



Report of the Litigation Committee

August 4, 2021

Donnita Wald (North Dakota), Chair

The Litigation Committee has traditionally held in-person training and informational sessions (commonly referred to as roundtables) 2-3 times a year. These roundtables give state tax attorneys employed by revenue departments and attorney general offices an opportunity to discuss current and recent tax cases and key litigation issues and to share ideas with colleagues in other states. Due to the pandemic, the roundtables were shifted online this past year.

The first virtual roundtable was held on July 27, 2020. It included both in-depth presentations on significant state tax cases around the country and shorter presentations by attendees. Since then, the Litigation Committee has held four additional virtual roundtables: two on income and other business activity taxes (October 21, 2020 and March 25, 2021) and two on sales and other transaction taxes (December 1, 2020 and April 8, 2021). Attorneys from around three dozen jurisdictions attended each roundtable.

At each roundtable, the chair and vice-chairs of the Committee and MTC staff provided background information and history about the Committee and encouraged participation by all state tax attorneys but in particular by attorneys who were new to their position in state tax. Nancy Prosser, MTC General Counsel, introduced the members of the MTC legal team. Brian Hamer, MTC Legal Counsel, has provided the primary staff support for the Committee.

On May 19, 2021, the Litigation Committee held a special training and informational session, which was captioned: State Tax Attorneys Discuss Their Most Memorable Cases. This virtual program included presentations by ten of the country's most experienced public sector SALT attorneys. They described the challenges they faced, strategies and tools they employed, and lessons learned. The presenters included: Antonio Ferachi, Aaron Long, and Miranda Scroggins (Louisiana); Brett Goldberg (Massachusetts); Christine Mesirov (Ohio); Peter Roth and Derek Kline (New Hampshire); Dee Wald (North Dakota); and Ray Langenberg (Texas).

In the case of each of these sessions, attendance was limited to public sector tax attorneys in order to preserve confidentiality and attorney-client privilege. In accordance with the MTC's public participation policy, they were not decision-making meetings; rather they were opportunities for states to share information and ideas.

On June 9, 2021, the Committee held a public, online meeting to consider revisions to its charter. Meeting participants reviewed proposed changes and then voted to approve the changes.

The updated charter has been forwarded to the Executive Committee for its review and consideration at its next meeting.

The number of public sector tax attorneys participating in MTC events has grown substantially over the past year. To ensure that interested state attorneys are aware of Litigation Committee programs and other MTC programs that may be of interest (and also to identify attorneys that may be resources to attorneys in other states), MTC legal staff initiated a project this past year to update and expand the Litigation Committee attorney roster.

Derek Bell, one of the Committee's two vice chairs, recently resigned his position on the Committee due to his appointment to a non-attorney management position at the Montana Department of Revenue. Jessica Brown, the other vice chair, just announced that she will be leaving the Washington, D.C. Office of Tax and Revenue, so she also will be resigning her position on the Committee.