

MEETING NOTES

MTC Work Group – Sales Taxation of Digital Products

June 1, 2023

I. **Welcome and Introductions –**

Gil Brewer, Washington, Chair of the Work Group, opened the meeting and provided introductory information about the work group and its procedures. Brewer announced that Nancy Prosser (MTC General Counsel) would be missing some of the meeting due to an out of town event but that Jonathan White (MTC Counsel) would be covering the full meeting for the MTC.

II. **Initial Public Comment –**

There were no initial public comments.

III. **Review of Notes from the April 6, 2023 Meeting –**

Brewer moved to a review of the notes from the April 6 work group meeting. Brewer mentioned that the notes are available on the project page and invited comments and changes to the notes. There were no comments on the notes. White stated that comments could also be sent to him or Prosser.

IV. **Review of Apr. 25, 2023 Uniformity Meeting in Long Beach, California –**

Brewer stated that there was a presentation by Craig Johnson (Streamlined), Tim Jennrich (Washington), and Deborah Bierbaum (MultiState Associates) in Long Beach about the history of the Streamlined Sales Tax program and its treatment of digital products. Brewer indicated that this presentation is available on the MTC website. Brewer also stated that the Uniformity Committee was updated on the status of the project, but that no action was taken.

V. **Joint Resolution Supporting State Efforts to Promote Uniformity in the Taxation of Digital Products –**

Prosser informed the work group of the possibility that there may be a joint resolution by the MTC, the Federation of Tax Administrators (FTA), and the Streamlined Sales Tax Governing Board (SST) to jointly support state efforts to promote uniformity in the taxation of digital products. Prosser stated that draft language for the joint resolution has been put together and handed over to the FTA and SST. Prosser also indicated that it is possible that the joint resolution could be presented at meetings this summer such as the FTA's annual meeting, the SST executive committee meeting, and the MTC's annual meeting.

Johnson agreed that the joint resolution is a good idea, and stated that it is important for all three organizations to move in the same direction to avoid confusion amongst the states and business community members. Johnson also pointed out that the joint resolution would recognize that although the three organizations may be doing different pieces, they are all working together on this.

VI. MTC Staff Update on Digital Products State Research –

White did a presentation on the results of the MTC staff's multistate research on the current treatment of digital products by the states. White detailed the findings and mentioned that the spreadsheet was released in the meeting materials and on the project page. White also stated that he will prepare a written summary of his notes that will be available on the website in the future, along with a recording of his presentation.

White stressed that it is important to not just focus on what the states are currently including in their tax base, but to also consider how each state got to its particular result. White also indicated that he categorized states' digital tax bases in Sheet 2 of the spreadsheet considering metrics such as taxation of prewritten software however delivered, taxation on digital products, breadth of digital services base, and breadth of cloud products base.

Mark Nebergall (Software Finance and Tax Executives Council) inquired whether there had been any effort to differentiate between cloud cases where a customer was allowed to access software to process data versus cases where the provider was using software in its own environment to provide a service to a customer, such as TurboTax. White indicated that the spreadsheet did not get to this level of granularity, but pointed out that he put guidance he found on these issues in the cloud category.

White compared and contrasted aspects of several states' tax bases, demonstrating the importance of each state's approach to and design of its sales tax. White concluded by pointing out key characteristics of broad, middle, and narrow approaches to taxing digital products.

VII. Next Steps –

Brewer stated that if anyone has questions for Jonathan to send him an email. Brewer also stated that the next work group meeting will be Thursday July 6.

VIII. Adjourn –

Brewer then adjourned the meeting.