



MINUTES OF MEETING HELD AUGUST 1, 2017 IN LOUISVILLE, KENTUCKY
Submitted for Approval November 16, 2017
Uniformity Committee Meeting
New Orleans, Louisiana

I. Welcome and Introductions – Holly Coon, Alabama, Chair

Attendees at the meeting or on the phone

Holly Coon	Alabama Department of Revenue
Michael Gamble	
Joe Garrett, Jr.	
Christy Vandevender	
David Avery	Alaska Department of Revenue
Brandon Spanos	
Paul Gehring	
Paul Gehiny	Arkansas Department of Finance and Administration
Joel DiPippa	
Scott Fryer	
Tom Atchley	
Phillip Horwitz	Colorado Department of Revenue
Brendon Reese	
John Kutsukos	Connecticut Department of Revenue Services
Steven Alvarez	Georgia Department of Revenue
Ikaika Rawlins	Hawaii State Department of Taxation
Maria Zielinski	
Nathan Nielson	Idaho State Office of the Attorney General
Phil Skinner	
Richard Jackson	
Tom Katsilometes	
Ken Roberts	Idaho State Tax Commission
Randy Tilley	
Steve Wynn	
Brian Fliflet	
Tiffany Adair	Illinois Department of Revenue
Tim Bennett	
Latonia Dooley	
Marcia Ann Oakman	
	Kentucky Department of Revenue

*If you would like additional information about this meeting, contact Helen Hecht, General Counsel,
 Multistate Tax Commission, 444 North Capitol Street, N.W., Suite 425
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Minutes of the Uniformity Committee

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Jessica Honican	
Melissa Russell	
Jennifer Stosberg	Kentucky Finance Cabinet
Jennifer Hays	
Amit Shanker	Kentucky Legislative Research Commission
Krystal Bolton	
Luke Morris	
Kevin Richard	Louisiana Department of Revenue
Clarence Lymon	
Renee Nacrelli	Maryland Office of Attorney General
Preston Alderman	Maryland Office of Tax and Revenue - Compliance Administration
Ashley May	
John Stringer	Mississippi Department of Revenue
Justin Warren	
Mike Godfrey	
Ryan Asbridge	Missouri Department of Revenue
Gene Walborn	
Kory Hofland	
Tracee Abel	Montana Department of Revenue
Lee Baerlocher	
Mike Kadas	
Steve Yang	
Richard Cram	
Lila Disque	
Elliott Dubin	
Cathy Felix	
Bruce Fort	
Keith Getschel	
Helen Hecht	Multistate Tax Commission
Harold Jennings	
Sheldon Laskin	
Greg Matson	
Paul Mond	
Jeffrey Silver	
Marshall Stranburg	
Ki Yuen	
Fred Coolbroth	
Kerrin Rounds	New Hampshire Department of Revenue Administration
Dan Armer	New Mexico Taxation and Revenue Department
Janice Davidson	
Lennie Collins	North Carolina Department of Revenue
Dee Wald	
Matt Peyerl	North Dakota Office of State Tax Commissioner
Katie Lolley	
Leah Putnam	Oregon Department of Revenue
Anita Conner	Pennsylvania Department of Revenue
William Condon	South Carolina Department of Revenue

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Andrew Fergel	South Dakota Department of Revenue
David Wiest	
J.P. Urban	Tennessee Office of the Attorney General
Matt Jones	Texas Comptroller of Public Accounts
Nancy Prosser	
Michael Christensen	
Frank Hales	Utah State Tax Commission
John Valentine	
Cameron Comfort	Washington State Attorney General
Karolyn Bishop	
David Hesford	Washington State Department of Revenue
Gil Brewer	
Michelle Biermeier	
Kristin Kalmerton	Wisconsin Department of Revenue
Jayne Kulberg	
Joe Huddleston	Ernst & Young, LLP
Karen Boucher	Financial Institution State Tax Coalition
Shirley Sicilian	KPMG LLP
Lindsay Sander	Sander Resources
Amy Hamilton	Tax Analysts (State Tax Notes)
Pilar Mata	Tax Executives Institute
Nikki Dobay	Council On State Taxation (COST)
By Phone:	
Don Jones	Oregon Department of Revenue
Tripp Baltz	Bloomberg BNA
Other	Members of the Interested Parties Group (Partnership Project)

II. Initial Public Comment Period

Karen Boucher, Financial Institutions State Tax coalition (FIST) and Joe Huddleston, EY, advised the committee that they planned to present comments regarding Section 18 proposed draft language.

III. Approval of Minutes of the Prior In-Person Meeting

Fred Coolbroth, N.H., moved for approval of the minutes of the March 2017 meeting of the committee. The minutes were approved by voice vote.

IV. Report – General Uniformity Update

Helen Hecht, MTC General Counsel, reported on important developments affecting recently adopted uniform models. With respect to the recommended changes to Compact, Article IV, Section 17 (market sourcing) adopted 2014, and the amendments to model regulations to implement those changes, adopted 2017, she noted that Nebraska, Rhode Island, Connecticut, and Louisiana had recently

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moved to market sourcing. In addition, proposals have been put forward to adopt market sourcing in New Mexico, North Carolina, and Oregon. Two states had bills to adopt Article IV changes generally—Arkansas (H.B. 2100) and Montana (H.B. 511), and the bill in Montana passed. Oregon also adopted the MTC change to the definition of apportionable income as all income that is apportionable under the U.S. Constitution.

Regarding the Sales and Use Tax Nexus (“Doing Business”) model, adopted by the Commission in 2016, she noted that states have continued to consider and, in some cases, pass legislation that would raise a challenge to *Quill*. This makes it less likely that states will consider adopting the Commission’s Sales and Use Tax Nexus Model, which instead recognizes the limits of *Quill*.

V. Report & Discussion – Section 18 Work Group – Holly Coon, Chair and Bruce Fort, Staff

On behalf of the Section 18 work group, Bruce Fort, MTC Counsel, presented the proposed draft regulations to be included in Sec. 18 of the General Allocation and Apportionment Regulations. These proposed draft regulations address how the receipts factor would be computed in situations where a taxpayer lacks includable gross receipts due to a state’s adoption of the Commission’s recommended changes to Compact, Article IV (UDITPA), including the definition of “receipts” and the sourcing provisions under Section 17. The gross receipts included in the receipts factor under the proposed draft regulations include dividends, gains, interest, other investment receipts, and other miscellaneous gross receipts.

Ms. Boucher, FIST coalition, passed out written comments (available on the project web page) and also made a public statement. She asked that the draft be changed to address bank holding company subsidiaries that may not be “financial institutions. She asked that if these subsidiaries are more than 50% owned, directly or indirectly, by a bank holding company, they be allowed to use the MTC special apportionment rules for financial institutions, and that other related changes to the draft be considered. She asked that the committee return the draft to the work group for further consideration of these issues.

Joe Huddleston, EY, asked that the special rules not be limited to taxpayers at or below 3.3%. He submitted language he would recommend be added to part (a), which is available on the Section 18 project page. He also submitted language to clarify treatment of receipts from hedging activities.

The committee discussed whether it made sense to explicitly apply the MTC special apportionment rules to entities that may not be defined in state law as “financial institutions” or where state law does not include special rules for financial institutions. Phil Horwitz, Colorado, moved to have the Section 18 work group consider the public comments and report back to the committee. The motion passed by voice vote.

VI. State Roundtable – All State Representatives

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State representatives reported on the major tax developments in their states. The chief topic of discussion was the recent state legislative sessions. More states are moving toward market sourcing, but the chief activity has been the consideration of legislation to address *Quill*.

VII. Use Tax Information Reporting Work Group – Phil Horwitz, Colorado, Chair and Sheldon Laskin, Staff

This group was formed to consider possible revisions to the draft Sales and Use Tax Notice and Information Reporting Model, which was referred back to the Uniformity Committee by the Executive Committee. The project is still in its early stages. Mr. Horwitz reported no action items for the committee. The work group has developed an issue list and has a number of different sources to use as they edit the proposed MTC model. One new issue is how marketplaces should be treated. Another issue concerns referrers, people who don't facilitate completion of a transaction. The group is also considering class action protection for people complying with reporting obligations.

VIII. Partnership Work Group – Tracee Abel, Montana, Chair and Helen Hecht, Staff

Nikki Dobay, Council on State Taxation (COST), presented proposed language for discussion purposes on behalf of the "Interested Parties" (COST, TEI, IPT, ABA, and AICPA). That language includes provisions that would apply generally (and would therefore be a modification of the Commission's model for reporting federal adjustments). The committee discussed whether the work group should use the proposed language as a starting point. Mr. Horwitz moved that the working group should use the proposed language as a starting point and prioritize the provisions necessary to adapt to the new federal partnership audit rules. The motion passed by voice vote.

Helen noted that this work group may do some business by email and asked that anyone who wishes to be added to the email list for the group please let her know.

X. New Business

There was no new business.

XI. Adjournment

Ms. Coon adjourned the meeting.