

**IOWA STREAMLINED SALES TAX ADVISORY COUNCIL**

2009 Report to the

**IOWA GENERAL ASSEMBLY**

January 31, 2010

## **Council Created; Council Charge**

In 2003, House File 683, Section 204 created the Iowa Streamlined Sales Tax Advisory Council. (Please see Appendix A for a list of members as of 12/31/09). The Streamlined Sales Tax Advisory Council was codified in statute at Iowa Code §423.9A in 2006. The Council reviews, studies, and submits recommendations regarding the Streamlined Sales and Use Tax Agreement.

## **Meetings**

The Council met two times in 2009, July 29, 2009 and November 17, 2009. Both meetings were held at the Iowa Department of Revenue in the Hoover State Office Building in Des Moines. Members may also participate by telephone. Various issues were discussed at these meetings. Copies of 2009 meeting agendas are attached to this report as Appendix B and minutes of the meetings are attached as Appendix C. This information may also be viewed at: [http://www.iowa.gov/tax/taxlaw/SLSTmeeting\\_agenda\\_minutes.html](http://www.iowa.gov/tax/taxlaw/SLSTmeeting_agenda_minutes.html).

## **Significant Developments**

In 2009 the Streamlined Governing Board continued to address a number of issues regarding direct mail. Various activities associated with direct mail, including taxability of delivery charges and sourcing have now been resolved. Delivery charges are not a major issue for Iowa, since Iowa provides an exemption for delivery charges. Delivery charges are defined to include postage, handling, shipping, and transportation charges. These topics had been discussed at numerous meetings and Agreement amendments were approved in 2009. The Governing Board also amended the Agreement to address uniform tax returns. This amendment will require states to provide the Simplified Electronic Return (SER) for all retailers. The Department has already started working on complying with this amendment. We have also been working with streamlined registered retailers through our existing e-file and pay system.

The Governing Board also defined and adopted a rule addressing replacement taxes. A replacement tax is now defined as a tax imposed outside a state's general sales and use tax on or with respect to a product or products that are defined by the project. Other items resolved include revised definitions of associate membership and good faith requirements regarding sellers accepting exemption certificates. The Governing Board also decided to cover meeting expenses for one legislator from each of the member states to the annual Streamlined Governing Board meeting.

One major goal of the Governing Board is the passage of federal legislation dealing with remote sales. No formal federal legislation was proposed during 2009. The federal legislation will require some form of expanded vendor compensation. The vendor compensation and small seller issues continue to be reviewed and discussed both at the state and national level. A Compensation Focus Group has been established by the Governing Board. The Compensation Focus Group is made up of a cross section of businesses and states and is working to complete specific details related to vendor compensation and the small seller exemption.

## **Compliance Issues – Iowa held out-of-compliance**

The Governing Board went through the yearly recertification exercise to be sure member states are in conformance with the Agreement. A number of issues were raised regarding the Iowa law and Iowa was found by the Governing Board to be out of compliance. The Department filed rules to handle some of these issues but legislation will be required to correct other issues. The primary remaining issue is that the definition of sales price in Iowa Code section 423.1(47) included language describing bundled tangible personal property. This language must be removed.

### **Updated Information**

There are four Iowa delegates to the Governing Board: two from the Legislative Branch, Representative Christopher Rants and Senator William Dotzler; and two from the Executive Branch, Revenue Director Mark Schuling and Revenue Taxpayer Services and Policy Administrator Dave Casey.

As of December 31, 2009, there were 1,200 registrants in the streamlined project. Currently, 147 are model 1 sellers and use certified service providers (CSP), 2 are model 2 sellers and use certified automated systems (CAS), and 1051 are model 4 sellers and calculate and submit their own taxes.

The Council and the Iowa Department of Revenue participated in national streamlined sales tax meetings and activities. Council members Kristine Magill (now resigned) and Dave Casey (now retired) participated in all national streamlined sales tax meetings in 2009.

### **Pending Issues**

The Council would like to draw the General Assembly's attention to the following issues as the streamlined process moves forward this year:

- **Vendor Compensation.** The issue of vendor compensation continues to be addressed at both the state and national level. The Governing Board continues to review this issue at the national level in response to proposed mandates in federal legislation.
- **Sourcing Services.** Workgroups involving the State and Local Advisory Council and Business Advisory Council to the Governing Board continue to meet to address the issue of sourcing of services. This issue has not been successfully resolved yet and is important to maintaining the integrity of the project. The workgroup is now drafting general rules for receipt of services as well as rules addressing services that include tangible personal property. Iowa will need to address this issue once it is resolved at the national level.
- **Local Communication Taxes.** The Executive Committee is reviewing other taxes on communications services that fall outside or conflict with terms already defined by the Agreement.

## **Legislation Required**

As noted previously, legislation will be required in 2010 to bring Iowa into conformance with the Agreement. At this time, the Governing Board has determined sanctions will not be imposed if Iowa passes legislation to correct these issues. The Department has developed proposed legislation to resolve these issues. Passage of this legislation is required to maintain conformance with the Agreement. This legislation will be submitted to the General Assembly and Governor under separate cover.

Also, the General Assembly should anticipate annual streamlined legislation in the future, similar to annual legislation required to conform Iowa to the Internal Revenue Code.

## **Statutory Responsibilities Discharged**

With submission of this report, the Council fulfills its reporting obligation as charged in Code Section 423.9A. The Council will continue to meet and communicate with the Governor and General Assembly. At the conclusion of 2010, it will file its seventh annual report.

# **APPENDIX A**

## IOWA STREAMLINED SALES TAX ADVISORY COUNCIL

Members on December 31, 2009

Mark R. Schuling, Chair  
Iowa Department of Revenue  
Des Moines, IA

David Casey  
Iowa Department of Revenue  
Des Moines, IA

Senator William Dotzler  
State Senate  
Des Moines, IA

Jerry Fleagle  
Iowa Grocery Industry Association  
Des Moines, IA

Jim Henter  
Iowa Retail Federation  
Urbandale, IA

Dick Koberg  
Dica Marketing  
Panora, IA

Ann Stocker  
Cargill  
Eddyville, IA

Chris Theisen  
Theisen's Home-Farm-Auto Stores  
Dubuque, IA

Warren D. Townsend  
Wal-Mart Stores, Inc.  
Bentonville, AR

Ed Wallace  
Iowa Taxpayers Association  
Des Moines, IA

Dave Krutzfeldt  
Interpower Corporation  
Oskaloosa, IA

Ross Larson  
Colorfx, Inc.  
Des Moines, IA

Marc Michaelsen  
Casey's General Stores, Inc.  
Ankeny, IA

Monti Miller  
The Learning Post  
Des Moines, IA

Representative Christopher Rants  
House of Representatives  
Des Moines, IA

Stephen W. Roberts  
Davis, Brown, Koehn, Shors & Roberts PC  
Des Moines, IA

Michael C. Rubino  
Deere & Company  
Moline, IL

Dale Busacker  
Grant Thornton  
Minneapolis, MN

Jay Turner  
Electrical Engineering & Equipment  
Des Moines, IA

Andy Warren  
NFIB/Iowa  
Des Moines, IA

# **APPENDIX B**

# **APPENDIX C**