



**Minutes of the Executive Committee Teleconference Meeting  
May 24, 2010**

**I. Welcome and Introductions**

The Executive Committee commenced its meeting via telephone at 11:00 a.m. Eastern Time on May 24, 2010. The following participated:

<b>Name</b>	<b>Affiliation</b>	<b>Name</b>	<b>Affiliation</b>
Joe Garrett	AL	<b>Private Sector/Other</b>	
Ray Hirsig	CA BOE	Beth Cooley	COST
Richard Moon	CA BOE	Todd Lard	COST
Roxie Huber	CO	Karen Boucher	Deloitte
Steve Cordi, Chair	DC	Ferdinand Hogroian	PricewaterhouseCoopers
Ed Many	GA	[unrecorded]	Walmart Stores
Rob Carter	KY		
Donna Donovan	MI		
Alana Barragán-Scott	MO	<b>MTC Staff</b>	
Wood Miller	MO	Ken Beier	Greg Matson
Dan Bucks	MT	Roxanne Bland	Shirley Sicilian
Dave Armour	NM	Joe Huddleston	Elliott Dubin
Cory Fong	ND	Les Koenig	Bill Six
Elizabeth Harchenko	OR	Thomas Shimkin	
Chris Coffman	WA		

Following the introduction of attendees, the Chair noted that a quorum was present.

**II. Public Comment Period**

There were no public comments during this segment of the meeting.

**III. Approval of Minutes of Executive Committee Teleconferences on January 21, 2010 and April 7, 2010**

Ms. Harchenko moved for acceptance of the minutes from the January 21, 2010, and April 7, 2010, teleconferences. The motion was passed by unanimous voice vote.

**IV. Report of the Chair**

The Chair reported that Tim Russell had resigned as Vice Chair of the Commission to take a position as a probate judge. The Chair has appointed Corey Fong, North Dakota Tax Commissioner to serve as a replacement.

**V. Report of the Treasurer**

**A. Financial Report through April 30, 2010**

Ms. Donovan presented the report, noting that expenditures are lower than expected in almost all categories, and the shortfall in membership assessments is due to Wyoming no longer being a Sovereignty Member. In addition, she noted that Audit Program fees are lower because of Hawaii's departure and that total Nexus Program fees are lower since Rhode Island and Wyoming are no longer in the program. She also explained that training program revenues and expenses are lower than expected and that there will be additional discussion of the fee structure at the annual meeting. She commended Joe and the MTC staff for control of the expenditure situation. Joe confirmed that a vacant part-time legal position will not be filled.

Ms. Huber moved for acceptance of the report. This was passed by unanimous voice vote.

**B. 2010-2011 Revenue Budget Review and Approval**

Mr. Huddleston reminded the committee of the bifurcated approach to the budget, where the revenue side is reviewed at this meeting and the cost side is reviewed at a later meeting. He then reviewed the fee arrangement in the budget that calls for no increase in membership or Nexus Program fees and a 5-percent increase in Audit Program fees. He added that over the past fiscal year, some states have dropped their membership. However, Tennessee is joining the Audit Program with a three year phase-in period. Mr. Huddleston also stated that, at the summer meeting, he expects to recommend that an unfilled audit position be funded from reserves.

Mr. Bucks commented that the changes in fees were actually a decrease in total fee revenue for the Commission and that the proposal in almost all cases holds states harmless with respect to the loss of fees from others states. Mr. Huddleston confirmed that this perspective is correct.

Ms. Donovan moved for acceptance of the fee schedule as presented. This was passed by unanimous voice vote.

## **VI. Report of the Executive Director**

Mr. Huddleston commented on a few items in his written report—that he is watching our training program closely and that transfer of administration of the retirement plan to Daily Access has been completed. He added that he is working with Daily Access on additional fund options.

## **VII. Committee and Program Reports**

### **A. Audit Committee**

Mr. Koenig referred to the committee report from Janielle Lipscomb and mentioned recent discussions with the states on the proposed IRS Schedule for uncertain tax positions. He also commented that a bank and financial audit course will be developed this fall, and could be presented by the spring of 2011.

Mr. Bucks asked about security procedures for closed teleconference meetings. Mr. Huddleston responded that the Commission can monitor these calls when they are occurring, see who is participating, and eliminate participation by specific callers if necessary.

### **B. Nexus Committee**

Mr. Shimkin cited the increase in voluntary disclosure amounts in his report, which may be attributable to efficient processing of requests, taxpayer confidence in our ability to process disclosures in a confidential manner, and state litigation on particular issues.

### **C. Uniformity Committee**

Ms. Sicilian reported that the committee has twelve active projects, and noted that three Bylaw 7 surveys have been sent to the states. One of these has passed. In addition, there have been 11 responses on the Section 18 regulation revision, and the vote on the hotel intermediary proposal is currently 8 Yes, 5 No, and 1 abstention.

### **D. Litigation Committee**

Ms. Sicilian reported that the committee has held two in person meetings and three teleconferences. In response to a question from Ms. Harchenko, she reported that MTC has been involved in the FTA legal teleconferences. Mr. Huddleston added that the purpose of the FTA sessions was to inform that group on topics of interest for presentation topics at its meetings.

### **E. Technology Committee**

Mr. Matson reported that there had been responses from three vendors on a request for information on audit program software. He added that the Technology Committee session at the annual meeting will be used to talk about these proposals and other current projects. In response to a comment from Mr. Bucks, Mr. Matson noted that almost all technology committee meetings occur by teleconference with one in-person session at the annual meeting.

In response to a question on the level of technological expertise that is needed by the chair of this committee, Mr. Huddleston stated that a broad understanding of technology applications is needed and not necessarily specialized knowledge of technology and software.

### **F. Training Program**

Mr. Beier provided an overview of training report. Ms. Harchenko noted that while the states still need training, that she expects travel expenditures to be constrained for 3-4 more years. She suggested that technology could be used to support remote learning and suggested a high-level presentation of options for this. Mr. Huddleston responded that we will have a review of these options at the annual meeting.

## **VIII. Uniformity Proposals before the Executive Committee**

### **A. Uniformity Recommendations for Review**

There were none to be reviewed at this meeting.

### **B. Hearing Officer Recommendations for Consideration**

1. Repeal of Guideline Regarding Applicability of Sales and/or Use Tax to Sales of Computer Software

Ms. Bland explained her recommendation as hearing officer—that the guidelines be repealed. Mr. Fong moved that recommendation be accepted and moved forward to a Bylaw 7 survey. This passed by unanimous voice vote.

2. Model Mobile Workforce Withholding Statute

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Ms. Sicilian, the hearing officer for this proposal, explained the work on the model statute over the past year and reviewed the hearing officer's report, which made

the following suggestions: add an explicit retention of taxing jurisdiction to the first section, and clarify the individual income tax section for the key employee item.

Ms. Sicilian provided a brief overview of features of the model statute, and noted that it does not affect jurisdiction to tax. She added that public comments were received from: Boerio and Co. (a CPA firm), Council on State Taxation, the Massachusetts Department of Revenue, the Missouri Department of Revenue, and the Montana Department of Revenue.

In response to a question from Ms. Harchenko on the attention to the effect of the proposal on small businesses, Ms. Sicilian commented that one of the criteria for development of the proposal was ease of administration for employers, and that significant input had been received from the COST and the American Payroll Association. Ms. Harchenko also asked about reciprocity and whether the statute would only apply to states that have adopted it. Ms. Sicilian explained that the proposal requires reciprocity – nothing changes relative to another states' residents unless that other state has enacted substantially similar exemptions or doesn't have an individual income tax.

Ms. Harchenko then moved addition of the suggested changes clarifying the proposal that was recommended in the hearing officer's report. This was passed, with a yes vote from all states present, except Montana, which abstained.

Ms. Harchenko then moved that the model workforce proposal be sent to the states for a Bylaw 7 survey. Mr. Bucks then reviewed some concerns he expressed in his public comments to the hearing officer, and some additional concerns he raised in an email to the executive committee. His primary concern is that the proposal reduces the authority of states over source taxation. He presented a scenario where a taxpayer could form a Nevada corporation with 14 or 15 LLCs that could provide services by individuals in non-income tax states. He further explained that noncompliance by non-resident workers is about 70 percent, and that with a lot of effort, this could be reduced to about 35 percent. He sees the proposal as a roadmap for further erosion of tax compliance by small business and urged that the proposal be returned to the hearing officer or the Uniformity Committee before it is presented to the membership. In response to a comment from Mr. Fong, he stated that we should reexamine the income thresholds, and reporting requirements, in light of Nevada corporate registration requirements, reciprocity with non-income tax states, and aggregation of compensation from multiple sources.

Ms. Harchenko withdrew her motion.

Mr. Bucks moved that the proposal be returned to the Uniformity Committee for further consideration. In response to a question from Mr. Fong on the possible timing of federal action in this area, Mr. Huddleston said that he is not comfortable predicting when Congress may take action, but that Congressman Johnson from Georgia wants the federal bill to move to markup. Mr. Bucks commented that the MTC should do the best policy

job that it can, instead of providing a faulty blueprint for markup in Congress. The roll call vote was as follows:

Yes—CO, MI, MO, MT, OR, ND

No—AL, DC, NM

Abstentions—CA, WA

The motion passed. Mr. Bucks then thanked the membership for their consideration in this matter. Mr. Garret asked if the committee was sending this back to the Uniformity Committee with specific instructions. The Chair indicated that there were none. Mr. Bucks suggested that the staff circulate a list of topics for discussion.

**IX. Election of Vice Chair and Executive Committee Member for Unexpired Term Following Vacancy by operation of Bylaw 3(c)(1).**

Ms. Huber moved that Corey Fong fill the position of Vice Chair until the annual meeting. He was elected by unanimous voice vote.

**X. Future Meeting and Event Plans**

Joe Huddleston noted that the Executive Committee will meet during the week of June 28 to review the expenditure side of the budget and review resolutions for the annual meeting of the Commission. He then reviewed the schedule for the annual meeting in Hood River, Oregon, and confirmed that the strategic planning will be discussed during the committee's meeting on Thursday, July 29.

**XI. Adjournment**

The meeting was adjourned at 12:52 pm.