

# The Leaf Sheet

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## Upcoming Meetings:

**Central Regional**  
April 5-6, 2023  
Minneapolis, MN

**Western Regional**  
April 27-28, 2023  
Anaheim, CA

**May Uniformity**  
May 9-11, 2023  
St. Louis, MO

**Northeast Regional**  
May 24-25, 2023  
Salem, Massachusetts

**Southern Regional**  
June 28-29, 2023  
Savannah, GA

**August Uniformity**  
August 18-19, 2023  
Tucson, AZ

**Annual Business Meeting**  
August 20-23, 2023  
Tucson, AZ

## Message from the National Chair

Hello Everyone! It has been a very eventful year for tobacco taxes and as the summer winds down, I want to think back to all that we have accomplished in the past year.

First, I want to thank our past national chair Gerald Robinett. During the pandemic, Gerald guided the FTA Tobacco Section through virtual meetings and organized national meetings for the past three years. He has graciously served during this time and was a great mentor to me as I try to take the baton and lead us into our next FTA Tax Section Annual Conference in Tucson Arizona.

I think back at what I did to be in the position to be National Chair for the Tobacco

Tax Section and it was easy. I networked, participated and asked questions. I also tried to meet any new people that were attending so I could make them feel welcome and also encourage them to keep attending. I have acquired the majority of my knowledge by going to uniformity meetings, regional meetings, training and the annual conference. I have made contacts in almost all 50 states. I have met people that are from industry, federal government and law enforcement.

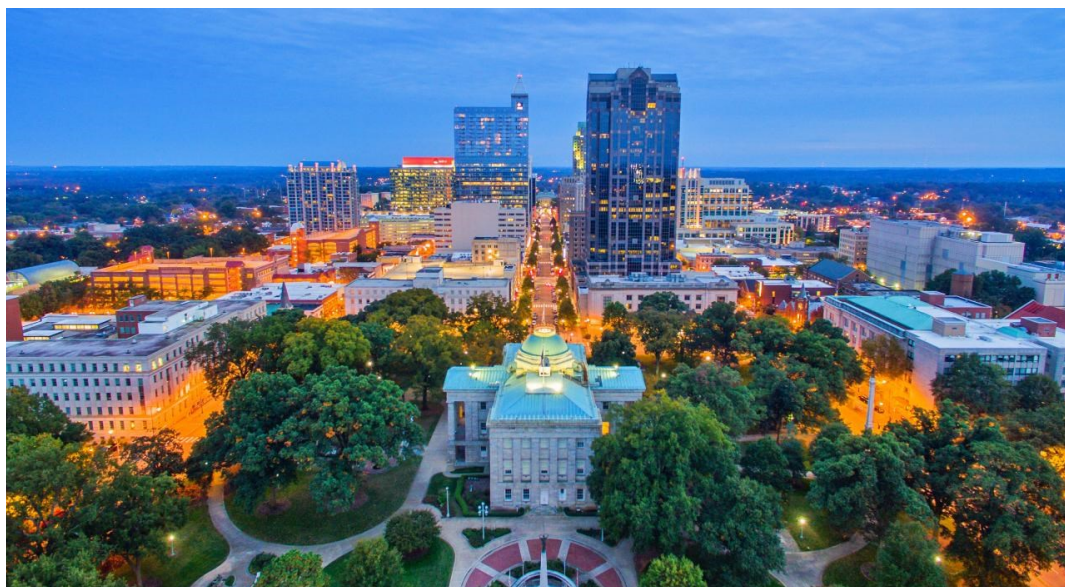
The best practices that I use in North Carolina come from individuals that I had the opportunity to work with for over two decades. I would like to say that the FTA Tobacco Section is a second family and I was thrilled when I was elected

to lead the FTA Tobacco Section as your National Chair.

I strongly encourage each of you to participate in the FTA Tobacco Section's uniformity, training sessions, regional meetings and the annual conference as events are scheduled. Use the resources that are available to you through the FTA because it has been invaluable to me.

Lastly, I hope to encourage everyone to attend the FTA Tobacco Tax Section Annual Conference in Tucson Arizona, August 20-23, 2023.

**Al Milak**



## **Message from Uniformity Committee Co-Chairs**

Tim and I are looking forward to seeing everyone in Anaheim, CA for the Uniformity meeting. At the August meeting in Portland, ME we had a great discussion from Tim and I on why uniformity is a benefit to states and industry. We look forward to continuing this discussion at the upcoming meeting. The topics discussed at the meeting were the XPath document, the brand code table, the PMTA decisions, alternative nicotine products, flavor bans, and how modified risk tobacco impacts the tax return.

We also heard an update from states that are in the process of moving to uniformity. We are looking forward to hearing more from the states moving to uniformity at the next

meeting in Anaheim, CA. There have been several changes to the Tobacco Uniformity Subcommittees. We would like to welcome Justin Scott as the new subcommittee State Co-Chair for Compliance and Jim Pulsifer as the Industry Co-Chair for Compliance. Justin Scott is with the State of Texas and Jim Pulsifer is with Altria. We would also like welcome Casey Anders as the new Industry Co-Chair for the Forms Subcommittee. Casey Anders is with Associated Wholesaler Grocers Inc.,. The Technology subcommittee also has had some changes. The new Industry Co-Chair is Raymond Chu from Core-Mark. We are excited to announce we will be adding a new Cannabis Subcommittee. The Cannabis Subcommittee will have Emily Caraway from the state of Mississippi as the State Co-Chair and Alberta De La Serna from SICPA as the Industry Co-Chair.

We would like to thank all the outgoing Co-Chairs for their time and dedication to Tobacco Uniformity and look forward to working with all the new Co-Chairs!

**Jason and Tim**

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## **Compliance Subcommittee Update**

This past year has pitched so many challenges and opportunities for the FTA tobacco tax section, government and industry with retirements and new people coming onboard. The evolving world of regulations from the Food & Drug Administration (FDA) and the States on tobacco and the types of nicotine products we are seeing today have also played a significant role.

Speaking of recent retirements, Joe Noland retired at the end of 2022 as the deputy chief of the Ohio Department of Taxation Criminal Investigations Division. Joe leaves big shoes to fill as he has served as the longtime Government co-chair of this subcommittee and with his ongoing involvement in planning and presenting at many of the regional and annual meetings. I know we will all miss Joe as he was always willing to go the extra mile to make these meetings successful and his passion for enforcement and tax compliance. Joe will be missed as a fellow law enforcement colleague and friend. We wish him the best in all of his future endeavors and spending time with his family.

Justin Scott, was invited to step in and attempt to take Joe's place as the Government co-chair of this subcommittee along with his current duties as your national vice chair. Justin Scott said "it was an honor and privilege to be asked and I am looking forward to the challenges ahead and continuing to support FTA's purpose."

Please welcome Jim Pulsifer with Altria who has also stepped up to the plate and will be serving as the Industry co-chair on this subcommittee. We are glad to have Jim as a part of the team and look forward to having his longtime experience and involvement with industry and working with FTA and the States on regulatory and compliance issues. Jim has been attending and actively participating in FTA meetings over the past 12 years. Jim brings legislative, regulatory, FDA and compliance perspective to this new role as Industry co-chair of the Compliance Sub-Committee.

**Justin & Jim**

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## Forms Subcommittee Update

At the meeting in Portland, Helen Hayes, Core-Mark announced that she would be stepping down as industry co-chair of the Forms subcommittee. A special Thank You to Helen for all of your hard work, time and insight that you provided over the years. We are glad that you will still be around to provide your expertise.

WELCOME to Casey Anders, Associated Wholesale Grocers! Casey has agreed to take over as industry co-chair.

During the last meeting, we discussed correcting the Attribute on the cigarette stamp form, where to include stamped Little Cigars and heat stick on the cigarette cover pages and adding the UPC code to the tobacco form.

At the January meeting, we will be going over some updates to some form instructions and define Modified Risk Tobacco. As always, we will discuss any other topics that are brought up.

**Marci and Casey**



## House of Cannabis

### 2022 state-by-state ranking of cannabis regulations:

1.	California	2.	Colorado	3.	Michigan	4.	Nevada	5.	Oregon
6.	Illinois	7.	Michigan	8.	Maine	9.	Arizona	10.	Washington

Leading the rankings again is California (#1), the first state to legalize medical marijuana in 1996. Since then, the state has legalized adult-use marijuana, and created a uniform licensing regime for both medical and recreational marijuana use across the state. The biggest restrictions and legal complexities lie in the area of commercial cannabis activities. A new law passed in July 2022 eliminates the state's weight-based cannabis cultivation tax to be paid by market growers and created new tax credits for certain cannabis businesses. Other pending legislation would affect employers' treatment of persons who use cannabis, and potential loosening of restrictions on labeling/marketing requirements for cannabis products.

Illinois dropped from #5 to #6 in the rankings. Under Governor Pritzker, the adult usage and purchase of cannabis for recreational purposes was legalized in 2019. In addition, the state has seen the expansion of licenses for marijuana retail stores and craft growers. Current pending legislation includes HB 4116 which allows employers to enforce their drug testing policies and drug-free workplace policies, but an employer may not take adverse action against an employee solely because of a positive drug test for cannabis.

Dropping two places to #15, New York legalized recreational adult-use marijuana in 2021, but the licensing and opening of recreational use marijuana stores has been a much slower process. In Western New York, with an abundance of federally recognized Native American tribal reservations, businesses on protected lands have emerged and gained early success selling recreational use marijuana. However, the first sales that do occur outside reservations will most likely be made by "equity-entrepreneurs with a prior cannabis-related criminal offense who also have a background owning and operating a small business."

While the District of Columbia (#17) has allowed medical marijuana since 2010 and adult-use cannabis since 2014, the sale of cannabis for recreational use remains prohibited. Adults may possess two ounces of marijuana and grow up to six plants. However, the future of cannabis law in D.C. is dependent on the U.S. Congress, who prohibited actual sales of adult-use marijuana. In 2022, the D.C. Council took action to allow residents over the age of 65 to self-certify their use of marijuana for medical purposes until September 2022, and they passed the Cannabis Employment Protections Amendment Act.

Missouri maintains its middle-of-the-pack ranking at #33, down from its place at #32 last year. While medical marijuana is legal, recreational, adult use is not, although a 2022 ballot initiative pioneered by Legal Missouri 2022 may legalize adult-use recreational marijuana. The initiative also calls for a six percent tax on recreational cannabis sales, and would required regulators to issue at least 144 microbusiness licenses through a lottery system. Existing medical marijuana dispensaries would be first in line to start serving adult consumers with dual licenses.

Texas maintained its ranking at 35 for the second consecutive year. The Lone Star State has not passed legislation allowing for the recreational use of marijuana and has only in recent years legalized industrial hemp and some CBD products, and expanded the range of disorders treatable under the Texas Compassionate Use Act. Because there was no regular session for the state legislature in 2022, there were no new state laws related to cannabis. However, a ballot initiative in Austin, Texas passed, which eliminated enforcement of "low-level marijuana offenses" and banning no-knock warrants, although this is, of course, confined to the city of Austin.

## ***How Can You Become More Involved In Uniformity?***

- ◆ Regularly check for updates at FTA's updated Tobacco Uniformity website at [taxadmin.org](http://taxadmin.org).
- ◆ Talk to other states and industry members.
- ◆ Attend meetings!



### **Things to consider.....**

If you don't currently require cigarette and/or tobacco returns, and/or PACT Act reports to be filed electronically, do you know when your state is expected to do so?

Has your revenue staff coordinated with your AG's staff to ensure the uniform schedules will also fulfill all of their filing requirements? If you're from the AGO, reach out to your Revenue Department.

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## ***Tobacco news you can use...***

### **Tax on Vape Products by various states**

#### **New requirements for vape distributors, manufacturers, and sellers**

The expanded Prevent All Cigarette Trafficking Act (PACT Act), enacted March 2021, requires any business or person that sells, ships, or transfers Electronic Nicotine Delivery Systems (ENDS) for profit in interstate commerce to:

- Register with the [Bureau of Alcohol, Tobacco, Firearms, and Explosives](#) (ATF)
- Register with any states where they ship vapes and similar products
- Verify the age of purchasers upon delivery
- Comply with state, local, or tribal excise tax and reporting requirements.

In sum, the amended PACT Act requires e-cigarettes and vaping products to be treated more like traditional tobacco cigarettes. On top of statewide taxes, there are local vape taxes in a few jurisdictions in Illinois (Chicago and Cook County) and Maryland (Montgomery County). Alabama, Colorado, Missouri, New York, Ohio, Pennsylvania, and Virginia also allow local governments to levy local taxes on vapor products.

#### **Vape taxes:**

Cigarettes and other tobacco products, e-cigarettes, vapes, and other ENDS are typically taxed either on a unit basis or on a percentage of the retail or wholesale price. Each jurisdiction defines the percentage tax base a little differently.

Most states that tax vaping products use *either* the percentage *or* the unit. However, Connecticut, Georgia, Kentucky, New Hampshire, New Jersey, and New Mexico use both methods: They use the unit (per cartridge) for closed vaping products and a percentage of the price for open vaping products.

#### **Open vs. closed vs. disposable**

Vape taxes based on the unit may be affected by the type of cartridge used to contain the e-liquid: open or closed. Some states base the tax on the cartridge and/or disposability and some base the tax on each milliliter (or fraction of a milliliter) of e-liquid purchased. With open containers, users must manually fill the tank with e-juice. Closed containers come filled and don't have a conventional tank that can be refilled, but they can usually be reused with disposable cartridges containing e-liquid.

Disposable cartridges contain a consumable vapor product at the time of sale. They're not designed or intended to be reused or refilled, and are generally disposed of after use. All ENDS must be properly disposed of after use.

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## Uniformity Committee Chairs

### Uniformity Chairs

Jason Kraemer  
State of Wisconsin

Tim Harris  
Eby Brown Company LLC

### Cannabis

Alberto DeLaSerna  
SICPA Product Security, LLC

Emily Joorfelz  
State of Mississippi

### Communication and Legislation

Julian Daniels  
State of Texas

Cheyenne Still  
McLane Company Inc.

### Compliance

Justin Scott  
State of Texas

Jim Pulsifer  
Altria Group Distribution Company

### Forms

Marci Rosencutter  
State of Kansas

Casey Anders  
Associated Wholesale Grocers

### Technology

Mike Hanson  
State of California

Raymond Chu  
Core-Mark International Inc.

## Tobacco Regional Officers

### Central Region

Jacob Hunter,  
Illinois  
Governor

Brian Schummacher,  
North Dakota  
Lt. Governor

Dan Hughes,  
Minnesota  
Secretary

### Northeastern Region

Russel Glenn,  
New Jersey  
Governor

Lisa Qualter,  
New Hampshire  
Lt. Governor

Sarwat Joarder,  
New York State  
Secretary

### Southern Region

Kim Hensley,  
Kentucky  
Governor

Shondra Cutno,  
Louisiana  
Lt. Governor

Emily Joorfelz,  
Mississippi  
Secretary

### Western Region

Shane Taylor,  
Wyoming  
Governor

Anthony Muller,  
Colorado  
Lt. Governor

James Hammack,  
Idaho  
Secretary

## ***Technology Subcommittee Update***

We are excited to welcome you to the January 2023 Tobacco Uniformity meeting, where the Technology Subcommittee will be working towards fulfilling our Committee's mission by providing approved Uniformity Guides and Schemas.

We look forward to seeing you at the meeting and working together to advance the goals of the Uniformity Committee.

As a reminder, at the August 2022 meeting, the subcommittee recommended adding the UPC number and UPC unit of measure to the OTP schema. These additions were approved by the Uniformity Committee. Additionally, we discussed updating the brand code table on the FTA website and creating a RYO brand code table, with the help of two distributors who have agreed to share their brand code tables to update the FTA file. It's worth noting that the brand code table was last updated in 2019 and serves as a useful tool for identifying products and manufacturers.

**Mike and Ray**

During the January subcommittee meeting, we will be addressing a number of important topics, including the Electronic Filing Guide and XPath document, the appropriate length of the universal product number to include in the brand code table, and how to report Modified Risk Tobacco Products (MRTP) in the XML schemas.

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## ***Communications and Legislation Subcommittee Update***

### ***White Paper Discussed Topics:***

Flavor Bans  
Alternative Nicotine Products  
Delivery/Remote Sales



If you would be interested in participating in a white paper topic, please contact the chair.

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## Communications and Legislation Subcommittee Update

We hope everyone had a great holiday season and that your New Year is off to a wonderful start!

The Tobacco Tax Information by State (TTIBS) book has become a great resource for states, industry, and everyone in-between. The book has been sent out, or will be soon, to collect updates for the 2023 version. We strive to have every jurisdiction respond, so please be on the lookout for the request if this pertains to you. To view the most recent version, please visit [www.taxadmin.org/tobacco-tax-uniformity-project](http://www.taxadmin.org/tobacco-tax-uniformity-project).

JD, with the help of a fantastic group of people, has spent time putting together a cannabis white paper – which may be discussed with the Cannabis subcommittee. We are still looking for undertakers to get some other white papers going, and the topics to choose from are endless. If anyone would like to volunteer for one, please let us know.

With a new year comes new sessions and legislation. Although it is very early, we will be discussing the proposed changes we may see in the upcoming sessions. We ask that States come prepared to talk about any known leg-

islative changes that may occur.

Happy New Year!

**Cheyenne and JD**

## Cannabis Subcommittee

As the New Year rings, we look forward to the new FTA Cannabis subcommittee. This committee will be looking for your feedback and contributions. The Hemp/Cannabis regulatory framework is still evolving. For example, in December 16, Senate Majority Leader Chuck Schumer proposed language for inclusion of the cannabis banking, that in the end, was excluded from the omnibus funding package passed late December. Banking in cannabis is a major hurdle for legal cannabis operators. Banking regulations that precludes them from accessing banking system as any other business. The attempt to introduce the cannabis banking language is a good indicator that Cannabis decriminalization is being considered by the federal government. As states develop medicinal and recreational cannabis programs, the market will continue to evolve in terms of regulations, taxation, access, health, and law enforcement.

The FTA Cannabis subcommittee will follow closely throughout the year the various development from states in the taxation of cannabis, where its legal, for the purpose of developing and recommending good practices and prepare for the eventual decriminalization at the federal level that will impact the ability of states to tax cannabis/hemp products in a uniform manner. Stay tuned!

**Emily and Alberto**

**FDA NEWS**—CBD continues to be a growing market, making it of particular of interest to the FDA. One 2021 report estimated that the CBD market was worth \$4.6 billion and could grow four times its 2021 size by 2026.

According to the Wall Street Journal, the FDA is to determine whether or not it is safe to consume CBD on a daily basis over a long period or time or during pregnancy.

Woodcock's comments are being seen as a sign that the FDA is working on a regulatory framework for CBD products which could allow for the legal sale of cannabis and cannabis-derived products. While nothing official has been revealed, the FDA may make a decision this year on how to regulate cannabis and CBD products. This could result in new FDA-issued regulatory rules for these products or new legislative action from Congress.

## Training & Development Opportunities

**More information regarding training coming soon.**

## Tobacco Tax Section Officers

### National Chair

Al Malik, North Carolina

### National Vice Chair

Justin Scott, Texas

### National Secretary

Florence Sam, DC





[www.taxadmin.org](http://www.taxadmin.org)

**This edition of The Leaf Sheet edited  
by  
Julian Daniels**

FTA Tobacco Tax Section Director  
Cindy Anders-Robb, FTA  
(307) 632-4144  
[cindy.anders-robb@taxadmin.org](mailto:cindy.anders-robb@taxadmin.org)

## FTA Tobacco Tax Section Uniformity Committee Mission Statement

Provide an opportunity for government and industry to partner for the efficient and effective reporting and remittance of tobacco taxes, to minimize tobacco tax evasion, and to act as an information resource to stakeholders.

