

## Compliance Review and Interpretations Committee

October 16, 2012

### Committee Participants

Chairman Myles Vosberg (VT)

Tim Jennrich (WA)

Richard Cram (KS)

Craig Johnson (WI)

Deb Peters (SD)

Tom Atchley (AR)

Tony Mastin (OK)

### Other participants

Pam Cook

Fred Nicely, BAC

Chairman Myles Vosberg called the meeting to order at 10:02 am CDT. Today's meeting is to discuss North Carolina, Iowa, Arkansas, Kansas, and North Dakota. He said a lot of the things today are items on the Certificate of Compliance and there's no need to go into much detail on those.

### **North Carolina**

Eric Wayne represented North Carolina.

1. Digital Products. He said that was incorrect in they do tax other Digital Goods. He said he had communicated with Pam on that and she agreed. Pam asked him to add the cite for the statute. He added that the certificate of compliance issues are correct in issue one. He has made the updates requested there.
2. Sourcing Provisions: He said they had a Legislative change in the 2012 session and he had made that notation. He reported that what he had originally submitted was correct. He added that Pam Cook has looked at all the changes and is okay with them.
3. Ms. Cook said there was another issue that was missed. Fred Nicely said BAC doesn't have any additional issues with previous North Carolina discussion. On direct mail he had spoken to Mr. Wayne this morning about this. He said all states should have the same definition of direct mail. There's Advertising and All Other Direct Mail. The key issue is what is sourced to be original sourcing according to section 310.85. Other Promotion Mail has to be done as in section 310.83. He said if Mr. Wayne is not prepared to address this today, he suggested following up with him in a later call. Mr. Wayne said he had asked that they have a chance to discuss this with his management and the General Assembly staff. Chairman Vosberg asked Wayne if he had not adopted the definition of Other Direct Mail. Mr. Wayne said he has only adopted Direct Mail, but not those in the discussion this morning. He said only Sourcing is the issue. He said they basically say it's sourced to the origin and not to the business. The other piece is Other Direct Mail that may not be taxable in North Carolina. It would be a non-taxable service and discussion needs to be held on the other components. He said he doesn't feel

comfortable saying in a bulletin, this is how it will be sourced unless they know exactly what they are saying. The Committee had no comments and BAC agreed to give Mr. Wayne time to address this issue correctly. Eric Wayne said NC could provide an update during the October 23<sup>rd</sup> meeting.

### **Iowa**

Victoria Daniels and Larry Paxton addressed the Iowa issues. Mr. Paxton said there are no remaining issues in which they have not already made the changes. He said they made the change on the Taxability Matrix where if the products had a prescription they would be exempt. Ms. Daniels said they will put a phrase in their Streamlined tax bill for this year and feel they are in substantial compliance. Fred Nicely said, on the grooming and hygiene products he is confused. He asked if there is an ability to exclude from tax those things that are issued with the prescription. On the durable medical equipment it allows some differences, but the grooming and hygiene talks about soaps, shampoo, mouthwash, etc. regardless of whether those are considered OTC drugs. Pam Cook said the OTC drugs definition says you can exclude those items from OTC drugs. In some states they only define drugs, so OTC drugs as well as grooming and hygiene products that are OTC drugs are exempt if drugs are exempt. Mrs. Cook said the problem is with the Taxability Matrix. One easy way to fix it is to add a line that says with a prescription and one without a prescription. That would make it easy to differentiate with those two. Chairman Vosberg agreed with Mrs. Cook and said next time we just need to break that out on the Taxability Matrix. He said the definitions of Grooming and Hygiene products and drugs overlap, so you can have some G&H products that fit the description of a drug. Fred Nicely said he would check with some of his medical equipment folks to ensure they understand that. Tim Jennrich agreed with Chairman Vosberg. He said his state has the same situation with this and this is a TM issue and not a compliance issue. Victoria Daniels said she agrees with the comments here and would support a change in the TM to better explain this. Tim Jennrich made a motion that Iowa not be found OOC on all issues. All members were present and voted yes. The motion passed.

### **Arkansas**

Gina Dougherty discussed Arkansas' compliance issues. She said there was a typo in their TM on page-4 regarding the custom computer software where they had it listed as DR53 and it should have been DR93. They have made that change. The COC suggested they add 26-74-407 re the new county taxes which has been added for 301, sec 2, reference to code 26-74-608 and 26-75-406 have been added and this has been resubmitted. On section 302 re state and local tax, on both sections Q 1 and 2, suggestion to add code 26-74-20, 26-74-412, 26-74-62 and etc. They have added those and resubmitted for the COC. Fred Nicely said BAC has no issues with this. There were no comments. Craig Johnson made a motion that Arkansas be not found OOC. Pam Cook called roll, all committee members were present and voted.

**Kansas**

Richard Cram said the report noted there were some citations missing in their TM which has been corrected and resubmitted. Fred Nicely said BAC had no additional issues. Deb Peters moved that Kansas be found not out-of-compliance. Pam Cook called roll with 6-committee members voting; Kansas abstained and the motion passed.

**North Dakota**

Myles Vosberg said they have the same issue as Iowa with OTC drugs. He said they just adopted the general definition of drugs. He said his recommendation again would be to add another line within the TM. Fred Nicely reiterated his concern. Richard made a motion that North Dakota be found not OOC. Pam Cook called roll, all Committee members voted yes.

Tim Jennrich asked if the General Public could have the opportunity to review the updated documents. Pam Cook said she would have the updated document posted on the SSTGB website. Ellen Thompson asked if the BAC comments are posted on the website. Fred Nicely said they do not have any BAC comments for posting.

With no Interpretation requests or further business, the meeting adjourned at 10:35 am cdt.