Wood Miller, Chair of the Uniformity Committee, welcomed everyone and opened the public comment session. He turned the proceedings over to Robyn Wilson, Chair of the Income and Franchise Tax Uniformity Subcommittee. Ms. Wilson asked Shirley
Sicilian, MTC General Counsel, to brief the subcommittee on the issue: Multistate Tax Compact Article IV Amendments, including §§ 17, 1(g), and 9.

Ms. Sicilian first noted that the document under discussion is available to everyone over the web and we can revise the document “live.” She then drew the subcommittee's attention to her memorandum of January 20, 2012, which covers clarifications to the proposed Art.IV.17(a)(4) and (5) and technical amendments to clarify use of the term “sales” throughout Art.IV.

Diann Smith of Sutherl, made three points: (1) sourcing receipts from marketing intangibles to the location of the ultimate consumer (the “look through” for intangibles like trademarks, or cartoon characters, that are used to market a product, like a towel or hat) is a bad idea because it does not reflect the taxpayer’s market in theory (rather it reflects the taxpayer’s customer’s market), and the taxpayer won’t know where that ultimate consumer is in practice; (2) the “if and to the extent” language is vague and confusing to people who have not been involved in the discussions and know what we mean, and (3) it’s not clear what “use” means for those intangibles receipts that are to be sourced to where the intangible is “used.” In general, she thought this version was not much clearer than the last.

Subcommittee members thanked Ms. Smith. Some expressed intent to develop regulatory language that would help to illuminate these issues.

Ben Miller and Wood Miller expressed opinions that the new draft was clearer. Mary Loftsgard moved to recommend the draft (attachment B of the memo) to the full Uniformity Committee. The motion passed, 15-0.

Ben Miller then spoke in favor of technical amendments throughout Art.IV to distinguish between the two ways that the word “sales” is used. These were also provided in Ms. Sicilian’s memorandum.

The Subcommittee discussed the issue and determined it would like to consider it further. The Chair asked that this issue be placed on the next teleconference agenda.

The Income and Franchise Tax Uniformity Subcommittee adjourned.