

Streamlined Sales Tax Project Project Meeting Minutes December 4, 2001

Ms. Hardt and Mr. Collins, Project Co-chairs, called the meeting to order at 1:00 p.m.

Ms. Burton moved that the minutes of the October 2001 Project meeting be approved. Mr. Collins seconded the motion, and the minutes were approved as presented without amendment.

Ms. Hardt introduced and welcomed all first time participants to the project.

Ms. Hardt asked each of the leaders of the work groups to provide an update. Ms. Hardt called upon Ms. Gibbons to discuss the revisions made to the proposed solution section of the white paper on the prepared food definition. Ms. Gibbons reported that items 1 through 3 had been reordered to correspond with the original language of the 12/2000 agreement. Section d. has also been revised to read:

Eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in chapter 3, part 401.11 of its Food Code so as to prevent food borne illnesses.

This will allow those states that currently exempt marinated meats, stuffed pork chops and other raw meats that are prepared by the seller under the current definition but would require cooking by the consumer the ability to continue to exempt those items. Mr. Fox moved that the project accept the amendments to the proposed solution and forward the white paper as amended to the implementing states for their consideration. Ms. Burton seconded the motion. The motion carried with Minnesota voting nay.

Ms. Fletcher provided a progress report on the tangible personal property and digital property definitions. She reported that much discussion and debate has taken place as to whether canned software should be included in the definition of tangible personal property. The work group will be exploring whether it may be more efficient to define canned software. New York will be providing suggested language. A teleconference will be scheduled before the holidays. Ms. Hardt requested that the work group complete their work by the January meeting.

Mr. Peterson reported on the lease and rental definitions. The work group hopes to finalize the definition of lease and forward the definition to the states along with a survey to determine its affect on each state. The work group is also working on the definition of sale/leasebacks that will allow the states to toggle on or off that provision. Mr. Vancovering and others are working have compiled a list of issues related to the lease/rental of motor vehicles. Additional work is needed in this area. The working group has also drafted definitions for "sale" and "use". These definitions will be coming out soon and will be distributed with a survey to all the states. Mr. Peterson reported that the work might be completed in January.

Mr. Reisenberger reported that the working group has met with members of the printing and direct mail industries regarding the current sourcing rules and to determine whether the MPU document could work for mass mailing and direct mailings. The industry is putting together examples and will forward to the group for discussion. Mr. Reisenberger also indicated that no additional work had been done on drop shipments or donations other than the surveys.

Mr. Noble provided an update on tax rates, holidays, caps and thresholds. He intends to have the white paper ready in January. Mr. Noble also reported on the status of uniform returns. He indicated that there was a debate as to whether the return was providing enough simplification and modernization. Additional work is to be done on this issue. A teleconference will be held before the January meeting.

Mr. Bucks reported on the status of the cost of collection study. A request for proposals has been sent out and 5 proposals have been received. A subcommittee of 3 private sector and 3 public sector members has been appointed to rank the proposals. The steering committee will make a selection on January 11, 2002. He reported that the spirit of cooperation between the private and public sectors is high.

Mr. Rook reported on the status of medical equipment and drugs. The white paper on drugs will be updated and posted on the list serve soon. Mr. Rook feels that the white paper will be ready to be forwarded to the implementing states in January. Additional work is needed on the medical equipment white paper. It is requested that each state study the current draft and have the fiscal impact ready by the January meeting. Each state should bring a representative that is knowledgeable in this area.

Ms. Hardt reported that a subcommittee has been formed to discuss the need for protection for businesses in possible class action suits. The subcommittee will meet prior to and at the January meeting.

Ms. Hardt asked if any member of the public wished to offer comment before the Project. Mr. Jim Stanley, Assistant City Attorney for Birmingham, Alabama, shared his thoughts and concerns on state administration of local taxes. He reported that 5 states allow local jurisdictions to collect their own taxes. In those jurisdictions, local sales tax account for up to 40% of the local general fund receipts. He is concerned that state administration will cost the local jurisdictions significant revenues. He indicated that he would like to see a provision that would allow the local jurisdiction to audit on the states' behalf. He is in favor of e-commerce retailers collecting the tax and leveling the playing field as well as tax simplification.

Ms. Harrell gave an update on the bundling issues. She indicated that due to the bundling provision contained in the current definition of sales price, the definition of bundling would be reworked. She also reported that 25 states had responded to the survey and requested that all remaining states do so. The work group is looking for specific examples of how states are handling bundled transactions including: tangible with services, tangible with tangible, and services with services. She reported that the group will recommend

that the bundling recommendations be sent out in the form of a rule to promote consistency. A teleconference will be held on December 20.

Ms. Hardt advised the leaders of the work groups to finish their work on rounding, drugs, multiple rates, caps and thresholds. The agenda for the January meeting will include medical equipment, tangible personal property, bundling, sourcing, class action lawsuits and exemption administrations as it relates to audits.

Ms. Hardt announced that the January meeting is scheduled for January 23-24 at the Marriott - Canal Street, New Orleans. She also indicated that the implementing states meeting would most likely follow on the 25th at the same location.

There being no further business before the Project, the meeting was adjourned.