



Association of Washington Business
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*Washington's State
Chamber of Commerce*

September 18, 2007

Mr. Scott Peterson
Executive Director
Streamlined Sales Tax Governing Board
4205 Hillsboro Pike, Ste. 305
Nashville, TN 37215-3339

RE: Alternate Sourcing Proposal & Digital Products

Dear Mr. Peterson:

The Association of Washington Business (AWB) greatly appreciates the acceptance of our state as an Associate Member to the Governing Board. AWB fought hard to pass streamlined sales tax legislation, SB 5089 in the 2007 legislative session so that Washington would be in full conformance with the Streamlined Sales Tax (SST) Agreement. We look forward to our greater involvement representing the business community from Washington State to the members of the Governing Board.

Business support for SST centers on uniformity in the tax code. This uniformity is necessary for destination based tax sourcing and consistent classifications, definitions and interpretations. We are very concerned with proposals before the Governing Board that change the very nature of the SST agreement. We urge the rejection of the Alternate Sourcing Proposal. For digital products, we ask for rejection of the State Proposal and the support of the Business Advisory Committee (BAC) Proposal.

Alternate Sourcing Proposal

The proposal for Alternate Sourcing could provide substantial constitutional problems for Washington. A preliminary analysis has been prepared by the Washington State Department of Revenue showing:

- > The combined rate for out-of-state sellers could be considered a second state sales tax rate. This would violate article XI, sec. 9 of the state Constitution. *See Bond v. Burrows*, 103 Wn.2d 153 (1984);

- > Article XI, sec.12 prohibits the Legislature from imposing state taxes on local governments or their inhabitants for local purposes; and
- > *Bond v. Burrows* indicates that the Washington Supreme Court could likely strike down local sales and use taxes that are not uniform within the boundaries of the taxing district.

The proposal will create significant problems for Washington and its ability to conform to the SST Agreement. Finally, employers have already begun investing time and money to make the change to destination sourcing. Please reject this proposal and instead provide meaningful implementation strategies, technological solutions and other helpful tools to encourage greater involvement by other states.

Washington should serve as an example with a delayed effective date, a tax credit for small employers, mitigation funding for cities, extensive technical assistance and media availability by the State Department of Revenue.

Digital Products

The primary difference between the BAC and State Proposal is who imposes a tax on digital goods – the State Legislatures or State Department of Revenues? AWB strongly urges the Governing Board to support the BAC proposal and reject the State Proposal. This action sends a clear message that the participating State Legislatures maintain the ability to affect decisions on whether to impose a new tax or not. The Governing Board should avoid granting such broad authority to State Department of Revenues.

Please circulate AWB's comments to the members of the Governing Board for their consideration. For question or more information, please contact Amber Carter at amberc@awb.org or 1-800-521-9325, ext. 1010. Thank you.

Sincerely,



Gary Chandler
Vice President, Governmental Affairs

cc: Cindi Holmstrom, Director
Washington State Department of Revenue