



MULTISTATE TAX COMMISSION

*Working Together Since 1967 to Preserve Federalism and Tax Fairness*

**Uniformity Committee Meeting**  
**Charleston, South Carolina**  
**November 30, 2011**  
**Minutes of the Meeting**

**I. Welcome and Introductions.**

The Chair, Wood Miller of Missouri, called the meeting to order at 1:30 P.M. local time and welcomed the attendees at the conference and on the phone. The following persons attended the meeting in person or via telephone (ph):

<b>Name of Attendee</b>	<b>Affiliation</b>	<b>Name of Attendee</b>	<b>Affiliation</b>
Richard Cram	Kansas	Wood Miller	Missouri
Jack Mansun	Minnesota	Frank O'Connell	Georgia
Joe Garrett Michael Mason Julie McGee	Alabama	Miles Vosberg Matt Pereyl Donnita Wald Cory Fong Mary Loftsgard (ph)	North Dakota
Ben Miller	California FTB	Stewart Binke	Michigan
Craig Griffith	West Virginia	Tim Donovan Jim Etter	South Carolina
Jennifer Hays	Kentucky Legislature	Nancy Prosser	Texas
Gary Humphrey	Oregon	Glenn White	Michigan
Mike Fatale	Massachusetts	Phil Horwitz	Colorado
Lennie Collins	North Carolina	John Allan	Jones Day
Ryan Rauschenberger	North Dakota	Karen Boucher	Deloitte
Rebecca Abbo Louie Gomez (ph.)	New Mexico	Terry Frederick	Sprint
Eric Scheiner Phil Skinner (ph.)	Idaho		
Shirley Sicilian Roxanne Bland Bruce Fort Elliott Dubin (ph.)	MTC	Brenda Gilmer Gene Walborn Derek Bell	Montana

**II. Public Comment Period.**

There were no public comments at this time.

### **III. Approval of Minutes:**

The following minutes were approved on voice vote following a motion by Montana:

- A. Income and Franchise Tax Subcommittee: July 28, 2011 (Whitefish, Montana); September 11, 2011 (Teleconference); October 11, 2011 (telephone); November 15, 2011 (telephone)
- B. Sales and Use Tax Subcommittee: July 27, 2011 (Whitefish, Montana)
- C. Full Uniformity: July 28, 2011 (Whitefish, Montana).

### **IV. Report of the Sales and Use Tax Subcommittee:**

Richard Cram of Kansas, Chair of the Subcommittee, presented a number of action items passed out of the subcommittee.

#### A. Model Communications Transactions Tax Centralized Administration Project.

Mr. Cram described the subcommittee's action to approve the Model Act with an amendment to remove the prefix "tele-" from "telecommunications taxes" in two places and subsequently gave unanimous approval to the model. Mr. Miller then asked whether the committee was prepared to vote to recommend the model to the Executive Committee. There were no public comments and no committee comments. The motion to approve the Model Communications Transaction Tax Centralized Administration Statute passed with nine yes votes and two abstentions.

#### B. Model Associate Nexus Statute.

Mr. Cram discussed the subcommittee's progress to date on the proposed model statute, including reaching agreement on a lengthy policy and technical checklist. Mr. Cram asked for additional volunteers to assist on a drafting group and tendered his own name.

#### C. Model Statute for Collection Responsibilities for Accommodations Intermediaries.

Mr. Cram reported that the subcommittee had approved a proposed model statute that would include both a single remitter and dual remitter option. Both models were the subject of some technical amendments. There were no committee discussions on the model statutes. Public Comment: John Allan, Esq. of Jones Day objected to the model statutes and asked the committee to consider that the models would impose a higher tax burden on travel intermediaries than typical travel agents, contrary to the commission's goal of uniformity. There were no other public comments. A motion was made by the representative from Georgia

to approve the model statute as amended by the subcommittee and to recommend the same to the Executive Committee for adoption. The committee approved the motion 10-0, with two abstentions.

**V. Report of the Income and Franchise Tax Subcommittee:**

A. Project to Amend Compact Art. IV.9 (Weighting Apportionment Factors.)

Subcommittee Chair Robynn Wilson detailed the subcommittee's discussions of five different models as developed by the drafting group, and then described the subcommittee's decision to use a weighted voting method to approve Option B, a double-weighted sales factor. Public comment: none. Committee comments: the Committee requested that all options that were considered and the voting process be conveyed to the Executive Committee, along with the top choice. A roll-call vote was held on the recommendation of "Option B," double-weighted sales:

Alaska, Alabama, Colorado, California (FTB), Kansas, Missouri, Montana, New Mexico, Oregon, Massachusetts and North Carolina voted in favor of the motion. There were no abstentions or negative votes.

B. Project to Amend Compact Article IV.18.

Ms. Wilson explained that the subcommittee had reached substantial agreement on an amendment to delineate the states' authority to adopt regulations, but elected to retain the project to review whether the amended language should refer to other forms of rule-making in addition to promulgating regulations.

C. Project to Amend Compact article IV.1.(a) (Definition of Business Income).

Ms. Wilson summarized five main points of policy direction given to the drafting group and stated that based on that direction, another draft would be expected soon for the subcommittee's consideration.

D. Study Project to Consider Changes to Regulations for Compact Article IV.1(c) ("Taxable in Another State").

Ms. Wilson announced that the subcommittee vote to discontinue work on the project. There was some committee discussion of whether that meant that the project was rejected. After discussion, a motion was made to postpone action on discontinuing the project until the next meeting. That motion passed 11-1. Subcommittee Chair Wilson suggested the subcommittee will rank projects based on priority.

E. Project Regarding Partnership or Pass-Through Entity Income Ultimately Realized by an Entity that is Not Subject to Tax.

Ms. Wilson described the discussions held with a representative of the National Association of Insurance Commissioners and thanked the organization for its information

and offer to assist the Commission. In response to questions from committee members, Ms. Wilson and Ms. Sicilian outlined the expected course for the project: staff will work with the insurance industry, NAICs, and the drafting group to develop a “matrix” of pros and cons of various approaches for achieving appropriate tax treatment of pass-through income, as requested by the Executive Committee.

**VI. Roundtable Discussion.**

The assembled states reported on various legal, legislative and administrative activities affecting them.

**VII. New Business.**

There was no new business before the committee.

**VIII. Adjourn.**

The committee adjourned at 3:30 p.m. local time.