



**Minutes of the Multistate Tax Commission Executive Committee Meeting
August 2, 2012**

Amway Grand Plaza
187 Monroe Ave. NW
Grand Rapids, Michigan

I. Welcome and Introductions

The Chair called the meeting to order at 8:30 a.m. The following persons attended the meeting either in person or *via telephone*.

Name	Affiliation	Name	Affiliation
Michael Mason	Alabama	Private Sector	
Robynn Wilson	Alaska	<i>Mitchell Bryk</i>	<i>Starwood Hotels</i>
Walter Anger	Arkansas	Dan DeJong	Tax Executives Institute
Tom Atchley	Arkansas		
Ben Miller	California FTB	<i>Terry Frederick</i>	<i>Sprint</i>
Pete Donnelly	Georgia	Amy Hamilton	Tax Notes
Kevin Wakayama	Hawaii	Todd Lard	COST
Richard Cram	Kansas	Nora Nakamiko	Bureau of National Affairs
<i>Rob Carter</i>	<i>Kentucky</i>		
Glenn White	Michigan	Diann Smith	Sutherland
Alana Barragán-Scott	Missouri		
Wood Miller			
Dan Bucks	Montana		
Cory Fong (Chair)	North Dakota		
Emily Thompson			
Donnita Wald			
Matt Peyerl		MTC Staff & Consultants	
Myles Vosberg		Ken Beier	Greg Matson
Rebecca Abbo	New Mexico	Elliott Dubin	Shirley Sicilian
Demesia Padilla		Joe Huddleston	William Six
Lennie Collins	North Carolina	Harold Jennings	Jim Rosapepe, Patuxent
Gary Humphrey	Oregon	Les Koenig	
Nancy Prosser	Texas		<i>Lenn Lucchi</i>
Bruce Johnson	Utah		<i>Patuxent</i>
Russ Brubaker	Washington		

II. Public Comment Period

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

III. Approval of the Minutes of the Executive Committee Meeting on May 10, 2012

Alana Barragán-Scott moved that the Minutes of the Executive Committee meeting of May 10, 2012 be approved. The minutes were approved unanimously.

IV. Report of the Chair

Cory Fong expressed his pleasure that Minnesota and New Mexico were joining the executive team. He added that most of his comments would take place during the portion of the meeting devoted to strategic planning.

V. Report of the Treasurer

A. Financial Report for the Period July 1, 2011 – June 30, 2012

Joe Huddleston delivered the report for Treasurer Julie Magee, and cited the details of savings achieved during the past fiscal year. In response to a question from Gary Humphrey of Oregon regarding fund balances, Mr. Huddleston stated that the Commission does not have a target for reserves and that the surplus for the past fiscal year was extraordinary. He said that being able to put around \$150,000 into the reserve is typical.

Dan Bucks provided his perspective on the size of Commission reserves, based on the experience of a decade ago when there were questions about the size of the reserves. He explained that while the reserves are larger now, the situation is similar. The recommendation of the committee that looked at the level of reserves, at the time, was that the level of reserves should reflect the risks faced by the Commission. He added that states have reserve funds for a variety of purposes, and, under the Multistate Tax Compact, the Commission cannot commit the full faith and credit of the states. He concluded by saying that, in his judgment and in the context of the current *Gillette* case in California, the reserves continue to be appropriate.

Michael Mason moved that the Report of the Treasurer be approved. The motion carried unanimously.

VI. Report of the Executive Director

Mr. Huddleston noted that activities for the past year were reported at the meeting of the Commission on the previous day and that the events on Wednesday evening went very well.

VII. Strategic Planning Report

Mr. Fong invited Elizabeth Harchenko, the consultant to the Commission for the strategic planning effort, to the table, and noted the work on strategic planning over the past 15 months. He explained that early on, the Steering Committee chose the path of strategic planning “light” that involved a review of the mission statement, development of statements of vision and values and defining goal statements that supported the mission, vision and values of the Commission. Nancy Prosser then reviewed the mission, vision, values and goals (MVVG) statements, noting that two of the goal areas—Engagement and Compliance were selected as the initial focus for the strategic planning effort. Mr. Fong noted that there is recognition that the Commission will need to focus on other goals as we move forward, but the two selected goals are critical for the Commission at this time.

Ms. Barragán-Scott reviewed work of the Engagement team and anticipated contacts with commissioners that will encourage their involvement with Commission. The work plan includes baselines and measures for the engagement goal, including meeting participation and involvement with the MTC Audit Program. In response to a comment from Mr. Mason, Mr. Fong welcomed suggestions on the engagement process, including aligning the contacts by region.

Mr. Fong noted that the work of both goal teams is being coordinated by Ms. Harchenko. He then reviewed progress of the Compliance team, commenting that this goal directly affects revenue for the states. The initial guidance to the work team was to increase the number of audits for the states. After some initial questions from the Compliance Team to the Steering Committee, nexus program activities were dropped from their consideration, and additional members were added to the team, which was having a work session starting at 1 pm on August 2. Mr. Fong then mentioned the importance of the other goals—vitality of the Commission and uniformity, and that he was glad to see the Nexus and Uniformity committees taking up discussion of these areas. He also expressed his anticipation that strategic planning will become a regular part of business process at the MTC and will affect how the Commission conducts its business and how state personnel interact with the MTC staff.

In response to the question of how the goal efforts will affect the internal operations, Mr. Huddleston stated that the engagement steps are being integrated into the MTC calendar and that the work of both the compliance and engagement teams is important since they will help the Commission do what is important for the member states.

Mr. Fong then turned to Ms. Harchenko who explained to the group that their executive leadership is open to learning and focusing on a common vision for the organization. She added that the work of the engagement and compliance groups is helping to build institutional knowledge and that a focus on planning as a business process will help commissioners let their staff members know about priorities.

Robynn Wilson asked about when we will “circle back” to some of the weaknesses that were identified in the initial strategic planning information gathering. Ms. Harchenko responded

that the goal teams have those initial documents, that this information has been shared with the Audit Committee chair, and that in the fall, we will review the goals and how we are responding to these initial assessments. She added that the strategic planning effort should also look at ongoing changes and threats as they emerge. She also noted that the two reports—on MVVG and engagement activities will be on the MTC website.

Mr. Bucks then moved that the Strategic Planning work to date be approved. The motion carried unanimously.

VIII. Uniformity

A. Uniformity Proposals pending before the Committee

1. Model Sales and Use Tax Notice and Reporting Statute

Shirley Sicilian provided an update on the Colorado case—*Direct Marketing Association v. Barbara Brohl*, which is a permanent injunction against Colorado and is now before the U.S. Court of Appeals for the 10th Circuit.

2. Recommended Amendments to Compact Article IV—

- a. Section 17, Sales factor sourcing for services and intangibles**
- b. Section 1(g), Definition of “sales”**
- c. Section 1(a), Definition of “business income”**
- d. Section 9, Factor weighting**
- e. Section 18, Distortion relief**

Mr. Fong noted that Ms. Sicilian and Mr. Huddleston would be at an upcoming NCSL meeting to talk about the revisions to Article IV. Bruce Johnson commented positively on the opportunity to address the broader NCSL group and complimented the Uniformity Committee for its work on the Article IV revisions. He added that it was appropriate to keep this proposal at the Executive Committee level.

3. Other Uniformity Matters

Wood Miller commented on the positive role of online sessions and editing to help accomplish the work of the Uniformity Committee

IX. Other Reports

Jim Rosapepe and Lenn Lucchi (via telephone) provided an update on congressional activity. Mr. Rosapepe anticipates that state and local tax issues will not get much attention prior to the general election, but that things will get more interesting after the election, when Congress will have to deal with expiring tax cuts and sequestration as well as the debt ceiling. He added that with serious attention to federal tax and budget issues, there is an opportunity for

introduction of Business Activity Tax legislation; and urged states to frame this issue with the message of “don’t damage the states when you deal with federal issues.”

Mr. Lucchi reported on the House of Representatives hearing held last week on the Marketplace Equity Act which would not recognize the Streamlined Sales and Use Tax Agreement, and has a lot of support from members. He also reported that the cell phone tax fairness act has passed the House on a voice vote, but has not been acted on in the Senate. Mr. Rosapepe added that if there is not a major accomplishment on balancing the federal budget at the end of this session, there may be major attention to federal tax reform in the next Congress.

After citing problems with nondiscrimination provisions in the Internet Tax Fairness Act and potential federal legislation, Mr. Bucks explained that detailed analysis of the cell phone tax fairness bill and other potential legislation is needed to help the states assess their potential impact. Mr. Fong and Mr. Huddleston concurred that it would be helpful to see more detailed analysis of federal legislative proposals and Ms. Sicilian agreed that MTC staff could support this work.

X. Upcoming Meetings and Events

Mr. Huddleston reported on currently scheduled meetings:

- December 2012 in Denver – Uniformity and Executive Committees
- March 2013 in St. Louis
- 2013 Annual Meeting – possibly in San Diego.

In response to a request from Mr. Huddleston for a state to host the 2014 annual meeting, Demesia Padilla offered to host the meeting in New Mexico. Following a question, Mr. Huddleston confirmed that the Executive Committee does not typically meet in person during the month of March.

Mr. Fong and Mr. Huddleston complimented Michigan for finding an excellent venue and providing outstanding support for the current meetings.

The Executive Committee entered closed session at 10:27 a.m.

XI. Resumption of Public Session and Reports from Closed Session

The open session resumed at 11:37 a.m. There were no reports from the closed session.

XII. Adjournment

The meeting was adjourned at 11:41 a.m.