



MULTISTATE TAX COMMISSION

MEETING NOTES

MTC Work Group – Sales Taxation of Digital Products

November 7, 2024

I. Introductions and Review of Notes from October 3, 2024 Work Group Meeting

Tim Jennrich (Washington), Chair of the Work Group, convened the meeting. He noted that the process guidelines and notes from the October 3 meeting were posted and that anyone with changes to those notes should contact Helen Hecht, at hhecht@MTC.gov.

II. Initial Public Comment

Jennrich invited any initial public comments. There were none.

III. Update on Work of Staff on Bundling Section of White Paper and Study Group Exercise on Bundling

Jennrich turned the meeting over to Helen Hecht (MTC) to discuss the bundling white paper and other work of the staff.

Helen briefly discussed the bundling issue in general and its importance to any state intending to expand the sales tax to digital products but she also noted that it was important whether or not a state was intending to tax digital products as many digital products are part of bundles with other taxable items. Helen described the draft of the bundling portion of the white paper and noted that it summarizes the Streamlined rules and some other state rules. She also noted that the results of the bundling exercise would be worked into it eventually.

Helen asked Jonathan White (MTC) to provide more detail on the bundling white paper and its status. Jonathan noted that the draft had not been updated since the last meeting. He noted the staff has received some feedback on the most recent draft. He also reiterated that the bundling section of the white paper would be supplemented by the results from the bundling exercise and though the staff will always take feedback on the draft, another draft may not be released until after some results from the bundling exercise are received.

Tim then discussed the bundling exercise and what is expected from it. Tim stated that the idea is to see how the Streamlined rules apply to digital products and identify any problem areas. He began with the resources provided, which includes a flowchart from Wisconsin and a writeup of the essential Streamlined rules created by MTC staff.

Tim then walked through the examples and explained the main points. Tim described the examples as being a progressive march toward the more complicated issues. The first one might be simple, but if it's not that is good information too. He walked through the structure of the examples, like the facts section and the assumption section.

Tim stated that the process will be to ask the regular participants to volunteer to do the exercise and that Mia Strong (Louisiana, Vice Chair of the Work Group) and the MTC staff will

manage the input received. Tim stated that as needed the group may hold one or more study group sessions as the exercise progresses.

Tim said it would take some time to complete the exercise and mentioned a target of the January work group meeting.

Craig Johnson (Streamlined) asked if the bundling exercise should prompt participants to address the examples based on their states' laws, rather than just using the assumptions. He noted that some states' laws might not match with the assumptions made. Craig stated that alternatively this could be a question about how the participant's state's law differs from the assumptions.

IV. New Business

Tim stated the next meeting would be Thursday, December 5 but noted this meeting would likely be canceled due to the bundling exercise and the MTC Uniformity Committee meeting on November 19. He noted the next meeting will likely be January 9.

Tim also mentioned a presentation featuring representatives from the Tax Foundation and the Institute on Taxation and Economic Policy scheduled for the MTC Uniformity Committee meeting November 19.

Tim then invited Helen to discuss the National Conference of State Legislatures' (NCSL) digital products policy primer. She stated that NCSL had released a draft primer to the members of the drafting group and noted it was clear they have been watching the MTC project and Streamlined. Their draft includes sections covering the general approaches, bundling, the Internet Tax Freedom Act, and business-to-business transactions. The draft also includes an executive summary.

Helen stated their product is aimed at lawmakers and so it is looking at what issues lawmakers should be aware of and what the big issues are. As such, they have a more limited consideration than we have.

Helen stated that NCSL intends to release the draft to their members at their meeting scheduled for next week. She mentioned that in the past NCSL has considered topics previously studied by the MTC, and the MTC has mainly tried to ensure they are not missing anything the MTC knows about and that this is the extent of the MTC staff's input so far. Helen noted, however, that staff might later ask the work group if they want to give more formal comments to NCSL.

V. Adjourn

Tim asked the group to think about what comes next in the project as he hopes the bundling portion of the white paper will be wrapped up by the January meeting. Tim then adjourned the meeting.