



**Litigation Committee Report
To the Commission
FY 2025**

July 24, 2025

Ray Langenberg (Texas), Chair

From July 1, 2024 through June 30, 2025, the Litigation Committee held attorney training programs and information sharing sessions in conjunction with the 2024 MTC summer meetings in Denver, Colorado, the 2024 MTC fall meetings in Santa Fe, New Mexico, and the 2025 MTC spring meetings in Spokane, Washington. Agendas are attached.

Attendance at these programs was open to public sector tax attorneys only, except that the last session of the summer program was open to the public and the afternoon session of the spring program was open to non-attorney staff who could attend in person.

Attorneys who were unable to attend in person could attend these programs remotely. A modest technology fee was charged to remote attendees on each occasion to help cover the costs of providing remote access.

Attendance at the training programs this past year:

Denver summer training	51 in-person	37 remote
Santa Fe fall training	45 “	50 “
Spokane spring training	52 “	79 “

On July 29, 2024 the Committee held a regular committee meeting that was open to the public. The agenda included the annual review of the Committee’s charter and an MTC legal team update by then General Counsel Nancy Prosser which described the services the team provides. The meeting also included a presentation by five leading tax practitioners who shared their perspectives on state tax administration, revenue codes, and evolving issues and trends.

The MTC legal staff has continued to work to expand the Litigation Committee roster of public sector tax attorneys to ensure that they are aware of Committee programs and other relevant MTC programs (and also to identify attorneys who may be resources to attorneys in other states). The roster contains more than 400 public sector tax attorneys.

Brian Hamer and Jennifer Stosberg provide staff support to the Committee.



MULTISTATE TAX COMMISSION

**MTC ATTORNEY TRAINING
DENVER, COLORADO - JULY 29, 2024
AGENDA**

10:15-10:30 **Introductions**

10:30-11:30 **Litigation Roundtable and Information Sharing Session**

11:30-12:30 **How State Revenue Departments Can Address International Income Shifting?**

Two state tax experts will present a case study to help state revenue agency staff and attorneys identify issues and develop responses when multinational companies shift income abroad.

Presenters: Matt Tidwell, Assistant Director, Alabama DOR; Holly Coon, Director of the MTC Joint Audit Program

2:00-4:00 **Trending SALT Topics**

When to Appeal a Tax Decision to a Higher Court?

This panel will discuss the factors to consider when deciding whether to appeal an adverse decision and which issues to bring to the attention of the higher court.

Presenters: Anne Mangiardi, Senior Assistant Attorney General, Colorado; Ray Langenberg, Special Counsel for Tax Litigation, Texas Comptroller of Public Accounts

Use Tax Apportionment?

This session will consider whether there are circumstances when use tax must be apportioned to meet the constitutional requirement of external consistency. It will also consider the sourcing and apportionment rules that apply to electronic transactions.

Presenter: Michael Fatale, General Counsel, Massachusetts DOR

Federal Taxation of State Tax Refunds

When are state tax refunds or rebates taxable to recipients? What are the pitfalls that states should watch out for? Hear from state counsel who have

recently interacted with the IRS on this topic which other DOR attorneys may be asked to opine on.

Presenters: Josh Pens, Director of Tax Policy, Colorado DOR; Brendon Reese, Senior Director of Taxation, Colorado DOR

4:15-5:00 Appropriate Disclosure of Tax Records

Learn what are the key federal and state rules governing the disclosure of tax return information, impact of subpoenas and nondisclosure agreements, and more.

Presenters: Brian Oliner, General Counsel, FTA; Dana Erlandsen, Chief Counsel, Wisconsin DOR; Robin Tillman, IRS

5:00-5:30 Generative AI: Chatbots Face Off Against State Tax Attorneys

MTC Senior Counsel Bruce Fort will emcee a head-to-head competition between chatbots and attorney training attendees on a series of SALT topics as a means to assess the quality of AI with respect to state tax. Expect legal analysis by Mr. Fort that will demonstrate that AI still has at least a few things to learn.



MULTISTATE TAX COMMISSION

**MTC ATTORNEY TRAINING
SANTA FE, NEW MEXICO – NOVEMBER 18, 2023
AGENDA**

8:30-8:45 Introductions and Other Information

9:00-10:15 Legislative Drafting Seminar

Four drafting artisans will share their wisdom on how to write legislation that provides clear guidance and that avoids litigation down the road. Their insights will benefit attorneys who draft or review legislation, regulations, and other guidance, those who litigate tax matters, and all attorneys who read statutes.

Presenters: Mark Chaiken (NM); Helen Hecht (MTC); Josh Pens (CO); Pam Stokes (NM)

**10:30-11:45 The Unitary Business Principle and Business/Nonbusiness Income
Jurisprudence**

State tax attorneys regularly defend assessments issued to taxpayers that argue that the state did not have authority to impose tax because of the unitary business principle or because the income constituted nonbusiness income. This panel, consisting of state litigators and MTC staff, will address these important state tax law principles, discuss relevant caselaw, describe recent arguments raised by taxpayers, and provide helpful practice tips when litigating business/nonbusiness income case.

Presenters: Bruce Fort (MTC); Michael Hale (KS); Jordan Heller (KS); Bethany Atkins Rice (KY); Jenn Stosberg (MTC)

**11:45-12:30 Litigating an Effective Case Against a Legal Team Deploying Substantially
More Resources**

Aaishah Hashmi, Corporate Tax Counsel at the D.C. Office of Tax & Revenue, has won a series of major tax cases where the taxpayer has been represented by Big Law. She will describe strategies and tools she has used to great success to level the playing field

Presenter: Aaishah Hashmi (DC)

2:00-3:15 The World of Indian Law*

This review will be of value to attorneys in states that must address matters involving Indian law and fascinating to attorneys in states that typically do not (at least not yet). The panel will discuss the development of Indian law and key Supreme Court caselaw, including the Court's recent decision in *McGirt v. Oklahoma* and its possible impact on state tax laws. Presenters: Elizabeth Field (OK); Joe Lennihan, former Chief Legal Counsel of the New Mexico Department of Taxation & Revenue; John Monforte (NM)

* "Indian Law" is the term commonly used to refer to the body of law dealing with Native American tribes and their relationship with federal and state governments.

3:15-4:00 The Impact of Bankruptcy Law on State Tax Enforcement

This presentation will examine the application of the Bankruptcy Code to the collection and enforcement of state taxes.

Presenters: Elisa Magnuson (ID); John O'Donnell (MA)

4:15-4:45 An Examination of *Precision Castparts Corp. v. Nebraska Department of Revenue*

This panel will discuss the Nebraska Supreme Court's recent decision upholding the state's taxation of repatriation income under the Tax Cuts & Jobs Act and potential implications of the decision on states' ability to tax income of multinationals' foreign affiliates.

Presenters: Scott Harrell (NE); Amanda Karr (NE)

4:45-5:30 Litigation Roundtable and Information Sharing Session



MULTISTATE TAX COMMISSION

**MTC ATTORNEY TRAINING
SPOKANE, WASHINGTON - APRIL 28, 2025
AGENDA**

8:30-9:00 Introductions

9:00-9:45 Professor Hayes R. Holderness, University Of Richmond School Of Law
Professor Holderness will address a series of timely SALT topics, including taxation of remote workers, the potential impact of the U.S. Supreme Court's analysis in *Pike v. Bruce Church, Inc.* on state taxation, and the taxation of digital advertising.
Presenter: Professor Hayes R. Holderness

9:45-10:45 Practice Tips For Litigators And For Other Agency Attorneys When Litigation Is on the Horizon

Colleagues from around the country will each share lessons learned from their years of litigating tax disputes.
Presenters: Dana Erlandsen (WI), Bruce Fort (MTC), Kirsten Jasper (SD), Ray Langenberg (TX), Eric Mahler (ID), Noah Patterson (CO), Kara Siegal (CA), Phil Skinner (ID), Miranda Scroggins (LA), Jenn Stosberg (MTC), and Darren Weirnick (OR)

11:00-11:45 Preparing Yourself And The Agency Representative For A Deposition

Two seasoned tax litigators will discuss what agency attorneys and staff need to know when preparing for a deposition, including what matters are protected by privilege and what agency representatives are in a position to speak to.
Presenters: Ray Langenberg (TX) and Phil Skinner (ID)

11:45-12:30 Roundtable and Information Sharing Session

2:00-2:45 State Taxation Of Trusts

It is no secret that many taxpayers use trusts to avoid tax. This panel will address the basics of trust taxation, popular tax avoidance techniques, and ways that some states have addressed these tax avoidance efforts.
Presenters: Kathleen Chase (NY), Lila Disque (MTC), and Sonia Woodruff (CA)

- 2:45-3:30 Taxation of Digital Products—A Case Study**
A current focus in many states is whether to tax digital products and if so how. Washington State has substantial experience in this area. This panel of Washington DOR staff will share their experience in the trenches, describing recent disputes and taxpayer issues relating to their state’s taxation of digital products.
Presenters: Tim Jennrich (WA), Joanne Jordan (WA), and Charles Zalesky (WA)
- 3:45-4:30 Real World State Partnership Tax Issues**
State revenue agencies are turning their attention to partnership tax matters to an unprecedented degree. This panel will discuss partnership issues that have arisen during recent audits and that sooner or later may arrive to the desks of SALT attorneys around the country.
Presenters: Chris Barber (MTC), Jane McCurdy (PA), and Larry Shinder (MTC)
- 4:30-5:00 Download From A SALT Leader (.50 HOURS)**
Darren Weirnick, a Senior Assistant Attorney General in Oregon, has represented his state’s Department of Revenue for two decades. He will share with us the wealth of knowledge and wisdom he has gained counseling the Department and litigating cases. He also will discuss recent litigation in Oregon that will be relevant to tax agencies in many states.
Presenter: Darren Weirnick (OR)
- 5:00-5:30 Update On Sourcing And Legislative Matters (.50 HOURS)**
Developments In Sourcing Receipts Of Credit Card Companies And Similar Quasi-Financial Institutions
This is a subject that both state tax agencies and taxpayers are now addressing. Who better to provide guidance than MTC’s human tax law database: Senior Counsel Bruce Fort.
Presenter: Bruce Fort (MTC)
- Update On Federal Tax Legislation Concerning The States*
With the Tax Cuts and Jobs Act expiring at the end of this year, all eyes are on Congress. Jonathan White, co-author of the MTC Legislative Newsletter, will discuss the status of federal tax legislation that if enacted will impact the states and state taxpayers.
Presenter: Jonathan White (MTC)