



MULTISTATE TAX COMMISSION

MINUTES
Uniformity Committee

Wednesday, November 6, 2019
8:30 a.m. to 4:15 p.m. Central Time

Hotel Contessa
306 West Market Street
San Antonio, Texas 78205

See the meeting agenda and materials here: <http://www.mtc.gov/Uniformity/Uniformity-Committee/2019/Agenda-11-2019>

Introductions

Tommy Hoyt, Texas, Chair and Maria Sanders, Missouri, Vice Chair

Mr. Hoyt opened the meeting at 8:30 a.m. The following people were in attendance:

By Phone:

Dan Armer	New Mexico Taxation and Revenue Department	Deanna Mack	Oregon Department of Revenue
Angela Cumbie	Alabama Department of Revenue	Hal Jones	Tennessee Department of Revenue
Michael Emfinger	Alabama Department of Revenue	Mary Ellen Knack	Tennessee Attorney General's Office
Christy Vandevender	Alabama Department of Revenue	Graciela Hartman	Texas Comptroller of Public Accounts
Deanna Munds-Smith	Arkansas Department of Finance and Administration	Tommy Hoyt	Texas Comptroller of Public Accounts
Ryan Doerflein	Colorado Department of Revenue	Rusty Johnson	Texas Comptroller of Public Accounts
Robert Kindred	District of Columbia Office of Tax and Revenue	Nancy Prosser	Texas Comptroller of Public Accounts
Layne Hadlock	Idaho State Tax Commission	Julio Mendez-Quiroz	Texas Comptroller of Public Accounts
Tom Shaner	Idaho State Tax Commission	Sonia Palao-Flores	Texas Comptroller of Public Accounts
Kolby Reddish	Idaho State Tax Commission Office of the Attorney General	Christina Heskin	Texas Comptroller of Public Accounts
Nathan Hoepfner	Kansas Department of Revenue	Danielle Cabe	Texas Comptroller of Public Accounts

Jordan Raye	Kansas Department of Revenue	Ray Langenberg	Texas Comptroller of Public Accounts
Antonio Ferachi	Louisiana Department of Revenue	Frank Hales	Utah State Tax Commission
Miranda Scroggins	Louisiana Department of Revenue	Tiffany Southworth	Utah State Tax Commission
Renee Nacrelli	Maryland Office of the Attorney General	John Valentine	Utah State Tax Commission
Richard Byrd	Missouri Department of Revenue	Bryan Kelly	Washington Department of Revenue
Maria Sanders	Missouri Department of Revenue	Karolyn Bishop	Washington State Department of Revenue
Lee Baerlocher	Montana Department of Revenue	Gil Brewer	Washington State Department of Revenue
Keith Broussard	Montana Department of Revenue	Adam Wolfson	Washington State Department of Revenue
Mark Schoenfield	Montana Department of Revenue	Michelle Biermeier	Wisconsin Department of Revenue
Gene Walborn	Montana Department of Revenue	Jayne Kulberg	Wisconsin Department of Revenue
William Barber	Multistate Tax Commission	Jessie Eisenmenger	Amazon
Holly Coon	Multistate Tax Commission	Jen Galbreath	Amazon
Richard Cram	Multistate Tax Commission	Scott Peterson	Avalara
Lila Disque	Multistate Tax Commission	Karl Frieden	Council On State Taxation
Cathy Felix	Multistate Tax Commission	Todd Lard	Eversheds Sutherland
Bruce Fort	Multistate Tax Commission	John Mollenkamp	Intuit
Brian Hamer	Multistate Tax Commission	Phil Horwitz	Moss Adams LLP
Helen Hecht	Multistate Tax Commission	Christie Comanita	Streamlined Sales Tax Governing Board
Gregory Matson	Multistate Tax Commission	Jerry Johnson	TaxCloud
Larry Shinder	Multistate Tax Commission	Jackson Brainerd	The National Conference of State Legislatures
Jeff Silver	Multistate Tax Commission	Clinton Turner	New Mexico Taxation and Revenue Department
Kim Stewart	Multistate Tax Commission	Matthew Peyerl	North Dakota Office of State Tax Commissioner
Marshall Stranburg	Multistate Tax Commission	Donnita Wald	North Dakota Office of State Tax Commissioner
Steve Yang	Multistate Tax Commission	Katie Lolley	Oregon Department of Revenue
John Ficara	New Jersey Division of Taxation	Dan Armer	New Mexico Taxation and Revenue Department
By phone:			
Tracie Robinson	AirBnb	Paul Williams	Law 360
Marcia Ann Oakman	Kentucky Department of Revenue	MacKenzie Ferris	Minnesota Department of Revenue
Steven Alvarez	Georgia Department of Revenue	Michael Mazerov	Center on Budget Policy and Priorities

II. Initial Public Comment

There were no initial public comments.

III. Adoption of Minutes of Uniformity Meeting, August 6, 2019

Dee Wald, North Dakota, moved to approve the minutes as written. The minutes were approved without objection.

IV. Report on Uniformity Issues and Proposed Process for Identification of New Projects Helen Hecht, MTC

Ms. Hecht discussed a project that had been suggested by the strategic planning task force in 2014 (but had been tabled) regarding how the uniformity committee identifies and evaluates new projects, and proposed taking it back up. Ms. Sanders moved to adopt the proposal. The motion passed without objection. Mr. Hoyt asked those in attendance to consider volunteering for the project.

V. Wayfair Implementation and Marketplace Facilitator Work Group Report Tommy Hoyt, Chair and Richard Cram, MTC

Richard Cram, MTC, discussed the background of the project. (See project page on the MTC website, here: <http://www.mtc.gov/getdoc/d3f9e214-6006-4f76-bca2-7287be89dd06/Wayfair-Implementation-Informational-Project.aspx>)

Jerry Johnson, TaxCloud, and Scott Peterson, Alavara, gave a presentation on behalf of certified service providers, encouraging states to partner with CSPs and make it easier for remote sellers to comply. Jackson Brainerd, NCSL, and Fred Nicely, COST, then presented regarding the NCSL work group and its work on a post-*Wayfair* marketplace model. Christie Comanita, representing Streamlined, provided an update on its activities and requested input from non-member states. Mr. Cram then opened a discussion on the white paper regarding the MTC's Wayfair project.

Some discussion followed regarding how to proceed. Mr. Cram noted the NCSL effort represents what the business community would agree on and what state legislatures would likely be looking at during the next session; this is why it is included so liberally in the white paper. This does not represent a total endorsement of the NCSL effort, but an effort to dovetail with it. John Valentine, Utah, stated that the states have gone through the initial flurry and analysis following Wayfair, and are now at the implementation state. So the idea put forward by COST that the group look at implementation issues and look for some commonality, seems to be the best way to proceed. Mr. Valentine moved to finalize the white paper and present it to the Executive Committee. Tracie Robinson, Airbnb, noted they would like to ensure that all comments that have been submitted to Mr. Cram are included in the final white paper. The motion passed by voice vote.

Mr. Valentine moved that the work group continue its efforts to focus on the administrative aspects of remote sales and platform sales. The motion passed by voice vote.

Mr. Hoyt advised that he would prefer to step down as chair of the work group, so a volunteer as the new work group chair will be needed.

VI. BREAK

VII. Wayfair Work Group (cont'd)

VIII. Issues Related to Implementation/Enactment of Model Uniform Statute for Reporting Adjustments to Federal Taxable Income and Federal Partnership Audit Adjustments

Nikki Dobay, COST; Pilar Mata, TEI; Deanna Mack, Oregon; and Helen Hecht

(10:45 a.m.)

Nikki Dobay, COST, Deanna Mack, Oregon, and Ms. Hecht discussed the federal changes to partnership audit rules; the MTC's Uniform Statute for Reporting Adjustments to Federal Taxable Income and Federal Partnership Audit Adjustments; and Oregon's experience with both.

IX. LUNCH

X. Roundtable

Attendees discussed current events in litigation, legislation, and general activities in their states. Central topics were remote sales tax collection and conformity with new federal partnership rules.

XI. P.L. 86.272 Work Group Report

Laurie McElhatton, California and Brian Hamer, MTC

Laurie McElhatton, California, and Brian Hamer, MTC presented an update on the project and outlined their plans for its future trajectory. (See project page on the MTC website, here:

<http://www.mtc.gov/Uniformity/Project-Teams/P-L-86-272-Statement-of-Information-Work-Group>.)

The work group will continue its deliberations.

XII. BREAK

XIII. Finnigan Combined Filing Work Group Report

Phil Skinner, Idaho; Helen Hecht, MTC; and Bruce Fort, MTC

Mr. Skinner gave a status report on the work group. (See project page on the MTC website, here: <http://www.mtc.gov/Uniformity/Project-Teams/Model-Option-for-Combined-Filing>.) Ms. Hecht gave a brief presentation on the issues being discussed with respect to treatment of capital gains and losses. Phil Skinner noted that the two approaches discussed in the presentation were not the only approaches and, specifically, that Utah simply combined and offset group capital gains and losses. Mr. Valentine made a motion to have the work group further study the issues and provide that information to the committee for its use in reaching a decision on the issue.

Bruce Fort, MTC, led a discussion of the consolidated filing option, suggested by the Council on State Taxation (COST). Mr. Fatale gave a brief description of the method used by Massachusetts, which sets the ownership requirement to 50% (rather than 80%). Michael Mazerov, Center on Budget Policy and Priorities, noted that he would not object to a consolidated filing option provided it did not undermine the tax havens provisions of the model. Nikki Dobay, COST, agreed that it would be worth considering whether these state concerns could be accommodated while still providing an alternative filing approach that reduces compliance burdens. There was some discussion of how the difference in ownership between the 80% federal consolidated affiliated group and the Massachusetts-style 50% requirement would affect the taxes owed and also, what happens to members of the federal-consolidated group that would still be required to file. Mr. Fatale recommended that the work group could include a detailed drafter's note in the model, and work on a white paper analyzing the issue. Mr. Skinner asked the committee for its direction. Mr. Valentine made a motion to adopt the approach suggested by Michael Fatale and the motion passed 11-2.

XIV. New Business

There was no new business

XV. Adjourn

The meeting adjourned at 3:55 pm