



# **Annual Report of the Uniformity Committee To the Multistate Tax Commission Wednesday, July 31, 2023**

Laurie McElhatton (California), Uniformity Committee Chair  
Phil Skinner (Idaho), Uniformity Committee Vice Chair

## **Fiscal Year Ending June 30, 2023**

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The Uniformity Committee met in person three times last fiscal year, drawing representatives from 40 states—both in-person and remotely. Members of the public also participated in those meetings. The committee has undertaken three major projects and has established work groups for those projects as described below.

## **Current Uniformity Projects**

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The current uniformity projects involve significant state tax topics—taxation of partnership income, sales tax on digital products, and review of market-based sourcing regulations. The committee has established a work group for each project and those work groups have divided their work into sub-projects or issues on which they have been focusing in depth.

Each of the work groups has held regular monthly meetings using video conferencing in which there are typically between 50-100 attendees. These work groups are continually reaching out to state members to determine their needs and to encourage them to give input into our process. We are fortunate to have state members who devote their time and considerable expertise to these projects—including those “regular participants” who have committed to ongoing involvement.

### **State Taxation of Partnerships Project**

In April, 2021, the committee approved an income tax project to address state taxation of partnership income. It set up a work group in which 21 states are “regular participants” and which holds monthly meetings attended by a number of other states and members of the public. Laurie McElhatton (California) is chair of the work group and David Merrien (Montana) is vice chair.

The work group has researched and published:

- A comprehensive issue outline,
- A white paper on investment partnerships,
- A draft model for sourcing of investment partnership income,
- A white paper on the sourcing of guaranteed payments, and
- A draft model for the sourcing of guaranteed payments.

Note: The work group has agreed to defer finalizing draft models or other recommendations until it can address the most significant issues as outlined, to ensure that proposals and recommendations are consistent.

In the last year, the work group began studying the sourcing of partnership income in complex, tiered partnership structures. Staff did a comprehensive survey of state rules on this issue and published a summary of that research and has been receiving feedback from individual states. Staff also prepared an overview of partnership “special allocations” and will be considering the effect these allocations of income may have on the sourcing of that income. In the coming year, we expect that the work group will prepare a white paper and make recommendations to states on how to address these complex sourcing issues.

Information on this project can be found on the project webpage, here: [MTC Partnership Project Web Page](#).

### **Sales Taxation of Digital Products**

At its July 28, 2021 meeting, the Uniformity Committee approved a sales tax project to draft a white paper recommending the best approach for taxing digital products. The committee asked MTC staff to conduct stakeholder interviews and prepare a detailed outline of the white paper. The committee then established a work group in July 2022, first chaired by Gil Brewer (Washington), before his retirement. This year the work group voted to have Tim Jennrich (Washington) and Mia Strong (Louisiana) as its chair and vice chair.

The work group has 18 states as “regular participants” and two Streamlined Board staff as ex officio members, and is having monthly meetings attended by a number of other state employees and members of the public. The work group has worked closely with the Federation of Tax Administrators (FTA) and Streamlined, which have also expressed formal support for the project.

In the last year the work group and MTC staff have provided information and presentations on a number of issues, including:

- Taxing digital products which are sold to businesses or would be considered business inputs,
- The extent to which different states currently tax digital products—whether using a narrow, medium, or broad approach,
- The effect of the Internet Tax Freedom Act on how states may be allowed to tax digital products, and
- Whether bundling of various digital products together or with other taxable or nontaxable products or services may present unique challenges that states will need to address.

MTC staff has also been working to structure the project page on the MTC website to accommodate all the information on this project and make accessing that information simpler as we continue to add more research and resources to that web page.

In the coming year we expect that the work group will continue its research and discussion of issues outlined, and will begin formulating summaries and recommendations

for the states. We will also continue working with other groups including FTA, Streamlined, and the National Council of State Legislatures.

Information on the project can be found on the project webpage, here: [MTC Digital Products Project Page](#)

### **Model Receipts Sourcing Regulation Review**

At its August 2, 2022 meeting, the Uniformity Committee agreed to undertake a project and form a work group to review its model receipts (sales) sourcing regulations for income apportionment purposes, including special industry regulations and more recently adopted market-based sourcing regulations. The goal of this project is to identify updates, corrections, or conforming changes, to consider issues that may not be sufficiently addressed by existing model regulations, and to make recommendations to the committee for its action.

The work group is chaired by Katie Frank (California) and has been meeting monthly. In the past year, the group has focused on special industry rules for trucking and airlines. It formed a study group to consider how trucking companies and other product delivery service providers source receipts—whether using the mileage rules as set out generally in the MTC special industry regulations, or by some combination of pick-ups and/or deliveries—and whether these methods are working.

In the coming year, the work group may take up other issues for review including other issues involving special industry model regulations or other issues not currently addressed by the MTC model general allocation and apportionment regulations.

Information on this project is available on the MTC website, on the project page, here: [MTC Regulation Review Project](#)

Again, the Uniformity Committee is fortunate to have the participation of state members with a wide range of experience and expertise in these state tax issues and a willingness to share information and work together on common solutions. We also thank members of the public for contributing to this process.