



**State of Vermont**  
**Department of Taxes**  
133 State Street  
Montpelier, VT 05633-1401

*Agency of Administration*

November 17, 2009

Mr. R. Bruce Johnson, Chair  
Issue Resolution Committee  
Streamlined Sales Tax Governing Board, Inc.  
4205 Hillsboro Pike, Suite 305  
Nashville, TN 37215

Re: Petition regarding Vermont's compliance with the Streamlined Sales Tax Agreement

Dear Mr. Johnson:

This letter is a formal response to the Business Advisory Council's (BAC) petition for reconsideration of Vermont's recertification in 2008. We submit to the Committee that the central claim embodied in that petition, that "Vermont has substantial compliance issues with the sourcing of prepaid wireless services," is without substance.

The test of whether a member state is in compliance, according to Section 805, is "if the effect of the state's laws, rules, regulations, and policies is substantially compliant with each of the requirements set forth in the Agreement." Vermont has been very clear with all vendors and the Governing Board that wireless prepaid services are being sourced correctly and in accordance with Streamlined Sales and Use Tax Agreement and that changes to our regulations would be forthcoming. In addition, we have posted notice on our website that our sourcing follows the SSTUA. To the best of my knowledge, we have never received any vendor complaints or inquiries regarding the sourcing of these services.

At the time Vermont was preparing documents for recertification last year, our official delegate to the Governing Board retired and his position was eliminated. Like many tax and revenue departments around the country, Vermont is struggling with decreased staff and budgets and increased work demands. This fact alone accounts for the delay in amending our sales and use tax regulations.

The first three items in the "pertinent facts" section of the document are correct, but item #4 strays from fact into pure speculation meant to bolster the case for findings of noncompliance and sanctions. Nowhere has there been any indication, except in the BAC complaint, of "serious doubt as to how the service will be sourced in a tax dispute before a tax tribunal or court." All of

 **VERMONT**

Vermont's official statements on the sourcing of prepaid wireless services have been consistent, so it is difficult to imagine such a scenario.

The petition, in a footnote, also calls into question whether Vermont ever submitted "an actual certification statement." Apparently, no effort was ever made by the BAC to substantiate the accusation by inquiring of the Governing Board staff. Vermont did file a statement, signed by then-Commissioner Tom Pelham, with the required taxability matrix and certificate of compliance.

Further, the claim that "Vermont is violating the SSUTA fundamental purpose section, Section 102" should be of concern to the entire Governing Board. If a state can be accused of violating the fundamental purpose for a single deviation from the Agreement, not in practice or effect but due to dated regulations that the state is in the process of revising, the burden of compliance becomes so extreme that it calls into question whether the Agreement can serve as a workable framework.

Annual recertification is an important process for all parties, and one that Vermont takes seriously. Independent and fair oversight of the process is critical, and we appreciate the role the BAC has played in the past. However, this petition fails in that respect and does a disservice to the process. We believed last year, and we still believe, that we met the test in Section 805 and that the finding of substantial compliance was correct.

Sincerely,



Richard Westman  
Commissioner, Vermont Department of Taxes