.   **Email Reporting Option -** Section (c)(2)(C) gives a non-collecting seller, but not a marketplace facilitator, the option to provide the annual report to the purchaser electronically if certain conditions are met. Marketplace facilitators should have this option as well.

·   **Email Reporting Option Process** - Section (c)(2)(C)(1) and (2) require that the purchaser affirmatively agree each year to receive the annual report electronically and also acknowledge that she or he understands that the report to be received electronically will contain important tax information which information will also be sent to the Department. This form of communication should be made at the discretion of the marketplace facilitator. It seems like an option to work with the MTC or states on other methods of making the report available to purchasers should be considered. However, if this is not adopted, the statute should provide that the purchaser will receive the notice electronically unless she or he affirmatively indicates that they wish to receive the annual report on paper by mail. This could be a one-time, rather than annual requirement as presently stated, with allowance for a purchaser to revert back to a paper version at the purchaser's discretion. Electronic communication of financial information, whether it be payment confirmations of bills paid online or annual tax statements, is already an accepted practice with future use of physical mail becoming increasingly obsolete.

·   **Referrer Threshold -** Section (d) for Reports by Referrer currently states "alternative: at least $100,00 from all national referrals". This appears to be a typo. The amount listed here should correlate to the amount listed for gross receipts from fees for an individual state (e.g. $20,000 for an individual state should equate to $1,000,000 for all 50 states).

·   **De Minimis In-State Sales** – Section (f)(1) includes two recommendations for establishing a de minimis sales threshold exception for non-collecting sellers – either $5 million in national gross sales or $100,000 for delivery in one state. Some Utah businesses are urging us to have the MTC consider a $10 million national gross figure to ensure small businesses are not disproportionately impacted or $100,000 equivalence based on population. A $100,000 threshold in South Dakota is not equivalent to $100,000 sales into Texas, for example.

·   **Purchaser Threshold -** Section (f)(1) includes a de minimis sales threshold exception for non-collecting sellers and marketplace facilitators but there is no de minimis threshold for purchasers. Similar to the Colorado legislation, it may be appropriate to include a

similar threshold exception for purchasers as the tax amounts at issue would outweigh the compliance costs with respect to transactions that would likely not be pursued by the states. The MTC could add language that provides a threshold for each purchaser/household and leaving the amount of such threshold blank so that each state can determine a reasonable threshold based on their individual tax rates.

·   **Technical Correction** – Section (f)(1) appears to have a drafting error – the word "person" was removed and replaced with "non-collecting seller" but later there is a reference to that person "who acted as a marketplace facilitator". Without the original "person" this statement does not seem to work.

·   **Option to Assign Reporting Responsibility -** The draft model should also include language allowing a non-collecting seller and marketplace facilitator to agree on which party will be responsible for the notice and reporting obligation in order to ensure that there is no double reporting or double non-reporting.

·   **Penalty Clarification** - Section (g) should provide that penalties will only apply to the extent that a purchase is actually taxable, and a non-collecting seller or marketplace facilitator should have the opportunity to prove that a transaction was non-taxable (or that the purchaser reported use tax) prior to the assessment of penalties.

·   **De Minimis Marketplace Seller -** As the draft currently reads, a non-collecting seller that does not exceed the non-collecting seller threshold is not obligated to comply with the statute. However, if that seller uses a marketplace that exceeds the marketplace facilitator threshold the marketplace facilitator is required to comply. This creates an unintended consequence on a marketplace facilitator to report purchases from de minimis non-collecting sellers that would otherwise fall under this exception. The competitive disadvantage this creates would be addressed if the non-collecting seller de minimis were recognized despite the use of a marketplace facilitator.

·   **Reporting Nontaxable Transactions -** As drafted, the proposed MTC Act will likely result in a marketplace facilitator reporting transactions that are not subject to tax (e.g., sales where the seller has included tax in the sales price, exempt products, occasional sales, sales by certain non-profit organizations). The statute should allow a marketplace facilitator to have a seller certify that their transactions are not subject to tax or that they are complying with the applicable tax laws for a particular state or states. In addition, if a

marketplace facilitator reports a nontaxable transaction, the statute should provide that they are protected from any claims from purchasers for such reporting.

·   **Lookback Period -** Section (j) includes a lookback period where the state's Revenue Department may require the seller or marketplace facilitator to file reports for prior years. Is this only applicable for periods after a state's adoption of the model statute?

·   **Effective Date & Penalty Waiver -** The statute should provide a reasonable period of time for non-collecting sellers and marketplace facilitators to comply. The amount of work required to comply with a notice and reporting obligation is not insignificant. A non-collecting seller or marketplace facilitator should be able to agree with a state on a plan for coming into compliance without incurring penalties.