



MULTISTATE TAX COMMISSION

Uniformity Committee
MEETING MINUTES (DRAFT)

Thursday, November 5, 2020
(Held via video conference.)

I. Welcome and Introductions

Chair, Tommy Hoyt (Texas) and Vice Chair, Maria Sanders (Missouri)

The Chair committee convened at 2:00 P.M. Eastern and asked staff to call the roll and for others to introduce themselves. Attendance was also noted from on-line sign-in information. Attendees included:

Amy Hamilton	Tax Analysts	Kelley Gillikin	Alabama
Andrew Soubel	Wolterskluwer	Kim Stewart	MTC
Anita Conner	Pennsylvania	Krystal Bolton	Louisiana
April Begordis	Minnesota	Larry Shinder	MTC
Ashley McGhee	North Carolina	Laurie McElhatton	California FTB
Audrey Tyndall-Hoyle	New Jersey	Layne Hadlock	Idaho
Beth Sosidka	AT&T	Lee Baerlocher	Montana
Brad Asher	Kentucky	Leigh Powers	Kentucky
Brendi Romick	Texas	Lila Disque	MTC
Brian Hamer	MTC	Marcia Oakman	Kentucky
Brittney Johnston	Texas	Maria Koklanaris	Law360
Bruce Fort	MTC	Maria Sanders	Missouri
Bryan Kelly	Washington	Mark Schoenfeld	Montana
Chris Barber	MTC	Matt Tidwell	Alabama
Chris Sherlock	Alabama	Matthew Largent	Washington
Colleen Chipman	New Jersey	Matthew Peyerl	North Dakota
David Epstein	Bloomberg	Michael Fatale	Massachusetts
David Merrien	Montana	Michael Hale	Kansas
Debra Houck	Pennsylvania	Michael Kemp	Minnesota
Dee Wald	North Dakota	Michael Mertens	Iowa
Diane Yetter	Yetter Tax	Nancy Prosser	MTC
Dobay, Nikki	Eversheds Sutherland	Nicole Sergent	Kentucky
Don Jones	Oregon	Olga Kourdova	Charter
Erick Shaner	Idaho	Olivia Schulte	Deloitte
Frank Hales	Utah	Pat Reynolds	COST
Fred Nicely	COST	Paul Williams	Law360
Garrett, Joe	Deloitte	Phil Horwitz	Moss Adams
Genevieve Traub	Oregon	Phil Skinner	Idaho
Greg Matson	MTC	Rebecca Rodak	West Virginia
Hal Jones	Tennessee	Richard Cram	MTC
Helen Hecht	MTC	Richard Truman	Maine
Holly Coon	MTC	Stacey Greaud	Louisiana
Jayne Kulberg	Wisconsin	Sarah Watts	Kentucky



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Jeff Silver	MTC	Scott Pattison	MTC
Jennifer Hudson	Delaware	Scott Peterson	Alavera
John Mollenkamp	Intuit	Stephanie Do	COST
John Vecchiarelli	Gentax	Steven Alvarez	Georgia
Joseph Royston	Oregon	Thomas Shimkin	MTC
Joseph Wasicak	Wisconsin	Tia BuChans	KPMG
Josh Pens	Colorado	Todd Lard	Eversheds Sutherland
Karen Boucher		Tommy Hoyt	Texas
Karey Barton	Texas	Tripp Baltz	Bloomberg
Karl Frieden	COST	Virginia Mick	MTC
Karolyn Bishop	Washington	W. Dorsey-Jenkins	MTC
Katie Frank	California FTB	Will Rice	FAST
Katie Lolley	Oregon	Victoria Johnson	Oregon
Keith Broussard	Montana		

Approval of Minutes of July 2020

There were no objections to the minutes as drafted.

II. Initial Public Comment

There were no public comments.

III. Uniformity Developments Helen Hecht (MTC)

Helen Hecht, MTC, reminded the group of Commission’s bylaw changes that allow Sovereignty members to vote on uniformity proposals at Commission meetings and in Bylaw 7 surveys. Ms. Hecht then discussed the report on uniformity developments, a written copy posted with the meeting agenda, here:

<http://www.mtc.gov/getattachment/Uniformity/Uniformity-Committee/2020/Agenda-11-2020/Uniformity-Committee-Developments-November-2020.pdf.aspx>.

There were two uniformity proposals in process:

1. The alternative combined reporting model which follows *Finnigan*, which was awaiting state responses to the Bylaw 7 survey.
2. The MTC Revised Statement of Practices and Policies of Signatory States Regarding PL 86-272, which was submitted to public hearing in August. The report from that hearing had been posted on the Executive Committee meeting agenda for that committee’s action.

Ms. Hecht then discussed recent developments at the OECD, which is considering the use of formulary apportionment for some income as well as market-based sourcing and nexus issues, with proposals that all look similar to what the states have been using.



**IV. Wayfair/Marketplace Update and Discussion
Richard Cram (MTC)**

Richard Cram provided a brief update of recent *Wayfair* implementation and marketplace provider guidance.

**V. Report on Model for Reporting Federal Adjustments -
Partnership Issues – Possible Vote
Katie Lolley (Oregon), Work Group Chair, Helen Hecht (MTC), and
members of the public**

Working group Chair, Katie Lollie, presented the group’s recommended technical corrections to the Model Uniform Statute for Reporting Adjustments to Federal Taxable Income and Federal Partnership Audit Adjustments. The technical corrections respond to an issue raised by practitioners which the committee agreed that the work group should consider.

Ms. Hecht explained that the issue involved “negative” federal audit adjustments (decreasing federal and state tax) and Administrative Adjustment Requests (AAR’s) that might be filed by partnerships. The model assumed that all such negative adjustments would flow through to the current year partners in the partnership returns for the year of adjustment and therefore excluded them from being reported separately using the state adjustment process, so as not to double-count the effects of these negative adjustments. But under new IRS guidance, some negative adjustments will instead be pushed out to the partners as part of the federal adjustment process, and should therefore be treated similarly to other adjustments under the model.

The technical corrections clarify that it is only negative adjustments that flow through as part of the federal tax returns for the adjustment year that will be excluded from separate state reporting. Other negative adjustments that do not flow through on the adjustment year tax return will be separately reported and treated as a refund claim under state law, or netted against positive adjustments. The technical corrections and a summary of their purpose is set out in memorandum to the Uniformity Committee posted on the MTC’s Uniformity Committee agenda and on the MTC’s working group’s web page, here: [http://www.mtc.gov/MTC/media/AUR/Proposed-Model-RAR-Statute-Technical-Corrections-\(10-25-20\).pdf](http://www.mtc.gov/MTC/media/AUR/Proposed-Model-RAR-Statute-Technical-Corrections-(10-25-20).pdf).

After asking for questions or discussion, the Chair asked for a motion on whether to approve the technical corrections which would then go to the Executive Committee. Hearing no discussion, Ms. Lollie so moved. The Chair conducted a roll call of the states present. The motion passed with fifteen states voting to approve the changes and four states abstaining. (In favor: Ala, CA, CO, DE, GA, ID, KS, KY, LA, MO, MT, NJ, ND, OR, TX. Abstain: IA, NC, WA, WI.)

VI. Standing Subcommittee
Maria Sanders, Subcommittee Chair (MO) and Helen Hecht (MTC)

Maria Sanders, chair of the Standing Subcommittee, made a brief report on the activities of the subcommittee which had its inaugural meeting on September 17, 2020 by video conference. In addition to the Chair, nine state representatives have volunteered to participate in the subcommittee’s activities and other state representative are encouraged to participate if they wish.

VII. Staff Report on Potential New Projects and Possible Vote
Helen Hecht (MTC), Tommy Hoyt, Chair

Ms. Hecht noted several potential new projects for the Uniformity Committee to consider. See the memorandum to the committee posted with meeting agenda, here: <http://www.mtc.gov/getattachment/Uniformity/Uniformity-Committee/2020/Agenda-11-2020/Uniformity-Committee-Possible-Projects-November-2020.pdf.aspx>.

The Chair asked for discussion and Lee Berlocher of Montana offered that state taxation of partnerships was of most interest to Montana. Phil Skinner of Idaho concurred that the issue is of importance to his state. Phil Horwitz of Moss Adams said the tax paying and practitioner communities would welcome additional state study and guidance. After discussion, the Chair asked for any motions and Lee Berlocher moved to recommend the partnership topic to the Standing Subcommittee for its review and recommendations. By roll call vote, 15 states voted to approve and one abstained.

The committee also discussed updates to industry regulations. Mr. Horwitz voiced concern that the regulations were outdated and may be inconsistent with later adopted regulations. Ms. Hecht noted that staff was also tracking these types of issues and could report on recommendations if requested. There was no further discussion.

VIII. Roundtable

The state representatives reported on important developments of interest in their states. Common topics included:

- Implementing market-based sourcing
 - Responding to federal tax-related changes
 - Responding to pandemic related issues having impact on taxes and tax reporting
 - Marijuana taxes
 - Continued monitoring of *Wayfair*-related issues
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IX. New Business

There was no new business.

X. Adjourn

The committee adjourned at 4:50 P.M.

DRAFT