

**Minutes of Streamlined Sales and Use Tax Agreement Petitioning States
June 30-July 1, 2005
Chicago, Illinois**

The meeting of states petitioning for membership in the Streamlined Sales and Use Tax Agreement was held on June 30-July 1, 2005 in Chicago, Illinois. Votes of the reported in these minutes were by unanimous voice vote unless otherwise indicated.

The following state delegates participated in the meeting of the Petitioning States.

Arizona

Christie Comanita, Department of Revenue

Arkansas

Tom Atchley, Department of Finance and Administration

Mary Cameron, Bureau of Legislative Research

Indiana

Tom Conley, Department of Revenue

Phillip Ewing, Department of Revenue

James Turner, Department of Revenue

Joseph E. VanDevender, Deputy Commissioner, Department of Revenue

Iowa

Donald Cooper, Department of Revenue

Rod Erickson, Iowa Department of Revenue

Kristi Magill, RSM McGladrey

Kansas

Richard Cram, Department of Revenue

Tom Hatten, Department of Revenue

Kentucky

Representative Harry Moberly

Richard Dobson, Department of Revenue

Charlotte Quarles, Legislative Research Analyst

Michigan

Mike Eschelbach, Department of Treasury

Dale Vettel, Department of Treasury

Minnesota

Cathy Wicks, Department of Revenue

Larry Wilkie, Department of Revenue

Judy Niccum, Department of Revenue

Nebraska

Senator Dave Landis
Mary Jane Egr Edson, State Tax Commissioner
Tom Gillaspie, Department of Revenue
Ellen Thompson, Department of Revenue

New Jersey

Harold Fox, Division of Taxation
Craig Rook, Division of Taxation

North Carolina

Anna Mitchell, Department of Revenue
Andrew Sabol, Department of Revenue

North Dakota

Senator Dwight C. Cook
Representative David Drovdal
Gary Anderson, Office of State Tax Commissioner
Myles Vosberg, Office of State Tax Commissioner

Ohio

Fred Nicely, Department of Taxation
Bill Riesenberger, Department of Taxation
Tim Sachs, Department of Taxation
Commissioner William W. Wilkins, Department of Taxation

Oklahoma

Jerry Johnson, Vice Chairman, Oklahoma Tax Commission
Thomas Kemp, Jr., Chairman, Oklahoma Tax Commission
Tony Mastin, Oklahoma Tax Commission

South Dakota

Senator H. Paul Dennert
Senator Royal G. McCracken
Senator Orville Smidt
Representative Paul Dennert
Representative Hal Wick
Secretary Gary Viken, Department of Revenue
Jody Bartels, Department of Revenue
Scott Peterson, Department of Revenue

Tennessee

Commissioner Loren Chumley, Department of Revenue
Sherry Harrell, Department of Revenue
Connie Hardin, General Assembly

Utah

Commissioner R. Bruce Johnson, State Tax Commission
Scott Smith, State Tax Commission

West Virginia

Senator Walt Helmick
Delegate John Doyle
Virgil Helton, Acting Commissioner, Department of Tax and Revenue
Melissa Lilly, Senate Committee on Finance
Dale Steager, General Counsel, Department. of Tax and Revenue

Wyoming

Dan Noble, Department of Revenue

The following additional individuals attended the meeting:

Jodie Abolins, Senior Vice President, Taxware LP
John Allan, Jones Day, Washington, DC
Ralph Amon, Manager, Excise Tax, The Boeing Company
Claire Babineaux-Fon, Vice President, Tax Audits/Policies, Wal-Mart Stores, Inc.
Ken Beier, Project Manager, Multistate Tax Commission
Deborah Bierbaum, Director, External Tax Policy, AT&T
Katherine M. Breaks, Senior Manager, KPMG
Dennis Brown, VP, State Government Relations, Equipment Leasing Association
Jean Cantrell, Regional Director Global Government Affairs, EDS
Terry Charlton, Attorney, Illinois Department of Revenue
Stan Chichowski, Deloitte
Stephanie Childs, VP. Government Affairs, IT Association of America
John Cmelak, Director of Tax Policy, Verizon Wireless
Charles Collins, Vice President, Taxware
Emily Dagostino, Reporter, State Tax Notes
Anita DeGumbia, Compliance Administrator, Georgia Department of Revenue
Steve DelBianco, Executive Director, NetChoice
Harley Duncan, Executive Director, Federation of Tax Administrators
Carolyn Elerson, Manager, Sales & Use Taxes, FedEx Corporate Services
Dick Eppleman, Director, Government Markets, Vertex
Sheryl Flynn, Sr. Manager, Sales and Use Tax, DaimlerChrysler Services
Jane Frankel, Director, Corporate Business Development, Vertex Inc.
Jeff Friedman, Sutherland, Asbill & Brennan LLP, Washington, DC

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Rachelle A. Fuller, Tax Analyst, Quixtar, Inc.
Paul Goodman, Teleflora
Pat Guerin, General Electric, Fort Myers, Florida
Frank Guerino, Senior Manager, Ernst & Young, LLP
Diane L. Hardt, Administrator, Wisconsin Department of Revenue
Ferdinand Hogroian, PricewaterhouseCoopers LLP
Stuart Hoins, VP, Sales & Property Tax, First Data Corporation
Jeffrey L. Hyde, Senior Tax Counsel, G.E. Capital Corporation
Carolynn S. Iafrate, Attorney, Exton, PA
Ronald T. Johnson, Assistant Tax Administrator, City of Phoenix
Frank Julian, Operating VP and Tax Counsel, Federated Department Stores, Inc.
Dave Kautz, Assistant City Manager, City of Round Rock, Texas
Kurt Kawafuchi, Director of Taxation, Hawaii
Robert Kellerman, Product Manager, Intuit
Beth Kendzierski, Tax Director, Apria Healthcare, Inc.
Thomas Kimmitt, Assistant Counsel, Pennsylvania Department of Revenue
Stephen Kranz, Tax Counsel, Council on State Taxation
John Kroll, Consultant, Coalition/Sales Tax Law Enactment
Bruce Krumlauf, Product Manager, CCH Tax & Accounting, Centennial, Colorado
Mary Ellen Ladouceur, Senior Attorney, New York State Dept. of Taxation & Finance
Daren A. Lanier, Jefferson County, Alabama
Steve Lankford, Manager, Sales & Use Compliance/Audit, EDS Corporation
Damien Littlejohn, City of Birmingham, Alabama
Sandra Long, Senior Tax Manager, HCA
Scott Mackey, Partner, Kimbell, Sherman & Ellis
Charles Maniace, Senior Tax Counsel, Taxware LP
Michael McDevitt, Director, Tax Matrix Technology
Scott Moore, Senior Auditor, Jefferson County, Alabama
Bob Nachlinger, Director of Finance, City of Kent, Washington
Faranak Naghavi, Ernst & Young, LLP, Washington, DC
James Nagode, State Tax Partners
Kathy Neggors, Manager-Sales, Use & Excise Taxes, General Electric Company
Sean Nicholson, Sr. Manager, Sales & Use Taxes, Target Corporation
John Nugent, Assistant Tax Administrator, Rhode Island Division of Taxation
Stephen Olivier, Manager, Excise Tax Manager, Chevron Texaco Company
Neal Osten, Federal Affairs Counsel, National Conference of State Legislatures
Juan Otero, National Governors Association
Michael O. Parker, Dover Dixon Horne PLLC, Little Rock, Arkansas
Brian Perry, Regional Tax Manager, Georgia Pacific Corporation, Atlanta, Georgia
Valerie Pfeiffer, Tax Director, CIT
Greg Potegal, Tax Policy Specialist, Washington Department of Revenue
Bill Pound, Executive Director, National Conference of State Legislatures
Rich Prem, Director, Global Indirect Taxes, Amazon.com
David Quam, National Governors Association

Alana Reimer, Tax Accountant, State Farm
Jeffrey Rhines, Sr. Manager, State & Local Taxes, Grant Thornton, LLP
Arthur R. Rosen, McDermott, Will & Emory, LLP
William Ryan, Policy Analyst, New York Department of Taxation & Finance
Daniel Schibley, State Tax News Director, CCH
Steven Stallings, Senior Tax Analyst, Abbott Laboratories
Jonathan Stellings, Salis, Roswell, Georgia
Gary Tasky, Tax Audit Supervisor, City of Phoenix, Arizona
Joe Thomas, Director of Audit, Connecticut Department of Revenue
Matt Tomalis, Attorney, Federation of Tax Administrators
Warren Townsend, Director, Sales, Use & Product Taxes, Wal-Mart Stores, Inc.
Barney Tumey, Atlanta Correspondent, BNA, Washington, DC
LeRoy Van Riper, Consultant to New York Division of Budget
Michael Wallace, Director, Tax Services, IBM Corporation
Iwen Wang, Finance Director, City of Federal Way, Washington
King Woolf, President, Trustfile
Daniel Wood, Tax Policy Analyst, New York Department of Taxation & Finance
Wayne Zakrzewski, Assistant General Counsel – Tax, J C Penney Company Inc.

Welcome

Co-Chair of the Implementing States Bruce Johnson opened the meeting and noted that Senator Angela Monson could not be at the meeting due to personal reasons. Senator Monson asked Senator Royal McCracken of South Dakota to sit in for her as Co-Chair. This was followed by the introduction of participants from Petitioning States and other attendees in the room.

Review of Agreement Provisions on Petitioning States and Establishment of the Governing Board

Loren Chumley reviewed relevant sections of the Streamlined Sales and Use Tax Agreement (Agreement). She noted that Wisconsin had withdrawn its petition and the number of states (10) with the required populations (20% of sales tax states) was met by May 3.

Bruce Johnson added that New Jersey may pass streamlined legislation today (June 30) and that it is considered to be a petitioning state. He reported that a petition was received from Nevada on June 22, which is later than the date of May 1 specified in the in the operating rule. Bruce suggested that this be considered filed with the Governing Board and receive attention from that body as one of its first items of business. He added that adjustments for Nevada, in terms of operational dates, may need to be made by certified service providers. Bruce Johnson also noted Texas had not submitted a petition. Oklahoma moved and Indiana seconded a motion not to consider the Nevada petition at the current meeting.

Review of Business Community Process/Compliance Committee Process

Steve Kranz provided an overview of the compliance review process, which began about a year and one-half ago. Private sector representatives worked with state representatives to develop compliance checklists. He explained that the comments presented at the meeting have been narrowed down to those that are judged to most significant as they relate to full or associate membership.

Sherry Harrell reported that the Compliance Committee met on May 6 via teleconference and that state reviews of each others petitions culminated in the report presented today.

Bruce Johnson then recognized some general concerns that may affect multiple states, such as product and use-based exemptions and the definition of tangible personal property. Following a discussion of exemptions as they relate to Sections 316 and 327 of the Agreement and the library of definitions, Loren Chumley moved that this matter be put before the appropriate body to resolve this at the earliest possible moment. This was passed. [Editorial note: “appropriate body” here means the Governing Board if it comes into existence on October 1; other wise it means the Implementing States.]

Steve Kranz mentioned three additional concerns: 1) Consistency in filling out taxability matrixes, 2) Authority for amnesty--this is statutory in some states and not in others; there needs to be some reassurance that the authority for this is present in all of the member states and 3) Certainty that compensation will be paid to vendors

Review of Individual State Petitions

State petitions for membership were then reviewed by a representative of one of the states involved in review of the petitioning state’s application for membership. This included an identification of compliance issues, comments from private sector reviewers, and a response from the petitioning state. This was done for Arkansas, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Nebraska, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Utah, West Virginia, and Wyoming. All of these states, except for Arkansas and Wyoming, are applying for full membership or associate membership with a change to full membership upon a delayed effective date.

During the Arkansas review Bruce Johnson explained that Arkansas was looking for associate membership. It was noted that a deficiency on sourcing for direct pay taxpayers would require legislation. Bruce Johnson requested private sector representatives, Don Cooper of Iowa and Arkansas personnel to prepare of document of deficiencies that the co-chairs can send to Arkansas.

During the review of Wyoming, Dan Noble reported that there is litigation over their sourcing rules and that they expect legislation will address this issue.

Upon the conclusion of the review of the states, Bruce Johnson thanked the states, members of the business community, and the equipment leasing association for their work on review of state petitions.

Following discussion of the treatment of delivery charges by Kentucky, it was agreed that the states would not act on this until there is a consensus from the Streamlined Sales Tax Project on this issue.

Action on the Compliance of Each Individual State

Following a break, Bruce Johnson explained that to become an associate member, under Section 704.C, a state must first fail to receive a vote of three-fourths of the petitioning states for full membership. Because Nevada's petition would not be voted on at this meeting, the Petitioning States determined that Nevada would not be considered a petitioning state for purposes of the voting requirement. [Editorial note--several of the petitioning states have delayed effective dates, that is, they will be in compliance with the Agreement at a future date. For example, Ohio will be in compliance with the Agreement when its sourcing rules become effective on January 1, 2008.]

Oklahoma then moved and Tennessee seconded that Arkansas be designated as a member state. This was defeated on a voice vote with a Yes from Nebraska and an abstention from Arkansas. Oklahoma then moved and Tennessee seconded that Arkansas be designated an associate membership under Section 704.C. This was approved with an abstention from Arkansas.

Oklahoma then moved and Tennessee seconded that Indiana be designated as an associate member with full membership on July 1, 2005. This was passed with an abstention from Indiana.

Tennessee moved and Oklahoma seconded that Iowa be designated as a member state. This was passed with an abstention from Iowa.

Kentucky moved and West Virginia seconded that Kansas be designated as a full member. This was passed with an abstention from Kansas.

West Virginia moved and Minnesota seconded that Kentucky be designated as a full member. This was passed on a voice vote with a "No" from Arkansas and an abstention from Kentucky.

North Dakota moved and Kentucky seconded that Michigan be designated as a full member. This was passed with an abstention from Michigan.

North Dakota moved and Iowa seconded that Minnesota be designated as a full member. This was passed with an abstention from Minnesota.

New Jersey moved and Tennessee seconded that Nebraska be designated as a full member. This was passed with an abstention by Nebraska.

Tennessee moved and Kansas seconded that North Carolina be designated as a full member. This was passed with an abstention from North Carolina.

Oklahoma moved and Tennessee seconded that North Dakota be designated as an associate member with full membership on October 1, 2005. This was passed with an abstention by North Dakota.

Tennessee moved and New Jersey seconded that Ohio be designated as an associate member with full membership on January 1, 2008. This was passed with an abstention from Ohio.

Jerry Johnson then announced that the 20% threshold for population for full members and associate members (those in compliance but with delayed effective dates) had been reached.

South Dakota moved and Nebraska seconded that Oklahoma be designated as a full member. This was passed with an abstention from Oklahoma.

North Dakota moved and Ohio seconded that South Dakota be designated as an associate member with full membership on July 1, 2005. This was passed with an abstention from North Dakota.

New Jersey moved and Iowa seconded that Tennessee be designated as an associate member with full membership on July 1, 2007. This was passed with an abstention by Tennessee.

Kentucky moved and Tennessee seconded that Utah be designated as an associate member with full membership on July 1, 2006. This was passed with an abstention by Utah.

Tennessee moved and Wyoming seconded that West Virginia be designated as a full member. This was passed with an abstention from West Virginia.

Tennessee moved and Nebraska seconded that Wyoming be designated as a full member. This was defeated on a voice vote with an abstention from Wyoming. Tennessee then moved and Nebraska seconded that Wyoming be designated an associate membership under Section 704.C. This was approved with an abstention from Wyoming.

After the voting was concluded, Jerry Johnson reported that 17 states with 25.3% of the population of sales tax states had been approved as full or associate (with delayed

effective dates) members. With New Jersey, full members would constitute 19.95 percent of the population. North Dakota would take it over 20 percent. (Compliance of New Jersey was dependent on legislation that was currently under consideration.)

Discussion of Possible Action Regarding Declaration of Agreement Effective Date Pursuant to Section 701.

Jerry Johnson then moved that the Agreement become effective in 60 days—October 1, 2005. This was passed.

Discussion of Proposed Governing Board Bylaws and Rules

Discussion for the remainder of the day followed Loren Chumley's presentation, starting with page 14--bylaws and rules. She asked for tacit approval on bylaws at the current meeting with formal approval to take place on October 1.

Discussion of Conforming States Responsibilities Regarding Nomination of Officers and Directors

Ms. Chumley added that the Conforming States would act as the nominating committee for the Governing Board. Following comments on initial payments by member states, South Dakota moved and Wyoming seconded that initial payments be due on July 11, 2005. This was passed. Loren Chumley emphasized the need to designate state representatives for the Governing Board.

Discussion and Possible Action Regarding Process for Selecting Location of Governing Board Offices and Other Administrative Matters

Ms. Chumley suggested that the organization stay at the Federation of Tax Administrators "as long as they will have us." She also emphasized that the principal office does not have to be in the state of incorporation. Richard Dobson noted that the principal office should be in a member state. Bruce Johnson then proposed a formal motion that the organization should continue as a guest of the FTA office until such time that finances are more firmly established. This was passed.

Bruce Johnson noted the continuing need for substantial input from the professional staff from the states, and added that even if Scott Peterson of South Dakota continues to be available on an interim basis, that it may make sense to hire a staff person at a lower level to handle administrative matters.

Scott Peterson then provided an overview of Certified Service Provider and central registration activities. He added that states may have to spend some funds to get their systems to work with these streamlined services.

Loren Chumley then mentioned some outstanding issues, including an Issue Papers for Bundling and for MPU for software.

Discussion of Future Meetings and Comments on Accomplishments of the Streamlined Effort

Following a brief discussion of future meetings, Bruce Johnson noted that the group would reconvene in the morning to consider New Jersey. He then thanked all of the state participants and members of the business community for their support of the review of state petitions. Senator Cook commended Senator Monson and Bruce Johnson for this effort. Charles Collins recalled the fourth meeting of the streamlined sales tax project where the streamlined effort started it real momentum. Wayne Zakrzewski noted the accomplishments of the states, in spite of the initial doubts that they could be successful in this effort.

Continuation of Action on Compliance of Individual States

The meeting reconvened at 9:00 am on July 1. Following a roll call of the states, it was reported that New Jersey had passed legislation that brings it into compliance with the Agreement. Nebraska moved and Tennessee seconded designation of New Jersey as an associate member state with full membership on October 1, 2005. This was passed with an abstention from New Jersey. Bruce Johnson noted that with New Jersey as a full member, that there will be sufficient membership on October 1, 2005 for the Governing Board to take control of the Agreement.

Bruce Johnson that noted that the Nevada petition for membership was properly submitted to the Petitioning States, but too late to be considered at this meeting. He added that he would like to refer Nevada's petition to the Governing Board, so that it can gather public comments and that there is no need for them to submit a second petition. A motion to support this approach for Nevada was made by North Dakota, seconded by West Virginia and passed.

Other Business

Noting that the official meeting date for the Petitioning States was July 1, Bruce Johnson asked that the group ratify all actions taken on June 30. This was moved by Oklahoma, seconded by Tennessee and passed. Bruce Johnson clarified that ratification included the abstentions on a state-by-state basis. The meeting was adjourned at 9:30 am.

Respectively submitted

Kenneth R. Beier
Multistate Tax Commission