



MULTISTATE TAX COMMISSION

April 2018 Uniformity Committee Meeting
Radisson Blu Mall of America
2100 Killebrew Drive
Bloomington, Minnesota 55425 Wednesday, April 25, 2018

MINUTES OF MEETING HELD NOVEMBER 16, 2017 IN NEW ORLEANS, LOUISIANA

I. Welcome and Introductions

The chair, Holly Coon, Alabama, called the meeting to order at 8:32 and asked members and participants to introduce themselves. The following is a list of members and participants:

Holly Coon	Alabama Department of Revenue
Leslie Michaud	Alabama Department of Revenue
Christy Vandevender	Alabama Department of Revenue
Walter Anger	Arkansas Department of Finance & Administration
Carla Haugen	Arkansas Department of Finance & Administration
Phillip Horwitz	Colorado Department of Revenue
Wallace Eddleman	Comptroller of Maryland
Andrew Maschas	Comptroller of Maryland
Aaishah Hashmi	D.C. Office of Tax & Revenue
Tom Shaner	Idaho State Commission
Layne Hadlock	Idaho State Tax Commission
Randy Tilley	Idaho State Tax Commission
Steve Wynn	Idaho State Tax Commission

*If you would like additional information about this meeting, contact Helen Hecht, General Counsel,
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Nathan Hoepfner	Kansas Department of Revenue
Jennifer Hays	Kentucky Legislative Research Commission
Brandea Averett	Louisiana Department of Revenue
Bradley Blanchard	Louisiana Department of Revenue
Krystal Bolton	Louisiana Department of Revenue
Antonio Ferachi	Louisiana Department of Revenue
David Hansen	Louisiana Department of Revenue
Luke Morris	Louisiana Department of Revenue
Amy Thomas	Louisiana Department of Revenue
Miranda Scraggins	Louisiana Department of Revenue
Emily Toler	Louisiana Department of Revenue
Michael Fatale	Massachusetts Department of Revenue
Lindsay Buerkle	Multistate Tax Commission
Richard Cram	Multistate Tax Commission
Lila Disque	Multistate Tax Commission
Elliott Dubin	Multistate Tax Commission
Cathy Felix	Multistate Tax Commission
Sheldon Laskin	Multistate Tax Commission
Jeff Silver	Multistate Tax Commission
Marshall Stranburg	Multistate Tax Commission
Steve Yang	Multistate Tax Commission
Greg Matson	Multistate Tax Commission
Bruce Fort	Multistate Tax Commission
Helen Hecht	Multistate Tax Commission
Dan Armer	New Mexico Taxation and Revenue
Lennie Collins	North Carolina Department of Revenue
Matt Peyerl	North Dakota Office of State Tax Commissioner
Dee Wald	North Dakota Office of State Tax Commissioner

Phil Skinner	Office of the Attorney General - Idaho State Tax Commission
Katie Lolley	Oregon Department of Revenue
John Frasier	State of New Hampshire
Tommy Hoyt	Texas Comptroller of Public Accounts
Julio Mendoza-Quiroz	Texas Comptroller of Public Accounts
Michael Christensen	Utah State Tax Commission
Frank Hales	Utah State Tax Commission
Karolyn Bishop	Washington State Department of Revenue
Gil Brewer	Washington State Department of Revenue
Bryan Kelly	Washington State Department of Revenue
Tripp Baltz	Bloomberg BNA
Shirley Sicilian	KPMG LLP
Pilar Mata	Tax Executives Institute
By Phone	
Marcia Ann Oakman	Kentucky Department of Revenue
Nikki Dobay	Council on State Taxation

II. Initial Public Comment Period

There was no public comment.

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

Dee Wald, North Dakota, moved for approval of the minutes. The minutes were approved by voice vote.

IV. Report – General Uniformity Update

Helen Hecht, MTC General Counsel, presented an update on the status of uniformity projects and litigation with respect to MTC model statutes and regulations. The main activity ongoing at this point is an update to the MTC website, which has given MTC staff an opportunity to reorganize and clarify the “adopted projects” page. Ms. Hecht identified several provisions to review and consider “sunsetting,” since they may have lost relevance following certain Streamlined projects.

V. Use Tax Information Reporting Work Group

Sheldon Laskin, MTC Counsel, and Phil Horwitz, Colorado, the project chair, presented the sales and use tax notice and information reporting draft to the group. Mr. Horwitz raised several issues for further discussion. At the conclusion of the discussion, Randy Tilley, Idaho, moved to send the draft back to the work group for further revisions. The motion passed by voice vote.

VI. Report & Discussion – Section 18 Work Group

On behalf of the Section 18 work group, Ms. Coon presented two proposed draft regulations to be included in the General Allocation and Apportionment Regulations. These Section 18 regulations are intended to address situations where a taxpayer may effectively lack any receipts factor due to a state's adoption of the Commission's recommended changes to Compact, Article IV (UDITPA), including the definition of "receipts" and the sourcing provisions under Section 17. The discussion mainly centered on the definition of "de minimis apportionment factor" in (E). The work group presented three alternatives. Mr. Horwitz moved to adopt Alternative 1, with a few edits as made by the committee. The motion passed by voice vote. Mr. Horwitz then moved to add a disclosure requirement every time Section 18 is used. After some discussion, he withdrew the motion. Mr. Tilley moved to recommend the draft as amended to the executive committee. The motion passed by voice vote. Karen Boucher, FIST, had previously submitted some comments on the definition of "receipts." Regarding the language Ms. Boucher proposed, Phil Skinner, Idaho, moved to make one change and otherwise adopt the proposal. The motion passed by voice vote.

VII. State Roundtable

During this roundtable, the chief topic of conversation was conformity with federal tax measures: how to address them, and whether to decouple on some or all aspects. Legislative sessions for several states were ongoing. The move toward market-based sourcing continues, with Oregon updating its administrative rules. The move to narrow *Quill* also continues, and Massachusetts expects to find out soon the result of its new cookie nexus.

VIII. Report & Discussion - Partnership Work Group Status

Ms. Hecht presented the work group report assisted by Pilar Mata, TEI and Nikki Dobey, COST, members of the interested parties. The group has been tasked with recommending an approach for states to assess and collect state tax owed on federal partnership-level audit adjustments; considering partnership-level tax issues; and considering other modifications to the commission's model for reporting federal adjustments. Ms. Hecht stated that the group is receiving significant input from the interested parties: the ABA, AICPA, COST, TEI, and

IPT. The interested parties have submitted and amended a draft model RAR statute. Ms. Mata, said that the interested parties have reviewed the draft, and shared some of their top areas of concern. They appreciate that the recent version simplifies the draft statute, but would like a model regulation to accompany it. They also have continuing concerns regarding push-out in tiered partnerships, where there are multiple layers of partnerships doing push-outs. The proposed time frame may be inadequate. Ms Dobay, noted that they hope for a simplified manner of reporting that would not involve full amended returns.

The work group will resume weekly meetings, and Ms. Mata and Ms. Dobay said that the goal of the interested parties is to have a draft by mid-January.

X. New Business

Ms. Coon said that for the Section 18 work group there are a number of open question as to how proceed – chiefly, whether they should address special industries and make the model conform to Section 17.

Michael Fatale, Massachusetts, said he thinks the group should look at the other rules for consistency. The group will do so.

XI. Adjournment

Frank Hales, Utah, moved to adjourn. The meeting adjourned at 3:48