



# Streamlined Sales Tax Project

## Meeting Minutes

**January 6, 2005 – Phoenix, Arizona**

Diane Hardt, Wisconsin, opened the meeting. Introductions were skipped.

### Steering Committee

Diane Hardt  
Co-Chair  
*Wisconsin*

Scott Peterson  
Co-Chair  
*South Dakota*

Carol Fischer  
*Missouri*

Harold Fox  
*New Jersey*

Bruce Johnson  
*Utah*

Eleanor Kim  
*Texas*

Tom Kimmett  
*Pennsylvania*

Richard Dobson  
*Kentucky*

Marshall Stranburg  
*Florida*

**Minutes** Diane Hardt distributed minutes from the November 2004 Project meeting. Harry Fox, New Jersey, made a motion to accept the minutes as written. There was a second by Loren Chumley, Tennessee. All were in favor of approving the minutes per a voice vote.

A summary of work group activities meetings followed.

### **Audit and Certification** Harry Fox stated:

- Two papers were distributed through the ListServe and discussed in an open meeting – Audit recertification and staffing. Comments should be sent to Harry Fox.
- A discussion of the audit manual took place in a closed meeting. It appears it will be the same as what most states currently have with some information added on recertification.

### **Exemption Administration**

- The exemption administration paper is not ready for approval. The response to business community recommendations dated January 3, 2005, was discussed.
  - Item I, State Specific Exemption Numbers– A survey of states will be done.
  - Item II, Verify Exemption Numbers, and Item III, Data Elements – Agreed to by states
  - Item IV, Time to Obtain Exemption Certificate – Consensus by states to stick with due date of return. Substantiation issues are still being discussed but preference is to leave it up to each state. Agree that seller can provide substantiation.

Discussion - Art Rosen wanted clarification whether states still intended to allow substantiation during an audit. Scott Peterson, South Dakota, stated it would be up to each state individually. Diane Hardt, Scott Peterson, and Jerry Johnson, Oklahoma, explained that the Project was only defining what “time of sale” meant under the Agreement for purposes of good faith being removed. Val Pfeiffer, CIT, and Sean Nicholson, Target, raised concerns about certificates provided after the return was due and the impact on industry. Scott Peterson replied that the questions raised couldn’t be answered by the Project

as certificates provided after the due date would have to be addressed by states individually. Art Rosen received clarification that the only penalty (downside) for not taking a certificate at the time of sale would be that the seller would have to prove exemption by some other means.

- Item V, Intrastate Sales – Scott Peterson and Diane Hardt will form a work group to address this issue.
  - Item VI, Renewal of Certificates – States want renewal requirements to remain. A state will not be allowed to require renewal more than once per year. Art Rosen posed the question of how states with renewal provisions will handle renewals for exemptions claimed electronically by capturing data elements. Dale Vettel, Michigan, and Marshall Stranburg, Florida, explained their state requirements.
  - VII, Exemption Reason Coding – A survey of states will be done and those exemptions common to a majority of states will be added if there is sufficient room on the certificate.
  - VII – Agreed to by states.
- It is hoped that remaining exemption administration issues will be resolved at the March meeting.

### **Prepared Food**

- Vicki Gibbons, Wisconsin, explained provisions in the issue paper generally and then explained specifically the issue of prepared food provided with utensils and described the rule that was being recommended.
- Laura Born, Food Marketing Institute, asked that states maintain a bright line test for retailers. She said that test should be the physically handing of utensils to a purchaser.
- John Nugent, Rhode Island, explained that the work group was moving forward with a “middle of the road” compromise and that problems with the recommendation still exist for businesses that sell primarily prepared food but sell certain bulk food items (milk, bread, eggs) for the convenience of customers in remote areas.
- Richard Dobson, Kentucky, suggested that the Project consider changing the 75% rule to use total sales rather than by location. In addition, he stated that competition problems result where different retailers tax the same items differently because of the rule. He suggested that the “total sale” denominator of the rule be changed to “food and food ingredients and alcohol beverages.” John Nugent countered that such a change would mean small convenience stores, whose substantial sales outside of gasoline and tobacco products are soft drinks, would be required to collect tax on all food sales if napkins or utensils were on the premises.
- Diane Hardt asked for a vote to accept the rule as recommended in the issue paper. Eighteen states voted in support and five states were opposed. Diane Hardt will forward the issue paper to the Implementing States.

- John Nugent and Vicki Gibbons are to work with North Dakota and other states to see if there is a solution for bulk items (milk, bread), that are sold by restaurants and taverns whose remaining sales are prepared food.

**Public Comment** There was no public comment.

### **Announcements**

- Conference calls will be arranged before the next Project meeting to discuss software and digital goods.
- A technology session is being planned to help technology people understand the Agreement requirements.
- Warren Townsend, Wal-Mart, asked that the Audit work group consider more open meetings with the business representatives.
- State representatives should let Scott Peterson or Diane Hardt know if they are interested in participating in an exemption administration work group to discuss the good faith requirement as it relates intra-state sales where the law provides no exemption.
- The next meeting is scheduled for March 7<sup>th</sup> through 9<sup>th</sup> at the Doubletree in Atlanta.

Meeting adjourned.

Prepared by: Vicki Gibbons, Wisconsin  
February 18, 2005