



MULTISTATE TAX COMMISSION

MINUTES OF MEETING HELD APRIL 26, 2018

Executive Committee Meeting

Radisson Blu Mall of America
2100 Killebrew Drive
Bloomington, Minnesota

8:30 a.m. to 12:00 noon Central Time

I. Welcome and Introductions

Chair John Valentine, Utah, opened the meeting at 8:30 a.m. and asked the participants to identify themselves. The following people were in attendance:

Holly Coon	Alabama Department of Revenue
Christy Vandevender	Alabama Department of Revenue
Deanna Munds-Smith	Arkansas Department of Finance and Administration
Phil Horwitz	Colorado Department of Revenue
Renee Nacrelli	Comptroller of Maryland
Ken Roberts	Idaho State Tax Commission
Phil Skinner	Idaho State Tax Commission Office of the Attorney General
Richard Cram	Multistate Tax Commission
Keith Getschel	Multistate Tax Commission
Marshall Stranburg	Multistate Tax Commission
Helen Hecht	Multistate Tax Commission
Lila Disque	Multistate Tax Commission
Bruce Fort	Multistate Tax Commission
Brian Hamer	Multistate Tax Commission
Thomas Shimkin	Multistate Tax Commission
Greg Matson	Multistate Tax Commission
Lennie Collins	North Carolina Department of Revenue

Dee Wald	North Dakota Office of State Tax Commissioner
Matt Peyerl	North Dakota Office of State Tax Commissioner
Nia Ray	Oregon Department of Revenue
Nancy Prosser	Texas Comptroller of Public Accounts
John Valentine	Utah State Tax Commission
Olufemi Obikoya	Washington, DC OCFO/OTR/Audit Division
Gil Brewer	Washington State Department of Revenue
Virgil Helton	Fast Enterprises, LLC
Ryan Prete	Bloomberg Tax
Nikki Dobay	COST
Steve Kranz	McDermott Will & Emery
By Phone:	
John Ficara	New Jersey Division of Taxation
Dale Steager	West Virginia Department of Revenue
Bill Six	Multistate Tax Commission
Wendy Margolis	Multistate Tax Commission
Mike Kadas	Montana Department of Revenue
Lee Baerlocher	Montana Department of Revenue

Chair Valentine confirmed the presence of a quorum and opened the floor for public comment.

II. Initial Public Comment Period

Steve Kranz, McDermott Will & Emery, offered the assistance of the McDermott tax team and his coalition (STAR Partnership) to those concerned about federal tax reform and conformity.

III. Approval of Minutes of Executive Committee Meetings on November 17, 2017, and January 8, 2018

Dee Wald, N.D., moved for approval of the minutes as written. The motion passed by voice vote.

IV. Report of the Chair

Chair Valentine stated that the meeting had been particularly useful to him, especially where it came to conformity issues and the problem of timely compliance. He noted that the states have a challenge ahead of them and stated that the MTC would be playing a major role.

He announced that the nominations committee was seeking a leader and members. Greg Matson, Executive Director of the MTC, noted that the resolutions committee is also seeking a leader. Gil Brewer, Wash., volunteered to be chair of the resolutions committee.

V. Report of the Treasurer

A. 2018-2019 Budget Review and Approval

Nancy Prosser, Tex., presented on behalf of Glenn Hegar. She pointed out some proposed increases. Regarding expenditures, she pointed out Item No. 3 in particular, where the staff has asked to use an excess of funds to hire a fifth attorney. Chair Valentine noted that he was happy to welcome Rhode Island as a sovereignty member. Phil Horwitz, Colo., moved to approve the budget. The motion passed by voice vote.

B. Financial Report for the 9-month Period July 1, 2017 – March 31, 2018

Ms. Prosser stated that the Commission is in good financial condition. Nia Ray, Ore., moved approval of the financial report. The motion passed by voice vote.

VI. Report of Executive Director

Mr. Matson gave the report, emphasizing the Commission's recent training activities. He announced that Brian Hamer had been hired as counsel. Regarding the central office, he announced the implementation of Bloomberg Law in place of Westlaw and a planned office expansion.

Mr. Matson stated that Virginia's legislature had passed a bill directing the department of taxation to take the necessary steps to join the commission as an associate member as of July 1, 2018. Mr. Horwitz moved to grant associate membership to Virginia. The motion passed by voice vote.

VII. Committee Reports

A. Audit Committee

Keith Getschel, MTC Director of Audit, presented the report. He first thanked the committee chairs. The committee last met in person in November of 2017 and reviewed the status of all the audits in progress. A discussion was held on several income tax and sales tax audits that had significant issues.

B. Litigation Committee

Helen Hecht, MTC General Counsel, presented the committee report. The committee has sponsored two attorney information calls on federal tax reform and the issues federal tax changes pose for states in the corporate income tax area. The committee also conducted training at the April 2018 meetings on litigation issues in the sales and use tax area.

C. Nexus Committee

Christy Vandevender, Ala, discussed some of the recent events of the voluntary disclosure initiative. A second voluntary disclosure for remote sellers was discussed but there was not sufficient interest to initiate it.

Mr. Brewer stated that he is very happy having Richard Cram, Director of the MTC National Nexus Program, running the program, and he would be happy to speak with anyone who has any reservations about the organization.

D. State Intercompany Transactions Advisory Service Committee

Marshall Stranburg, MTC Deputy Executive Director, presented the report. The committee has continued outreach efforts to other states to ascertain interest in participating in these activities with committee member states and other participating states. The committee may hold another training and information session later in 2018.

E. Strategic Planning Steering Committee

Ms. Prosser presented the Strategic Planning report. She requested more participants and a meeting time that would encourage people to attend.

F. Uniformity Committee

Holly Coon, Ala., discussed the projects the committee had been working on. Work is continuing on the partnership/RAR model. She then turned the floor over to Mr. Horwitz for a discussion of the sales and use tax notice and information reporting model.

G. Other Committee Business (if any)

There was no other committee business.

VIII. Uniformity

A. Hearing Officer Report on Proposed Draft Amendments to the Commission's Model General Allocation and Apportionment Regulations

Bruce Fort, MTC Counsel, presented the report on behalf of William L. (Bill) Thompson, former Chief Judge of the Alabama Tax Tribunal. Mr. Fort gave an in-depth explanation of the model, and then discussed the hearing officer's report.

With respect to proposed Regulation IV.18(c) Receipts Factor, he noted Judge Thompson's recommendation to remove the "trigger" built in for the model to apply. The working group felt that having a subjective standard was appropriate when looking through one entity to the factors of another entity. Chair Valentine outlined the committee's options. Phil Skinner, Id., argued in favor of leaving the subjective standard in, but clarifying via drafter's note. Ms. Prosser moved to accept the model as drafted, with the drafter's note proposed by Mr. Skinner. The motion passed by voice vote.

Mr. Fort then discussed the second portion, Proposed Regulation IV.18(d) Receipts Factor - Bank Holding Companies and Subsidiaries. Ms. Prosser moved to approve the hearing officer's report and move the model forward. The motion passed by voice vote.

B. Model Sales and Use Tax Notice and Reporting Statute – Update and Possible Action

Mr. Horwitz moved to send the model forward to public hearing. The motion passed by voice vote.

C. Model Uniform Statute and Regulation for Reporting Adjustments to Federal Taxable Income and Federal Partnership Audit Adjustments – Update and Possible Action

The work group has held bi-weekly meetings in which the Interested Parties have participated and made substantial contributions. The work group has been drafting a proposal that would contain: (1) model provisions that states may need in order to assess the additional tax due as a result of federal audit adjustments made under new statutory requirements for entity-level audits of large partnerships; (2) provisions necessary for the entity-level assessment of taxes; and (3) revisions to the Commission's existing model for Reporting Federal Tax Adjustments. The proposed model is still in development.

D. Other Uniformity Matters (if any)

There were no other uniformity matters to discuss.

IX. Federal Issues with State Tax Implications

Tom Shimkin, MTC Legislative Director, along with Mr. Fort, presented the legislative report.

X. Upcoming Meetings & Events

Mr. Matson reminded attendees to mark their calendars for the upcoming meetings: the 51st Annual Conference & Meetings, July 23-26, 2018, in Boston, Massachusetts, and the 2018 Fall Committee Meetings, November 5-8, 2018, in Orlando, Florida.

----- CLOSED SESSION -----

XI. Consideration of Confidential Matters during Closed Session

The Executive Committee went into closed session for consideration of confidential matters.

----- PUBLIC SESSION RECONVENED -----

XII. Resumption of Public Session and Reports from Closed Session (if any)

There were no reports.

XIII. Adjournment

The meeting adjourned at 10:51 a.m. by unanimous consent.