



The Leaf Sheet

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Message from the National Chair

Hello Everyone! Thank goodness that winter is over and spring rings eternal! We in North Carolina are lucky that we have all four seasons and spring might be my favorite since the birds are singing and everybody gets over the winter blues. Baseball, the pool, the beach and vacation are usually a short time away once spring gets here.

This is also a very important time for tobacco taxes as well since each state's legislature is usually back in session. In North Carolina, we have alternating short and long sessions every year. This year, we are in a long session so that means there will be a tremendous amount of discussion and bills related to tobacco and cannabis taxes. In my position within the Department, I monitor these new laws and have discussions with representatives, senators, general assembly staff and other agencies to talk about the bills. It is imperative that you develop these relationships since it is a lot easier to give input on a bill instead of trying to implement a bill with flaws in it or trying to fix the

bill in a later session. We also have a great relationship with our stakeholders and they are willing to come to us and talk about pending legislation. An open communication between your wholesalers, distributors, manufacturers, retailers or any other industry group is good practice. If you are not in a position within your Department to work with legislation, make others known that input is needed from everyone that is affected by the legislation. In our Division, we are constantly talking about the pending legislation to determine if we need additional resources, form changes, system changes or anything else that would make our job easier to implement the bill. Lastly, examine your own laws and think about best practices on how we can make the laws better. We submit a list of law changes every year around November of the previous year to our management and talk about what we would like to get accomplished in this session. Some of our best ideas come from what we learned by attending an FTA meeting. The

Tobacco Tax Information By State(TIBS) book is also a great resource when looking at legislation for your state. There might be a state that has already gone through the legislation that you are getting ready to implement. You can also ask questions through the FTA Listserv. If you have not signed up for the listserv, I highly recommend it and it is really considered a must if you work in tobacco taxes.

With all of this being said, it is best practices to try to attend 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 especially when it comes to legislation. I hope to encourage everyone to attend the FTA Tobacco Tax Section Annual Conference in Tucson Arizona, August 21-24, 2022.

Al Milak

Upcoming Meetings:

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 Uniformity Committee Co-Chairs

Tim and I are looking forward to seeing everyone in St. Louis, MO for the Uniformity meeting. The topics discussed at the Anaheim CA meeting were the XPath document, the brand code table, the PMTA decisions, alternative nicotine products, flavor bans, and on 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 St. Louis and a variety of other topics. If you were not at the meeting in Anaheim 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 Com-

pliance 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

Compliance Subcommittee Update

The first quarter of 2023 has been busy! The states are starting to wind down active legislative sessions and the FDA (Food & Drug Administration) has been busy with their hands full on litigation and reviewing a massive amount of PMTA (Pre-Market Tobacco Application) applications. FDA Enforcement on Disposable Flavored products still needs to be addressed – specially on those that have not submitted a PMTA application and/or are using synthetic nicotine. We will continue to monitor illicit trade and contraband activity on flavored tobacco products in California and Massachusetts post full state flavor bans.

FDA - Center for Tobacco Updates: Since our last update in January the FDA has issued the following.

Jan. 24, 2023: Marketing Denial Orders R.J. Reynolds Vapor Company (Vuse Vibe Tank Menthol 3.0% and Vuse Ciro Cartridge Menthol 1.5%) – Stayed after legal challenge

Jan. 26, 2023: Marketing Granted Orders Philip Morris Products S.A. (Marlboro Sienna HeatSticks, Marlboro Bronze HeatSticks, and Marlboro Amber HeatSticks)

March 16, 2023: FDA authorized U.S. Smokeless Tobacco Company (USSTC) to market its Copenhagen Classic Snuff, a loose moist smokeless tobacco product, as a modified risk tobacco product (MRTP).

This product is a pre-existing tobacco product that has been marketed in the U.S. for years without modified risk information.

March 17, 2023: Marketing Denial Orders R.J. Reynolds Vapor Company (Vuse Replacement Cartridge Menthol 4.8% G1 and Vuse Replacement Cartridge Menthol 4.8% G2) – stayed after legal challenge

Proposed Rules:

- ◇ Proposed Menthol & Flavored Cigar Product Standards (April 2022)

Flavor Standards: Anticipate a published final rule in August 2023.

- ◇ Nicotine Product Standard

Nicotine Standard: Anticipate a proposed rule in October 2023.

FDA Enforcement: Manufacturers & Retailers

- ◇ PMTA Enforcement: Non-Tobacco Nicotine Products
- ◇ Injunctions: ENDS Manufacturers
- ◇ Compliance & Enforcement Actions: Retailers
- ◇ PMTA Enforcement: Non-Tobacco Nicotine Products

Hope to see everyone in August at the annual meeting in Tucson, Arizona!

Happy Trails,

Jim & Justin

Forms Subcommittee Update

In Anaheim, the committee let everyone know that some language clean-up was done on the instructions of all the forms for consistency.

We look forward to seeing you at the meeting!

Casey & Marci

There were no changes to the forms themselves. The attendees voted on and passed the definition of Modified Risk Tobacco.



In St. Louis, we will be discussing where to put Modified Risk Tobacco on the forms.

House of Cannabis

U.S. Support for legal recreational or medical marijuana

An overwhelming share of U.S. adults (88%) say either that marijuana should be legal for medical and recreational use by adults (59%) or that it should be legal for medical use only (30%). Just one-in-ten (10%) say marijuana use should not be legal, according to a Pew Research Center survey conducted Oct. 10-16, 2022. These views are virtually unchanged since April 2021.

There continue to be sizable age and partisan differences in Americans' views about marijuana. While very small shares of adults of any age are completely opposed to the legalization of the drug, older adults are far less likely than younger ones to favor legalizing it for recreational purposes.

This is particularly the case among those ages 75 and older, just three-in-ten of whom say marijuana should be legal for both medical and recreational use. Larger shares in every other age group – including 53% of those ages 65 to 74 – say the drug should be legal for both medical and recreational use.

Republicans are more wary than Democrats about legalizing marijuana for recreational use: 45% of Republicans and Republican-leaning independents favor legalizing marijuana for both medical and recreational use, while an additional 39% say it should only be legal for medical use. By comparison, 73% of Democrats and Democratic leaners say marijuana should be legal for both medical and recreational use; an additional 21% say it should be legal for medical use only.

Ideological differences are evident within each party. About four-in-ten conservative Republicans (37%) say marijuana should be legal for medical and recreational use, compared with a 60% majority of moderate and liberal Republicans.

Nearly two-thirds of conservative and moderate Democrats (63%) say marijuana should be legal for medical and recreational use. An overwhelming majority of liberal Democrats (84%) say the same.

There also are racial and ethnic differences in views of legalizing marijuana. Roughly two-thirds of Black adults (68%) and six-in-ten White adults say marijuana should be legal for medical and recreational use, compared with smaller shares of Hispanic (49%) and Asian adults (48%).

While Republicans and Democrats differ greatly on whether marijuana should be legal for medical and recreational use, there are also age divides within each party. A 62% majority of Republicans ages 18 to 29 favor making marijuana legal for medical and recreational use, compared with 52% of those ages 30 to 49. Roughly four-in-ten Republicans ages 50 to 64 (41%) and 65 to 74 (38%) say marijuana should be legal for both purposes, as do 18% of those 75 and older.

Still, wide majorities of Republicans in all age groups favor legalizing marijuana for medical use. Even among Republicans 65 and older, just 17% say marijuana use should not be legal even for medical purposes.

While majorities of Democrats across all age groups support legalizing marijuana for medical and recreational use, older Democrats are less likely to say this. About half of Democrats ages 75 and older (51%) say marijuana should be legal for medical or recreational purposes; larger shares of younger Democrats say the same. Still, only 8% of Democrats 75 and older think marijuana should not be legalized even for medical use – similar to the share of all other Democrats who say this.

How Can You Become More Involved In Uniformity?

- ◆ Regularly check for updates at FTA's updated Tobacco Uniformity website at 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.

Tobacco news you can use...

Requirements for Tobacco Product Manufacturing Practice

This proposed regulation—proposed part 1120 (21 CFR part 1120)—sets forth requirements for tobacco product manufacturing practice (TPMP) and provides a framework for manufacturers of finished or bulk tobacco products to follow that would include: (1) establishing tobacco product design and development controls to prevent or minimize certain risks; (2) ensuring that finished and bulk tobacco products are manufactured in conformance with established specifications; (3) minimizing the likelihood of the manufacture and distribution of nonconforming tobacco products; (4) requiring investigation and identification of nonconforming products, including those that have been distributed in order to institute appropriate corrective actions, such as conducting a recall as needed; (5) requiring manufacturers to take appropriate measures to prevent contamination of tobacco products; and (6) establishing traceability to account for all components or parts, ingredients, additives, and materials, as well as each batch of finished or bulk tobacco product, to aid in investigations of nonconforming tobacco products.

Therefore, this proposed regulation would establish requirements for the control of tobacco product manufacturing activities and the treatment of contaminated or otherwise nonconforming tobacco products, including the investigation, evaluation, and corrective and preventive actions (CAPA) necessary to protect the public health.

This proposal is intended to ensure that tobacco products conform to established specifications and to help prevent the manufacture and distribution of contaminated or otherwise nonconforming products, thereby assuring that the public health is protected and that tobacco products comply with the requirements in chapter IX of the FD&C Act.



Uniformity Committee Chairs

Uniformity Chairs

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Technology Subcommittee Update

Welcome to the Tobacco Uniformity meeting in May 2023. The Technology Subcommittee's main objective is to support the Uniformity Committee's Mission Statement by providing Uniformity Guides and Schemas that have been approved.

always, we welcome your input and feedback.

Mike and Ray

During our last meeting in January 2023, the subcommittee made some recommendations that were subsequently approved by the Uniformity Committee. Specifically, we suggested the addition of Modified Risk Tobacco Products (e.g., XXMRT1 and XXMRT2) to the Tax Jurisdiction Type enumeration in both the Cigarette and OTP schema.

In addition, we discussed updates to the brand code table and changes to the Electronic Filing Guide. At the upcoming May subcommittee meeting, we plan to further discuss when the schema changes will be available, the brand code table, and how to report Modified Risk Tobacco Products (MRTP) in the XML schemas.

We hope that you will find our discussions productive and informative. As

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.



Communications and Legislation Subcommittee Update

Thank you to all the participants in the January Uniformity meeting. We're excited to see everyone in May and to welcome some newcomers.

The Tobacco Tax Information by State (TTIbS) book has become a great resource for states, industry, and everyone in-between. We are currently in the process of updating the book with new information, and we will review which states have and have not responded. Our goal is to have every state participate in the yearly updates. To view the most recent version, please visit www.taxadmin.org/

tobacco-tax-uniformity-project.

Another white paper is underway: Virtual Audits. We are always looking for undertakers to get other white papers going, and the topics to choose from are endless. If anyone would like to volunteer for one or would like topic suggestions, please let us know.

Most state legislative sessions have ended for the year, so we ask that States come prepared to talk about any known legislation changes that may occur.

Cheyenne and JD

Cannabis Subcommittee

Although still illegal federally, cannabis can be purchased legally for recreational and/or medical use in many states across the nation. A key area of concern among lawmakers when considering the sale of cannabis in their state is taxation.

Transfers of product between related entities, retail sales to consumers, samples provided to testing facilities, sales of raw product for processing, and sales of finished goods to dispensaries are some examples of the types of transactions to consider when deciding how your state will regulate taxation for this industry.

How these transactions are taxed varies from state-to-state, ranging from a percentage or fixed dollar amount per unit of weight (usually grams or pounds) or potency to a percentage of the retail price (also known as a sales tax). Local governments (cities or counties) may impose additional taxes. Each state has different taxation legislation, population, and market size. While there is currently not a uniform approach to taxation, each state could be impacted by federal cannabis law reform in the future.

Emily and Alberto

FDA NEWS—February 22, 2023, the U.S. Food and Drug Administration announced it has filed civil money penalty (CMP) complaints against four tobacco product manufacturers for manufacturing and selling e-liquids without marketing authorization. This is the first time the FDA has filed CMP complaints against tobacco product manufacturers to enforce the Federal Food, Drug, and Cosmetic

(FD&C) Act's premarket review requirements for new tobacco products.

The FDA previously warned each of the companies that, by making and selling their e-liquids without marketing authorization from the FDA, they were in violation of the FDA's premarket requirements for tobacco products and that failure to correct these violations could lead to an enforcement action, such as a CMP.

Training & Development Opportunities

More information regarding training coming soon.

Tobacco Tax Section Officers

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Al Malik, North Carolina

National Vice Chair

Justin Scott, Texas

National Secretary

Florence Sam, DC





www.taxadmin.org

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by
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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.

