



MULTISTATE TAX COMMISSION

## Report of the Uniformity Committee

Tommy Hoyt (Texas), Chair  
Maria Sanders (Missouri), Vice Chair

### To the Executive Committee

San Antonio, Texas  
Thursday, November 7, 2019

The status of Uniformity projects is summarized below:

Project/Work Groups	
<b><i>Finnigan-Combined Filing Work Group</i></b>	
<b><i>Chair and Staff</i></b>	Phil Skinner, Idaho; Bruce Fort and Helen Hecht, MTC Staff
<b><i>Scope of Project</i></b>	This work group has been tasked with creating a model “Finnigan” alternative in addition to the “Joyce” approach already in the Commission’s Model Statute for Combined Reporting.
<b><i>Background</i></b>	At its April 2018 meeting, the committee was asked to consider adding a “Finnigan” option in the Commission’s Model Statute for Combined Reporting, which currently uses the “Joyce” approach. MTC staff produced a briefing book on the issue. The question at the center of the Joyce/Finnigan debate is: Are states limited in their ability to tax an apportioned share of the income of a unitary business conducted by multiple legal entities if some portion of that income might be attributed to an entity over which the state lacks taxing jurisdiction? States have generally been moving toward the <i>Finnigan</i> approach—which allows the state to tax the unitary business without regard to whether it has jurisdiction over one or more entities making up that business. At its July 2018 meeting, the uniformity committee voted to take on the project and created a work group to draft the model option.
<b><i>Status</i></b>	The work group has held bi-weekly meetings and has a draft model for discussion. The work group has recently been focusing on the treatment of NOLs in the group return and this issue has delayed finishing the model. In addition the work group has received a suggestion from COST that the model include a consolidated filing option.

<b>P.L. 86-272 Work Group</b>	
<b><i>Chair and Staff</i></b>	Laurie McEllhatton, California, and Brian Hamer, MTC staff
<b><i>Scope of Project</i></b>	This work group is tasked with updating the Commission’s Statement of Information Concerning Practices of Multistate Tax Commission and Signatory States under Public Law 86-272.
<b><i>Background</i></b>	The statement was last updated in 2001 and does not contemplate many activities regularly undertaken by businesses today, including selling goods over the Internet.
<b><i>Status</i></b>	The work group is holding bi-weekly meetings and work is ongoing. The work group is hoping to have a revised statement for the uniformity committee to review by the November 2019 meeting.
<b><i>Wayfair and Marketplace Implementation Work Group</i></b>	
<b><i>Chair and Staff</i></b>	Tommy Hoyt, Texas; Richard Cram, MTC Staff
<b><i>Scope of Project</i></b>	This work group is focusing on the issues states are seeing in implementing the <i>Wayfair</i> decision, and especially on the collection and reporting requirements for marketplaces. (This project follows on the 2018 project.)
<b><i>Background</i></b>	At the July 2019 meeting, the Uniformity Committee agreed to form a work group to review the kinds of issues states are having with the implementation of <i>Wayfair</i> and to reach out to practitioners and industry. The goal is to look for best practices and common solutions.
<b><i>Status</i></b>	The work group has produced a draft white paper for discussion and potential adoption as a source of information for the states.