



LITIGATION COMMITTEE

MINUTES OF MEETING

Thursday, March 9, 2017

8:30 a.m. – 10:00 a.m. Pacific Time

San Diego, California

I. Welcome and Introductions

The Litigation Committee meeting started at 8:35 a.m. with introductory remarks by chair Clark Snelson of the Utah Attorney General's Office. The following people were in attendance:

David Avery	Alabama Department of Revenue
Tripp Baltz	Bloomberg BNA
Susan Barnum	Utah Attorney General's Office
Derek Bell	Montana Department of Revenue
Mark Beshears	Ks. Dept. of Revenue
Brad Buchanan	Tennessee Attorney General's Office
Melisse Cunningham	Oregon Department of Justice
Lila Disque	Multistate Tax Commission
Michelle Garfinkle	Floyd Skeren & Kelly
John Hale	Ks. Dept. of Revenue
David Hesford	Washington Department of Revenue
Nathan Hoepfner	Ks. Dept. of Revenue
Phillip Horwitz	Colorado Department of Revenue
Joe Huddleston	EY LLP

Tenisha Jacobs	NC Department of Justice
Matt Jones	TX Comptroller of Public Accounts
Ray Langenberg	TX Comptroller of Public Accounts
Robert Merten	Eversheds Sutherland (US) LLP
Murl Miller	TX Comptroller of Public Accounts
Nathan Nielson	Idaho Office of the Attorney General
Sarah Pai	Texas Comptroller of Public Accounts
Mitch Porcello	TN Attorney General
Brian Ramming	Tennessee Attorney General
Shirley Sicilian	KPMG LLP
Phil Skinner	Idaho Office of the Attorney General
Clark Snelson	Utah Attorney General's Office
Marshall Stranburg	Multistate Tax Commission
Stephen Sullivan	Missouri Department of Revenue
Dee Wald	ND Office of State Tax Commissioner
Jonathan Wike	Tennessee Attorney General's Office
Derek Bell	Montana Department of Revenue
Greg Matson	Multistate Tax Commission

II. Initial Public Comment Period

There were no public comments at that time.

III. Adoption of Litigation Committee Charter

Clark Snelson described a proposed “charter” for the litigation committee which had been in development for several months. The charter is intended to memorialize existing practices of the committee while clarifying some procedural issues. MTC Counsel Bruce Fort then discussed the charter’s contents, which had been circulated to litigation committee members previously. The litigation committee voted unanimously to approve adoption of the proposed charter, which is available here:

<http://www.mtc.gov/getattachment/Litigation/Litigation-Committee-Agenda-3-2017/Litigation-Committee-Charter-Final-Draft-Proposal.pdf.aspx>.

IV. Formation of State Tax Amicus Brief Group

Chair Clark Snelson described a proposal to form a group of attorneys interested in advising the states on potential to participate in joint state amicus briefs. The Chair expressed his belief that joint state amicus briefs can carry great weight with an appellate court and suggested the procedure is currently under-utilized. MTC Counsel Bruce Fort outlined three needs the formation of a working group could address: (a) state attorneys may not have an opportunity to learn of an important case in time advise their attorneys general offices of why a particular case or issue is of importance to their state; (b) the process of identifying and recruiting state attorneys who can write a joint state amicus brief is not currently well-coordinated and can be difficult to accomplish in time; and (c) state tax practitioners have expressed a desire for more sources of information and advice on tax appeals.

Phil Horwitz of Colorado asked about the relationship of the working group to the appellate training and joint-state amicus briefing efforts of the National Association of Attorneys General (NAAG). Mr. Fort responded that the working group was intended to be act as a supplement the amicus brief approval and coordination efforts of NAAG and stated that any attorney seeking amicus involvement from other states should continue to work through NAAG. Mr. Fort also

stated that the litigation committee was interested in obtaining contact information in every state for assistant attorneys general who had responsibility for advising their offices on state tax matters. (NAAG's tax subcommittee is currently dormant.)

The proposal to form a state tax amicus group was unanimously approved. Chair Clark Snelson asked for volunteers to lead and serve on the group and approximately ten attorneys agreed.

V. Program Activities: Prospects for Federal Tax Reform and Potential Impacts on States.

Shirley Sicilian, National Director for SALT Controversy, KPMG, LLP, Washington, D.C. and Sarah McGahan, Director KPMG, LLP, San Diego, gave a one-hour presentation on the outlines of the U. S. House of Representatives' proposed "Blueprint" for tax reform ("the Ryan plan") and the brief summary of proposed federal tax reform issued by the Administration. Many of the proposed changes to the federal tax structure would not impact income state administration or revenues directly, such as lowering tax rates, while other proposals, such as implementation of a "border-adjusted" tax, could present significant challenges to states.

VI. Adjourn.

The meeting adjourned at 10:05 a.m.