



## Uniformity Committee & Work Groups Report to the Executive Committee

Laurie McElhatton (California), Chair and Phil Skinner (Idaho), Vice Chair  
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### **Purpose of the Committee**

The Commission formed its Uniformity Committee to help states address common multistate tax issues and recommend solutions, including model tax provisions, with a focus on making state tax systems more workable and reducing duplicative taxation.

This mission has become more important over time as the economy and tax systems have become more complex and the challenges of working within our federal system have grown. Today, it is even more critical that states work together to efficiently solve common problems.

The Uniformity Committee and the work groups are fortunate to have the participation of so many state members with a wide range of experience and expertise and to be able to interact with industry and practitioners to obtain information on these important issues.

### **Focus of Committee Work**

For over 50 years the Uniformity Committee has welcomed all states to participate in its process and has worked on some of the most important issues affecting the development of state tax systems, including:

- Dividing the Tax Base – Rules for sourcing and apportioning multistate sales and income.
- Limiting Abuse – Rules to address income shifting and other abusive tax strategies.
- Protecting State Taxing Authority – Arguing against preemption of state powers.
- Creating Administrative Solutions – Rules that aid both administrators and taxpayers.

### **Committee Process**

The Uniformity Committee depends on contributions of participating states. While staff, practitioners, academics, and taxpayer groups also make important contributions, it is the state participants who bring the practical, real-world experience necessary to developing the best approaches.

Therefore, the process used by the committee, its work groups, and other informal groups is aimed at maximizing the benefits of this shared state experience, using a process that adapts over time to facilitate information sharing. We encourage states to take advantage of this.

### **Impacts of Uniformity Work**

While the committee often produces model tax provisions, its work has other, broader impacts. By identifying, highlighting, studying, and debating important issues—the committee helps its members understand common challenges and explore new techniques and tools. This effort in turn helps support other state and MTC programs such as audit and nexus work, training, litigation, and advocacy. These other joint state efforts often go on long after uniformity project work comes to an end.

## Current On-Going Uniformity Projects

The Uniformity Committee's projects vary from large, ongoing projects to more discrete issues, such as the current review of a uniform marketplace/seller certificate. For large, ongoing projects, the work groups and staff provide information and updates through project webpages.

Currently, the committee has three ongoing projects. As discussed further below, it is difficult to think of three single issues that may have a greater impact on the development of functioning state tax systems. Information on these projects is on the MTC webpage here: [Uniformity Projects](#).



### Project: State Taxation of Partnerships

The work group for this project is headed by Laurie McElhatton (California) and has regular participants from 28 states.

- Importance –

Income reported by partnerships and pass-through entities has grown much faster than corporate income. Today, it is easier and more economically efficient to conduct business in the partnership form, largely because of private equity and debt markets.

- Scope –

The scope of this project includes state tax treatment of partnership income attributed and taxed to individual and corporate partners. Issues include sourcing of partnership income, administrative issues, and partner-partnership transactions.

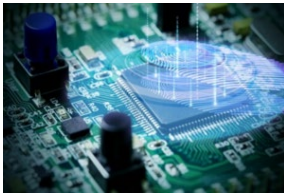
- Actions to Date –

To date, the work group has developed the following:

- A comprehensive issue outline (77 pages)
- A white paper (67 pages) and draft model addressing the sourcing income of certain investment partnerships;
- A white paper (56 pages) and draft model addressing the sourcing and treatment of guaranteed payments for services by individual partners;
- A white paper on the sourcing of partnership income under the pass-through system and the use of blended apportionment (198 pages).
- An Excel workbook demonstrating the approach to calculating a partner's share of apportionment factors using absolute value of its distributive share.

- Current Focus –

The work group plans to draft model general rules for sourcing partnership income, consistent with the white paper. The work group is also continuing to receive feedback from states, practitioners, and taxpayer groups.



## **Project: Sales Taxation of Digital Products**

The work group for this project is headed by Tim Jennrich (Washington) and Mia Strong (Louisiana), has regular participants from 20 states and a number of public contributors.

- Importance –

The digital sector of the economy, including consumer goods, has grown rapidly. Many of these products are unique but others replace products or spending on more traditional goods and service.

- Scope –

The project's focus is the drafting of a white paper to address the various issues that policy-makers should consider in deciding how to tax digital products and, in general, whether a broad approach to taxing these products would be workable.

- Actions to Date –

The major actions on this project to date include:

- MTC staff held stakeholder discussions with 11 states, 7 major taxpayers, 10 practitioners and firms, 10 tax or industry organizations, and 4 academics.
- Information from the stakeholder interviews and other research was used to draft a white paper issue outline laying out the issues to be addressed.
- The white paper outline was used to create a detailed set of webpages capturing the work and resources by topic or issue.
- MTC staff did additional research and summarized state approaches to the taxing of digital products, including a review of the Streamlined efforts.
- MTC staff and others conducted research and discussion of the Internet Tax Freedom Act and its possible effects and created training for states.
- The work group established a study group, headed by Mia Strong (Louisiana) to work through exercises on the effect of digital products on the treatment of bundled transactions.
- The work group established a study group, headed by Ray Langenberg (Texas) to consider ways to define digital products broadly, rather than on a product-by-product basis, while still excluding most services. The group also proposed an approach to exempting sales of digital products to businesses.
- The work group also considered issues affecting sourcing of digital products, including the application of multiple-points-of-use (MPU) rules.

- Current Focus –

Most recently, the work group has taken up the question of how to apply common state exemptions to digital products. Staff will also begin write-ups of topics for possible inclusion in the draft white paper to be considered by the work group for transmission to the committee.



## **Project: Model Receipts Sourcing Regulation Review**

The work group for this project is headed by Katie Frank (California). Regular state participants and other contributors vary by topic.

- Importance –

A significant state tax trend in recent years has been the adoption of market-based sourcing for sales of services and intangibles, as well as shift to single-sales-factor apportionment formulas. So the rules for determining the sales or receipts located in a particular state are more important than ever.

- Scope –

The goal of this project is to identify updates, corrections, or conforming changes, and to consider issues that may not be sufficiently addressed by existing model regulations.

- Actions to Date –

The project began by focusing on special industry apportionment rules, all of which were drafted prior to the Commission’s adoption of a model market-based sourcing statute and general sourcing regulations. The work group reviewed the treatment of trucking and railroad receipts and, on the subject of the trucking rule, was divided. It asked the committee for guidance and the committee decided not to alter the mileage approach.

The work group then considered other special industry rules and MTC staff drafted briefing books on two of those rules, suggesting possible updates on sourcing airline receipts and receipts from broadcasting activities.

- Sourcing of Airline Receipts – Since the Special Industry Rule for Airlines was adopted four decades ago, Airlines have come to receive various substantial streams of revenue there are not expressly addressed by the rule. Examples include code-share or related receipts, which are received for transportation sold by one airline and provided by another, and receipts from the sale of “miles” or “points,” which can then be awarded by the purchaser-business to its customers and redeemed for flights. In general, states have not explicitly addressed the sourcing of these receipts.
- Sourcing of Broadcast Receipts – The MTC has a model special industry rule, most recently updated in 1996, which addresses the sourcing of receipts of television and radio broadcasters. The MTC model general allocation and apportionment regulations also address similar issues—using a market, or audience, approach. The 1996 special industry receipts-sourcing rules may need to be clarified and potentially updated, or could simply be eliminated, given that the general rules now apply.

- Next Steps

The work group has recommended specific changes to the special industry rule for airlines which would update that rule and address code-share receipts and miles/points. The committee is now considering those changes and may hold a special meeting (via video conferencing) to take any action on those changes.