I. Welcome and Introductions

Richard Cram (KS), chair of the Sales and Use Subcommittee, opened the meeting. The following persons were in attendance:

<table>
<thead>
<tr>
<th>Name of Attendee</th>
<th>Affiliation</th>
<th>Name of Attendee</th>
<th>Affiliation</th>
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<tbody>
<tr>
<td>Shirley Sicilian, Roxanne Bland, Lila Disque</td>
<td>MTC</td>
<td>Myles Vossberg</td>
<td>North Dakota Office of State Tax Commissioner</td>
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<td>Richard Cram</td>
<td>Kansas Department of Revenue</td>
<td>Nancy Prosser</td>
<td>Texas Comptroller of Public Accounts</td>
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<td>Dave Matelsky</td>
<td>Michigan Department of Treasury</td>
<td>Tom Atchley</td>
<td>Arkansas Department of Finance and Administration</td>
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<td>Rob Carter</td>
<td>Kentucky Department of Revenue</td>
<td>Mark Faulkner</td>
<td>New Mexico Taxation and Revenue Department</td>
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<td>Tim Jenrich</td>
<td>Washington Department of Revenue</td>
<td>Erick Shaner</td>
<td>Idaho State Tax Commission</td>
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<td>Todd Lard, Fred Nicely</td>
<td>Council on State Taxation</td>
<td>Jenny Jones</td>
<td>State Tax Notes</td>
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<td>Deborah Bierbaum</td>
<td>AT&amp;T</td>
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II. Public Comment Period

There were no comments at this time.

III. Model Communications Definitions and Sourcing Rules
A. Presentation of Staff Memorandum and Draft Resolution

Roxanne Bland, MTC Counsel, presented the Staff Memorandum and Draft Resolution. She noted that the memo contains a link to the wrong set of definitions - it links to Library C, Appendix 2, but should have pointed to Section 315, the telecommunications sourcing definition. She sent the correct document to the participants.

The draft itself is in the form of a Resolution the Commission would adopt. It talks about the Streamlined Sales and Use Tax Agreement, then goes into the purpose of the Multistate Tax Compact, and then discusses the uniformity committee's role within the Commission and how the Committee encourages the states to consider enacting the Streamlined uniform telecommunications definitions and sourcing rules.

B. Public Comment

There were no comments.

C. Committee Discussion

After considering the language, Ms. Bland recommended the Committee change the language in the final paragraph from “the Commission urges the states” to “the Commission encourages the states,” in order to maintain neutrality.

Ms. Bland also asked the subcommittee to consider whether the resolution sounds as though the Commission supports Streamlined, or whether it is still within the realm of our neutrality. The Commission is neutral on the Streamlines Sales and Use Tax Agreement. Richard Cram (KS) stated it holds up the telecommunications sourcing rules as "the way to go" – it can't be read as necessarily making a statement as to the agreement as a whole, but it does seem to endorse their position. Myles Vosberg (ND) asked whether this was even really a concern. Mr. Cram noted that the resolution can be read either way so it's probably neutral. Mr. Vosberg suggested changing the last result statement to say we feel this would "facilitate the mission of the MTC." Mr. Cram agreed with this suggestion.

Mr. Vosberg also pointed out that in the second "whereas," there are 24 states rather than 23. The latest full member was Utah.

Ms. Bland then asked if, instead of saying "telecommunication definitions and sourcing rules" we should move the term "sourcing" to say "sourcing definitions and rules," so that "sourcing" modifies "definitions" and "rules." Deborah Bierbaum (AT&T) wanted to make sure the change regarding "sourcing" would not relate to the definitions in the appendix. Ms. Bland confirmed it would not. Mr. Vosberg noted that in the supporting documentation provided, there were tax-based exemption terms, and he asked whether those were just sourcing definitions. Ms. Bierbaum clarified that the last part is the tax base definition.

Ms. Bierbaum explained that the definitions in Section 315 relate totally to the sourcing, and the type of things covered by the sourcing rules, but would not affect what the states use to impose or exempt tax. The definitions at the end, under “Telecommunications” are the uniform definition where if the state wanted to tax, for example, ancillary services, they would use that definition to impose the tax on ancillary services. So the later terms in the appendix relate to tax imposition or exemptions. The
agreement has provisions that allow flexibility to the state to use broader terms to tax or exempt specific items.

Mr. Cram asked whether anyone would have any concerns with including the definitions at the end of the document; he himself would not. Mr. Vosberg agreed that this would help create more uniformity. Regarding the process of the resolution, Mr. Vosberg asked, will the supporting documents included for purposes of discussion accompany or be considered part of the resolution, or are they solely for illustration purposes? And the question was asked whether a draft resolution would go through the usual uniformity process which includes public hearing. Ms. Sicilian, MTC General Counsel, stated there are two options to accomplish the present goal: First, the committee could create the Commission’s own telecom definitions, which would have to go through the hearing process and might not end up similar to Streamlined’s. The other option is a Commission resolution; if all we are resolving is that the states are encouraged to consider enacting the Streamlined uniform telecommunications definitions and sourcing rules, we do not need to take it through the public hearing process. In the resolution itself there was a citation to the Streamlined provisions that are being considered, so attaching those would then be appropriate.

Mr. Vossberg pointed out that if the rules changed later on through Streamlined, there might be a disconnect with the Resolution. Nancy Prosser (TX) agreed. She felt that since the Streamlined agreement is a very public document, it's best to just identify it with enough specificity by name. Ms. Sicilian clarified that the Resolution would be approving of the terms as they exist today, unless there is a specific statement urging consideration as they exist today or as they may be amended in the future. But since we don’t know what the amendments might be, that may not be something the Commission wants to do necessarily. Mr. Cram suggested referencing the sections of the Streamlined Sales and Use Tax Agreement we’re referencing as of the date we’re referencing it. Mr. Vosberg proposed identifying the sections and leaving it at that. He reminded those present that the Commission does not want to seem biased, and the more we relate the Resolution to future changes, the stronger the tie becomes.

Ms. Prosser pointed out, as a member of a non-Streamlined state, that it seems the Texas legislature has considered the Streamlined Sales and Use Tax Agreement and reasonably decided not to join. She asked Ms. Sicilian whether we have done something like this before; she appreciates the idea of uniformity but feels her state validly rejected Streamlined statutes. Ms. Sicilian said we had not endorsed specific provisions of streamlined in a resolution before. She noted we’ve used pieces of the Streamlined acts in other models – this is only a piece here as well. Also note the "Resolved" clause is carefully worded; it only urges states to "consider," not to "enact." The goal of this draft, if states want to pursue it, is to commend the efforts of Streamlined toward uniformity on this point – not all of streamlined, and it is intended to be neutral.

Ms. Bland will make the changes as discussed, and present it for further comment at the next meeting.

IV. New Business

There was no new business.

V. Adjourn

Mr. Cram thanked those in attendance for their participation, and the meeting adjourned at 4:10 p.m. EST.