MEMO

To: Richard Cram, Chair
    And Members of the Sales and Use Tax Uniformity Subcommittee

From: Lila Disque

Re: Implementation of MFA

Date: November 27, 2013

After Mr. Johnson’s presentation on the Marketplace Fairness Act, the committee may want to discuss the current status of the MTC’s Marketplace Fairness Act project, and how to proceed.

Current Status

On May 6, 2013, the Senate approved S. 743, the Marketplace Fairness Act (MFA). At the MTC’s July meeting, the Uniformity Committee approved a project to draft uniform language regarding notice and simplification provisions for non-Streamlined-member states. However, the Act proceeded more slowly than expected in the House, and the MTC’s project was put on hold pending changes to the bill. MTC staff has performed research regarding the varying compliant language used by Streamlined member states (and one non-member state, Colorado), and has begun to draft recommendations for uniform language in non-member states. In addition, the MTC has followed the Streamlined Sales and Use Tax Governing Board’s project to draft notice language and guidelines.

The Committee has four options as far as this project is concerned: keep it on hold, form a work group and hold, form a work group and proceed, or terminate the project.

Option 1: Remain on Hold

The Committee may prefer to keep the project on hold, since currently the Act’s future in the House is unknown and there may be significant changes in its final form. The risk in this option is that, if the Act suddenly passes, the states may find themselves without ready uniform language. To minimize this possibility, MTC staff has prepared to the point that the project could proceed from the rough draft stage.
**Option 2: Form a Work Group and Hold**

A second option is to form a work group and distribute the project research and materials, but wait to schedule meetings until the status of the Act is clearer. This way, there will be a group of people who are informed on the issues and prepared to act. The disadvantage is that it could still result in some lag time in implementation.

**Option 3: Form a Work Group and Proceed**

This option is best as far as having ready language, but there is some concern that the work group will end up having to restart the drafting process when the Act is released in its final form. In the worst case, the work group’s effort would be useless if the Act dies in the House.

**Option 4: Terminate the Project**

Depending on the states’ interests, they may feel they no longer have need for proposed language.