

Compliance Review and Interpretations Committee

November 8, 2012

Committee Participants

Chairman Myles Vosberg (ND)
Tim Jennrich (WA)
Craig Johnson (WI)
Deb Peters (SD)
Tom Atchley (AR)
Tony Mastin (OK)
Richard Cram (KS)

Other participants

Scott Peterson, SSTGB
Pam Cook, SSTGB
Fred Nicely, BAC

Chairman Myles Vosberg called the meeting to order at 10:02 am CDT. Today's meeting is to discuss New Jersey, Kentucky, Wisconsin, and Georgia.

New Jersey

Harry Fox said New Jersey is in better shape this year. Myles Vosberg said they have only one issue for being unable to accept the SER from sellers other than Model 1. Mr. Fox said they hoped to be able to accept the SER this spring 2013. Tim Jennrich made a motion to find NJ out-of-compliance. Pam Cook called roll, 6-yes, 1-no and the motion passed.

Kentucky

Richard Dobson discussed the changes to the certificate of compliance and taxability matrix. Pam received the corrected report. Richard Cram made a motion to find Kentucky not out-of-compliance. Pam called roll, all voted yes and the motion passed.

Wisconsin

Craig Johnson said on issue 1, they added the reference to food ingredient to their taxability matrix. Issue 2 dealing with software maintenance contract support service percentage. Pam asked if it should be 100% taxable. Craig said should state 100% taxable because they assume it is a bundle. Their experience is most support services included more than telephone support and so the support services would be taxable because it was a bundled transaction. On issue 3 grooming and hygiene products, he said they added a comment to the taxability matrix. Chairman Vosberg said in a situation where the support services were the phone services, it would be exempt and Craig agreed. He suggested splitting that in the future on the taxability matrix and adding telephone support separately. If they indicated it was not taxable and someone was doing online support where they accessed the computer, it would be a bundle transaction. Tim Jennrich made a motion to find WI not out-of-compliance. Pam called roll, Wisconsin abstained, 6 committee members voted yes and the motion passed.

Georgia

Amy Oneacre discussed issues 1 and 2. On the taxability matrix and certificate of compliance, changes have been made and will be sent to Pam. Issue 3, exemption on books that has been there forever, federal excise tax on motor fuels. Pam noted this is not a compliance issue until 2014. Amy said they will make a recommendation to the legislation to strike this. Issue 4 related to sales tax holidays, their legislation passed in the 2012 legislative session, tax reform initiatives that included a lot of tax changes and issues 4 and 5 related to those. The two sales tax holidays were put in place for school supplies and energy efficient products. Their legislature did not adopt the appropriate definitions for certain school supplies. It was difficult for them to lump some items in the appropriate bundles. The Legislature also

passed an energy exemption however that does not apply to one of their local option sales taxes, the local option tax for education. Amy said they will make a recommendation that they correct that. Chairman Vosberg asked if the sales tax holidays applied to 2012 and will be over in 2012. Amy said the holidays were also in 2013. On the local tax issue #5, he asked if the exempt provision on a state level is not a provision on the local level?. Amy said it's provided partially on the local level. The Energy will become exempt from all the local taxes except one of them. Local sales tax on education will never be exempted. There were no questions. Fred Nicely said asked Amy, in looking at issue 3, GA needs to fix correct this by 2013. On issue 4, not using the definition, it looks like that will be a 2013 issue. She agreed they are not using the definitions. Fred recommended that CRIC find Georgia out-of-compliance on this issue. On the next issue, Fred he asked how the Georgia Department of Revenue was going to treat computer accessories, on a single purchase or based on the article itself. Amy said they issued some guidance on this. Amy said they and did it as a single purchase, of \$1000 or less, and any single purchase exceeding \$1000 was subject to tax. Fred asked if the taxes were on the entire sale or on just an item. Amy said if a person purchases a computer for \$2600.00 it doesn't qualify because it exceeds the threshold of \$1000.00. Fred asked about section 308-C where it provides an exception for electricity. Amy said it could be natural gas, electricity, motor fuel, propane, coal, wood, gas, steam, etc., anything used as an energy commodity by a manufacturing plant. In the context of remote sellers selling of energy commodities to manufacturers in the state, probably not. Fred said he felt this was a compliance issue. Myles Chairman Vosberg asked if the energy exemption had an expiration on it and the state said no. Richard Cram moved that they find Georgia be found out-of-compliance on both the sales tax holiday definition issues and local sales tax base discrepancy issue. Pam called roll and all voted yes. The motion passed.

With no Interpretation requests or further business, the meeting adjourned at 10:32 am cdt.