



# The Leaf Sheet

Federation of Tax Administrators

Volume 7

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Tobacco Tax Section Uniformity Committee

## Message from the National Chair, Jim Oliver

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<b>* Upcoming Meetings:</b>	
* Central Region Lincoln, NE April 3—5, 2017	
* Western Region Park City, UT April 26—27, 2017	
* Uniformity Meeting Historic Savannah, GA May 10—11, 2017	
* Northwestern Region Portland, ME May 24—25, 2017	
* Southern Region Tampa, FL June 28—29, 2017	
* Uniformity Meeting Spokane, WA August 18—19, 2017	
* Annual Meeting Spokane, WA August 20—23, 2017	

Happy New Year from Kentucky!

I hope the New Year finds you healthy & happy. We have a full agenda to tackle this year & I know you're up to the challenge. I look forward to working with our Uniformity Committee and subcommittee chairs. Their contact information and words of wisdom follow, please take the time to familiarize yourself with their names and duties. I assure you they work not only during our meetings but tirelessly behind the scenes. For example: Dawn Evans has politely reminded me to write this article at least 4-5 times. ☺

The two past National

Chairs, Chris Roy from Wisconsin & Carol Guyer from New Hampshire, were champions of FTA Tobacco Tax Section and Uniformity Committee involvement. I could not agree more with this focus. We need to double our state and industry involvement! While we have come far under the guidance of the FTA framework & specifically under the tutelage of Cindy Anders-Robb, we need to draw more participation from our peers. Their involvement will make us stronger & more effective as an industry & as government administrators.



I look forward to seeing you in Tucson at the next Uniformity Meeting & around the country as the year progresses. It is an honor to serve you & I encourage you to reach out with comments and suggestions. My contact information follows: [jim.oliver@ky.gov](mailto:jim.oliver@ky.gov) (502) 564-2935

Sincerely, Jim

## Message from the Uniformity Committee Chairs — Hillary Bunker and Tim Harris

Tim and I are looking forward to seeing everyone in Tucson for the first Uniformity meeting of the new year. 2017 is off to a good start, picking up where we ended things last year. For those of you who did not attend the Rhode Island Uniformity and Annual Meet-

ings, we are pleased to report that a lot was accomplished. All of the following were voted on and passed: Cigarette Schema, Cigarette Schedules, Cigarette Sub-schedules, Tobacco Schema, Tobacco Schedules, Tobacco Sub-schedules,

and the Electronic Filing Guide.

All of this information, plus our upcoming meetings, are posted on the FTA website so take a look if you have not checked it out in a while.

(Continued on pg.2)

## Message from Hillary and Tim, continued...

The entire Uniformity Committee is looking forward to states starting to roll out electronic filing in 2017 and beyond. If you have an idea for a topic to discuss in Tucson, or any of our upcoming meetings, please let us know.

As always, feel free to reach out to either one of us or any of the subcommittee chairs if you have questions related to Uniformity, how you can get more involved, or when the next meeting will be.

*Hillary and Tim*



## The Forms and Technology Committees Updates

Barbara Stoenner (OR), Helen Hayes (Core-Mark), Kara Parga (NE) and Mark Triplett (General Cigar) chairs of the two subcommittees reported the following:

Excellent progress was made during this meeting. Kara walked participants through the cigarette schemas, forms, sub-schedules and draft Tobacco Electronic Filing Guide. Wording in the sub-schedules was modified slightly as a result of the discussion that en-

sued. Barbara walked through the tobacco forms and sub-schedules, and Kara discussed the tobacco schemas.

Overall, there was a good reception to the proposed changes. Some states still

*"We believe we have developed flexible enough formats to meet most states' needs."*

showed a little reservation about the process; however, a state will have the ability to implement state specific business rules to accommodate their needs. A state is also able to submit changes to the committee if the current schema is not able to capture the data necessary to fulfill the filing requirements of a state.

## Forms and Technology, continued...

The subject of how to accommodate small company filers was again raised. Potential options of Excel or fill-in forms were suggested, although file size could be a potential barrier to these formats.

The following items were put to vote and approved during the meeting –

- 3 Cigarette forms – Uniform Cigarette Transaction Form, Uniform Stamp Schedule and Uniform Cigarette Inventory Schedule

- Uniform Tobacco Transaction Form
- Cigarette schema
- Tobacco schema
- Cigarette sub-schedules
- Tobacco sub-schedules
- Tobacco Electronic Filing Guide (1<sup>st</sup> draft)

The Electronic Filing Guide will be updated to encompass all of the changes. The final schema will be submitted to

the FTA E-Standards group for final approval and to post on the FTA website.

### Future Work

It was suggested that presenters share detailed examples of the forms and sub-schedules (with actual data for illustration purposes) at the next meeting. The concept of a cover page was re-introduced with a request for volunteers to work on this project. (Cont'd on pg. 3)

## Communications and Legislation Subcommittee Update

Don Anderson (ID) and Dawn Evans (McLane), Chairs of the subcommittee, reported the following:

### Deeming Rule

On May 10, 2016, the FDA issued their final rule extending their tobacco product authority to all tobacco products (except for accessories of newly deemed tobacco products), including electronic nicotine delivery systems (ENDS)-such as e-cigarettes and vape pens – all cigars, hookah (waterpipe) tobacco, pipe tobacco, nicotine gels, and certain dissolvables. This is known as the Deeming

Rule.

A general discussion of the Deeming Rule started the meeting. Included in this discussion was the registration process, including an overview of the process and to whom the process would apply. There is possible enforcement action for failure to register with the FDA. Health warning labels will be needed on packaging and specific verbiage is required on advertising. For cigars alone there are six different warning labels that will be randomly cycled. Talk ensued regarding the meaning of “substantially equivalent” product. Handouts were

distributed to better outline the implications of these regulations.

At the time of the meeting there were six federal lawsuits related to the Deeming Rule that were pending. Several states also mentioned that statutes will change because of the regulations.

### Other Topics

Other topics discussed included:

- E-cigarette licensing. What are states doing and who are they licensing (distributor, retailer)? (Continued below)

## Communications and Legislation Update, continued...

- E-cigarette tax. What states are currently taxing and who is looking to tax in the future.
- The Communication and Legislation subcommittee will be teaming up with the Compliance Subcommittee to create a fact sheet by state that would list items such as contact information, tax information, links to the state sites and tobacco directories, licensing

information, etc.

### Reminders

Communication and Legislation encourages folks to check out the FDA website which is updated regularly and contains helpful webinars. The site address is [www.fda.gov](http://www.fda.gov). In addition, Don holds quarterly FTA conference calls (state only) that help to keep everyone up-to-date on what is going on in the industry.

**Don  
and  
Dawn**

“Don holds quarterly FTA conference calls that help to keep everyone up-to-date on what is going on in the industry.”

## Forms and Technology Committee, (continued from Page 2).

We believe we have developed flexible enough formats to meet most states' needs. Now that the framework of uniform forms, sub-schedules, schemas and the Electronic Filing Guide are in place, we encourage more states and industry personnel to review this information, ask questions, and consider closely how this will work for them.

*Barbara and Helen — Forms*

*Kara and Mark — Technology*



## Compliance Subcommittee Update

Jeanne Thompson (KY) reported the subcommittee discussed the following topics:

### MSA

- Arbitrated years are not yet settled, but it is getting close. Cannot speak on non-settled states.
- Does Uniformity play into MSA reporting? Not specifically, still discussing what states can legally provide.

### Reporting/Inspections/Seizures/Audits

- Discussed training and stamp issues. Also, what to look for during inspections and audits.
- Various states provided feedback:
  - Kentucky puts the cigarette liability on the wholesaler/distributor, not the retailer. There is no penalty at this time other than seizure. Kentucky

will also take pictures of seized cigarettes and submit to the wholesaler/distributor.

- Cook County (IL) is finding that distributors may not be charging the new e-cig tax.
- Nevada has completely different rules for OTP but goes after wholesalers on cigarettes. Nevada feels that the industry is becoming more aware of the issues.

## Compliance Update, continued...

- California hands out a list of stamping wholesalers/distributors when they issue a license to a retailer.
- Alabama statute reads that all tobacco products will be stamped, but the Commissioner can allow for a tax rate to be applied in lieu of the stamp.
- Stamping technology has come a long way with machines having more possibilities. One major im-

provement is the ability to identify the stamper by the number placed on the carton.

- States will do pop-up inspection counts of wholesalers/distributors to confirm if inventory amounts tie in to the inventory report for that day. Some states have stamp requirements that wholesalers/distributors must have enough stamps on hand to cover un-

stamped inventory.

- Wholesalers/distributors are frustrated with unstamped seizures as it is hard to prove where the product originated. Problem is, who is liable – retailer or wholesaler? Retailer has little skin in the game, because the wholesaler/distributor ends up making them whole.

## Compliance Update, (continued from above).

- A discussion took place on disclosure laws and who can receive the information.

### Training Recap

- FTA Basic Tobacco Training was held in November in Richmond, VA. Altria hosted a tour of their facility.
- FTA Audit Tobacco Training is anticipated to be held this spring.

### Upcoming

- Working with the Communication and Legislation Subcommittee on booklet similar to Motor Fuel with individual information listed by each state (contacts for DOR and AGO, tax rate, forms, what's required for obtaining a license).
- Sissy Sawyer (Altria Client Services) has graciously accepted to be Co-Chair of the Compliance

Subcommittee. Welcome, Sissy!

### Government Only Session

- MSA settlement update
- Stamping issues
- Uniformity

~Jeanne

## Uniformity Chairs

### Uniformity Chairs

Hillary Bunker  
State of Nevada

Tim Harris  
Eby Brown Company LLC

### Uniformity Subcommittee Chairs

Communication and Legisla-  
tion Subcommittee

Don Anderson  
State of Idaho

Dawn Evans  
McLane Company Inc.

### Compliance Subcommittee

Jeanne Thompson  
State of Kentucky

Sissy Sawyer  
Altria Client Services

### Forms Subcommittee

Barbara Stoenner  
State of Oregon

Helen Hayes  
Core-Mark International Inc.

### Technology Subcommittee

Kara Parga  
State of Nebraska

Mark Triplett  
General Cigar

## Tobacco Regional Officers

### TOBACCO REGIONAL OFFICERS

#### Central Region

Brian Schumacher, North Dakota

Governor

Bob Warnock, Cook County

Lt. Governor

Rebecca Piroutek, South Dakota

Secretary

#### Northeastern Region

Edward Olive, New York City

Governor

Jimmy Galvin, Rhode Island

Lt. Governor

Deborah Cannon, Northern Virgin-  
ia, Pennsylvania

Secretary

#### Southern Region

Emily Caraway, Mississippi

Governor

Stephen Garcia, South Carolina

Lt. Governor

Mark See, Tennessee

Secretary

#### Western Region

Mark Shoenfield, Montana

Governor

Vera Helbert, Oregon

Lt. Governor

Justin Scott, Texas

Secretary

## Tobacco Section Officers

### National Chair

Jim Oliver, Kentucky

### National Vice Chair

Richard Parrott, California

### National Secretary

Deborah Cannon, Northern  
Virginia





## The Leaf Sheet

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edited by  
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and Dawn Evans**

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

