



MULTISTATE TAX COMMISSION

MINUTES of
Uniformity Committee Meeting
Monday, July 28
3:30 p.m. Mountain Time

I. Welcome and Introductions

Wood Miller, Chair of the Uniformity Committee, (MO) opened the meeting at 3:30 p.m..
 The following persons were in attendance:

Craig Banks	Alabama Department of Revenue	Ben Abalos	Multistate Tax Commission
Holly Coon		Ken Beier	
Michael Gamble		Roxanne Bland	
Kelley Gillikin		Lila Disque	
Mary Majors		Elliott Dubin	
Rouen Reynolds		Helen Hecht	
Christy Vandevender		Joe Huddleston	
Robynn Wilson	State of Alaska Department of Revenue	Sheldon Laskin	
Tom Atchley	Arkansas Department of Finance and Administration	Thomas Shimkin	
Scott Fryer		Jeffrey Silver	
Deanna Munds-Smith		Bruce Fort	
Grant Sullivan	Colorado Attorney General's Office	Janice McGee	New Mexico Tax & Revenue Department
Charles Wilson	DC Office of Tax and Revenue	Myles Vosberg	North Dakota Office of State Tax Commissioner

Phil Skinner	Idaho Attorney General / State Tax Commission	Matt Peyerl	
Michael Chakarun		Christi Daniken	Oregon Department of Revenue
Richard Jackson		Gary Humphrey	
Randy Tilley		Nancy Prosser	Texas Comptroller of Public Accounts
William von Tagen		Rusty Johnson	
Steve Wynn		Tommy Hoyt	
Richard Cram	Kansas Department of Revenue	Frank Hales	Utah State Tax Commission
Jennifer Hays	Kentucky Legislative Research Commission	Bruce Johnson	
J. A. Cline, Jr.	Louisiana Department of Revenue	Gil Brewer	Washington Department of Revenue
Leonore Heavey		Chris Coffman	
Wood Miller	Missouri Department of Revenue	Deborah Bierbaum	AT&T
Lee Baerlocher	Montana Department of Revenue	Karl Frieden	Council On State Taxation (COST)
Eugene Walborn		Greg Turner	
		Karen Boucher	Deloitte Tax LLP
		Shirley Sicilian	KPMG LLP
		Bill Smith	Organization of MISO States
		Jonathan Gerth	PRA Government Services, LLC
		James Green	Revenue Discovery Systems
		Lee Sheppard	Tax Analysts
		Jamie Fenwick	Time Warner Cable
		Christopher Rants	Verus Financial
		Ben Miller	N/A
Appearing by Phone:			
Stewart Binke	Michigan Department of Treasury	Donnita Wald	North Dakota Office of State Tax Commissioner

Tripp Baltz	Bloomberg BNA	Catherine Carlos	New Mexico Tax & Revenue Department
Representative	CCH	Dwayne Bales	Oregon Department of Revenue
		Jeff Henderson	

II. Approval of Minutes of In-person Meeting, March 12, 2014

Chris Coffman (WA) moved to approve the minutes. The minutes of the March 12, 2014 meeting were approved by unanimous voice vote

III. Public Comment Period

There were no comments.

IV. Presentation on Cloud Computing

Carolynn lafrate Kranz, Chief Operating Officer of Industry Sales Tax Solutions, provided background on what cloud computing is today and issues that are being seen as far as taxation. There are three principle service models of cloud computing: software as a service; platform as a service; and infrastructure as a service. Ms. Kranz mostly works with clients in high-tech industry in her consulting practice, and has often found that there is not clear guidance as far as taxation.

**V. Reports and Possible Action
(Sales/Use Tax Subcommittee)**

Richard Cram, Chair of the Sales and Use Tax Subcommittee, (KS) reported on the subcommittee meeting. Some changes were recommended regarding the nexus model statute, which will go back to the work group. There was one action item: a resolution to the executive committee recommending adoption of the wording: encourage states to adopt the Model ABA Act regarding False Claims and Overpayment. This will be passed on for consideration. Mr. Coffman moved to forward the resolution. The motion passed with 14 in favor and 1 opposed.

(Income/Franchise Tax Subcommittee)

Robynn Wilson, Chair of the Uniformity Subcommittee on Income & Franchise Tax, (AK) reported on the subcommittee meeting. The subcommittee heard presentations on three potential projects: trust residence, sourcing of electricity, and cloud computing. The subcommittee moved to create a work group to move forward with the trusts project. They decided to table the other two potential projects as secondary to the UDITPA resolutions. There were no action items.

VI. Consideration of Executive Committee Action on Uniformity Committee Recommendations to Hearing Officer's Report on Amendments to Art. IV (UDITPA)

There have been a few teleconferences regarding changes to the language pursuant to the Executive Committee's directions. The Hearing Officer report is first a memo summarizing the directions to the committee, and then a final draft dated July 16, 2004, that was produced by the work group. The proposed revisions are highlighted. The one substantive revision would be in 18(c) and there would be two proposed alternatives for the committee.

Ben Miller (appearing for himself) stated he submitted comments to the Uniformity Committee and executive committee, several of which concerned subsection b(1), to require state to adopt regula-

tions. He does not think that would be a good practice; often states are responding to things taxpayers are doing, and it's unreasonable to expect to have a regulation in place. For an example, he mentioned the treasury function, which the states have dealt with under section 18. With respect to subsection C, Mr. Miller agreed with the idea of burden of proof, but it would be appropriate to add language that there has been a showing for a need or necessity of regulation. Also, if a taxpayer has filed a return that has been accepted by the state with the variance, and they now seek to be compliant, they should carry the burden of proof. Mr. Miller expressed concerns regarding the language in subsection D. He requested language clarifying that Section 18 is included. He questioned the necessity of Subsection E, and stated if it remains he would specify "written" permission.

Mr. Miller requested a motion regarding Sections 18(c)-(d). After some discussion regarding the proposed alternatives for section 18(c) and the definition of "giving permission," the group voted. Regarding proposed Alternative 1 vs proposed Alternative 2, the group voted by state with a show of hands. There were 2 people in favor of Alternative 1 and 14 people in favor of Alternative 2, so the language in Alternative 2 will be incorporated into the report to the executive committee. As far as the changes to wording in 18(d), Mr. Coffman moved to accept the wording and pass it on to the executive committee. The motion passed by show of hands, with 15 people in favor. Mr. Coffman then moved to have the uniformity committee communicate to the executive committee the proposed clarifications indicated by "written" and "subsection" in sections 18(e) and 18(c), respectively. The motion passed by show of hands, with 16 people in favor.

VII. Roundtable Discussion

The states discussed current issues and developments in tax law, notably Alaska Revenue Department winning a unitary decision in court. Michigan noted that in the *IBM* case, the minority holding is that the Multistate Tax Compact is not a true binding contract.

VIII. New Business

There was no new business.

IX. Adjourn