

**Streamlined Sales Tax Advisory Council**  
Iowa Streamlined Sales Tax Advisory Council Meeting Minutes  
Hoover State Office Building  
November 09, 2011

Members Present: Courtney Kay-Decker, Victoria Daniels, Dale Busacker, Kristin Kunert, Steve Roberts, Nicole Molt, Representative Guy Vander Linden and Marc Michaelsen. Those members joining via telephone: Warren Townsend, Ann Stoker, and Jim Henter.

Others present: Jim Miller, A.G.; Larry Paxton and Kathy McAninch, IDR staff

**I. Welcome & Opening Comments – Victoria Daniels.**

New Members Were Introduced:

- Representative Guy Vander Linden –State Legislator
- Nicole Molt-Executive Director Iowa Taxpayers Association
- Courtney Kay-Decker-Director Iowa Department of Revenue

**II. Special Recognition.**

A motion was made by Steve Roberts to commend Diane Stoecker for all her years of service to the Iowa Streamlined Sales Tax Advisory Council. The motion carried.

**III. National Meeting Topics (Seattle, WA October 4-6, 2011)**

**A. Federal Legislation-Larry Paxton/Warren Townsend**

1. The latest bill is known as "The Marketplace Fairness Act."
  - The bill will be introduced in the House today with 5 Democratic sponsors and 5 Republican sponsors.
  - The bill authorizes Streamlined Member states to require large on-line and catalog retailers to collect their sales tax.
  - Collection would begin the first day of the calendar quarter that is at least 90 days after enactment of the bill.
2. Non-Streamlined states that adopt minimum simplification requirements may begin to require the collection of their sales tax 6 months after enactment of the bill.
3. The small seller exemption is set at \$500,000 in remote sales.

4. Supporters include The Streamlined Governing Board, Amazon, and Walmart. Opponents include E-Bay, AT&T, and Americans for Tax Reform. COST and the National Retail Federation are undecided. The National Federation of Independent Businesses and Verizon are neutral.

5. This bill is probably the best chance at federal legislation that we've ever had. It has the potential to pass and it will move very, very quickly.

6. Amazon is proposing a system that vendors who sell products using their site would use the Amazon umbrella to file one return for all vendors.

#### B. Amnesty-Larry Paxton

- Certified Service providers are pushing for amnesty for remote sellers. States believe this is not necessary as their voluntary disclosure agreements would allow for a limited amnesty.

### IV. Streamlined Sales Tax Issues-Victoria and Larry.

#### A. Rule/legislation updates needed

##### 1. Sourcing Services – Victoria/Larry

- Iowa will be promulgating rules for sourcing services now that the Governing Board has begun adopting rules for sourcing services. So far two rules have been adopted:
  - *Receipt of personal care services* –Refers to services performed on the physical human body. They will be sourced where the services are performed.
  - *Receipt of services performed on tangible personal property*–Service is received at the location where the customer potentially can make first use of the tangible personal property.
  - The next subset of service sourcing rules will be for digital products. Larry is participating in the SLAC workgroup.

##### 2. Definition of Candy -- Larry

- The current Streamlined definition of candy includes bars, drops, or pieces and anything candy coated.
- Examples of items that need to be revised in the rules are that caramel apples, cracker jacks, caramel popcorn, and kettle corn are now candy. Also, cotton candy is not considered candy but would typically be taxable as a prepared food.

- This definition is currently in 701 IAC 20.1. We will try to move into the 200 series along with other updated Streamlined rules.

3. Employee incentive programs - An amendment to the Agreement has passed that outlines the impact of employee incentive programs on the definition of sales price. Iowa will be adding language to address this amendment in the 2012 Legislative Session.

4. Taxes on seller- whether or not they can be passed onto purchasers. If tax is not passed on the tax needs to be itemized on the bill.

- Examples would be Federal Excise Taxes. Such as Federal gallonages, cigarette/cigars, gasoline.

B. The Streamlined Sales Tax Compliance Review and Interpretation Committee (CRIC) is discussing whether or not Hickory Wood Chips should be defined as a food since they provide flavoring for foods.

#### **V. Certificate of Compliance and Taxability Matrix Review –Larry Paxton/Victoria Daniels.**

A. In Section 306 verbiage needs to be changed to Denial of relief from liability would only apply to those relying upon erroneous information in a 'zip code data base' instead of an 'address based database.' We will be making this change in the 2012 legislative session. The applicable citation is 423.52.

B. The rule cited for Section 329, paragraphs 1 and 2 provides that the rate changes will be applied on a bill after the effective date of the change. Instead it should read "on or after" the effective date. We will make this revision to 701 IAC 240.7.

C. Other changes in text have been made to make the matrix and certificate compliant.

D. FOLLOW-UP: At the CRIC Committee meeting on Thursday to Tuesday's meeting, Iowa was found to be in substantial compliance with the Agreement.

#### **VI. Annual Report to the Legislature – Victoria.**

The Department will prepare a draft of the annual report to the General Assembly that is due in January. We will circulate to Council Members for review.

#### **VII. Proposed next meeting.**

Steve Roberts suggested a meeting sometime after the Spring Governing Board meeting unless federal legislation passes, creating a more expedient need to get together. For now the meeting date has been left open.

