



Minutes of the Multistate Tax Commission Executive Committee Meeting
July 25, 2013
San Diego, California

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
Julie Magee, Chair	Alabama	Julie Anderson	Oregon
Robynn Wilson	Alaska	Gary Humphrey	Oregon
Walter Anger	Arkansas	Nancy Prosser	Texas
Tom Atchley	Arkansas	Bruce Johnson	Utah
Stephen Cordi	District of Columbia	Carol Nelson	Washington
Peter Donnelly	Georgia	Tim Jennrich	Washington
Phyllis Abe	Hawaii		
Leticia Jacobs	Hawaii	Public Attendees	
Madelaina Lai	Hawaii	Deborah Bierbaum	AT&T
Lynn Lyckman	Hawaii	<i>Tim Deer?</i>	<i>CCH</i>
Kevin Wakayama	Hawaii	Saabir Kapoor	Sutherland
Richard Jackson	Idaho	Laura Mahoney	BNA Daily Tax Report
Richard Cram	Kansas	Greg Turner	Council On State Taxation (COST)
<i>Rob Carter</i>	Kentucky	Todd Lard	Sutherland
John Mollenkamp	Missouri	Robert Montellione	Prudential Financial
<i>Wood Miller</i>	Missouri	<i>Amy Hamilton</i>	<i>State Tax Notes</i>
Lee Baerlocher	Montana	Jamie Fenwick	Time Warner Cable
Mike Kadas	Montana	Dan Bucks	
Gene Walborn	Montana		
Rebecca Abbo	New Mexico	MTC Staff and Consultants	
Demesia Padilla	New Mexico	Ken Beier	Gregory Matson
Lennie Collins	North Carolina	Roxanne Bland	Jim Rosapepe
Cory Fong	North Dakota	Lila Disque	Thomas Shimkin
Matt Peyerl	North Dakota	Elliott Dubin	Shirley Sicilian
Emily Thompson	North Dakota	Joe Huddleston	Jeffrey Silver
Myles Vosberg	North Dakota	Sheldon Laskin	William Six
Donnita Wald	North Dakota		

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 9, 2013

Cory Fong (North Dakota) moved that the Minutes of the Executive Committee meeting of May 09, 2013 be approved. The minutes were approved unanimously.

IV. Report of the Chair

Julie Magee thanked the attendees for their support.

V. Report of the Treasurer

Joe Huddleston delivered the Financial Report for the Period July 1, 2012 – June 30, 2013. Mr. Huddleston noted anticipated deficit in the budget has actually turned into a small surplus.

Ms. Padilla (New Mexico) moved that the Report of the Treasurer be approved. The motion carried unanimously.

VI. Report of the Executive Director

A. Follow up on Discussion of Multi-state Transfer Pricing Audits

Mr. Huddleston noted his report on this topic was included with his comments to the Commission on the previous day.

B. NCLS's State Declared Disaster Model Language (Facilitating Business Rapid Response to State Declared Disasters Act)

Deborah Bierbaum explained the purpose of the model act—to suspend regulatory and tax requirements for in-state affiliates that are engaged in utility repairs and similar work during and after a natural or man-made disaster. The provisions of the act apply under a declaration of emergency by the President, Governor or other official designated in the legislation. In response to a question from Joe Huddleston, Ms. Bierbaum stated that she is asking for a resolution that encourages states to consider the legislation, but does not constitute an endorsement of the legislation. In response to a question from Demesia Padilla, Ms. Bierbaum confirmed that the legislation covers licensing requirements, such as those for plumbers. In response to a question from Gary Humphrey, Ms. Bierbaum indicated that the suspension of requirements is for 60 days or 10 days after a disaster is over. She added that her organization would like to see this passed in every state.

Following a motion from Bruce Johnson, the recommendation that state legislatures consider this legislation was passed unanimously. This concluded the report of the Executive Director.

VII. Strategic Planning

Cory Fong provided an update on strategic planning activities, including engagement activities that have been institutionalized under the vice chair and two audit projects—Audit Nominations, which focused on a shortening of the nominating process, and Early Audit Closure, which provides for early closure of MTC audits that are considered to have little potential. He then described upcoming efforts, including image enhancement and the uniformity process. He explained that the Uniformity project will focus on increasing the adoption of MTC model regulations and statutes, and that this will involve considerable outreach work. He also mentioned that the strategic planning group has developed an annual calendar with key tasks, such as information gathering and project assessment. He added that a charter is being developed which will be brought to the Executive Committee for approval at a future meeting. He also explained that the past chair will serve as chair of the Strategic Planning Committee, other officers will be included, and that the group is also looking for new faces. He concluded his comments by stating that the incremental, or limited approach to strategic planning has been very valuable, and commended Elizabeth Harchenko for guidance on the strategic planning effort.

Joe Huddleston commended Cory for his leadership on this effort and noted the significant results to date. Julie Magee, reflecting on her own involvement with this effort, recommended that others get involved as well.

VIII. Uniformity

A. Final Project Report for the Model Statute for Partnership or Pass-Through Entity Income Ultimately Realized by an Entity That is Not Subject to Income Tax

Sheldon Laskin referred to the extensive work on this project, which is concluding with a final report to the Executive Committee. Bob Montellione acknowledged all of the hard work that went into this project, and cited the contributions by Sheldon Laskin and Shirley Sicilian.

B. Progress Report on Hearing Officer Report for Recommended Amendments to Compact Article IV [UDIPTA]

Shirley Sicilian indicated that the hearing officer for the March 2013 hearing is working hard on his report, and that the report will be posted on the MTC website as soon as it is available.

C. Model Sales and Use Tax Notice and Reporting Statute – Status of Litigation Report

Shirley Sicilian noted that the model statute will be brought to the committee following a decision in *Direct Marketing Association v. Barbara Brohl* in the U.S. Court of Appeals for the 10th Circuit, which is still pending.

D. Other Uniformity Matters

Wood Miller reported on Lila Disque's presentation to the Sales and Use Tax Subcommittee on Marketplace Fairness Act. The subcommittee and the full Uniformity Committee are recommending that a project be adopted to develop model state requirements for implementation of the Marketplace Fairness Act, including notice and other requirements. Following comments from Rich Johnson that legislators would love to see something like this, Nancy Prosser moved that the authorization of this project. This was passed unanimously. Following comments from Cory Fong, Joe Huddleston acknowledged that there are quite a few "moving parts" with this legislation and its potential implementation, and that the Commission staff will keep this in mind as we move forward with this.

IX. Other Reports

A. Approval of the Nexus Committee's Revised National Nexus Program Charter

Thomas Shimkin presented the Nexus Committee's revised Charter to the Executive Committee for approval. He explained that the revision kept the fundamental mission of the program but updated specifics to take into account changes since the last revision eleven years before. The Executive Committee approved the Charter unanimously on Bruce Johnson's motion with an amendment to note that the Nexus Committee meets "periodically", not necessarily twice annually.

B. Other Information from Committees and Programs

There were no other reports from committees or programs.

X. Upcoming Meetings and Events

Joe Huddleston referred to the calendar of events, including the Fall Committee meetings in December in New Orleans and the 2014 annual meeting in New Mexico. Following some discussion of the scope of work required to host an annual meeting, John Mollenkamp offered to host the 2015 annual meeting in Missouri and Carol Nelson offered to host the 2016 annual meeting in Washington.

----- CLOSED SESSION -----

Reports on the following closed sessions are reported separately:

- I. Nexus Committee & National Nexus Program
- II. Audit Committee & Joint Audit Program
- III. Items Related to Pending Litigation & Commission Personnel Matters

XI. Resumption of Public Session and Reports from Closed Session

The open session resumed at 10:20 a.m. There were no reports from the closed session.

At the suggestion of Steve Cordi, Jim Rosapepe provided an update on federal issues. He reported that Senator Baucus and Representative Camp are serious about pursuing tax reform, and that it will play out in the context of the budget “deadline” at the end of September. A second significant area is Streamlined Sales Tax. He expects a bill in the house from Representative Goodlatte that differs from the Senate-passed Marketplace Fairness Act, and there are lots of parties interested in adding federal preemptions for other state tax issues in the bill. He added that the National Governors Association (NGA) is an ally on keeping business activity tax preemptions out of the bill, adding that a good streamlined bill plus bad preemptions does not make good sense. He added that he thinks the “big box” retailers understand this perspective. Nancy Prosser added that NGA may support some type of “bundling”—noting that extension of the Internet Tax Freedom Act is also pending. Jim also noted the focus on immigration reform this year, which may push the streamlined issue into next year.

Julie Magee noted that MTC staff members are a valuable resource for visiting congressional offices.

XII. Adjournment

The meeting was adjourned at 10:50 a.m.