

**Streamlined Sales Tax Advisory Council**  
**Iowa Streamlined Sales Tax Advisory Council Meeting Minutes**  
**Hoover State Office Building**  
**October 22, 2010**

Members Present: Mark Schuling, Victoria Daniels, Ed Wallace, Ann Stocker, and Marc Michaelsen. Those members joining via telephone: Dave Krutzfeldt, Dale Busacker, Kristin Kunert, Dick Koberg, and Jerry Fleagle

Others present: Jim Miller, A.G.; Larry Paxton and Diane Stoecker, IDR staff

**I. Welcome & Opening Comments – Mark Schuling**

Mark opened the meeting at 10:03 A.M.

A. New Member – Kristin Kunert

Mark welcomed Kristin to the Advisory Council. Kristin is the state director of the National Federation of Independent Business. Kristin introduced herself to the Council.

**II. National Meetings in Indianapolis, IN (October 5-7, 2010)**

**A. BAC Update – Dale Busacker**

Dale updated the Council on a couple of items that were covered at the BAC meeting but were not listed as topics to discuss today.

- BAC has heard that the Executive Committee decided to look for a test case for Quill. BAC is troubled by this development.
- The State of Georgia has submitted a petition for membership application.
- Credit for taxes in a second state when state and local tax bases are different.
- Simplifying communications taxes.

**B. Federal Legislation/Vendor Compensation – Victoria Daniels/Larry Paxton**

Victoria and Mark highlighted federal legislation for the Council. Work continues on methods for determining compensation to all sellers in anticipation of action by Congress that would grant states the authority to require remote sellers to collect sales and use tax.

Some states currently compensate sellers; Iowa does not.

Compensation is based upon amount of taxes remitted per seller per month. The first tier provides a higher rate of compensation for “small sellers.”

BAC objected to the current proposal for vendor compensation because the rates were too low based on the cost of business study. One other point made was this is vendor compensation on sales; not on goods consumed.

Victoria explained Jerry Johnson's tax collection projections.

The currently proposed federal legislation contains placeholder language for vendor compensation. If the federal government passes this legislation in a lame-duck session, non-compensating states will have to comply or they will be out of compliance with SSUTA. Dale asked Mark about the Iowa Legislature. Mark indicated we would inform them of the possibility of federal legislation. We would have to pass legislation in order to begin compensating vendors and thus remain in compliance.

#### **C. Small Seller Exception – Victoria/Larry**

The Governing Board's proposed small seller exception defines a small seller as one with less than \$100,000 in annual sales. BAC's resolution specifies a \$500,000 in remote sales threshold for the small seller exception.

Larry indicated that Amazon supported the \$100,000 threshold because they already have a system in place.

#### **D. Sourcing Services – Victoria/Larry**

Larry provided a handout on how Iowa currently sources taxable services. Diane will distribute to the Council via e-mail. The Department's perspective is that Iowa needs to revise current definitions to be in strict compliance with the agreement.

There is a workgroup that is trying to address the issue of sourcing taxable services. Victoria is co-chairing the workgroup. Dale Busacker commended Victoria for stepping up and taking part in the workgroup. Ed Wallace seconded and asked that it be noted in the minutes.

#### **E. Carbon Dioxide – Victoria/Larry**

The Compliance Review and Interpretation Committee ruled that a company's sales of refill canisters of beverage-grade carbon dioxide for use in a table-top soda making system, qualify as sales of "food and food ingredients" as that phrase is used in the SSUTA. The Governing Board adopted CRIC's recommendation. Iowa was supportive of this interpretation.

#### **F. Candy – Victoria/Larry**

A State and Local motion to adopt a rule relating to the definition of food & food ingredients and candy was made by Wisconsin & Minnesota. Victoria noted the primary issues are flour and the form of candy, i.e., bars, drops or pieces. The workgroup addressing this issue is mainly trying to nail down a definition of flour. Should “flour” include all types of flour and not just wheat flour (e.g. Peanut flour, cocoa flour, etc.)? If the workgroup decides to delineate all the different types of flour; Iowa will need a rule change.

BAC also has a working group.

Jerry Fleagle wants to be kept apprised of issues such as these.

#### **G. Additional Remittances – Victoria/Larry**

Iowa requires semi-monthly remittance for in-state sellers only. BAC is concerned about inconsistencies among states on how these remittances are handled.

BAC stated that the purpose of SST is to reduce the burden on sellers. BAC wants standardized, uniform rules that states have to follow which would truly simplify things for the sellers.

#### **H. Communications Amendment (OK & WA) part of federal legislation. Larry was not sure it was a big issue for Iowa but amendment does have compensation to telecommunication and utilities.**

### **III. Certificate of Compliance and Taxability Matrix/Annual Recertification – Victoria**

CRIC’s review indicated Iowa had three potential compliance issues.

1. There is no provision for relief of liability if a state rate change takes effect in less than 30 days.
2. It appears that the base for the local tax is slightly different from the state base. Sales of tangible personal property by the Department of Transportation are excluded from the local base, but a similar exclusion or exemption was not found for the state base.
3. Rule 701-18.20(7)(d)(3) includes one-way paging as a non-taxable service. The definition of paging includes one-way and two-way paging. The Governing Board in their August, 2010 meeting adopted the position that all paging must be taxed or exempted.

Victoria responded to these issues in a letter to Scott Peterson dated September 10, 2010.

With respect to issue # 1, Governor Culver signed into law on April 21, 2010, Senate File 2375. Section 11 of Senate File 2375 amends Iowa Code section 423.46 to include language detailing the 30-day notice

requirement for rate and base changes. Victoria had also provided notice of this change to the Governing Board in a letter dated April 26, 2010.

With respect to issue #2, there is no difference in the base for the state sales tax and the local option sales tax. Iowa Code Section 423.3(78) provides an exemption from the state sales tax for a government entity.

With respect to issue #3, we were in compliance at the time our Taxability Matrix and Certificate of Compliance were filed.

The CRIC Committee agreed and Iowa was found to be in compliance with the Agreement. Ed Wallace mentioned it would be better if a preliminary letter would go out to states instead of just finding states out of compliance. Ed Wallace commended the Department for working hard and dealing with these letters. Dale agreed.

#### **IV. Update on Legislation & Rules – Victoria**

Sourcing – The Department will need to promulgate rules to address the sourcing of services.

A separate Streamlined Bill for the following will be proposed in the 2011 Legislative Session:

- Durable medical equipment (need to update our definition)
- Direct mail sourcing (need to update our definition)
- Paging services (may be addressed by rule)
- 423.50 remittance due date – Iowa statute refers to “legal banking holidays.”  
Proposed amendment uses the term “Federal Banking Holiday”

#### **V. Update on Registration & Revenue Tracking – Larry**

The project has 1,300 registrants. In Iowa we have 180 Model 1s CSPs, one Model 2 CSPs, and the rest are Model 4s (paper filers). The Department is working to convert the Model 4 CSPs to eFile & pay.

Last fiscal year, the Department collected \$12.3 million, which was about \$200,000 more than had been collected in the previous fiscal year.

Iowa has 125 Model 4s that do not file because of zero sales. An amendment was passed last year to allow sellers to register as having no sales in Iowa. They do not have to file a return until they do have sales.

#### **VI. Future Streamlined Sales Tax National Meetings**

A. Monday, November 1, 2010 (Conference Call only)

B. Week of May 15th, 2011, Washington, D.C. (assuming federal legislation has not passed)

The Governing Board will soon hold a conference call to talk about Georgia's petition for membership.

Larry is monitoring SLAC, CRIC & BAC calls

Mark mentioned that the Legislative Service Agency has a report on Streamlined Sales Tax on their website. Diane will e-mail the link to Council members.

#### **VII. Set Next Advisory Council Meeting – All**

The Department will send a draft of the Annual Report to the Iowa General Assembly in advance to the Advisory Council via e-mail. At the end of January we will have a teleconference to approve the report for the Legislature. We will submit the report in February.

The Council had a brief discussion on other states that were found to be out of compliance with the SSTUA and the likelihood of federal legislation in an election year.

#### **VIII. Adjournment**

Mark adjourned the meeting at 11:08 A.M.