

Compliance Review and Interpretations Committee
October 18, 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

Scott Peterson, SSTGB
Fred Nicely, BAC

Chairman Vosberg called the meeting to order at 10:04 am CDT. Today's meeting is to discuss Nebraska, Nevada, Rhode Island, and Minnesota.

Nebraska

Tom Gillaspie said CRIC had identified 2-different sections that needed to be added for Nebraska. He said Nebraska agreed with that and are ready to make those changes to their Taxability Matrix today when this call ends. There were no questions. Tony Mastin made a motion that Nebraska be found not out-of-compliance. Pam Cook called roll and all Committee members were present and voting. The motion passed unanimously.

Nevada

Chris Nielsen said he had submitted a response to the 7-issues identified.

- Issue 1 related to Taxability Matrix corrections - Changing a "C" to "Yes" in a particular provision. He said that was an oversight and that has been updated in their Taxability Matrix. In a sub-issue of the Taxability Matrix, Section 304-B, no citation date given for catalogue sales. Mr. Nielsen said this was brought up by CRIC last year and they will add a notation to their website that they are planning to administer this. He said last year the Governing Board found they were not out of compliance. Pam Cook agreed and said we should ignore that one.
- Issue 2 – Taxability Matrix omission. He said this was an oversight in the Nevada statute. They have added that to the definition of the matrix which has been corrected as well.
- Issue 3 - Certificate of Compliance change – The issue was section 317 paragraph C eliminating a certain state and adding LCBR609. He said they have updated the certificate of compliance and replaced it with the applicable administrative code, 372.730 and 372.735. R106-09 was replaced by that. There were some changes with respect to paragraph G-3 again in reference to two Nevada administrative codes. Those have been corrected.

- Issue 4 – Pam Cook said that is just a heads up to Nevada that they have an issue, but that is not a Compliance issue for this year. Chairman Vosberg said we are still within the time frame.
- Issue 5 – Effective date for rates and catalogue sales – Pam Cook said that was saying they need to make the change. She said the Governing Board did not rule them out of compliance because of the effective dates and this is not an issue. It has been resolved.
- Issue 6 - Direct Mail Sourcing – Mr. Neilsen said under this issue they are not-in-compliance with the Agreement. He said there is a Nevada specific constitutional issue with this. He has submitted as part of their BDR some information to correct this. He said this was the only issue the Governing Board found them out-of-compliance on last year, but they have not had a Legislative meeting since.

Mr. Nielsen they have been working with Avalara on credit payments and his IT folks have reassured him that they can accept it.

Chairman Vosberg asked Scott Peterson if a motion was needed for Issue 6, the previously outstanding issue, because they have not had a Legislative meeting since last year. Mr. Peterson recommended that CRIC should handle this the same way as last year, finding Nevada out-of-compliance on that issue. Fred Nicely agreed with Chris and Pam on the federal tax and the sales tax which is not an issue until January 2014. It is not just a local tax section but the sales tax section 372.025. Chairman Vosberg asked Nevada to send a letter to Scott Peterson for the Governing Board, letting them know they have discussed the CCH issue with their IT department and it is resolved. Tim Jennrich made a motion to find Nevada out-of-compliance for Direct Mail sourcing issue. Pam Cook called roll and all Committee members were present and voting. The motion passed unanimously.

Rhode Island

Peter McVay said Rhode Island was cited for a few issues regarding recertification. He reported that he had sent a Sept. 26 letter in response:

- Sect 319 – Remittance of Funds: Mr. McVay said they added a notation to the Certificate of Compliance noting their regulation 730.02 regarding weekend and holiday deadlines for filing of funds.
- Sec 323 – Notation was added to change that to “yes” since they have a clothing threshold as of October 2012.
- Sec 441830.27 – There has been a recent change in law
- Direct Mail Sourcing – They did not reference Section 310.85. He said they will amend that regulation once this certification is completed.
- Section 323 – Mr. McVay said that a cap and threshold on clothing was added for the sales price to over \$250.00. He said he is currently working in the SLAC workgroup on this issue. Mark Nebergall said to Chairman Vosberg, Rhode Island’s statute didn’t become effective until October 1. Scott Peterson said they are certifying as of August 1 and this issue does not need to be discussed this year.

Chairman Vosberg asked Mr. McVay how long it would take to finalize issue #2, regarding update of the rule. McVay said it could take 2-months by the time it is promulgated and finalized. It would be a technical issue which could cause a delay in the process. Craig Johnson asked if we should still make a notation on the clothing about an Agreement change. Scott Peterson recommended that Chairman Vosberg put into the report only the items which were issues as of August 1 and not to report things that are going to happen in the future. Peter McVay said this Legislation calls into play the Federal Legislative path, the exemption on clothing would be put back to the full exemption if the federal legislation passed. He said if something positive comes out of Congress regarding that, this issue should go away by the next certification. Fred Nicely said as Peter McVay has noted there is a workgroup working on the clothing and there should be no questions. He said SST11-01 to make sure that correctly uses the A-5 sourcing. Mr. McVay said by the time it is posted to the Secretary of State it has to be on their site for 30-days. By the end of January 2013 it should be finalized. Chairman Vosberg said it seems like we have to be in or out-of-compliance. Fred Nicely has suggested it be contingent on a future event. Mr. McVay said since they would request by the time the Governing Board votes on this in December and it will be filed immediately after this call. Richard Cram moved that Rhode Island be found not out-of-compliance. Pam Cook called roll and all Committee members were present and voting. The motion passed unanimously.

Minnesota

Kristin Shogren, Cathy Wicks, Debbie West, Pam Evans and Susan Berry were on the call to represent Minnesota.

- Issue 1 – Ms. Shogren said the citation is unavailable in several categories on healthcare and the Taxability Matrix has been updated.
- Issue 2 – Advertising and promotional direct mail and other direct mail. This was similar to what North Carolina provided on Tuesday. Ms. Shogren said she had discussed this with Pam Cook last month and had sent a link. She said they understand they need to make no additional changes. Ms. Cook said that is correct.
- Issue 3 – Definition of prepared food and exemption that Minnesota has for ready to eat seafood heated and by weight. Ms. Shogren said they do not believe they are substantially out of compliance. She said they have noticed the difference in their Taxability Matrix and Certificate of Compliance. She said last year was the first year any concerns were raised and it only impacts the business transactions within their state. She said they have not been contacted by any business saying they are burdened by this exemption. Tim Jennrich asked if the CRIC could do anything other than what the Governing Board moved to do last year. Last year they were found out-of-compliance by the Governing Board and they could not make any changes. Chairman Vosberg said the Governing Board could take this up and Minnesota could take this up with the Governing Board again. Chairman Vosberg agreed that Minnesota is still out-of-compliance. Mark Nebergall asked what Mason's rules say about this. Scott Peterson said CRIC makes a recommendation and the Governing Board accepts or rejects it as they did last year. Then the Governing Board gives the state some period of time to address the issue. If the state chooses not to address the issue, the Governing Board would assign this to the Executive Committee who would provide sanctions. Cathy

Wicks (MN) said they had tried to get Legislation passed, but it did not happen. She said they would like to eliminate this issue but were unable to accomplish that change. Kristen Shogren asked who would make the decision regarding substantially verses simply out-of-compliance. Scott Peterson said that is a word used by the Governing Board and not by CRIC. The Governing Board does the analysis on whether it is substantial or not substantial.

Craig Johnson moved that Minnesota be found out-of-compliance again this year with issue 3. Pam Cook called roll and all Committee members were present and voting. The motion passed unanimously.

Fred Nicely reported on the compliance issue on over-the-counter and prescription drugs. He did not see any issues there unless there's a state that is saying if you have a prescription it does apply to grooming and hygiene products, then it does not need to be addressed. If a state said they could exempt OTC drugs, it's covered in the Taxability Matrix. Chairman Vosberg said we could add a line to the Matrix to make it clear and Pam said that was her recommendation.

With no Interpretation requests or further business, the meeting adjourned at 10:42 AM CDT.