Interpretative Opinion Recommendation 2006-09

The issue presented is an interpretation of Agreement section 402 pertaining to amnesty. The question presented was whether companies (predecessor companies) would be eligible for amnesty under Agreement section 402 if another company (successor company) acquired the assets and liabilities of the predecessor companies and then registered to collect sales/use tax through the SST central registration system. According to facts presented in the request, the predecessor companies no longer exist, but would qualify for amnesty under Agreement section 402 if they still existed and they registered through the central registration system.

Public Comment
No written public comments were received. Ms. Beaudelaire’s discussion and response to the committee’s questions during the September 14, 2006 meeting were the only oral comments presented to the committee. Other issues regarding liability for sales/use tax related to predecessor companies were raised during the discussion, but the following recommendation is limited to the specific question addressed in Ms. Beaudelaire’s request.

Recommendation
By unanimous consent the Compliance Review and Interpretations Committee submits to the Governing Board a recommendation that predecessor companies that do not register through the central registration system are not eligible for amnesty under Agreement section 402.

Rationale
Section 402A(1) of the agreement provides amnesty for uncollected or unpaid sales or use tax to a seller that registers to pay or to collect and remit applicable sales or use tax in accordance with the terms of the agreement. The agreement language is clear that amnesty is not available to companies that do not register under the agreement.

Committee Members
Larry Wilkie, Committee Chair; Myles Vosberg, Andy Sabol, Tony Mastin, Dan Noble, Tom Conley representing Joseph Van Devender, and Dale Vettel