MULTISTATE TAX COMMISSION

Review of MTC Model Sales/Receipts Sourcing & Special Industry Regulations

Status Report to the Uniformity Committee

APRIL 29, 2025

--Sourcing of Broadcasting Receipts--

TWO MTC MODEL REGULATIONS ADDRESS BROADCASTING

- The Section 18 special industry rule. Reg. IV.18 (h) addresses the sourcing of receipts from "Television and Radio Broadcasting" (the "Section 18 Rule"). Adopted in 1990; amended in 1996
- The MTC's Model General Allocation and Apportionment Regulations (the "Section 17 regulations") address the sourcing of receipts from services delivered by electronic transmission. Adopted in 2017.

THE CURIOUS SALES FACTOR IN THE SECTION 18 BROADCASTING RULE:

Section IV.18(h)(4)(iv) of the Rule describes the sales factor. This provision distinguishes between:

(Para, B.1) gross receipts from television, film, or radio programming in release to or by "television and radio stations located in this state"; and

(Para. B.2) gross receipts from television, film, or radio programming in release to or by "a television [or radio] station (independent or unaffiliated) or network of stations for broadcast."

Receipts of the former are sourced entirely to "this state," while the receipts of the latter are sourced utilizing audience factor.

THE RULE'S ARCHAIC LANGUAGE AND NARROW SCOPE

- The Section 18 Rule's archaic language, which focuses on television and radio broadcasting, does not address services delivered via the Internet such as the delivery of Internet ads or streaming services.
- The Rule does not address the sourcing of receipts of content providers/creators who license their property to broadcasters for delivery to viewers.

SECTION 17 REGULATIONS' RECEIPTS FACTOR

Applies market-based sourcing principles to source receipts from the sale of services and intangibles:

- Utilizes an audience-type factor to source receipts of broadcasters.
- Addresses services "delivered electronically to end users or other third-party recipients," including services delivered via the Internet such as the delivery of Internet ads and streaming.
- Addresses the sourcing of receipts of content providers/creators who license their property to broadcasters and others for delivery to viewers.

THERE ARE AT LEAST 5 REASONS TO REMOVE THE SALES FACTOR SECTION FROM THE SECTION 18 RULE AND INSERT A CROSS-REFERENCE TO THE SECTION 17 REGULATIONS:

THE 5 REASONS

- The Rule's description of the sales factor appears flawed and creates confusion with respect to where receipts of in-state independent and unaffiliated television and radio stations should be sourced.
- To the extent that paragraph B.1 of §IV.18(h)(4)(iv) is operative, it potentially conflicts with market-based sourcing principles which the MTC embraced in 2017.
- The Section 17 regulations essentially mirror paragraph B.2, making the Broadcasting Rule's recommended sales factor section largely duplicative and unnecessary.
- The Broadcasting Rule, unlike the Section 17 regulations, has become stale because it does not expressly apply to Internet activities, such as streaming services. It also does not address the sourcing of receipts of third parties such as content providers/creators who license their property to broadcasters for delivery to viewers.
- Most broadly, recommending two overlapping models that apply to the same activities but use different language without explanation might mislead states to adopt the rules without modification, creating potential confusion and possible unfairness as taxpayers seek out the set of rules that is most beneficial to them.

NEXT STEPS?