extern with the Commission in 2014 and more recently worked with Sabre Corporation and Ernst & Young in the Dallas area. Brian was director of the Illinois Department of Revenue from 2003 to 2015. Before that, he was deputy director of the Chicago Department of Revenue and chief assistant corporation counsel at the city's Department of Law. He has also been a columnist with State Tax Notes.

Harold Jennings, senior audit supervisor, retired at the end of May 2018. Harold had been with the Commission since July 1991.

Parker Armstrong is interning this summer with Elliott Dubin, Director of Policy Research. Parker is an economics major at the University of New Hampshire and will enter his junior year this coming fall.

Kim Stewart, sales tax auditor with the state of Kansas, has accepted a sales tax audit position with the Commission and will begin working on August 1, 2018. Kim has worked as an auditor with the Kansas Department of Revenue since July 2007.

On March 1, 2018, the Executive Director signed an amendment to the existing Washington, D.C. office lease. This lease for additional contiguous space will expand the office size from 5,906 square feet to 6,820 square feet, providing needed additional work space. The lease and related lease payment will actually become effective once the build-out of the additional space is complete. The cost of this lease amendment is included in the FY 2019 budget on the assumption that the space will be occupied on July 1, 2018. This amendment to the existing lease extends the lease termination date to December 31, 2026, and provides anticipated adequate funding for the build-out of the newly acquired space. The architectural drawings for this expansion have been completed. These plans will be submitted in order to obtain a building permit while a contractor is selected.

During the latter part of 2017, Commission employees participated in a process regarding Social Security coverage. This process allowed existing employees to opt into coverage effective January 1, 2018, if he or she elected. All new employees hired on or after

January 1, 2018, would participate in Social Security. On December 11, 2017, a proposed agreement for coverage was submitted to the Social Security Administration (SSA). While we are still awaiting approval of the agreement, we have been informed that the Office of General Counsel for the SSA has provided that the Commission can obtain Social Security coverage as an interstate instrumentality. This movement to participation in Social Security is expenditure neutral for the Commission.

Related to participation in Social Security, a new defined contribution (I.R.C. §401(a)) plan was established effective January 1, 2018. It was necessary to establish a new plan given the contribution rate to this plan of 6.2%. This is in contrast to the existing Social Security substitute defined contribution plan which had a contribution rate of 12.4%. In conjunction with the establishment of the new plan, modifications were made to update the existing plan.

### Technology

The most recent updates to the Commission's audit history database are complete. The updates are currently in production.

The laptop replacement process is underway. The network administrator has configured the majority of the laptops and is in the process of transferring user data from old to new laptops as well as training users on new software that has been installed.

The Cleo Jetsonic software is being configured on all remote user laptops. This software allows for fast transfer of large files across the internet. It is intended to be used as a way for remote users to send their data back to the data center in DC and have it backed up and retained there. Because the software is not a true 'backup' solution some additional scripting needed to be done for it to better meet the desired purpose. As the new laptops are issued, the users are being shown how to use the scripts to effectively send their data back to DC. It is the expectation of the network administrator that as the process becomes more mature that the user intervention in the process will become less.

The network administrator has purchased the licenses required as well as computer hardware to facilitate the Federation of Tax Administrators (FTA) file sharing initiative. FTA is still working out some of the legal wording and logistics on their end before starting an initial trial period.

The network administrator is working with a Microsoft partner to set migrate the Commissions email services into the Microsoft Government Community Cloud (GCC). The migration is scheduled for mid-September.

The internet connection into the D.C. office has been upgraded. Previously we had a 100 MB connection and our internet provider showed us that our usage reached 98% capacity at times. We upgraded to a 1 GB connection. The additional bandwidth will help to prevent bottlenecks with the transferring of data by remote users from their Jetsonic clients as well as the use of Cleo Unify by FTA and several states.

The VMWare servers are functioning and providing services in the production environment as is the new Cybernetics Storage Attached Network. Servers have already been identified as likely candidates to be migrated to virtual machines. The migration of physical to virtual machines will be an ongoing process and will occur as the need arises.

Ongoing support for the Voluntary Disclosure Application remains an issue that requires attention. The training for the network administrator on the technology that this application is built on should begin in April or May. As a reminder, this training will allow for better troubleshooting, but not the ability to upgrade or build a new voluntary disclosure application and database. Discussions on whether to upgrade the existing database or build a new one should commence soon now that the online marketplace seller voluntary disclosure initiative is completed.

The Ring Central phone system has been rolled out and the 8x8 phone system has been retired. Although the majority of the work on the roll out was done by the web content and phone systems manager, the network administrator assisted in provisioning phones, troubleshooting, and assisting end users with the changeover.

The network administrator conducted training with the D.C. staff as well as some remote workers on email archiving. This training is an attempt to keep the size of the email file store at a manageable size.

The normal maintenance of server hardware in the D.C. and Chicago offices occurs on a regular basis through on-site visits by the network administrator.

#### **IV. Outside Presentations & Events**

The following are the programs, conferences, and other events of outside organizations at which members of the staff represented the Commission during the reporting period:

##### JULY

- 2017 SEATA Conference; New Orleans, Louisiana (Matson)
- National Association for Business Economics 7<sup>th</sup> Annual Transfer Pricing Symposium; Washington, D.C. (Dubin)
- NYU Summer Institute in Taxation: Intermediate State & Local Taxation; *A View From the State Tax Administrators* (Matson, panelist); New York, New York
- Tax Executives Institute, Philadelphia State and Local Tax Committee; *Multistate Tax Commission Update* (Stranburg, panelist); Philadelphia, Pennsylvania
- Georgetown 40<sup>th</sup> Annual Advanced State and Local Tax Institute; *The SALT Hangover: Reporting Federal Changes to the States* (Hecht, panelist); *Digging In: State Perspectives on Federal Tax Reform* (Fort, panelist); Washington, D.C. (Cram, Disque, Dubin, Matson, Shimkin, Stranburg)

### AUGUST

- NCSL Executive Committee Task Force on State and Local Taxation meeting; Boston, Massachusetts (Shimkin)
- 2017 MSATA Conference; Indianapolis, Indiana (Stranburg)
- Council on State Taxation Mid-Atlantic Regional State Tax Seminar (Matson, panelist); McLean, Virginia

### SEPTEMBER

- 2017 NESTOA Conference; Stowe, Vermont (Matson)
- 2017 FTA Revenue Estimation and Tax Research Conference; *Joint FTA-NTA Session – State General Business Taxation: Obsolete? Hopeless? Or Prospective? – Long-Term Trends in State Corporate Income Taxes: A Zombie Tax* (Dubin); Omaha, Nebraska
- National Association of State Boards of Accountancy 2017 National Registry Summit; Nashville, Tennessee (Tiggett)
- Louisiana State Bar Association; *Navigating the Changing State and Local Tax Landscape in a Multi-State Business – Nexus* (Hecht, panelist); New Orleans, Louisiana

### OCTOBER

- 2017 WSATA Conference; Missoula, Montana (Matson)
- COST Annual Meeting; *The States Finally Get Serious About Transfer Pricing: Are You Prepared?* (Fort, panelist); Orlando, Florida

### NOVEMBER

- 24<sup>th</sup> Annual Paul J. Hartman State and Local Tax Forum; *Point/Counterpoint – Alternative Apportionment in a Single-Sales Factor World* (Fort, panelist); *Ethical Sunrise – Start Your Day the Professionally Responsible Way!* (Stranburg, panelist); *Nexus: What's New? Top Ten Issues of the Day* (Stranburg, panelist); Nashville, Tennessee
- National Tax Association 110<sup>th</sup> Annual Meeting; *Infrastructure* (Dubin, organizer and moderator); *Optimal Taxation II* (Dubin, discussant); Philadelphia, Pennsylvania
- New England State and Local Tax Forum; Newton, Massachusetts (Matson)
- Georgetown SALT Advisory Board & Conference Planning Meeting; Washington, D.C. (Matson)

### DECEMBER

- NYU 36<sup>th</sup> Institute on State and Local Taxation; *Due Process – Significant Current Issues* (Disque, Panelist); New York, New York (Matson)
- Tax Executives Institute 54<sup>th</sup> Annual Tax Symposium; *The New Partnership Audit Rules and What do They Mean for the States* (Hecht, panelist); New York, New York

### JANUARY

- Ohio Tax Conference; *Ohio Sales & Use Tax – In-depth Review of Major Developments Including Recent Ohio Supreme Court & Ohio Board of Tax Appeals (BTA) Decisions & New Audit Practices* (Stranburg, panelist); Columbus, Ohio
- D.C. Bar Tax Community Conference; *The Tax Cuts and Jobs Act; Possible Impact of TCJA on State and Local Taxes* (Hecht, panelist); Washington, D.C.
- 2018 Federal Bar Association Tax Law Conference; *Federal Partnership Audit Legislation – State Impacts* (Hecht, panelist); Washington, D.C.
- New York Bar Tax Section Annual Meeting; *The Effects of Federal Tax Legislation on State and Local Taxation* (Hecht, panelist); New York, New York

### FEBRUARY

- FTA Compliance and Education Workshop; *Tax Law for Non-lawyers* (Hecht and Disque, Panelists); *The MTC's Model Legislation on the New Federal Partnership Regime* (Hecht and Disque); *What Happened When the Nation's Marketplace Sellers Were Offered an Incentive to Register (Hint – You Can Try This at Home)* (Cram); New Orleans, Louisiana (Yang)
- ABA Tax Section Mid-Year Meeting; *SALT Implications of Federal Tax Reform* (Fort, panelist); San Diego, California
- Paul J. Hartman State and Local Tax Forum Advisory Board Planning Meeting; Phoenix, Arizona (Matson)

### MARCH

- ABA/IPT Advanced Income Tax Seminar; *Funny Guys Discussing Hot Topics* (Hecht, panelist); New Orleans, Louisiana
- ABA/IPT Advanced Sales and Use Tax Seminar; *MTC VDA Program* (Cram, panelist); New Orleans, Louisiana
- NCSL Executive Committee Task Force on State and Local Taxation; *Federal Partnership Changes* (Hecht, panelist); Washington, D.C. (Shimkin)

### APRIL

- State Services Organization's "Coffee with Your Neighbor," a monthly event for Hall of the States tenants; presentation on the MTC (Matson); Washington, D.C.
- COST 2018 Spring Audit Session/Income Tax Conference; *State Tax Administrators' Roundtable* (Hecht, panelist); Boston, Massachusetts

### MAY

- 15<sup>th</sup> Annual New Mexico Tax Research Institute Tax Policy Conference; *Developments in State Taxes: Case Review and Evolving Issues* (Hecht); *Debate on Emerging State Tax Issues* (Hecht, Moderator); Albuquerque, New Mexico
- National Tax Association 48<sup>th</sup> Annual Spring Symposium; Washington, D.C. (Dubin)
- Georgetown 41<sup>st</sup> Annual Advanced State and Local Tax Institute; *State Adaptations to Federal Changes to Partnership Rules* (Hecht, panelist); *Recent*

*Developments in Transfer Pricing at the State Level* (Fort, panelist); Washington, D.C. (Barber, Cram, Disque, Hamer, Matson, Shimkin, Stranburg)

JUNE

- Federation of Tax Administrators Annual Meeting; *Update on Key State Tax Cases* (Hecht, panelist); *Partnership Audit Regulations: The Great Unknown* (Hecht, panelist); Nashville, Tennessee (Matson, Disque, Hamer)
- Bloomberg Web-based Seminar; *Wayfair Ruling: First Impressions and Implications* (Matson, panelist); Washington, D.C.
- NCSL Executive Committee Task Force on State and Local Taxation meeting; Lake Tahoe, Nevada (Shimkin)