



MULTISTATE TAX COMMISSION

Executive Committee

Embassy Suites Denver Downtown Convention Center
1420 Stout Street
Denver, Colorado
Friday, April 26, 2019

Report of the Uniformity Committee

Tommy Hoyt (Texas), Chair

The uniformity committee previously met on July 24, 2018, at the MTC's Annual Meeting in Boston, MA, on November 7, 2018, in Orlando, FL, and again, yesterday, April 25, 2019, here in Denver. Any updates to this report from the April 25th meeting will be given orally.

The uniformity committee wishes to extend its appreciation to Holly Coon, who stepped down from the chair's role as she takes on the job of Director for the Commission's Joint Audit Program. The committee has greatly benefited from Holly's leadership and hard work over the last three years, both as chair of the committee and as a leader of project work groups.

In July, the uniformity committee formed two work groups to take on two new projects. One work group would draft a model option for combined filing under *Finnigan*. Phil Skinner, Idaho, has been leading that group. The other work group would recommend *Wayfair* implementation/marketplace facilitator collection and remittance requirements.

At its July meeting, this committee also referred back to the uniformity committee the proposed model Sales and Use Tax Notice and Information Reporting Statute. That model has not been taken up again by the uniformity committee.

In November, the uniformity committee considered the white paper produced by the *Wayfair* implementation work group, headed up by Tommy Hoyt, Texas, recommending best practices focusing primarily on imposing tax collection obligations on marketplace providers. After discussing that white paper, the committee voted to ask this committee that it be published and disseminated to the states which you agreed to do. We are gratified to see that states are generally looking to the recommendations in that white paper in enacting marketplace provider collection statutes.

In November, the uniformity committee also voted to commence a project to update the Commission's statement on P.L. 86-272. Holly Coon had also been leading that group and Laurie McEllhatton, California, has agreed to take over that leadership role.

In November, this committee heard the hearing officer's report on the Model Uniform Statute for Reporting Adjustments to Federal Taxable Income and Federal Partnership Audit Adjustments. That model was referred to the Commission and was approved in a special meeting of the Commission held for that purpose on January 24, 2019.

The status of current uniformity projects is summarized below.

Project/Work Groups	
Sales and Use Tax Notice/Information Reporting Model	
<i>Chair and Staff</i>	See status below.
<i>Background</i>	A public hearing on this model was held, but soon after, the U.S. Supreme Court issued its decision in <i>Wayfair</i> , holding states could impose collection and remittance requirements on remote sellers. The hearing officer, therefore, recommended that the model again be referred back to the uniformity committee for consideration of whether it would be necessary in light of <i>Wayfair</i> .
<i>Status</i>	The uniformity committee has not taken any action on this model.
Model Option for Combined Filing Under <i>Finnigan</i> – Work Group	
<i>Chair and Staff</i>	Phil Skinner, Idaho and Bruce Fort, MTC Staff
<i>Scope of Project</i>	This work group has been tasked with creating a model “ <i>Finnigan</i> ” alternative in addition to the “ <i>Joyce</i> ” approach already in the Commission’s Model Statute for Combined Reporting.
<i>Background</i>	At its April 2018 meeting, the committee was asked to consider adding a “ <i>Finnigan</i> ” option in the Commission’s Model Statute for Combined Reporting, which currently uses the “ <i>Joyce</i> ” approach. MTC staff produced a briefing book on the issue. The question at the center of the <i>Joyce/Finnigan</i> debate is: Are states limited in their ability to tax an apportioned share of the income of a unitary business conducted by multiple legal entities if some portion of that income might be attributed to an entity over which the state lacks taxing jurisdiction? States have generally been moving toward the <i>Finnigan</i> approach—which allows the state to tax the unitary business without regard to whether it has jurisdiction over one or more entities making up that business. At its July 2018 meeting, the uniformity committee voted to take on the project and created a work group to draft the model option.
<i>Status</i>	The work group has held bi-weekly meetings and is close to finishing its work.
Model Option for Combined Filing Under <i>Finnigan</i> – Work Group	
<i>Chair and Staff</i>	Laurie McEllhatton, California and Brian Hamer, MTC staff
<i>Scope of Project</i>	This work group is tasked with updating the Commission’s Statement of Information Concerning Practices of Multistate Tax Commission and Signatory States under Public Law 86-272.
<i>Background</i>	The statement was last updated in 2001 and does not contemplate many activities regularly undertaken by businesses today, including selling goods over the Internet.
<i>Status</i>	The work group is holding bi-weekly meetings and work is ongoing.