



## **Report of the Litigation Committee to the Executive Committee**

**November 16, 2023**

Ray Langenberg (Texas), Chair  
Aaishah Hashmi (Washington, D.C.), Vice Chair

Since the fall of 2021, the Litigation Committee has held an attorney training program and an informational sharing session (“a roundtable”) in conjunction with the MTC’s fall, spring, and summer meetings. These programs are open to public sector tax attorneys only; both employees of revenue departments and of Attorney General offices participate.

Attorney training programs typically offer both skills training and substantive tax knowledge.

Roundtables enable participants to discuss key issues with colleagues in other states. In accordance with the MTC’s public participation policy, roundtables are not decision-making meetings; rather they are opportunities for states to informally share information and ideas. Attendance is limited to public sector tax attorneys.

This fiscal year, the Litigation Committee has held both in-person attorney training programs and roundtables on two occasions. State attorneys who were not able to travel could attend these sessions remotely. A \$100 technology fee was charged to remote attendees on each occasion to help cover the costs of providing remote access.

- July 24, 2023 training in conjunction with this the MTC’s summer meetings.

This attorney training included a presentation by Litigation Committee chair Ray Langenberg on how to conduct an effective cross-examination, a panel discussion addressing legal issues relating to the taxation of digital and other products, a panel addressing how to create an effective relationship among auditors and attorneys to improve tax compliance, and presentations on key recent and emerging SALT cases and developments. The agenda also included a joint session with the Nexus Committee where Prof. Richard Pomp and MTC Nexus Director Richard Cram reviewed recent Supreme Court cases addressing personal jurisdiction and their possible impact on state taxing jurisdiction.

Also on July 24, the Committee held a regular committee meeting. This meeting (unlike attorney training sessions and roundtables) was open to the public. The agenda included the annual review of the Committee’s charter, an MTC legal team update by General

Counsel Nancy Prosser which described the services the team provides, and a discussion to solicit program ideas covering both attorney training and the structure of informational sharing sessions. The meeting also included a presentation by three former administrative law judges from Texas who shared their insights about tax litigation and how attorneys can most effectively present their case.

- November 13, 2023 training in Montclair in conjunction with the MTC’s fall meetings.

The November 13 attorney training program included a presentation by North Carolina Solicitor General Ryan Park, who litigated the *Quad Cities* sales tax case, on brief writing and oral advocacy. The training also included a panel consisting of Professor Andrew Appleby, who teaches at the Stetson University College of Law and is co-author of Hellerstein on Taxation, and three senior state tax attorneys, who addressed the taxation of insurance companies.

In addition, the November 13 agenda included a panel of New Jersey tax experts who addressed recent developments and issues in their state which have relevance across the country. Three senior state tax attorneys discussed key SALT developments and emerging trends around the country, Litigation Committee chair Ray Langenberg and MTC audit supervisor Larry Shinder addressed the topic “Navigating the shoals of auditor depositions,” and MTC General Counsel Nancy Prosser led a discussion on pending U.S. Supreme Court Cases and their potential impact on State Tax Administration.

To ensure that interested state attorneys are aware of Litigation Committee programs and other MTC programs that may be of interest to them (and also to identify attorneys who may be resources to attorneys in other states), MTC legal staff has worked to expand the Litigation Committee attorney roster. The roster contains more than 300 public sector tax attorneys.

Brian Hamer and Jennifer Stosberg, members of the MTC legal team, provide staff support to the Committee.