

Draft
Streamlined Sales Tax Governing Board
Minutes from September 19-20, 2007
(MM07003)

Call to order and attendance:

Senator Dwight Cook called the meeting to order at 1:00 p.m. on September 19, 2007. All member states were present.

Approval of Minutes from June 2007:

Secretary Joan Wagnon moved and Delegate John Doyle seconded the approval of the June 2007 Governing Board minutes. That motion was approved on a voice vote.

Digital Goods:

Commissioner Jerry Johnson explained the compromise solution reached with digital goods. Commissioner Jerry Johnson said that the effective date is January 1, 2010 and the states have 2 years to conform to the new terms. Commissioner Johnson moved and Senator Luke Kenley seconded a motion to approve documents AM07014A01 with the definitions for the library of definitions, AM07031A02 with the terms of use, and RP07012A02 with the administrative rules. That motion was approved unanimously on a roll call vote with Michigan abstaining.

Petitions for Membership:

Arkansas

Ms. Anna Mitchell from North Carolina and Mr. Myles Vosberg from North Dakota presented the review of the Arkansas petition. Mr. Wilkie moved and Mr. Joe Vandevender seconded a motion to approve the application of Arkansas as a full member state effective January 1, 2008. The motion was approved unanimously on a roll call.

Nevada

Mr. Tony Mastin presented the review of the Nevada petition. He said that Nevada had not yet completed the draft of administrative rules necessary to bring them into compliance. Mr. Dino DiCianno of Nevada expressed his appreciation of the review and asked that Nevada's petition be deferred to the December meeting. He said he wanted to assure the Board that the 2008 ballot measure had nothing to do with Streamline. Representative David Drovdal moved and Delegate John Doyle seconded a motion to defer Nevada's petition until the December meeting. That motion was approved on a voice vote.

Tennessee

Mr. Richard Dobson and Ms. Cathy Wicks presented the review of Tennessee's petition. Mr. Dobson explained that the conforming Streamline Legislation becomes affective January 1, 2008 or July 1, 2009. He said that they will be in full compliance by the deadline dates of the agreement. Ms. Sherry Harrell explained that they would like the Board to approve their membership with a six month extension. Senator Cook reminded the Board that membership approval required affirmative votes from 12 members, but the 6 month extension requires a unanimous approval. Mr. Dobson moved and Secretary Wagnon seconded a motion to approve Tennessee's petition for membership with a six month extension. That motion was approved unanimously on a roll call.

Wyoming

Mr. Mike Eschelbach and Ms. Judy Niccum presented the review of Wyoming's petition. Mr. Eschelbach moved and Secretary Wagnon seconded a motion to approve Wyoming's petition for full membership. That motion was approved unanimously on a roll call.

Energy Star Definition:

Mr. Andy Sabol explained that the State and Local Advisory Council approved moving the issue paper forward. He said that it would be submitted to the Compliance Review and Interpretations Committee as required by the rules and he would have it on the agenda for the December Board meeting.

State Tax Rate Change:

Mr. Steve Kranz and Ms. Sherry Harrell requested additional time to refine the amendment and ask that it be deferred to the December meeting. There were no objections to the deferral.

Interpretations of the SSUTA:

Mr. Larry Wilkie explained the interpretation request from General Nutrition Centers, Inc (IO07002). Mr. Wilkie moved and Mr. Dale Vettel seconded a motion to accept the interpretation recommendation. That motion was approved unanimously on a roll call.

Mr. Wilkie explained the interpretation request from Lafarge North America (IO07003). Mr. Wilkie moved and Mr. Vettel seconded a motion to accept this recommendation. That motion was approved unanimously on a roll call.

State Recertification:

Mr. Scott Peterson reported that all states met their obligation concerning recertification. Mr. Wilkie said the Compliance Review and Interpretations Committee would have a new process in place before next year's recertification deadline.

FY09 Budget:

Mr. Bob Cox presented the proposed FY09 budget approved by the Finance Committee and the Executive Committee. He said the budget was lower than the FY08 and that dues would also be less. He explained that states that had already paid their dues could receive a refund or keep the difference as a credit for next years dues. Mr. Cox moved and Mr. David Casey seconded a motion to approve the FY09 budget. That motion was approved unanimously on a voice vote.

Interpretative Rule Process:

Mr. Larry Wilkie explained that rule change RP07013 would revise the process for how interpretative rules are evaluated. Mr. Wilkie moved and Mr. Vettel seconded a motion to adopt the rule. That motion was approved on a voice vote.

Report from the National Congress of American Indians:

Mr. John Dossett General Counsel for the National Congress of American Indians explained that tribal government need tax revenue in the same way as states. He described Streamline as the sales tax system of the future. Mr. Dossett explained that some tribes are interested in having the same opportunity as the states to participate in Streamline and other tribes don't have sales tax and do not want a sales tax imposed. He further explained that they worked with Congress on the language in S.34 and suggested having one member of a tribe represent all tribes and then if another tribe wants to put a member on the board then it would be the board's decision on whether or not they can join.

Federal Legislation:

Mr. Neal Osten explained that the states around the table need to give their delegations to know what they are doing. He said there is a small opportunity over the next few months before they stop doing things for the election.

Mr. Marty Morris of the FTA explained that contact needs to be made by Streamline states to Congress. He also said that states need to explain why Streamline is a good thing and how it helps.

Delivery Charges:

Mr. Mike Eschelbach explained that document AM07017A03 does not change the definition of delivery charges unless the state decides to utilize one of the toggles. He said that rule RP07007A03 explains how the toggles can be used singly or in combination. Mr. Steve Kranz stated that it was premature to bring this to a vote because it is so closely involved in the direct mail issue. He said they would ask that it be deferred until the direct mail issue is resolved and commented that if it is passed today, they would be revisiting it later. Mr. Dale Vettel said that it is time to move forward on

this issue. Ms. Sherry Harrell informed the board that SLAC voted overwhelmingly in favor of these documents and would like to move forward on it today. Ms. Melanie Hill explained that the major issue is the taxation of postage and delivery charges relating to mail. She said this issue is directly related to the direct mail issue. Mr. Eschelbach moved and Mr. Tom Gillespie seconded a motion to adopt AM07017A03 and RP07007A03. That motion was approved on a roll call vote with West Virginia voting no.

Alternative Sourcing

Ms. Sherry Harrell presented the Taskforce's amendment (AM07024A03) to the Ohio sourcing amendment. She said the proposed amendment allows a state to retain origin sourcing for intrastate sales if the state adopts one rate for interstate sales. In response to a question from Ms. Cathy Wicks in regard to why a seller wouldn't know the business location for where an order is taken and Ms. Harrell explained that a business might have several call centers and the internet and not know which location took the order. Commissioner Jerry Johnson asked if one state does destination and another elects to use origin, how would the shipment be taxed? Ms. Harrell explained that the proposal uses destination sourcing to get a sale to a state and there cannot be two states that tax a transaction.

Ms. Harrell moved and Representative Wayne Harper seconded a motion to amend the Ohio proposal with the Taskforce amendment. That motion failed on a vote of 5 to 16 with Michigan, Oklahoma, Ohio, Tennessee and Wyoming voting yes.

Ms. Carolynn Iafrate presented a proposal from the Business Advisory Council (AM07024A04). She said it would allow a state to retain origin sourcing for intrastate sales if the state adopts one rate for all delivery sales.

Mr. Steve Kranz and Senator Luke Kenley seconded a motion to adopt the BAC amendment to the Ohio sourcing amendment. Senator Luke Kenley moved and Delegate Doyle seconded a substitute motion to amend the BAC amendment (AM07024A04) by deleting A7; replacing the second sentence in E3 with "The Governing Board shall adopt uniform reporting requirements a member state may require of sellers for the purpose of determining the amount of delivery sales for that location. The Governing Board shall establish these requirements by July 1, 2008."; and replacing E9 with "The effective date of this amendment shall be January 1, 2009." That motion was approved on a voice vote.

Commissioner Jerry Johnson moved and Senator Kenley seconded a motion to approve the revised BAC proposal with a second vote in December. That motion was approved on a vote of 15 to 5 with Michigan, Ohio, Tennessee, Utah and Washington voting no.

Commissioner Jerry Johnson moved and Mr. Gillespie seconded a motion to send the issue back to the task force for recommendation. That motion was approved on a voice vote.

Associate Membership:

With no objection, Senator Cook deferred this issue to the December meeting.

Bylaws Revision:

Secretary Wagon explained that BL07004 would place the immediate past president on the Executive Committee and adjust the amount of time a person can be an officer. She moved and Commissioner Bruce Johnson seconded a motion to adopt the bylaw revision. That motion was approved unanimously on a voice vote.

Nomination Committee:

Mr. Tom Gillespie moved and Mr. Craig Rook seconded a motion to elect the officers and directors as found in the slate of candidates (MC07013). That motion was approved unanimously on a voice vote.

There being no further business Secretary Wagon adjourned the meeting at 3:05 p.m. Thursday, September 20, 2007.