



MULTISTATE TAX COMMISSION

**MINUTES of the
Uniformity Committee Meeting**

Wednesday, April 22, 2020
2:00 P.M. – 5:00 P.M. Eastern Time
(Held via webinar.)

See the meeting agenda and materials here: <http://www.mtc.gov/Uniformity/Uniformity-Committee/2020/Agenda-4-2020>

I. Introductions

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

Mr. Hoyt opened the meeting at 2:00 p.m. The following people were in attendance:

Kelley Gillikin	Alabama Department of Revenue	Brian Aliner	Maryland Department of Revenue
Matt Tidwell	Alabama Department of Revenue	Jessica Weisner	Maryland Department of Revenue
Melissa Gillis	Alabama Department of Revenue	Murray Skinnerman	Maryland Department of Revenue
Wayne Harkins	Alabama Department of Revenue	Michael Fatale	Massachusetts Department of Revenue
Jessie Eisenmenger	Amazon	Bridgette Thomas	Mississippi Department of Revenue
Deanna Munds-Smith	Arkansas Department of Finance and Administration	Maria Sanders	Missouri Department of Revenue
Scott Fryer	Arkansas Department of Revenue	Lee Baerlocher	Montaha Department of Revenue
Beth Sosidka	AT&T	Keith Broussard	Montana Department of Revenue
Scott Peterson	Avalara	Mark Schoenfeld	Montana Department of Revenue
Tripp Baltz	Bloomberg BNA	Thomas Ford	Montana Department of Revenue
Michael Bologna	Bloomberg Law	Phil Horwitz	Moss Adams
Katie Frank	California Franchise Tax Board	Brian Hamer	Multistate Tax Commission
Laurie McElhatton	California Franchise Tax Board	Bruce Fort	Multistate Tax Commission

Olga Kourdova	Charter	Chris Barber	Multistate Tax Commission
Josh Pens	Colorado Department of Revenue	Christopher Lane	Multistate Tax Commission
Karl Frieden	COST	Greg Matson	Multistate Tax Commission
Nikki Dobay	COST	Helen Hecht	Multistate Tax Commission
Robert Kindred	DC Office of Tax and Revenue	Holly H. Coon	Multistate Tax Commission
Nirmail Dhaliwal (OCFO)	DC Office of the Chief Financial Officer	Jeff H. Silver	Multistate Tax Commission
Dennis Jansen	Eversheds Sutherland	Larry B. Shinder	Multistate Tax Commission
Virgil Helton	FAST Enterprises	Lila Disque	Multistate Tax Commission
Will Rice	FAST Enterprises	Marshall C. Stranburg	Multistate Tax Commission
John Vecchiarelli	GenTax	Nancy Prosser	Multistate Tax Commission
Kayla Luckenbach	GenTax	Richard Cram	Multistate Tax Commission
Denny Mwangi	Georgia Department of Revenue	Sabrina Worthington	Multistate Tax Commission
Steven Alvarez	Georgia Department of Revenue	Steve Yang	Multistate Tax Commission
Jamie Yesnowitz	Grant Thornton	Wanda C. Dorsey-Jenkins	Multistate Tax Commission
Phil Skinner	Idaho State Tax Commission	Colleen Chipman	New Jersey Division of Taxation
Tom Shaner	Idaho State Tax Commission	Audrey Hoyle	New Jersey Division of Taxation
Wayne Hadlock	Idaho State Tax Commission	Bobbie Marquez	New Mexico Taxation and Revenue Department
Brian Fliflet	Illinois Department of Revenue	Angela Pitale	Nextera Energy
John Mollenkamp	Intuit	Ashley McGhee	North Carolina Department of Revenue
Alana Stamas	Iowa Department of Revenue	Brooks Hemphill	North Carolina Department of Revenue
Ben Clough	Iowa Department of Revenue	Donnita Wald	North Dakota Office of State Tax Commissioner
Hristo Chaprazov	Iowa Department of Revenue	Matt Peyerl	North Dakota Office of State Tax Commissioner
Kurt Konek	Iowa Department of Revenue	Joseph Royston	Oregon Department of Revenue
Angela Doyle	Jones Day	Katie Lolley	Oregon Department of Revenue
Charla Wagner	Kansas Department of Revenue	Debra Houck	Pennsylvania Department of Revenue
Michael Hale	Kansas Department of Revenue	Diane Yetter	Sales Tax Institute
Brad Asher	Kentucky Department of Revenue	Jay Jetter	Snell & Wilmer

Marcia Ann Oakman	Kentucky Department of Revenue	Christie Comanita	Streamlined Sales and Use Tax Board
Shirley Sicilian	KPMG	Amy Hamilton	Tax Analysts
Maria Koklanaris	Law 360	Russ Brubaker	Tax Cloud
Annie L. Gunn	Louisiana Department of Revenue	Russ Brubaker	TaxCloud representing the National Association of Certified Service Providers.
Emily Toler	Louisiana Department of Revenue	Hal Jones	Tennessee Department of Revenue
Krystal Bolton	Louisiana Department of Revenue	Stephen Ferraro	Tennessee Department of Revenue
Luke Morris	Louisiana Department of Revenue	Ray Langenberg	Texas Comptroller of Public Accounts
Emily Toller	Louisiana Department of Revenue	Tommy Hoyt	Texas Comptroller of Public Accounts
Antonio Ferachi	Louisiana Department of Revenue	Frank Hales	Utah Department of Revenue
Miranda Scroggins	Louisiana Department of Revenue	John Valentine	Utah State Tax Commission
Danielle Lipinski	Louisiana Department of Revenue	Bryan Kelly	Washington Department of Revenue
Stacey L. Greaud	Louisiana Department of Revenue	Gil Brewer	Washington Department of Revenue
Daniel D'Alessandro	Maine Revenue Services	Erin Winter	West Virginia Department of Revenue
John Lewandowski	Maine Revenue Services	Jayne Kulberg	Wisconsin Department of Revenue
John Sagaser	Maine Revenue Services	Andrew Soubel	Wolters Kluwer
Renee Nacrelli	Maryland Department of Revenue		
Melinda Dunmeyer	Maryland Department of Revenue		

Mr. Hoyt asked Helen Hecht, MTC, to take the roll of the states present and for those present to indicate whether they approved the minutes of the November, 2019 meeting of the committee, as drafted. The minutes were approved as drafted by roll call vote.

II. Initial Public Comment

Nikki Dobay, Council on State Taxation (COST), mentioned that she would like to bring up some new business before the end of the meeting. Karl Friedan, COST, noted that he would have comments on the proposed revisions to the Commission's statement on P.L. 86-272.

IV. Finnigan Combined Filing Work Group – Chair, Phil Skinner (Idaho), Helen Hecht (MTC) and Bruce Fort (MTC)

Phil Skinner, Idaho, reported that the group had finished a proposed draft model for the committee to consider for recommendation to the Executive Committee. See the proposed model and other related

information on the work group project page, here: <http://www.mtc.gov/getdoc/4570fde6-763b-450f-85bf-cbbb6e30dc94/Model-Option-for-Combined-Filing.aspx>. In response to a question from Lee Baerlacher, Montana, Ms. Hecht stated that, at the 2019 Boise meeting, the Uniformity Committee decided to take the combined attribute approach, so it allows the sharing of NOLs between members of the group and the losses are computer using state rules in terms of carry-forward. But it imposes “federal-style” limitations on the loss, which includes the SRLY rules and Section 382. There were no further questions.

Laurie McElhatton, California, moved to approve the proposed model and send it to the executive committee for its approval. The motion passed by roll call vote, with 20 in favor, 1 against, and 1 abstaining.

V. Statement on P.L. 86-272 Work Group – Chair, Laurie McElhatton (California) and Brian Hamer (MTC)

Ms. McElhatton, California, and Mr. Hamer, MTC, reported that the group had finished their proposed revisions to the statement and were recommending those revisions to the committee to consider for recommendation to the Executive Committee. See the proposed revisions to the statement and other related information on the work group project page, here: <http://www.mtc.gov/Uniformity/Project-Teams/P-L-86-272-Statement-of-Information-Work-Group>.

Karl Friedan, COST, made a brief oral comment that COST opposed the revisions. Mr. Friedan stated that while COST members are typically larger businesses, the proposed revisions would have a greater potential impact on medium to smaller businesses. Mr. Friedan also stated that COST’s opposition was based on the belief of the group’s members that the revisions effectively nullified the federal statute and did not properly reflect Congress’s intent. Michael Hale, Kansas, moved to approve the revisions. The motion passed by roll call vote, with 20 in favor and 3 abstaining.

VI. BREAK

VII. Wayfair/Marketplace Work Group – Chair, Tommy Hoyt (Texas) and Richard Cram (MTC)

The work group chair, Mr. Hoyt, and staff, Richard Cram, MTC, reported that the work group had been asked to send a letter to states endorsing the National Council of State Legislatures (NCSL) model for marketplace facilitator tax collection. The work group surveyed states and the result was a recommendation for the work group to retain the proposal for consideration in the future. The work group is continuing to monitor developments at the state level but is not currently holding meetings. Steven Alvarez, Georgia, has agreed to chair the work group going forward. Phil Horwitz, Moss Adams, asked the committee to consider whether it might recommend to the states that they not pursue retroactive enforcement of sales and use tax liability for sellers who had inventory in warehouses in states controlled by marketplace facilitators, prior to the *Wayfair* decision. After some discussion, the committee declined to take up this issue.

VIII. New Project Selection Work Group – Chair, Maria Sanders (Missouri) and Helen Hecht (MTC)

The work group chair, Maria Sanders, Missouri, and staff, Ms. Hecht, gave a status report of for the work group which has just begun meeting and is considering a process for identifying and choosing new uniformity projects.

IX. Roundtable

Attendees discussed current events in litigation, legislation, and general activities in their states. Much of the focus was on the adjustments being made as a result of Covid-19, and the challenges states are facing. Some states noted what steps they had taken in response to state staff, businesses, and taxpayers affected by the pandemic.

X. New Business

Nikki Dobay, COST, noted that she had some concerns that had been raised about the Model for Reporting Federal Adjustments—Including Partnership Audit Adjustments, which she wanted to bring to the committee's attention. Mr. Hoyt, asked that MTC staff work with Ms. Dobay to review those concerns as soon as possible. Ms. Dobay also noted she may have other related issues to raise that had not previously been addressed under the model and she would work to get information on those issues before the committee.

XI. Adjourn

The meeting adjourned at 5:15 P.M. Eastern.