



MULTISTATE TAX COMMISSION

**To:** John L. Valentine, Commission Chair  
Members of the Commission

**From:** Gilbert Brewer, Chair of the Resolutions Committee

**Re:** 2018 Resolutions Committee Report to the Commission

**Date:** July 25, 2018

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Please find attached to this report the resolutions for the Commission's consideration:

- Resolution No. 2018-01 - Urging Restraint by Congress as States and Other Stakeholders Work Through the Implications of *South Dakota v. Wayfair, Inc.*
- Resolution No. 2018A - Appreciation of the Massachusetts Department of Revenue, Host of the 2018 Annual Meeting
- Resolution No. 2018B - In Recognition of Frank Hales, Audit Committee Chair, and Lee Baerlocher, Audit Committee Vice Chair
- Resolution No. 2018C - In Recognition of Clark Snelson, Litigation Committee Chair, and Mark Wainwright and Dee Wald, Litigation Committee Co-Vice Chairs
- Resolution No. 2018D - In Recognition of Christy Vandevender, Nexus Committee Chair, and Randy Tilley, Nexus Committee Vice Chair
- Resolution No. 2018E - In Recognition of Holly Coon, Uniformity Committee Chair, and Tommy Hoyt, Uniformity Committee Vice Chair
- Resolution No. 2018F - In Recognition of Joe W. Garrett, Jr., State Intercompany Transactions Advisory Service Committee Chair
- Resolution No. 2018G - In Recognition of Lennie Collins for his service to the Commission
- Resolution No. 2018H - In Recognition of Mike Kadas for his service to the Commission



MULTISTATE TAX COMMISSION

## Resolution 2018-01

### **Urging Restraint by Congress as States and Other Stakeholders Work Through the Implications of *South Dakota v. Wayfair, Inc.***

**Whereas**, on June 21, 2018, the U.S. Supreme Court overturned *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992)—a case upholding *National Bellas Hess, Inc. v. Department of Revenue of Ill.*, 386 U. S. 753 (1967)—by holding that the *Bellas Hess/Quill* physical presence rule for substantial nexus was “unsound and incorrect” and had become an “inefficient ‘online sales tax loophole’ that gives out-of-state businesses an advantage.” *South Dakota v. Wayfair, Inc.*, 585 U. S. \_\_\_\_ (2018); and

**Whereas**, the Court in *Wayfair* recognized that the physical presence rule was no longer a bright line standard, nor could it reasonably serve as a proxy for the burdens of sales and use tax collection that might be imposed on particular sellers. It also found that South Dakota’s law provided reasonable protections for smaller sellers; and

**Whereas**, the Court was unanimous in concluding that, as pointed out in the dissent, “*Bellas Hess* was wrongly decided”; and

**Whereas**, *Wayfair* was remanded for further proceedings and is not yet final; and

**Whereas**, states have worked, and are working, individually and together, including members of the Streamlined Sales and Use Tax Agreement, to simplify their tax administration systems to encourage voluntary compliance and reduce the complexity and burdens faced by both in-state and out-of-state sellers; and

**Whereas**, states are also in the process of engaging all stakeholders related to the issue of remote-seller collection authority to identify and resolve both policy and implementation issues, being mindful of minimizing burdens on interstate commerce; and

**Whereas**, Congress had the opportunity to act with respect to remote-seller collection authority and its efforts have, for decades, been unsuccessful. As a result, the states have lost billions in taxes that were owed and Main Street businesses and local development has suffered; now therefore be it

**RESOLVED** that the Multistate Tax Commission urges Congress to give states the chance to make this transition without federal intervention.

ADOPTED this 25<sup>th</sup> day of July 2018 by the Multistate Tax Commission.

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Gregory S. Matson  
Executive Director



MULTISTATE TAX COMMISSION

## **Resolution No. 2018A**

### **Appreciation of the Massachusetts Department of Revenue Host of the 2018 Annual Meeting**

**Whereas**, the 2018 annual meeting of the Multistate Tax Commission and related events have advanced the objectives of the Multistate Tax Compact and have been professionally rewarding and intellectually stimulating; and

**Whereas**, the success of the Commission's annual meeting depends on the advice, organizational efforts, and hard work of the host state; and

**Whereas**, the Massachusetts Department of Revenue provided a most gracious welcome to the meeting delegates; now, therefore, be it

**RESOLVED**, that the Multistate Tax Commission expresses its heartfelt appreciation to the state of Massachusetts and the staff of the Massachusetts Department of Revenue—and in particular Michael Fatale—for their efforts to ensure a successful 2018 Multistate Tax Commission annual meeting.

Adopted this 25th day of July, 2018, by the Multistate Tax Commission.

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Gregory S. Matson  
Executive Director



MULTISTATE TAX COMMISSION

**Resolution No. 2018B**

**In Recognition of  
Frank Hales, Audit Committee Chair  
and  
Lee Baerlocher, Audit Committee Vice Chair**

**Whereas**, Frank Hales and Lee Baerlocher, in addition to fulfilling their responsibilities to the Utah Tax Commission and the Montana Department of Revenue, respectively, have generously given of their time and energy to the Multistate Tax Commission by serving as Chair and Vice Chair of its Audit Committee for the past four years; and

**Whereas**, under the direction of Frank and Lee, the Audit Committee has continued to carry out its task to ensure that the Commission's Joint Audit Program completes its assigned corporate income and sales and use tax audits on behalf of the participating states in an efficient and effective manner; now, therefore, be it

**RESOLVED**, that the Multistate Tax Commission expresses its sincere appreciation to Frank Hales and Lee Baerlocher for their commitment to the goals of the Commission and their service as Chair and Vice Chair of the Audit Committee.

Adopted this 25th day of July, 2018, by the Multistate Tax Commission.

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Gregory S. Matson  
Executive Director



MULTISTATE TAX COMMISSION

## **Resolution No. 2018C**

### **In Recognition of Clark Snelson, Litigation Committee Chair and Mark Wainwright and Dee Wald, Litigation Committee Co-Vice Chairs**

**Whereas**, Clark Snelson, Mark Wainwright, and Dee Wald, in addition to fulfilling their state responsibilities, currently serve as Chair and Co-Vice Chairs of the Multistate Tax Commission's Litigation Committee; and

**Whereas**, Clark, Mark, and Dee have generously given of their time and superior talents to serve the Commission; and

**Whereas**, under their committed and able leadership, the Multistate Tax Commission's Litigation Committee continues to function as a primary forum for state tax attorneys to gain information and knowledge regarding nationwide trends in state tax litigation; now, therefore, be it

**RESOLVED**, that the Multistate Tax Commission expresses its sincere appreciation and deep gratitude to Clark Snelson, Mark Wainwright, and Dee Wald for their invaluable leadership of the Litigation Committee and furtherance of the goals of the Commission.

Adopted this 25th day of July, 2018, by the Multistate Tax Commission.

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Gregory S. Matson  
Executive Director



## **Resolution No. 2018D**

**In Recognition of  
Christy Vandevender, Chair of the Nexus Committee  
and  
Randy Tilley, Vice Chair of the Nexus Committee**

**Whereas**, Christy Vandevender and Randy Tilley, in addition to fulfilling their responsibilities to the Alabama Department of Revenue and the Idaho State Tax Commission, respectively, have assumed leadership positions in the Nexus Committee at a critical time in state taxation; and

**Whereas**, under their guidance the Nexus Committee continues its excellent work with respect to voluntary disclosure, nexus investigations, information exchange, and other projects in support of federalism and tax fairness; now, therefore, be it

**RESOLVED**, that the Multistate Tax Commission expresses its sincere appreciation and deep gratitude to Christy Vandevender and Randy Tilley for their service and leadership of the Nexus Committee in furtherance of the goals of the Commission.

Adopted this 25th day of July, 2018, by the Multistate Tax Commission.

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Gregory S. Matson  
Executive Director



## **Resolution No. 2018E**

### **In Recognition of Holly Coon, Uniformity Committee Chair and Tommy Hoyt, Uniformity Committee Vice Chair**

**Whereas**, Holly Coon and Tommy Hoyt, in addition to fulfilling their responsibility to their states, have graciously contributed their services as Chair and Vice Chair, respectively, of the Multistate Tax Commission's Uniformity Committee; and

**Whereas**, despite their familiarity with the trials and challenges of leadership of the Commission's largest committee, Holly and Tommy have engaged the committee with unabated wisdom, tact, and good humor; and

**Whereas**, their devotion to the activities of the Uniformity Committee continues undiminished; and

**Whereas**, under their leadership, the Uniformity Committee and its Subcommittees have worked diligently to develop a variety of projects designed to respond to the needs of the business community in the areas of sales and use taxes, income and franchise taxes, other taxes, and tax administration; now, therefore, be it

**RESOLVED**, that the Multistate Tax Commission expresses its deep gratitude to Holly Coon and Tommy Hoyt for their dedication, their leadership of the Uniformity Committee, and their commitment to the goals of the Commission.

Adopted this 25th day of July, 2018, by the Multistate Tax Commission.

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Gregory S. Matson  
Executive Director



MULTISTATE TAX COMMISSION

## **Resolution No. 2018F**

### **In Recognition of Joe W. Garrett, Jr., State Intercompany Transactions Advisory Service Committee Chair**

**Whereas**, Joe W. Garrett, Jr., in addition to fulfilling his responsibilities as Deputy Commissioner for the Alabama Department of Revenue, serves as the Chair of the Multistate Tax Commission's State Intercompany Transactions Advisory Service (SITAS) Committee; and

**Whereas**, the purpose of the SITAS Committee is to provide effective guidance and communication among the participating states and the Commission; and

**Whereas**, Joe has already generously contributed his time and energy to the Multistate Tax Commission's efforts; and

**Whereas**, Joe's enthusiasm and devotion to the cause of interstate cooperation continues unabated; now, therefore, be it

**RESOLVED**, that the Multistate Tax Commission expresses its deep gratitude to Joe W. Garrett, Jr., for his leadership of the SITAS Committee and his commitment to the goals of the Commission.

Adopted this 25th day of July, 2018, by the Multistate Tax Commission.

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Gregory S. Matson  
Executive Director



MULTISTATE TAX COMMISSION

**Resolution No. 2018G**

**In Appreciation of  
Lennie Collins  
Director of Income Tax Division  
North Carolina Department of Revenue, 2010-2018**

**Whereas**, North Carolina has been an active participant in the undertakings of the Multistate Tax Commission; and

**Whereas**, Lennie Collins served as the Director of Income Tax Division for the North Carolina Department of Revenue, from September 2010 to August 2018; and

**Whereas**, in addition to fulfilling his many responsibilities to the citizens of North Carolina, Lennie served as the Chair of the Multistate Tax Commission's Nexus Committee for eight years and led the Uniformity Committee work group that produced the "Recommended Formula for Apportionment and Allocation of Net Income of Financial Institution;" and

**Whereas**, in addition to his leadership roles with the Commission, Lennie was active in Commission projects, meetings, committees, and conferences; and

**Whereas**, Lennie contributed significantly to the goals of the Commission through his generous expenditure of time, his commitment to multistate efforts, and his practical acumen and vast knowledge in matters of state tax administration; and

**Whereas**, as of August 2018, Lennie plans to conclude his service as the Director of Income Tax Division for the North Carolina Department of Revenue; and

**Whereas**, the Commission has greatly benefitted from Lennie's knowledge, experience, and dedication.

**NOW, THEREFORE, BE IT RESOLVED**, that the Commission expresses its deep gratitude to Lennie Collins for his tremendous support and commitment to the goals of the Multistate Tax Commission; and

**BE IT FURTHER RESOLVED**, that the Commission wishes Lennie all the best in his future.

Adopted this 25th day of July, 2018, by the Multistate Tax Commission.

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Gregory S. Matson  
Executive Director



MULTISTATE TAX COMMISSION

## **Resolution No. 2018H**

### **In Appreciation of Mike Kadas Montana State Revenue Director, 2012-2018**

**Whereas**, Montana is a party state to the Multistate Tax Compact; and

**Whereas**, Mike Kadas served as the Montana State Revenue Director from December 2012 to May 2018; and

**Whereas**, Mike has otherwise devoted himself to public service, as a member of the Montana House of Representatives (1983-1996) and as the Mayor of Missoula, Montana (1996-2006); and

**Whereas**, in addition to fulfilling his many responsibilities to the citizens of Montana, Mike served as the vice chair of the Executive Committee in 2017; and

**Whereas**, in addition to his leadership roles with the Commission, Mike was active in Commission projects, meetings, committees, and conferences; and

**Whereas**, Mike contributed significantly to the goals of the Commission through his generous expenditure of time, his diplomatic skill, and his practical acumen and vast knowledge in matters of state tax administration; and

**Whereas**, Mike has also served in a leadership role in the Federation of Tax Administrators; and

**Whereas**, as of May 2018, Mike has concluded his service as the Montana State Revenue Director; and

**Whereas**, the Commission has greatly benefitted from Mike's knowledge, experience, and dedication.

**NOW, THEREFORE, BE IT RESOLVED**, that the Commission expresses its deep gratitude to Mike Kadas for his tremendous support and commitment to the goals of the Multistate Tax Commission; and

**BE IT FURTHER RESOLVED**, that the Commission wishes Mike all the best in his future.

Adopted this 25th day of July, 2018, by the Multistate Tax Commission.

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Gregory S. Matson  
Executive Director