



STATE OF NORTH DAKOTA
OFFICE OF STATE TAX COMMISSIONER
Cory Fong, Commissioner

October 26, 2009

Mr. Scott Peterson
Executive Director
Streamlined Sales Tax Governing Board, Inc.
4205 Hillsboro Pike, Ste. 305
Nashville, TN 37215

Re: 2009 Recertification of Compliance

Dear Mr. Peterson:

This letter is North Dakota's response to the two issues identified in your preliminary compliance review for 2009.

The first issue, which was identified in the 2008 review, is that North Dakota has not formally adopted the definition of prepaid calling service. Although this item was challenged in last year's compliance review, North Dakota was found in compliance with the agreement. North Dakota imposes sales tax on all intrastate communication services, which includes telecommunication services, ancillary services, and access services.

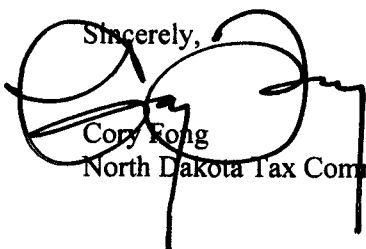
Prepaid calling service is a subset of telecommunication services and, therefore, included in the broader category of telecommunication services taxed under North Dakota Century Code § 57-39.2-02.1(1)(b) and further defined in North Dakota Administrative Code § 81-04.1-04-41.1. Although we believe there is no question about the taxability of prepaid calling service in North Dakota, we will adopt the definition of prepaid calling service when we proceed with updating our sales tax rules later this year.

The second issue relates to the language in North Dakota Administrative Code § 81-04.1-04-41.1 that exempts "one-way communication service." This language should have been removed when we originally updated our rule to achieve compliance with the Agreement and we agree this language needs to be corrected. To correct this issue, we will amend our current rule by removing the reference to "one-way communication service" and creating an exemption for all paging services. Currently, only two-way paging service is subject to tax.

Normally, the Tax Commissioner's Office drafts rules to provide clarity and define administrative processes, but does not change the taxability of goods or services. If the Legislative Rules Committee prefers to change the taxability of paging services through legislation rather than by rule, the change regarding one-way communication service will not occur until the 2011 legislative session.

If you have additional questions on these compliance issues, please contact Myles Vosberg, Director of Tax Administration at the Tax Commissioner's Office.

Sincerely,



Cory Fong
North Dakota Tax Commissioner