



Closing Memorandum & Cover to Project Materials **Review of Trucking Company Rules and Ground Transportation Sourcing**

Model Receipts Sourcing Regulation Review Work Group
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Background

During the past 24 months, the Model Receipts Sourcing Regulation Review Work Group and MTC staff (including myself, Helen Hecht, and Jonathan White) have reviewed the MTC's two model regulations that address the sourcing of ground transportation receipts, specifically Section 17(d) of the MTC's Model General Allocation & Apportionment Regulations and the receipts sourcing provisions of the Special Industry Rule for Trucking Companies (Reg. IV.18.(g)).

Central to this review was consideration of whether—in the wake of the MTC's adoption of market-based sourcing—the MTC's model rules should shift from using a "mileage approach" in sourcing receipts of trucking companies to a "deliveries approach" that looks to the location where goods are delivered.

During the course of this project, the work group and MTC staff identified and analyzed various gaps, ambiguities, and possible conflicts in the current models. These issues further caused the work group to consider whether the models should be revised. Issues that were identified include:

- Similar or identical transportation activities are treated differently under the models depending on the type of transportation company providing the service. For example, receipts from transporting goods by truck are subject to different sourcing rules depending on whether the company falls under the definition of a "trucking company."
- The method for sourcing "product delivery services" in Section 17 (d) is arguably ambiguous and does not clearly specify when or how it applies in various situations.
- The applicability and operation of the Special Industry Rule for Trucking Companies can be unclear in combined filing states because the rule is based on the nature of the "company."

- The rule for sourcing receipts of trucking companies was not examined when the MTC adopted market sourcing. And arguably the basis for adopting the special industry rule for trucking companies under Section 18 disappeared or at least required a redetermination when the MTC adopted market sourcing. Specifically, the mileage approach may have been adopted in 1986 because the predominant cost of performance approach could not reasonably be applied to ground transportation.
- Court decisions in New Mexico and Montana arguably stand for the proposition that the mileage approach does not fairly represent business activities of certain transportation companies, in particular express carriers.
- Companies that sell tangible personal property and deliver that property to customers for a charge may be subject to multiple sourcing rules.
- The current models do not clearly explain how to source the receipts of freight forwarders and other logistics companies.
- Section 17, as it applies to transportation services, does not indicate how to address bundled services (e.g., a marketplace facilitator that provides both delivery services and warehouse services).

At one point during this project, MTC staff convened a study group consisting of state and private volunteers to assist in identifying issues relating to the sourcing of transportation receipts and to gather information that might be of value to the work group. The study group met on three occasions. (Takeaways from these meetings are described in a January 19, 2024 memorandum that was transmitted to work group members and others.)

The work group's discussions eventually resulted in the work group requesting that MTC staff prepare draft language amending section 17(d). This draft set out an optional alternative method for sourcing certain ground transportation receipts. Specifically, the draft (1) provided for a deliveries approach to source "transportation and product delivery services," (2) addressed the sourcing of the receipts of freight forwarders, logistics companies, and marketplace facilitators, and (3) addressed the situation where a taxpayer enters into a subcontract with a third party that provides transportation services to the taxpayer's customers.

The materials generated by this project have been archived and posted on the MTC's [website](#), including materials identifying the pros and cons of shifting from a mileage approach to a deliveries approach for sourcing trucking company receipts, the latest draft language produced by MTC staff, prior versions of the draft, and various background and explanatory materials.

Conclusion of the project

Attendance at work group (virtual) meetings was high. However, few state attendees expressed their views during work group discussions. Consequently, Katie Frank, chair of the work group, sought guidance from the Uniformity Committee on whether or not to continue working on ground transportation sourcing issues and to finalize the draft.

At the Uniformity Committee's July 30, 2024 meeting in Denver, Colorado, the following motion was made:

"The committee direct the work group to finish the draft alternative rule following the delivery approach and bring it back as a recommendation to the committee for consideration at its November meeting while, at the same time, maintaining the existing special industry rule for trucking."

Members of the committee voted on the motion as follows: 10 states voted Yes, 6 states voted No, and 4 states Abstained. Persons representing 6 states indicated that they were Not Eligible to vote on the motion. Because the number of states voting Yes did not constitute a majority of states voting (including abstentions), the motion failed to pass.

In the wake of the committee's vote, MTC staff does not anticipate that the work group will pursue changes to the model ground transportation sourcing rules, at least in the short term. The materials generated by the project can serve as a resource if the Uniformity Committee or any state decides in the future to consider alternatives or revisions to their current sourcing rules.