



MULTISTATE TAX COMMISSION

**To:** MTC Uniformity Standing Subcommittee  
**From:** Maria Sanders, Chair  
Helen Hecht, Uniformity Counsel  
**Subject:** May 20, 2021 Meeting – DRAFT  
**Date:** June 17, 2021

I. Welcome and Introductions – Maria Sanders, Chair

Members of the Subcommittee Present (in addition to the chair):

- Gil Brewer, Washington
- Michael Hale, Kansas
- Michael Fatale, Massachusetts
- Laurie McElhatton, California
- Ashley McGhee, North Carolina
- Phil Skinner, Idaho

Others in Attendance:

- Nancy Prosser MTC
- Amy Hamilton Tax Analysts
- Lila Disque MTC
- Tiffany Adair Kentucky
- Rebecca Rodak West Virginia
- Bruce Kolb Indiana
- Stacey Sprinkle Verizon
- Olga Kourdova
- Brian Hamer MTC
- John Mollenkamp Intuit
- Robert Gallagher Intuit
- Chris Barber MTC
- Joe Crosby MultiState Associates
- Ryan Maness MultiState Associates
- Amy Jackson Brown Smith Wallace



- Joe Huddleston Ernst & Young
- Amila Hukeljic Brown Smith Wallace
- Leigh Powers Kentucky
- Asha Glover Law360
- Matt Tidwell Alabama
- Phil Horwitz Moss Adams
- Tom Shaner Idaho
- Brooks Hemphill North Carolina
- Sarah Watts Kentucky
- Ferdinand Hogroian COST
- Stacey Greaud Louisiana
- Angela Doyle
- Shelly Miller Brown Smith Wallace
- Stephanie Do COST
- Jessie Eisenmenger Amazon
- Heidi Thomas
- Brad Asher Kentucky
- Mike Ralston Indiana
- Angela Matelski Michigan
- Bruce Fort MTC
- Beth Sosidka AT&T

II. Initial Public Comment – There was no initial public comment.

III. Approval of the Minutes – The draft minutes for the March call were approved without amendment.

IV. Discussion of Sales Tax on Digital Goods –

Ms. Sanders, Missouri (Chair), opened discussion of the potential project assigned to the subcommittee by the Uniformity Committee at its April meeting—a white paper on sales taxation of digital goods.

Gil Brewer, Washington, gave a brief recap of the presentation Washington gave to the MTC Uniformity Committee in April. He believes that if states had more information they would be able to make better policy choices and that states might achieve more uniformity and consistency in this area, which would be helpful.



Ms. Sanders noted that the subcommittee would likely have only one more meeting prior to the Uniformity Committee meeting in July and asked the members of the subcommittee what information they would like MTC staff to provide, and what the subcommittee may want to deliver to the Uniformity Committee.

Michael Hale, Kansas, asked whether the project might start with a white paper—or a model. Ms. Sanders responded that, for now, the committee had asked the subcommittee to consider a white paper, but this could change.

Mr. Hale noted that the subcommittee or staff might want to reach out to the Streamlined Sales and Use Tax group (Streamlined) to get input including information on sourcing rules, how states have defined digital goods, etc. He also suggested that the subcommittee ask Craig Johnson (Executive Director) to speak to the group. Ms. Sanders agreed this was a good suggestion.

Michael Fatale, Massachusetts, asked what MTC staff needed, in terms of direction—noting that it would be useful to see where states are and whether there are consistencies.

Helen Hecht, MTC, noted that the states' approach to taxing services and digital products, generally, has been ad hoc. So while a survey of states would be useful, it might also be good to take conceptual approach, look at the academic literature, etc. Sourcing rules, in particular, can create critical inconsistencies. So there are places where the lack of uniformity may create problems.

Mr. Brewer noted that Washington's experience shows that a broad, general approach works better. He suggested that the subcommittee might look at what states are doing and the pros and cons of different approaches.

Mr. Hale noted that most states already tax at least some types of digital products and agreed that taking a broader approach makes more sense—and that there is incentive to broaden the base in order to keep rates on other goods lower. He also asked whether the scope of the project would potentially include issues involving digital currency or non-fungible tokens. He noted that these are emerging issues that few states have addressed.



Laurie McElhatton, California, agreed that virtual currency was an issue of interest and that looking at potential state tax issues around virtual currency would be helpful. Ms. Sanders noted that the IRS has been looking at the issue and Ms. McElhatton agreed, noting that having a basic understanding of that would also be useful.

Phil Horwitz, Moss Adams, noted that from the practitioner side these are important issues and that a survey of the industry might also reveal particular problems. He recommended that the subcommittee get feedback from industry on the issues they are seeing.

Mr. Fatale noted that if he were to prioritize the issues—he would list defining digital goods first, then sourcing second. He also suggested that the project use a broad approach to the issues but look for ways states can make progress incrementally, if they want to take a narrower approach.

Ms. Hecht noted that the benefit of a conceptual, broad approach is that it would still give states something uniform to aim at even if they approach the issues one step at a time. She agreed that giving states a way to take an incremental approach made sense.

Joe Crosby, MultiState Associates, noted that one of the problems with the sales tax system in the past has been too much reliance on B-to-B transactions and that states should consider how to avoid this problem when taxing digital goods.

Joe Huddleston, E&Y, seconded Joe's comments and also seconded the idea of involving the private sector in the process.

Mr. Brewer noted that Washington had to address the issue of B-to-B transactions and that the state was willing to share its experience in how to do that with the group.

Ms. McElhatton noted that with everything the project might entail, virtual currency might warrant being a separate project. Mr. Brewer agreed but suggested the subcommittee might want to learn more first.

Mr. Horwitz noted that the subcommittee should not downplay the sales tax issues around cryptocurrency and it would inevitably have to be part of this project.



Mr. Hale agreed that digital currency might have as much impact on sales tax as income tax, and suggested that states would need to be aware of the IRS's treatment and how that affects state taxes.

Ms. Sanders agreed that we could keep digital currency as part of the project, for now. Ms. Hecht also agreed and noted that staff could come back with a summary of the biggest issues and additional information.

V. Other New Business

There was no other new business.

VI. Adjourn