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A New World for State and Local Sales Taxation

As if the 2019 tax committees didn't have enough on their plate already, the recent transformation of the landscape for taxing e-commerce gives policy makers a few other things to think about.

First, there was the express lane checkout treatment of federal tax reform with all the attendant unsettled implementation and administrative issues. Then, there was the TV cliffhanger finish to Minnesota's 2018 legislative session that ensures everyone will tune in next season for the thrilling conclusion to the state's federal conformity efforts. And if that wasn't enough to keep tax prac-

tioners hopping, Department of Revenue staff scrambling, and the billable clocks of lobbyists spinning, the U.S. Supreme Court has now reversed 50 years of precedent¹ and declared that physical presence in a state is no longer needed to require sellers to collect and remit² sales taxes – knocking down the door to state and local taxation of e-commerce. It's a double shot of espresso in an already highly caffeinated tax policy environment.

This latest development has triggered an avalanche of commentaries, analysis, and webinars from experts on what the Court's decision does and doesn't mean with respect to tax practice, policy and administration. From sifting through all this information, a few things become evident. Important questions remain unanswered. The ramifications will continue to unfold for quite some time. And an already complicated and involved 2019 session has become even more complex for the legislature's tax committees.

“Wayfair 101”

In appearance, taxing sales is simple and straightforward: multiply the sale price times the tax rate and you're there. Lurking underneath this superficially straightforward exterior are large amounts of administrative and compliance complexity. Forty-six states (including D.C.) have a sales tax, with literally thousands of local taxing jurisdictions imposing their own rates within that group of states. With each state setting its own rules, this results in a myriad of different tax rates, taxable and exempt products and services, exempt purchasers, shipping tax treatment, specialized tax rules, statutory definitions, registration and reporting regimes, and record keeping requirements.

Back in 1992 the Supreme Court ruled in *Quill vs. North Dakota* that sellers had to have a physical presence in a state before they could be required to collect sales tax in that state. The ruling was based on the conclusion that, given the realities above, such collections and their accompanying

administrative complexities unduly burdened interstate commerce. Since then, with the rapid growth of e-commerce and remote sales in the internet age, “Quill” had become a major thorn in the side of both traditional brick-and-mortar retailers concerned about competitive disadvantage and state and local governments concerned about tax revenue leakage. E-commerce grew at a 15% rate for the six-year period that ended in 2017 while the mobile sales segment specifically has been experiencing growth rates of 50% per year, increasing their discomfort.³ And while “use taxes” are the theoretical backstop to capture some of this lost revenue, compliance is nothing more than a personal honor code. The Minnesota Department of Revenue (DOR) estimates that in any year fewer than 1,000 individual income tax returns include an individual use tax return⁴ (Form UT1), which is required for any Minnesotan buying more than \$770 worth of taxable goods in a year if Minnesota sales tax is not applied during the purchase.⁵

The Supreme Court's decision in *South Dakota vs. Wayfair* (featuring justices split 5-4 in a combination that will likely never be repeated) ended this requirement. The justification was essentially based on three ideas: activities other than physical presence can satisfy the need to have a substantial relationship with the state; the physical presence standard actually creates, rather than resolves, market distortions; and the advancement of software and other technology has lessened the administrative costs of compliance.

In essence, the ruling blessed the switch from a physical presence test to an economic presence or “nexus” test for state sales tax collection purposes. But as observers immediately pointed out, the ruling itself raises a bigger question that the Court did not directly address. The Court only considered the *Quill* physical presence rule and re-

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³ Remarks by Max Behlke, Director of Budget and Tax of NCSL at 2017 MCFE Annual Meeting

⁴ E-mail exchange with Revenue Research

⁵ Legislators enacted the \$770 threshold when the total state sales tax rate was 6.5%, which effectively provided consumers an exemption if their total use tax was \$50 or less.

¹ Beginning with *National Bellas Hess* in 1967

² Throughout the remainder of the article we will use the term “collect” as shorthand to refer to the concept of both collecting and remitting sales taxes.

manded the case back to the South Dakota Supreme Court to determine if anything else in that state's sales tax laws and administrative rules might create an undue burden and cause the state to trip over the Commerce Clause. In short, we now know what isn't needed to pass constitutional muster, but we still don't know exactly what is needed.

The Court did offer some guidance on this matter in their decision by highlighting three characteristics found in South Dakota sales tax law and its administration that prevent discrimination and offer reasonable protections from undue burdens:

- A threshold for having substantial economic presence in the state – in South Dakota it's gross revenues of sales in the state exceeding \$100,000 annually or at least 200 separate transactions.
- No retroactivity – “reaching back” into history to try to collect sales taxes on past transactions that are now taxable.
- Sales tax simplification to reduce administrative and compliance costs – which includes state level administration, uniform definitions of products and services, simplified rate structures, access to sales tax administration software, and immunity from audit liability for sellers that use this software.

It's worthwhile to note that all these simplification elements are part of the Streamlined Sales and Use Tax Agreement – a cooperative state-level effort to make sales and use tax collection and administration by retailers and states more uniform, and therefore simpler. 24 of the 45 states with a general sales and use tax have passed legislation conforming to the Agreement including Minnesota.

All this provides substantive guidance, but as commentators have noted it is far from a brightline test. Many implementation and compliance issues and uncertainty still abide in these areas, even for those working within the cooperative Streamlined Sales Tax framework. As just one example, the

question arises: what level of sales activity represents a threshold of “substantial economic presence?” Minnesota's “small seller exception” features a lower number of sales transactions threshold than is in South Dakota's law:

- 100 or more retail sales shipped into Minnesota by remote sellers over 12 consecutive months; or,
- 10 or more such sales if the total value of the sales is \$100,000 or more.⁶

Do states have carte blanche to impose their own higher or lower remote sales thresholds? And where might constitutional concerns be triggered?

Then there are the sales tax collection issues on which the *Wayfair* decision is completely silent. Chief among them are questions surrounding so-called “marketplace providers” and requirements to collect sales tax on third party sales that use their e-commerce platforms. It's a big dollar topic. Amazon has said it has more than 100,000 vendors who each sell more than \$100,000

annually, translating into total sales of more than \$10 billion. According to the company, half the items it sells are from third-party vendors. And states are very aware of this potential sales tax leakage. As an official from the National Conference of State Legislatures noted last year, “whatever a state is getting in sales tax from Amazon, it should probably be getting about twice that much.”⁷

Many experts see including marketplace providers both as a logical extension of taxing remote sales and an advantageous and necessary feature to mitigate the risk of triggering Commerce Clause concerns regarding burdens on small businesses. The administra-

tive efficiency of having marketplaces collect taxes for these small e-commerce businesses is appealing to states. They point out it could also be a business win for marketplace operators that could attract new vendors with their sales tax compliance services. Amazon already offers its third-party sellers a sales tax compliance service for a fee.

Others, however, see potential liabilities and inevitable lawsuits if marketplace providers take on this obligation. In addition, “marketplace providers” is a rather generic term covering a range of operations which vary in their degrees of sophistication and roles in facilitating third-party sales. Experts note it's possible that legal challenges may arise if states are overly aggressive in trying to sweep up more passive platforms.

In short, the *Wayfair* decision fundamentally altered the landscape of sales taxation as we know it. But it remains an unsettled landscape featuring an abundance of unresolved implementation issues and compliance questions, much of which revolves around the issue of whether the Court's new standard of economic presence is satisfied. Or as one commentator put it, “Other than the specific facts of *Wayfair*, there appears to be no clear guidance that a taxpayer (or use tax collector) tax administrator, or lower court can rely on to determine whether substantial nexus exists.”⁸

Federal Action: Now More Than Ever?

For these reasons, some are now hoping Congress will pick up where the Supreme Court left off with a legislative solution that provides a uniform standard and ground rules for tax treatment of remote sales and marketplace providers. Tax policy experts have long argued that congressional action is the preferable venue for addressing this issue. However, two bills that would deal with the matter – the “Remote Transactions Parity Act” and the older “Marketplace Fairness Act” – have long been stuck in legislative neutral. Many experts argue the question marks left by the *Wayfair* decision will be the catalyst for legislative action next year.

What makes this politically intriguing is the role reversal surrounding congressional action on this topic. Prior to *Wayfair*, doing

⁶ Minn. Stat. §§297A.66 subd. 3(d)(1)-subd. 3(d)(2) (2017). Note that remote sellers deemed to have physical presence in the state because they make sales through a marketplace provider are subject instead to a threshold of \$10,000 in annual sales, with no provision for the number of sales made. (Minn. Stat. §297A.66 subd 2b. (2017))

⁷ “Amazon to Start Collecting State Sales Taxes Everywhere” CNN Tech, March 29, 2017

⁸ Calhoun and Kolarik, “Implication of Supreme Courts Historic Decision in *Wayfair*”. *State Tax Notes* July 9, 2018.

nothing meant the physical presence rule remained in force. State and local governments had strong interests in pursuing federal legislation to caulk the growing gaps in their sales and use tax systems. Post *Wayfair*, doing nothing now results in a completely different outcome. The replacement of a physical presence standard with an ambiguous economic nexus requirement has given revenue agencies seemingly more “room” to maneuver regarding tax collections. Moreover, the nature of the ruling itself, as one commentator put it, “may signal a new era in which courts provide a tremendous amount of deference to state tax regimes.”⁹ As a result, while pressure for congressional action from the states may have lessened, some taxpayers, potential taxpayers, and advocacy groups who may have been resistant to federal action are now calling for Congress to nip the potential for over-aggressive revenue collection regimes in the bud. These interests have also expressed concern that without federal action, the enhanced “freedom” for states will have the unintended consequence of actually disincentivizing cooperation between states and harmonization of disparate state tax systems.

Meanwhile, Here in Minnesota

In many ways, Minnesota is likely positioned as well as any state in the nation in responding to the overturn of *Quill*. We have long had statutory language regarding remote sellers in place in anticipation of either court or congressional action. We more recently added marketplace provider language. According to DOR, with the overturn of *Quill*, both laws will become effective on October 1. And most importantly, we are a member state of the Streamlined Sales and Use Tax Agreement which the Supreme Court indirectly “blessed” in its ruling and thus provides the best assurance possible of not having to worry about triggering “undue burden on commerce” problems in the eyes of the courts.

So what defines the post-*Quill* world in Minnesota? Lawmakers’ attention will immediately be drawn to the additional revenue showing up in November’s economic forecast. It’s important to recognize that expectations of a major windfall need to be tempered for the simple reason that a lot of e-commerce sales already had nexus (Amazon, for instance, has had nexus in Minnesota via its Shakopee warehouse) and were

therefore being taxed. The federal Government Accountability Office’s estimates of state tax revenue gains nationally are about half of what earlier academic studies estimated for this reason.

Nevertheless, it represents real money. House Tax Chair Greg Davids told *State Tax Notes* that e-commerce provisions are projected to generate an additional \$150-\$210 million annually for the state, but DOR is currently updating those estimates. That original estimate accompanied his bill in 2018 to adjust the state’s general sales tax rate down in a revenue-neutral way to reflect increased tax collections from remote sales. That’s one of several policy options which will likely be debated in 2019. With federal conformity still in limbo, it would not be surprising to see the new revenues grease the implementation of a state conformity plan or finance some more ambitious state tax reform.

Then there are the inevitable administrative issues and hiccups surrounding compliance. Even though Minnesota is statutorily well prepared, issues are bound to pop up prompting discussion and debate in the 2019 session. Here’s a sample of the issues we have heard discussed and seen mentioned.

- **Challenges the implementation date presents.** Minnesota’s October 1 implementation date lines up with many other Streamlined Sales Tax states and seems to function as an attempted compromise between the practical recognition that it will take time for businesses to come into compliance and the political reality that both states and many retailers don’t want to experience another tax-free e-commerce Christmas season. However, some have expressed concern that this is too rushed for smaller sellers who lack the compliance software and systems that large seller counterparts have in place and ready to go. They note such software is hardly “plug and play” – implementation requires a lot of time, effort, and testing with respect to operating and updating the system and ensuring compatibility with financial systems. This challenge is compounded by simple demand realities – many vendors are simply overbooked because of the ruling.

- **Who collects the tax?** Minnesota’s Marketplace Provider law was written when the assumption was that use of the plat-

forms created the nexus. But as a result of the *Wayfair* ruling both the platforms and many of their sellers will have nexus. If both have nexus, when are platforms supposed to collect the tax and when should the sellers collect? Are the Minnesota Marketplace Provider statute’s current default rules on this the best approach – both from an ease of compliance and administrative view? And must the platform collect tax for sellers that don’t meet the thresholds?

- **Who is liable for the audit result?** If a company like Amazon fails to collect tax on a taxable item, who gets the assessment – Amazon, or the actual seller of record?
- **When are thresholds hit?** One issue that continues to surface is related to the sales threshold – especially in the “business to business” area. Many wholesale businesses may have a small retail sales segment. If they make \$1 million of sales for resale; and \$10,000 of sales at retail, do those combined amounts meet the threshold, therefore necessitating the business to collect tax on the \$10,000 in retail sales?

There are undoubtedly many other administrative and interpretive issues in the works now and over the coming months pertaining to special situations that will make DOR a factory of Revenue Notices and fact sheets for the foreseeable future. It seems quite likely that in some circumstances, these administrative edits and clarifications will be insufficient and some clean-up of the statutory language will need to be enacted. Doing so would provide taxpayers assurance that some of the key decisions are in a form that can only be changed by the legislature while also providing transparency regarding the decisions being made.

All this, of course, is occurring in a context featuring unresolved federal conformity matters which are demanding legislative attention and already stretching DOR’s resources thin. Throw in the need to create another two-year state budget with all its accompanying tax policy issues and the fate of the provider tax and tax committees and the new administration will have their hands more than full. Taxpayers should hope that whatever reconstituted state governance arises out of the November elections results in productivity that matches the size of the “to-do” list. ■

⁹ Ibid

The Prevailing Theory

A closer look at whether the state's prevailing wage law actually delivers on its stated legislative purpose.

Among all the proverbial “third rails” that exist in politics, state prevailing wage laws feature some of highest voltage. These controversial state-level versions of the Depression-era federal Davis-Bacon Act mandate pay levels for public construction projects that meet certain thresholds to ensure that government projects offer compensation that corresponds to local market rates for various occupations.

This on-again, off-again topic is back in the news. In a preemptive effort to inoculate Minnesota policy makers against what the authors themselves describe as the “legislative virus” of prevailing wage repeal infecting the Midwest, researchers from the Midwest Economic Policy Institute and Colorado State University-Pueblo released a report that studied 600 Minnesota school district construction bids and found prevailing wage had no statistically significant effect on school construction costs.¹⁰

It might seem very strange that so much political drama can arise out of a law requiring something so seemingly normal and unremarkable as paying the levels of compensation that already exist in a local economy. The hint that something else may be going on here can be found in the language of Minnesota's own prevailing wage statute:

It is in the public interest that public buildings and other public works be constructed and maintained by the best means and highest quality of labor reasonably available and that persons working on public works be compensated according to the real value of the services they perform. It is therefore the policy of this state that wages of laborers, workers, and mechanics on projects financed in whole or part by state funds should be comparable to wages paid for similar work in the community as a whole.”

— Minnesota Statutes, Chapter 177,
Section 41

Few would argue with the statute's statement of public interest or its intent. But de-

termining and quantifying the “real value” of someone's labor is an inherently challenging and arguably subjective task. That's especially true when it involves the use of imprecise definitions and vague concepts such as “comparable wages,” “similar work,” and “in the community as a whole.” While most prevailing wage debates center on whether these laws should exist, an overlooked and underappreciated policy issue is the process states that have implemented these laws use to actually determine their prevailing wage rates.

The OLA Chimes In...

In Minnesota, the Department of Labor and Industry (DLI) administers the prevailing wage rate-setting process. DLI uses a survey to collect information from contractors and other interested parties on the wages paid to employees working on non-residential construction projects, along with cost of their fringe benefits. The survey data is then used to set prevailing wage rates for a variety of “job groups” (electrician, carpenter, etc.) in each of Minnesota's 87 counties. The survey design includes three features we believe are important to understand.

First, the survey is project-based and not employer- or firm-based. The survey does not gather information comprehensively on a county-by-county basis about the wages and benefits employers located in the county pay to employees who work on non-residential construction projects. Instead, it only gathers information on the wages and benefits paid to employees working at individual project sites in each county. Second, any individual construction site can have multiple projects, since for prevailing wage purposes the term “project” is defined by specific contracts, and not the finished construction. The state has designed the survey process so that multiple contractors working at a site may each submit a survey reflecting their own work. Moreover, an individual contractor with multiple contracts for different stages of work at a construction site may report employee wage and benefit rates

associated with each individual contract as a separate “project.” Finally, the survey is voluntary. It does not use random sampling with follow-up of non-respondents, as is generally the case for government survey projects. Participation in the state's prevailing wage survey is completely voluntary. (And since the survey is based on projects which would need to be identified in real time, without a state-wide database of public construction projects DLI would be hard-pressed to contact non-respondents even if state law mandated that it try to.)

872 (61%) of the prevailing wage rates imported into rural counties used data that came either primarily or exclusively from non-rural counties.

In 2006 legislators directed the Office of the Legislative Auditor (OLA) to examine Minnesota's prevailing wage requirement, and as part of that examination required an evaluation of the method used to set prevailing wage rates in Minnesota. The OLA's evaluation report, published in 2007, concluded that DLI, “uses reasonable methods to collect wage and benefit information for the purpose of setting prevailing wage rates.” However, this conclusion did not come without some important qualifications and caveats:

- The OLA concluded it was not possible to determine if DLI survey results were actually representative of the non-residential construction industry
- The OLA found that the survey response rate appeared “to be low” based on the roughly 14,000 potential respondents it estimated could have responded to the survey
- The OLA concluded the method used to calculate prevailing wage rates may sometimes result in rates that are not representative of wages and benefits paid for non-residential construction work

The OLA's conclusion about the continuing efficacy of the rate-setting method employed was essentially compelled by the lack of any better approach. Or as the OLA stated, “Although we have some concerns about the wage data collected by the sur-

¹⁰ Manzo and Duncan, An Examination of Minnesota's Prevailing Wage Law: Effects on Costs, Training, and Economic Development, July, 2018

Table 1: Prevailing Wage Rate Exportation Flows Between Counties

Urban Status of County		To				Total
		Twin Cities MSA	Other MSAs	Micropolitan	Rural	
From	Twin Cities MSA	310	24	71	65	470
	Other MSAs	29	126	179	426	760
	Micropolitan	16	118	139	381	654
	Rural	9	33	123	558	723
Total		364	301	512	1,430	2,607

vey, there is not an alternative source of construction wage data that is clearly better than the data collected by the Department of Labor and Industry.”

That’s a highly pragmatic and practical conclusion. But if the issues and concerns flagged by the OLA persist or have worsened, at some point that conclusion about how “reasonable” the rate setting methods are can be called into question.

...And So Does the MCFE

Last year, the Construction Education Foundation of Minnesota contracted with the MCFE to revisit the analysis and findings of the OLA’s evaluation to see what, if anything, had changed.¹¹ We examined prevailing wage survey data from projects completed in 2015-2016 which constituted over 50,000 individual records related to non-residential construction projects. We explored the degree to which rate setting relies on importing rates from other areas. And we used survey data to estimate how prevailing wage rates would change under different prevailing wage calculation scenarios. Our findings and conclusions centered on how well the current rate setting process actually delivers on the stated legislative intent of the state’s prevailing wage law and the extent to which issues the OLA flagged 10 years ago continue to exist.

If the stated policy intent continues to be “ensuring comparable wages for similar work in the community,” our findings suggested that ten-plus years later, the process DLI

uses to determine prevailing wages leaves a lot to be desired. Our study period included 5,133 total job groups for which prevailing wages could be set.¹² Of these, only 1,419 prevailing wages (28% of the total) were set using survey data generated from projects within the relevant county. The majority of prevailing wages were set using data imported from adjacent counties (2,607, or 51% of the total) or using other methods – primarily historical information (314, or 6% of the total).¹³

Moreover, using wage data from adjacent counties to set prevailing wage rates frequently resulted in wage importation from locations featuring different economic and demographic characteristics. The accompanying table shows how prevailing wage rates were exported between counties based on whether they are in a Metropolitan Statistical Area, a Micropolitan Statistical Area, or outside of either of the two (“rural”).¹⁴ Notably, 872 (61%) of the prevailing wage rates imported into rural counties used data that came either primarily or exclusively from non-rural counties.

What the rate determination method does appear to do quite well is establish collectively bargained union rates as prevailing wage rates. The OLA recognized that potential outcome in its 2007 report, which stated that then-existing structural features of the wage determination process “could lead to the overrepresentation of union wages among the reported wages.” That report fur-

ther identified over two-thirds of commercial construction prevailing wage rates set using current own-county or adjacent-county data as union rates. Roughly ten years later, union rates appear to be even more prevalent. We found that 75% of the nearly 4,000 commercial construction prevailing wage rates set using own-county or adjacent county data from this survey are union rates.

Two structural features of the rate determination process play an influential role in this outcome. First, since the survey is based on projects and not employers, an individual who works on multiple projects can (and does) have his or her compensation data submitted multiple times for calculation purposes. We found 233 instances of one employee’s compensation data being submitted on at least 10 different projects for the same job group in the same county for the same employer. Second, the state sets the prevailing wage using the mathematical mode – the most frequently reported rate, down to the penny – of all rates reported for each job class in each county. Put them together, it shouldn’t be surprising a very small number of individuals often determine the prevailing wage rate even in populous counties.

Our analysis of prevailing wage determinations under alternative calculation methods offers evidence that union rates would continue to have a disproportionate influence in setting the rates. Alternative calculation methods (mean, median, etc.) should capture a broader diversity of wages and benefits that exist among all commercial construction contractors in the state and therefore yield different results. Yet we found prevailing wage rates calculated under these alternative methods resulted very little if any change to established rates in the majority of circumstances.

Two realities underlie this finding. First, 18% of the 1,419 prevailing wage rates set using current, own-county survey data had one data point (i.e., one person working on one project).¹⁵ In another 29% of cases, multiple records were used to generate a prevailing wage rate but all of those records had identical compensation rates to the penny. When all the data points are the same, alternative calculation methods (average, median, mode, etc.) will all generate identical outcomes.

¹¹ *Minnesota’s Prevailing Wage: An Evaluation of the Rate-Setting Process*, February, 2018. By way of full disclosure, the Foundation is the training and education arm of Associated Builders and Contractors, Inc. MCFE is solely responsible for the report’s content. The Midwest Economic Policy Institute / Colorado State University report contains no information on origins of the study or acknowledgements regarding financial or other support for the effort. It is left to the reader to speculate why non-Minnesota scholars would study the effects of Minnesota’s prevailing wage laws on school construction costs.

¹² Prevailing wage rates could be set for 59 individual job classes in each of Minnesota’s 87 counties. The study did not examine job groups that are specific to highway and heavy construction; mostly because of the small number of survey records (292 in total, from 27 counties).

¹³ The remaining 15% of potential prevailing wage rates were not set at all. If adjacent county information is not sufficient and no rate was certified in the prior year, DLI does not certify a rate unless requested to do so.

¹⁴ Metropolitan and micropolitan statistical areas are geographic regions located around an urban center with a high degree of social and economic integration as measured by commuting ties.

¹⁵ 1,419 rates generated from own-county survey data plus 2,607 rates generated from survey data imported from other counties.

Keeping the Intent But Ending the Pretense

Minnesota's prevailing wage laws are used to set compensation costs for billions of dollars of public construction projects across the state annually. If we believe it's important to keep these provisions in place, we should have confidence that they set prevailing wage rates in a rigorous way that ensures statutory intent and reliably reflects labor compensation rates for similar work in the local economy. Given the self-selection bias and other design flaws inherent in the current methodology – which resembles an on-line newspaper poll far more closely than any rigorous survey method we can think of – confidence in the system is almost certainly misplaced.

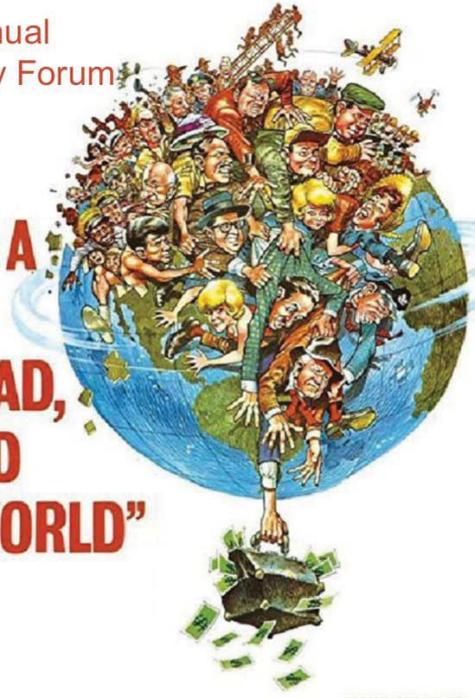
To fix the process we recommended a shift to employer-based surveying combined with switch to a “majority-average” method to calculate the prevailing wage (in which the mode would be used if it represents a majority of responses and the average would be used otherwise). Hybrid approaches like this are used by a plurality of states where prevailing wage laws still exist to ensure that competing notions – the most frequently reported wage versus the average wage – both factor into the calculations creating some linkage between reporting frequency and central tendency. Such reforms would better capture and reflect the law's stated intent by making certain rates are based on wage and benefit structures found among local employers.

Even though such a proposal would leave prevailing wage provisions in law, we suspect it would still face considerable political obstacles. That's because it seems to us the primary value of the current prevailing wage determination process is the appearance it gives. It offers the look of rigorous, evidence-based policy implementation that generates an outcome many would find highly unfair and discriminatory if instead the state simply mandated it. ■

- Federal Reform Fallout
- Taxation of E-Commerce
- Conformity in Limbo
- 2018 Elections

MCFE 92nd Annual Meeting & Policy Forum Presents

“IT'S A MAD, MAD, MAD, MAD (TAX) WORLD”



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Join us in October as distinguished experts and political veterans help us unrav-

el the policy, political and administrative implications from one of the most eventful years in Minnesota tax policy history.

Discussion Panel 1: Life after Quill – The Policy and Politics of Taxing E-Commerce

The Supreme Court's ruling overturning the longstanding “physical presence” requirement for sales tax collection purposes changes the landscape of sales tax collection as we know it. But the ruling itself prompts an abundance of unresolved implementation issues and compliance questions and also has potential long-range ramifications for other elements of state tax systems. Having participated on the front lines of this debate for years, our panel of national tax experts will explore the policy, administrative, and political

aftermath of what has been called “the tax case of the millennium.”

Panelists:

Harley Duncan, Managing Director, KPMG, Washington DC

Craig Johnson, Executive Director, Streamlined Sales Tax Governing Board, Inc.

William Lasher, Senior Director, Indirect Taxes, eBay Inc.

Doug Lindholm, President and Executive Director, Council on State Taxation

Discussion Panel 2: Unfinished Business – Minnesota Tax Policy and the 2019 Session

The implications of Minnesota’s failure to enact a federal conformity bill in the 2018 session – already being experienced by the Department of Revenue – will be more fully appreciated in the 2019 tax filing season putting a major unresolved issue right back in the spotlight. Add in taxation of e-commerce, the scheduled elimination of the provider tax, state budget deliberations, and – perhaps above all – new players in the negotiations and all the ingredients exist for a tax policy year to remember. Our panel of capitol veterans and state tax experts will examine the administrative, policy, and political issues that are likely to frame the 2019 legislative session.

Panelists:

Jim Girard, Former legislator and commissioner, Minnesota Department of Revenue

Ann Lenczewski, Former chair, House Tax Committee

Joel Michael, Legislative Staff, Minnesota House Research

Jenny Starr, Assistant Commissioner, Minnesota Department of Revenue

LUNCHEON SPEAKER:

C. Eugene Steuerle



Richard B. Fisher Chair, Institute Fellow, and Co-founder of the Urban-Brookings Tax Policy Center, and Author of *Dead Men Ruling: How to Restore Fiscal Freedom and Rescue Our Future*

“Reframing the Budget and Tax Debate”

As reflected in a distinguished public finance career spanning over four decades, few if any individuals can match the depth and breadth of experience in both tax and fiscal policy as this year’s luncheon speaker, Dr. Eugene Steuerle.

Among past positions, he has served as Deputy Assistant Secretary of the Treasury for Tax Analysis, Vice President at the Peter G. Peterson Foundation, co-director of the Urban-Brookings Tax Policy Center, Resident Fellow at the American Enterprise Institute, Federal Executive Fellow at the Brookings Institution, and columnist for Tax Notes Magazine and the Financial Times. Between 1984 and 1986 he served as Economic Coordinator and original organizer of the Treasury’s tax reform effort, for which Treasury and White House officials have written that tax reform “would not have moved forward without your early leadership.”

He is the author, co-author, or co-editor of eighteen books and over 1,500 articles, briefs, reports, and Congressional testimonies.

He served as President of the National Tax Association, chaired the 1999 Technical Panel advising Social Security on its methods and assumptions, and chaired a National Academies panel on the use of economic evidence to inform investments in children. He has served or is serving as an elected, appointed, advisory panel, or board member for the Comptroller General of the United States, the National Academy of Social Insurance, Independent Sector and Council on Foundations policy councils, the Congressional Budget Office, the Joint Committee on Taxation, Venture Philanthropy Partners, the National Committee on Vital and Health Statistics, and the Journal of Economic Perspectives, among others.



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