



MINUTES OF MEETING HELD MARCH 2, 2016 IN SALT LAKE CITY, UT

Meeting of the
Multistate Tax Commission
Uniformity Committee
Radisson Hotel Salt Lake City Downtown
215 W. South Temple
Salt Lake City, Utah

March 2, 2016
8:30 AM-5:00 PM Mountain Time

I. Welcome and Introductions

The chair, Wood Miller, MO, called the meeting to order and asked members and participants to introduce themselves. The following is a list of members and participants:

Holly Coon	Alabama Department of Revenue	Kathleen Sher	New Hampshire Department of Revenue Administration
Rouen Reynolds	Alabama Department of Revenue	John Frasier	New Hampshire Department of Revenue Administration
Phil Horwitz	Colorado Department of Revenue	Donna Whitcomb	New Hampshire Department of Revenue Administration
Nathan Nielson	Idaho Office of the Attorney General	Matt Peyerl	North Dakota Office of State Tax Commissioner
Phil Skinner	Idaho Office of the Attorney General	Myles Vosberg	North Dakota Office of State Tax Commissioner
Richard Jackson	Idaho State Tax Commission	Donnita Wald	North Dakota Office of State Tax Commissioner
Randy Tilley	Idaho State Tax Commission	Christi Daniken	Oregon Department of Revenue
Michael Fatale	Massachusetts Department of Revenue	Don Jones	Oregon Department of Revenue
Wood Miller	Missouri Department of Revenue	Tommy Hoyt	Texas Comptroller of Public Accounts
Tracee Abel	Montana Department of Revenue	Sarah Pai	Texas Comptroller of Public Accounts

If you would like additional information about this meeting, contact Helen Hecht, General Counsel, Multistate Tax Commission, 444 North Capitol Street, N.W., Suite 425 Washington, D.C. 20001 | Tel: (202) 650-0300 | e-mail: hhecht@mtc.gov

Lee Baerlocher	Montana Department of Revenue		Utah State Tax Commission
Derek Bell	Montana Department of Revenue	Brandon Barlow	Utah State Tax Commission
Kory Hofland	Montana Department of Revenue	Robert Farnes	Utah State Tax Commission
Richard Cram	Multistate Tax Commission	Kim Ferrell	Utah State Tax Commission
Helen Hecht	Multistate Tax Commission	Kelsey Gallacher	Utah State Tax Commission
Sheldon Laskin	Multistate Tax Commission	Valerie Newson	Utah State Tax Commission
William LoCascio	Multistate Tax Commission	Frank Hales	Utah State Tax Commission
Lila Disque	Multistate Tax Commission	Chris Coffman	State of Washington, Dept of Revenue
Cathy Felix	Multistate Tax Commission	Julie Christensen	Wisconsin Department of Revenue
Bruce Fort	Multistate Tax Commission	Joe Huddleston	EY LLP
Keith Getschel	Multistate Tax Commission	Shirley Sicilian	KPMG LLP
Gregory Matson	Multistate Tax Commission	Jamie Fenwick	Time Warner Cable
Lennie Collins	North Carolina Department of Revenue	Rick Bishop	UPS
Appearing by phone:			
Andrew Glancy	West Virginia Department of Revenue	Pat Calore	Michigan Department of Treasury
Marcia Ann Oakman	Kentucky Department of Revenue	Dana Wood	Arkansas Department of Finance and Administration
		Karen Boucher	

II. Approval of Minutes of the Prior In-Person Meeting

Chris Coffman, OR, moved for approval of the minutes. There was no discussion. The minutes were approved by voice vote.

Report on Status of Uniformity Projects

Helen Hecht, MTC General Counsel, gave a report on the status of the MTC's Uniformity projects. Items requiring special attention included the Proposed Model Sales and Use Tax Nexus Statute, for which a Bylaw 7 survey has been distributed, and the Proposed Draft Amendments to the Model General Allocation and Apportionment Regulations, for which a public hearing was scheduled for March 9, 2016. Ms. Hecht encouraged the attendees to make their opinions known on both projects.

The Uniformity Committee thanked Ms. Hecht for the update.

III. Initial Public Comment Period

There was no public comment at this point.

IV. Federal & State Legislative Summary

Ms. Hecht provided an update on recent federal and state legislative action. Most notably, on February 24, 2016, President Obama signed into law the Trade Facilitation and Trade Enforcement Act of 2015, HR 644, which contains the Permanent Internet Tax Freedom Act, as amended, which gives grandfathered states until 2020 to phase out their taxes on internet access and otherwise makes the moratorium on taxes on internet access permanent. The impact of the statute's "anti-discrimination" clause remains to be seen.

State developments chiefly concerned the expansion of nexus over remote sellers, an issue that has been the focus of many states in recent years, particularly subsequent to *DMA v. Brohl*.

V. Report – Art. IV (UDITPA) Sec. 1 & Sec. 17 Regulations – Recap and Status

Ms. Hecht, along with Bruce Fort, MTC Counsel, gave a brief summary of the work done on the proposed regulations, an overview of the regulations, and an outline for the next steps in the process. Regarding some criticism of the detail, Michael Fatale, MA, commented that these regulations are already in effect in his state. Although the rules appear complex they tend to apply very simply to most fact patterns.

VI. Report – Art. IV (UDITPA) Sec. 18 Regulation Project Work Group – Issues for Committee Discussion– Issues for Committee Discussion

Chris Coffman, WA, accompanied by Mr. Fort and Sheldon Laskin, MTC Counsel, presented the report of the work group, identified potential issues to be addressed, and reviewed and discussed MTC model special industry regulations and any changes that may need to be made. The working group continues to meet on a weekly basis. The working group hopes to have draft Section 18 regulations on some or all of these topics ready for presentation to the full committee for its July, 2016, in-person meeting in Kansas City, Missouri.

Holly, Alabama, noted that during the calls, the group discussed the possibility of identifying specific instances where they would need to develop rules; she suggested a cascading approach instead of identifying specific fact patterns. She also noted that states that choose not to adopt the new Section 17 might still be able to achieve uniformity via Section 18 rules.

Phil Horwitz moved to authorize the working group to review the Section 18 regulations and conform them as necessary to the changes in sections 1 and 17.

After some discussion regarding logistics, the motion passed by voice vote.

VII. Report - Partnership Informational Project

Ms. Hecht reported on the status of new federal audit and adjustment rules, and other research and activities with respect to the project. At the conclusion of her presentation, Lee Baerlocher recommended establishing a working group to analyze what comes from the IRS and also maybe to review best practices of the states. He volunteered his associate for the working group, and Oregon stated that it anticipated involvement. Phil Horwitz recommended involving a state that imposes tax at the entity level, and Texas volunteered, as did New Hampshire. Dee Wald, ND, moved to create a work group as recommended by Mr. Baerlocher. The motion passed by show of hands, with 18 in favor. MTC staff will coordinate the teleconferences.

VIII. Committee Discussion – [1] What States are Doing in the Partnership Area, and [2] In Adopting Market Sourcing or Other Changes

The committee members discussed what their states have done or are doing in the partnership area and in adopting market sourcing or other uniform provisions.

IX. “Baby Steps” Toward Full Sales Tax Enforcement (or Perhaps a *Quill* Challenge)?

Lila Disque, MTC Counsel, presented an informational PowerPoint regarding the 10th Circuit’s recent decision in *DMA v. Brohl*, and discussed the possibilities it opened for the states as far as use tax collection. No action was required or taken at this time.

X. Roundtable Discussion

Committee members shared developments or issues in their states’ tax systems. Chief concerns this year included sales and use tax collection, and new market-sourcing rules.

XI. New Business

There was no new business.

XII. Adjournment

The meeting adjourned at 4:53.