



Report of the Uniformity Committee

Laurie McElhatton, Chair

To the Multistate Tax Commission Executive Committee

Tuesday, April 27, 2023

Long Beach, California

This report summarizes the status of uniformity projects as of April 20, 2023. Developments from the April 25th meeting of the Uniformity Committee will be reported orally by the chair. Project Chairs for the three current projects will also give reports.

Note on Leadership Change: Maria Sanders, Missouri, the chair of the Uniformity Committee, has left the Missouri Department of Revenue and so the vice chair, Laurie McElhatton, California, has stepped up.

Current Uniformity Projects and Status

The Uniformity Committee has three long-term projects in process:

- State taxation of partnerships (income tax),
- Sales taxation of digital products, and
- Review of model receipts (sales) sourcing regulations.

Each of these projects was the result of work by the uniformity standing subcommittee to vet proposals for new projects and the state participants have been involved in identifying issues and directing the staff in what resources are needed to evaluate those issues. These projects are unusually large and will likely take years to fully complete, although there should be significant benefit to the states from work on individual issues, as time goes by.

State Taxation of Partnerships

In April, 2021, the committee approved an income tax project to address state taxation of partnership income. It set up a work group, also chaired by Laurie McElhatton, California.

Two-dozen states regularly participate in that work group, which meets bi-weekly. In the last year, it has published a comprehensive issue outline, a white paper on investment partnerships, and a draft model for sourcing of investment partnership income, and has now begun drafting a white paper on state sourcing of guaranteed payments. There has been public input on the projects being worked on.

To support the work on the project, MTC staff also prepared a basic training course on federal taxation of partnerships. Information on this project can be found on the project webpage, here: <https://www.mtc.gov/uniformity/project-on-state-taxation-of-partnerships/>.

The work group expects to continue to develop positions on state sourcing of partnership income generally and will continue its monthly meetings.

Sales Taxation of Digital Products

At its July 28, 2021 meeting, the committee approved a sales tax project to draft a white paper recommending the best approach for taxing digital products. Since the uniformity committee last met in November 2022, the digital products work group has met on the first Thursday of each month between December 2022 and April 2023. The focus of the committee's work has been on researching and understanding possible definitions for digital products and what digital products exist in the marketplace. In addition to information presented by MTC staff and work group members, the work group held an additional meeting on March 28, 2023 to hear from representatives of Avalara, a tax compliance software company that also serves as a certified service provider for the Streamlined states, to discuss their experiences working with digital products.

In March 2023, with the approval of work group Chair Gil Brewer, MTC staff conducted an anonymous survey of the work group members to solicit input on a variety of issues relating to the project and feedback on how the project should proceed. The survey results were shared during the April work group meeting.

During the spring of 2023, MTC staff began researching the state tax treatment of digital products and compiling information in a spreadsheet that staff has asked state representatives to verify. The results of this research project to date are being shared with the uniformity committee during its meeting on April 25, 2023. Also during that meeting, the committee is hearing a presentation by Streamlined representatives and work group members about the Streamlined experience and history relating to the taxation of digital products.

The next work group meeting is June 1, 2023. Information on this project can be found on the project webpage at: <https://www.mtc.gov/uniformity/sales-tax-on-digital-products/>

Model Receipts (Sales) Sourcing Regulation Review

At its August 2, 2022 meeting, the Uniformity Committee agreed to undertake a project and form a work group to review its model receipts (sales) sourcing regulations for income apportionment purposes, including special industry regulations and more recently adopted market-based sourcing regulations. Katie Frank, California, is the chair of the work group, which has been conducting regular monthly meetings.

The goal of this project is to identify updates, corrections, or conforming changes, to consider issues that may not be sufficiently addressed by existing model regulations, and to make recommendations to the committee for its action. The work group began by considering the special industry rules for transportation companies. Information on the project can be found on the project webpage, here: <https://www.mtc.gov/Uniformity/Project-Teams/Model-Receipts-Sourcing-Regulation-Review-Project>.

Universal Power of Attorney

The committee received a request from the public to consider a universal power of attorney to be adopted by the states to simplify the necessary work of certified service providers, intermediaries, and other taxpayer representatives. The MTC agreed to facilitate the discussions among the states and provide input to the development of the forms and instructions. Nikki Dobay, Eversheds Sutherland, is helping to lead this project and the states, including members of the committee, are participating in discussions. The FTA has now agreed to take over the project.