



MULTISTATE TAX COMMISSION

MEETING NOTES

MTC Work Group – Sales Taxation of Digital Products September 7, 2023

I. **Welcome and Introductions –**

Gil Brewer, Washington, Chair of the Work Group, convened the meeting and provided introductory information on the work group and its procedures.

II. **Initial Public Comment –**

Note: Unless expressly stated, we assume that those who spoke did so for themselves and not on behalf of their state, employer, or clients.

Brewer invited any initial public comments. There were no initial public comments.

III. **Review of Notes from the August 3, 2023 meeting –**

Brewer moved to a review of the notes. Brewer stated the notes from the August 3, 2023 work group meeting were available on the project page on the MTC website and invited comments and changes to the notes. There were no comments or changes.

IV. **New Streamlined digital codes project –**

Brewer invited Christie Comanita (Streamlined staff and work group member) to inform the group on the new digital codes project at Streamlined. Comanita explained that the Business Advisory Council requested a project to consider expanding the current treatment of digital codes under the Streamlined agreement. Comanita explained that digital codes are currently limited to specified digital products and that the request stated a desire to expand that. She stated the project has been approved, will have its first meeting on September 11th at 12:00 PM central time, and will meet every other Monday after that. Comanita noted that anyone from any state can participate, but that meeting notices are not publicly listed. She invited anyone interested in participating to reach out to her. Comanita noted that Mark Nebergall (Software Finance and Tax Executives Council) requested the topic and turned to him for more.

Nebergall mentioned that the request from the Business Advisory Council included a developed proposal that will likely serve as the starting point. Comanita confirmed the proposal would be the starting point.

Nancy Prosser (MTC General Counsel) stated that Richard Cram (MTC Nexus Program Director) will be monitoring the new work group.

V. **Next steps discussion, including business inputs exemptions and review of draft matrix with three approaches to taxing digital products –**

Brewer then moved to a discussion of digital inputs and referred to Lila Disque (MTC Deputy General Counsel) for an update.

Disque summarized the business inputs panel from the MTC uniformity committee meetings in Austin on July 25, 2023. Disque explained that since the panel presentation, staff took a further look at various states that have business-to-business exemptions and identified Iowa, Maryland, Washington, New Jersey, and Connecticut, which has a lower tax rate for business inputs rather than an exemption. Disque stated that MTC staff would be reaching out to staff from these states to find out if they can contribute to a discussion of their states' experiences. She asked any participants that have someone in mind that could contribute to reach out to her or other MTC staff.

Brewer then turned to Prosser for an update on the NCSL State and Local Tax Task Force's potential study of business inputs exemptions. Prosser stated the Task Force might look at business input exemptions as a complement to this group's consideration of it. Prosser stated the topic is tentatively on the agenda for the NCSL's November meeting in Miami, so NCSL and their state and local task force may be looking at this topic soon.

Prosser also mentioned the joint resolution adopted in July by the MTC and Streamlined organizations and the separate, related resolution adopted by the FTA. These resolutions are available on the project page on the MTC website.

Brewer then moved to the matrix developed by MTC staff. He mentioned that the ultimate deliverable for the work group is still a white paper. He emphasized this is the first draft of the staff's attempt to create a document for the members to use in developing the white paper. Brewer then turned to Prosser to discuss the matrix.

Prosser introduced the matrix and explained that there are four total sheets. The first sheet is a cover sheet with introductory information about the workbook and potential guiding principles for the project. The next is the matrix. The next is the 46-state research on the digital tax base previously discussed at prior work group meetings. The last sheet is the methodology for sorting the states by how broad their digital tax base is. Prosser explained that the matrix is meant to coalesce where the states are today, identify areas of potential consensus, and identify areas of unlikely consensus. She stated that all of this is meant to help develop the white paper.

Tim Jennrich (Washington) addressed the guiding principles and stated he would add 'simple and easily understandable' to the list. He stated his hope that this becomes part of the discussion as taxpayers and businesses want to know what to collect and how to collect it.

Prosser covered the matrix in detail. Prosser explained that the current content of the matrix is based solely on staff discussion and that staff did not always agree on the content. Prosser explained that staff wants input from the work group members about how else the three approaches will intersect with the listed line items.

Prosser paused to mention that MTC staff are proposing an extended October meeting where staff would try to enlist staff from different states, primarily work group members, to speak about their states and how the experiences in their states can help complete the matrix. The goal is to work through as much of the matrix as possible at the October meeting.

Prosser walked through the matrix explaining the general concept of each row. Specifically, Prosser mentioned that staff decided to include a row for digital advertising because it is a major topic and explained that certain items garnered differing input from MTC staff. Prosser offered the agency guidance line item (row 11) as an example of this. Regarding the ITFA line

items (rows 24 and 25), Prosser mentioned that staff is doing in-depth research on ITFA to be shared later.

Prosser explained that the entries are starting points and subject to input from the work group members and other participants. Prosser also noted that the line items themselves might change.

Prosser stated that in addition to substantive input, staff is also seeking input on whether this is a workable format and workable approach to move forward.

Brewer stated that this version is an early draft and meant to start the conversation. He invited preliminary input and comments.

Ray Langenberg (Texas) stated that the matrix should be formed in terms of outcomes rather than approaches. He stated that the ways states get to their tax bases are different. He explained that Washington and Texas are both listed as broad states, but that they don't share similar approaches. He does not see it as helpful to try to have only three generalized approaches.

Heidi R. Thomas (CMI) agreed with Ray, stating in the chat that sometimes a state's approach is based on the Department of Revenue's position rather than statute. Richard Dobson (Kentucky) stated in the chat his opinion that the framework will work as a launching point for more detailed discussion.

Prosser returned to the proposed extended October meeting, stating that we would have people scheduled to speak at the meeting. She stated that the October meeting would not be the only chance to provide input and work group members and others can reach out to MTC staff in any way if they have other input.

Brewer again mentioned that this is a work in progress and stated the importance of MTC staff receiving input from work group members and other participants.

VI. Adjourn –

Brewer then adjourned the meeting.