

September 23, 2009

Delegate John Doyle  
Streamlined Sales Tax Governing Board  
4205 Hillsboro Pike, Ste 305  
Nashville, TN 37215

Dear Delegate Doyle:

The purpose of this letter is to summarize an interpretation request that was brought to the Compliance Review and Interpretations Committee. The Committee accepted the request, but ultimately decided not to make a recommendation to the Governing Board.

Mark Haskins, Virginia Department of Taxation, submitted an interpretation request dated July 27, 2009 regarding SSUTA Section 310.1. The request was submitted jointly with representatives from Arizona, New Mexico, Ohio, Tennessee, Texas, Utah, and the Virginia Association of Counties. A copy of the request is attached.

During its July 30, 2009 meeting, the Committee voted to accept the interpretation request and also agreed to expedited consideration, which allows the Committee to meet on the request anytime after a public comment period of ten days rather than the standard sixty days.

Section 310.1 of the Agreement allows member states to use origin-based sourcing for intrastate sales if certain conditions are met. One of those conditions is that at least five states that were not full member states on December 31, 2007 must elect origin-based sourcing and be in substantial compliance with each of the provisions of the agreement other than sourcing sales of tangible personal property and digital goods pursuant to Section 10 of the agreement.

Subsections (D)(2) and (D)(3) of Section 310.1 refer to a January 1, 2010 date. The issue presented in the interpretation request is whether the January 1 date is (1) a "sunset" date that would be a deadline by which at least five states must elect to use origin-based sourcing or (2) a "trigger" date that would be the earliest possible date states electing origin-based sourcing may become full member states. The interpretation requestors proposed an interpretation that the January 1, 2010 date is a trigger date that represents the earliest possible date that states electing origin-based sourcing could become full member states and that no deadline exists for five states to elect origin-based sourcing.

The interpretation request was discussed at the August 13, 2009 Committee meeting. No written public comments were received; however, considerable comment was provided by states and the public during the August 13 meeting that both supported and opposed the proposed interpretation. The Committee's vote to support the proposed interpretation failed two to three with Tony Mastin and Joe VanDevender (for Senator Luke Kenley) supporting the proposal and Representative Deb Peters, Myles Vosberg, and Larry Wilkie opposed. Further action on the request was tabled until the next meeting.

After further discussion at the August 27 Committee meeting, the committee unanimously agreed to submit the interpretation request to the Governing Board without recommendation. Participating in the meeting were Representative Deb Peters, Joe VanDevender (for Senator Luke Kenley), Myles Vosberg, and Larry Wilkie.

Please let me know if you have any questions regarding this matter.

Sincerely,

Myles Vosberg, Chairman  
Compliance Review and Interpretations Committee