



MULTISTATE TAX COMMISSION

To: MTC Uniformity Standing Subcommittee
From: Maria Sanders, Chair
Helen Hecht, Uniformity Counsel
Subject: June 16, 2022 Meeting – DRAFT
Date: July 21, 2022

I. Welcome and Introductions – Laurie McElhatton, Chair

Members of the Subcommittee Present (in addition to the chair):

- Michael Hale (Kansas)
- Michael Fatale (Massachusetts)
- Ray Langenberg (Texas)
- Josh Pens (Colorado)
- Phil Skinner (Idaho)
- Maria Sanders (Missouri – signed in after roll call)

Others in Attendance:

Angela Pitale, Nextera	Kelsey Gallacher, Utah
Angie Hillas, Utah	Kevin Branscum, Kentucky
Argi O'Leary, Ryan	Kurt Konek, Iowa
Brad Asher, Kentucky	Lila Disque, MTC
Brandi Drake,	Matt Tidwell, Alabama
Brian Hamer, MTC	Melissa Russell
Bruce Fort, MTC	Michael Fatale, Massachusetts
Chris Barber, MTC	Mikey Lucas, Oregon
Christina Hall, Alabama	Missy Gillis, Alabama
Clinton Singletary	Nancy Prosser, MTC
Danyelle Dukes	Nick Bemberg, Iowa
David Merrien, Montana	Olga Kourdova, Charter
Deborah Bierbaum, Multistate Assoc.	Richard Cram, MTC
Genevieve Traub, Oregon	Stacey Greaud, Louisiana
Hannah Prengler	Scott Peterson, Avalara
Hardik Darji	Sin-Lei



Helen Hecht, MTC James Ford Jonathan White, MTC Joseph Royston, Oregon Katie Lolley, Oregon Keith Davis	Susan Jakonis, Alaska Tiana Slaney, Iowa Tom Shaner, Idaho Tyler Macik Valerie Newson, Utah Zach Waldmeier, Iowa
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II. Initial Public Comment – There was no initial public comment.

III. Overview of the Models and Related Developments –

Helen Hecht, MTC, put up slides for the meeting and gave a report. (These slides are available on the Standing Subcommittee project page on the MTC website, here: <https://www.mtc.gov/Admin/cmsadministration.aspx#95a82f36-9c40-45f0-86f1-39aa44db9a77> – See “Overview of Models and Related Developments”). She noted the following:

- The Uniformity Committee had asked that the Standing Subcommittee review the current model apportionment regulations and determine if there are any updates or other projects that are needed. For example, we have had general commentary from some in the public that market-based sourcing rules may not address issues sufficiently.
- The report listed the model apportionment rules that the MTC has issued over the years and the historical context that may have affected those rules.
- As far as the special industry rules are concerned, they typically applied a type of market-based sourcing for the sales or receipts factor.
- The most recent work done by the MTC on model apportionment regulations involved the MTC’s draft of general market-based sourcing statutory and regulatory language. The final regulations were adopted by the MTC for recommendation to the states in 2017.
- The report also reviewed how some of the special industry regulations work and whether they overlap with the general regulations. In general, the special industry rules would take precedence when adopted by a state. If they do not apply, then the general apportionment rules would apply.

- She noted one issue has been raised concerning the special industry rule for trucking and whether it should apply to delivery services. Also, the special industry rules for sourcing advertising revenue for publishers is narrow and applies to printed material. The general rules may adequately cover other types of advertising but some states may not have addressed the issue in the way the models do. There is a similar issue with respect to broadcasting which was defined to cover TV and radio. Again, the general regulations are consistent and may lead to the same result as the broadcasting audience factor—but the connection is not entirely clear without cross-referencing.

IV. Discussion of Process for Review

Helen noted there were some general topics concerning process that the subcommittee might consider, including:

- Should the MTC continue doing industry rules or address specific situations as part of the general rules?
- Should there be basic conforming changes to special industry regulations to address changes in the general rules, e.g. the language addressing “receipts” versus “sales factor”?
- Have we identified all potential conflicts or gaps between special industry rules and general rules?
- Might issues be addressed with minor change or drafters' notes?
- Have we identified all issues that have been raised with respect to regulations?
- Can we identify all clarifications that might be necessary based on a review?
- What about the need for new Sec. 18 regulations?

Bruce Fort, MTC commented that it might make sense to consider new Section 18 regulations and especially the use of alternative apportionment, noting that California had done work in this area. He also noted that we might want to consider how industries have changed, for example, the fees charged by airlines. And he also believed the change from three-factor to single sales factor apportionment was important.



Michael Fatale noted that when Massachusetts adopted their general market-based sourcing regulations, they looked back on special industry regulations to see how they fit into the scheme of the new regulations. They decided to retain three of those special industry regulations and modified three of them, putting the sales factor rules into the new rules and retaining property and payroll factors, since they are still a three-factor state.

Josh Pens, Colorado, commented that he liked Bruce's point that we may want to consider standards for alternative apportionment. Whatever special regulations are retained, they have to be consistent with the standards for alternative apportionment generally, unless they are just a more detailed set of rules for certain situations.

Helen commented that some issues might also be addressed not by changing the models but simply providing more information about the models on the website.

Ray Langenberg, Texas, asked what the role of the subcommittee was in doing the work that might be involved. Should the subcommittee try and undertake some of this work or recommend to the committee that a special work group be established for this purpose. Helen noted that it probably depends on what suggestions or proposals come out of the review. There may be only minor issues to address, or things that staff can address with the subcommittee's review. Or there may be more substantive issues that will need further work and discussion. She proposed to do some additional work and return to the subcommittee at its next meeting with a better answer to this question.

V. New Business

There was no other new business.

VI. Adjourn