



MULTISTATE TAX COMMISSION

Working Together Since 1967 to Preserve Federalism and Tax Fairness

Uniformity Committee Report to Executive Committee

November 2008

The MTC Uniformity Committee is chaired by Ted Spangler, Idaho. Wood Miller, Missouri, chairs the Income and Franchise Tax Subcommittee and Richard Cram, Kansas, chairs the Sales and Use Tax Subcommittee. The Committee held meetings on July 27 and 28, 2008. Over the two subcommittee and full committee meetings, 71 attendees were present, representing 29 states, a number of taxpayer representatives, the state tax press, and MTC staff either in person or via teleconference.

The Committee members discussed litigation and legislation currently pending or recently enacted and cases recently decided in each of their states. In addition, the committee had an opportunity to discuss pending federal legislation affecting state income or sales and use tax. The Committee took action on its current projects as follows:

- ***Model Regulation Regarding Accommodations Intermediaries.*** The Sales and Use Tax Subcommittee reviewed a draft proposal under which an accommodations intermediary is responsible for collecting all applicable taxes imposed on the room charge (i.e., the full retail price charged to the purchaser for the use of the accommodations), and for remitting tax on its booking fees charged to the purchaser (defined as the room charge less the discount room charge) to the state and on its discount room charge (defined as the amount paid by the accommodations intermediary to the accommodations provider) to the accommodations provider. The Subcommittee voted to pass the measure on to the Full Uniformity Committee. The Uniformity Committee voted to direct staff to make a special effort to receive input from local governments. The local governments indicated an intent to comment, so the Uniformity Committee met by teleconference and voted to return the project to the Subcommittee to receive additional information from the locals.
- ***Model Statutes on Administration of Certain Aspects of Telecommunication Taxation.*** The Sales and Use Tax Subcommittee reviewed three models describing the simplified administration of local telecommunications taxes. Note that pursuant to the subcommittee's directive to the drafting group at its November 2007 meeting, the models focused on three possible mechanisms by which taxes might be collected. Model I is for a state imposed and administered tax. Model II addressed the instance in which tax is imposed by a local government, but the administration of such tax

rests with the state. Model III contemplates a scenario where tax is locally imposed and centrally administered pursuant to an agreement entered into by the local taxing authorities. The subcommittee directed the drafting group to flesh out Model II and to make an effort to receive local government input.

- ***Amendments to MTC Model Regulations for Section 18.*** The Income and Franchise Tax Subcommittee asked staff to survey its members regarding certain regulatory policy choices. The survey was conducted and responses circulated to the Subcommittee members. A Subcommittee meeting by teleconference was held October 14 to discuss the policy choices and provide direction to the drafting committee.
- ***Amendments to MTC Model Special Apportionment Rule for Financial Institutions.*** The Subcommittee has formed a work group to identify issues and propose solutions. The work group includes representatives from several states and industry, and met weekly for a number of months. The work group is now meeting monthly. Discussion is focused on issues with the Receipts Factor, and the Property Factor (SINAA).
- ***Project Regarding Income Earned by Non-Corporate Income Taxpayers Derived from an Ownership Interest in a Partnership or LLC.*** The Income and Franchise Tax Subcommittee heard presentations from representatives of the Insurance industry and from the Texas Comptroller's Office. The Subcommittee directed staff to prepare a memo listing all issues that have arisen recently in the context of corporate income taxpayers that have non-corporate income tax affiliates, and to list possible solutions.
- ***Comparison of MTC Model Sales Tax Related Rules with Streamlined Sales & Use Tax Agreement.*** The Sales and Use Tax Uniformity Subcommittee directed staff to prepare a memo identifying provisions in existing MTC model statutes and regulations that address issues which have now also been addressed in the Streamlined Sales & Use Tax Agreement. Where there are such provisions, the Subcommittee asked staff to determine whether the MTC model was consistent, or not, with the Streamlined Agreement.