



## Executive Committee Task Force on State and Local Taxation

August 11-12, 2013

Atlanta, Georgia

Meeting Summary

### Committee Members Present:

**Chair:** Delegate Shelia Hixson, Maryland; Senator Pamela Althoff, Illinois

**Vice Chair:** Sen. Deb Peters, South Dakota

**Members:** Rep. Joe Atkins, Minnesota, Sen. Don Balfour, Georgia; Sen. Curt Bramble, Utah; Sen. Dwight Cook, North Dakota; Rep. Justin Cronin, South Dakota; Rep. Dan Easton, New Hampshire; Sen. Wayne Harper, Utah; Rep. Harvey Hilderbran, Texas; Rep. Jay Kaufman, Massachusetts; Sen. Luke Kenley, Indiana; Rep. Brian Kennedy, Rhode Island; Rep. Gary Knight, Maine; Rep. Norm Major, New Hampshire; Sen. Gwen Margolis, Florida; Rep. Jim Murphy, Texas; Rep. Justin Olson, Arizona; Rep. John Otto, Texas; Sen. Ann Rest, Minnesota; Sen. Ellen Roberts, Colorado; Rep. Darryl Scott, Delaware; Sen. Ryan Silvey, Missouri; Rep. Amy Stephens, Colorado; Rep. Eric Turner, Indiana; Rep. Ryan Wilcox, Utah; Rep. Ritch Workman, Florida; Tim Rice, Illinois

### Taxation of Online Travel Companies (OTC)

The task force continued discussion from the Boston meeting relating to the issue of taxation of Online Travel Companies and best practices for a state to follow, if a state chooses to tax hotel rooms sold over the internet. Shawn McBurney, American Hotel & Lodging Association, and Steve DelBianco, NetChoice, represented the perspectives of the lodging industry and the online travel companies respectively. As part of the discussion, the session examined different legislative approaches by states in this arena as well as alternative solutions. At the conclusion of the debate, Representative Justin Cronin, South Dakota, offered a resolution of principles for the task force to consider adopting that would provide states best practices should they decide to consider legislation on how to tax Online Travel Companies. After discussion of Rep. Cronin's proposal, the Task Force adopted the principles unanimously Monday morning during the Task Force business meeting.

## **When Should Congress Act in the State Tax Arena?**

Steve Rauschenberger, former NCSL President and past Task Force co-chair, moderated a discussion between Michael Mazerov, Center on Budget and Policy Priorities, and Doug Lindholm, Council on State Taxation, on the question of the role of Congress in state tax policy and decision making. Mazerov and Lindholm discussed the relevant legal, Constitutional and practical considerations of the roles of both Congress and the states in the tax arena which spurred discussion among task force members of when federal action is necessary.

## **Streamlined Sales Tax (SST) Governing Board Update**

President of the Streamlined Sales Tax Governing Board, Senator Wayne Harper of Utah, and the Governing Board's Executive Director, Craig Johnson, provided an update on the work of the Governing Board to the Task Force. Senator Harper noted the efforts for passage of the Marketplace Fairness Act in the House and the efforts that the Governing Board has continued to make to pass the legislation this Congress.

Following Craig and Senator Harper, Fred Nicely, COST, provided an update to the task force regarding state member compliance with the Streamlined agreement.

## **Marketplace Fairness Act (MFA)**

Joe Rinzel, Retail Industry Leaders Association, provided an update on the status of the Marketplace Fairness Act in the House and led discussion about efforts to pass the legislation and also provided an update on the efforts going on around the country to increase support for the bill. He noted that while House Judiciary Chairman Bob Goodlatte is supportive of the concept of the legislation and that he understands the inequity and competitive disadvantage that main street retailers face compared to online sellers, he wants to make sure that the committee vets any problems with the legislation before taking action. Steve DelBianco, NetChoice, then commented that the legislation will have a much harder time passing the House and that internet retailers are still concerned about the burden that this legislation will put on their businesses.

Following the Marketplace Fairness Act discussion, Scott Peterson, Avalera, and Charles Collins, Taxware, provided an update on where states stand in terms of implementing the Marketplace Fairness Act requirements, should it pass Congress.

The panel then voted to pass a resolution that supports federal passage of the Marketplace Fairness Act with Florida and New Hampshire voting no.

## **Multistate Tax Commission Update**

Utah State Tax Commissioner Bruce Johnson provided a report on the activity of the MTC, specifically the MTC's rewrite of the Uniform Division of Income for Tax Purposes

Act (UDITPA). Steve Kranz, McDermott, Will and Emery, followed Commissioner Johnson with an update on the status of UDITPA in MTC compact member states and explained that those states that have not repealed the compact are at jeopardy to substantial refund claims from businesses. After the discussion, the task force reviewed a memo prepared by Mr. Kranz and then voted to have a letter sent to all MTC compact member states, with the memo as an attachment, informing them of the potential risk for refund claims. All task force member states present voted for the letter and Florida and Minnesota abstained.

### **Communications Tax Reform**

Deborah Bierbaum, AT&T, and Rick Cimerman, National Cable and Telecommunications Association, presented on the technological changes in the communications marketplace and the challenges it creates for state tax policy. They discussed how rapid technological changes have placed renewed strains on outdated state and local tax structures. After their discussion, Tramell Alexander, Verizon, Ellen Berenholz, Comcast, and Scott Mackey, KSE Partners LLP, discussed the role of tax policy in communications network investment and provided an update and discussed recent state policy changes.

### **State Premium and Retaliatory Taxes with Regard to the Business of Insurance**

Bob Montellione, Prudential, provided an overview and a brief history of state premium and retaliatory taxes. He provided context around how the unique system of retaliatory taxation operates to keep premium tax rates relatively stable which is the primary objective of the system.

### **State Tax Incentives**

Joe Crosby, Multistate Associates, moderated a panel discussion on tax incentives. He said that incentives are initiatives adopted by states aimed at stimulating a certain type of behavior by individuals and businesses. He also commented that in their quest to strengthen their economies, particularly in the wake of the Great Recession, states continue to rely heavily on tax incentives, including credits, exemptions, and deductions, to encourage businesses to locate, hire, expand, and invest within their borders. After his overview, Carl Davis, Institute on Taxation and Economic Policy, and Robert Zahradnik, Pew Charitable Trusts, discussed the efficacy of such incentives and their role in overall tax reform at the state and federal levels.

### **State Tax Expenditure Reports**

Joe Crosby, Multistate Associates, Carl Davis, Institute on Taxation and Economic Policy and Robert Zahradnik, Pew Charitable Trusts, discussed the role of state tax expenditure reports for state governments. They agreed that the primary goal of state tax expenditure reports (or budgets) is to provide information to the public and policymakers about preferential tax provisions that reduce overall tax revenue. They

discussed how proponents of these reports laud them as a critical tool to understand and improve state tax systems yet they are sometimes criticized for providing inaccurate and misleading information, particularly with regard to business taxes.

### **Legislating Accounting Standards**

Joel Black, CPA, Partner, Mauldin & Jenkins LLC, discussed how state and local governments will now have to report long term pension-related liabilities more prominently on their balance sheets with the implementation of new standards by the Governmental Accounting Standards Board (GASB). He also briefed the panel on how the governments must also comply with the new GASB standards if they prepare financial statements in conformity with generally accepted accounting principles (GAAP) in order to receive clean, or unqualified, opinions from auditors on their financial statements.

### **Federal Tax Reform – Is it a Good or Bad Thing for State Budgets and State Tax Systems?**

Harley Duncan, KPMG, and Dr. Sally Wallace, Chair of the Department of Economics at Georgia State, discussed federal tax reform activities in the 113th Congress. They commented that even though the Congress' term now approaches the halfway point, comprehensive tax reform remains a hot topic on Capitol Hill. They discussed that as federal and state tax systems and policies often intersect, an overhaul of the federal tax code will impact decisions on the state level. They also provided an update on tax reform at the federal level and led discussion of what states can expect should legislation become law.

THE NEXT MEETING OF THE STATE AND LOCAL TAXATION TASK  
FORCE WILL BE **NOVEMBER 22-23** IN MIAMI, FLORIDA IN  
CONJUNCTION WITH THE SGAC LEADERS POLICY CONFERENCE.