

Streamlined Sales Tax Advisory Council
July 29, 2009, Meeting Minutes
Hoover State Office Building

Present: Mark Schuling, Dave Casey, Victoria Daniels, Larry Paxton, Darwin Clupper, Jim Miller, Hristo Chaprazov (Intern for the AGs), Ed Wallace, Marc Michaelsen, Tom Patterson, Jim Henter. Dave Krutzfeldt, Ann Stocker, Jerry Fleagle, and Dale Busacker via telephone.

I. Welcome & Opening Comments

Mark Schuling called the meeting to order at 10:03 AM. Mark informed the Advisory Council that Kristi Magill has resigned from her capacity as co-chair. Kristi was very active in the Iowa Streamlined Sales Tax Advisory Council and at the national level. Her leadership will be missed.

II. National meetings in Arlington, VA (May 2009)

Dave Casey updated the Council about the December meetings in Providence, RI. We were unable to attend in person, but did join via teleconference. At that meeting, final action taken was taken on delivery charges and software maintenance. One preliminary action taken was the first vote on luxury clothing, which was a positive vote. Successful passage would clear the way for Massachusetts to participate. The second vote in February was also positive, but Massachusetts now has political issues and has not moved forward as hoped.

Dave reminded the Council that the Annual Report to the Legislature was filed in January 2009 with the taskforce paper, "Assistance for Iowa Retailers affected by Streamlined Sales Tax," attached.

The primary purpose for the May meeting in Arlington was to meet with state congressional delegates. As of today, there is no federal legislation. Final action on a couple amendments was taken at the May meeting:

1. Amendment on uniform tax returns (Simplified Electronic Return - SER) for all filers. This amendment was deferred. IDR is working with SST retailers to use our own eFile & Pay system.
2. Replacement taxes – Discussion centered upon defining "good" vs "bad" replacement taxes. The May meeting set some guidelines; criteria and a rule was approved.

The Governing Board also passed a rule in Arlington that would pay the expenses for one legislator per state to attend the Governing Board's annual meeting. The next annual meeting will be Oklahoma City, OK, at the end of September. The Department hopes to send one or more representatives.

SLAC – Working groups are working on a number of items:

- Recertification.
- Taxability Matrix – IDR’s draft is done and will be filed the end of this week.
- Good Faith Standards – Setting standards for all states.
- Sales Price Issues.
- Direct Mail – Still working on rules related to the definitions and sourcing.
- Sourcing Services – Iowa does tax enumerated services. SLAC had formed a workgroup to address the issue, but it has not made much progress. SLAC has now received a request for a ruling, which is premature without a report from the workgroup. We are preparing a letter to defer the request so the workgroup can continue its process.
- A review of last year’s certification:

The Governing Board found Iowa out of compliance on four issues:

1. Definition and sourcing of “ancillary services” in telecommunications;
2. Remove bundled services language from the “sales price” definition;
3. Need to include third-party consideration in the “sales price” definition; and
4. Allocation of taxable and exempt telecommunication charges based on a seller’s books and records while keeping a statute that requires a seller to enter an agreement with IDR to collect tax based on books and records.

The Governing Board had not yet formally notified the Department that Iowa is out of compliance; however, such notification was received after the date of this meeting.

We have drafted corrective administrative rules that will go into effect September 2, 2009. These rules are:

- 701-18.20(7) telecommunications issues for items 1 and 4; and
- 701-212.8 Third-party consideration for item 3.

Dale B. suggested that we send a letter to the Governing Board and BAC. Casey commented that we are tracking Executive Committee meetings but we are not on the agenda. Mark indicated that it is our intention to be back in compliance before the September meeting.

Dale asked what we are doing with the 4th issue (#2). Dave indicated that this will require a legislative change, which we will propose in the 2010 session. The Department thinks at this point we have met the requirements. The question was asked if the Legislature is aware of this situation. Dave has received e-mails from Representative Rants and he is aware of the status.

Tom Patterson discussed having the Department propose streamlined changes as a stand-alone bill in order to facilitate quick passage. The Department indicated this is its practice.

BAC - Dale B. informed the council that the next BAC meeting is in St. Louis on Tuesday. Agenda items are:

- Vendor compensation;
- Associate member states; and
- Alternative sourcing for sales tax.

It was mentioned that Wisconsin is on track to becoming a full member effective October 1, 2009.

Dale was asked about BAC's position on rules vs. legislation in obtaining compliance. Dale indicated that rules are fine, but mentioned that he is concerned that the Governing Board had not notified Iowa of its non-compliance.

III. Federal Legislation/Vendor Compensation

No federal legislation has been filed. There are still issues primarily regarding local government taxation of telecommunications that must be worked through.

Vendor Compensation – A new state and local government revenue loss study is on the SST Web site. We think this is much more realistic than the first one. Dave provided the committee with page 11 which shows \$54 million lost to Internet sales. 80% of those sales is considered business to business and 20% is business to individual. We think we are collecting a lot of this already through use tax. This study only dealt with Internet sales; not phone or catalog sales. Last fiscal year's streamlined collection was \$10.8 million.

There is also talk at the federal level of all retailers being compensated. Small states like Iowa are concerned. Even with a 1% vendor compensation, which would be about \$30 million, which is more than Iowa is bringing in annually. There are discussions of compensation caps, removing credit card fees and bad debts from compensation calculations, state sovereignty, etc. Dale B. mentioned that BAC's position is that all retailers should be reimbursed for collecting taxes. Ed Wallace contributed that most small retailers outsource their collections. The cost of collection study looked at "small retailer" vs. "big retailer," and the costs related to collect the tax. Dave does not see federal legislation happening until some of these issues are resolved. Dave recommended that everyone on the committee read the study. It is on the SST Web site.

IV. Certificate of Compliance and Taxability Matrix / Annual Recertification

The Department has updated the certificate of compliance and taxability matrix along with a cover letter. Drafts are ready to go and due in August. These are on our Web site as well as the SST Web site.

V. Update on Legislation and Rules

As mentioned, the Department will propose legislation to address issue number 2. Rules were filed for telecommunications, third-party compensation, and a rewrite of the agricultural rules. These are routed internally for review and then the Council is given the opportunity to comment.

VI. Update on Registration & Revenue Tracking

Total registered 1,190

Total Model 1 = 143

Total Model 2 = 29

Total Model 4 = 1018

We are on track to have collections of just over \$11 million. (Actual total was of \$12 million for fiscal year 2009.)

The Council discussed SER again. The business side is pressuring to use SER. We believe that our system is efficient, simple, and already in place. Instead of mandating its use, we would like states to have the option. Larry indicated that most retailers would need a third party to file SER; our system would not require that.

VII. Future Streamlined Sales Tax National Meetings (Oklahoma City, OK, Sept. 28-30)

The Governing Board annual meeting will be held at The Skirvin Hilton in Oklahoma City. The State and Local Advisory Council (SLAC) will meet all day Monday, September 28, and a couple hours the morning of Tuesday, September 29. The Business Advisory Council (BAC) will meet the morning of Tuesday, September 29. The Governing Board will meet at 1:00 PM Tuesday, September 29, until noon on Wednesday, September 30.

With the budget situation, the Department is still up in the air if someone will be able to attend. We will send information to the two legislators on the Council. If they are not interested, we will contact Tom Patterson to suggest someone else who might be interested.

VIII. Set Next Advisory Council Meeting

Mark suggested the next meeting be in November with topics to cover September national meeting outcomes, proposed legislation, and annual report.

Diane will set up.

IX. Adjournment

Mark thanked everyone for coming or phoning in. Everyone's participation is appreciated.

Casey noted that most the information is on the SST Web site and that Larry Paxton is very familiar with the Web site if you need help navigating it.

The meeting was adjourned at 11:25 AM.