

Minutes

Streamlined Sales Tax Governing Board

March 31, 2010

Welcome and Roll Call:

President Jerry Johnson called the meeting to order at 1:00 PM. All member states were present and voting except Indiana and Rhode Island.

Approval of minutes from December 17, 2009 meeting – MM09004:

Delegate John Doyle moved to approve the minutes from the December 17, 2009 Governing Board Meeting. That motion was approved on a voice vote.

Referral of Introduced Proposals to Committees/Councils for Study:

- **Definition of bottled water – AM10001**

President Johnson said the definition of bottled water will be referred to a committee unless someone moves to take action at this meeting. Mr. Russ Brubaker said he would like some discussion but that he would like it to be considered at the April 2010 Meeting.

Mr. Brubaker explained that with this definition states would have the option to tax bottled water differently than food. He said there was no overlap between bottled water and soft drinks and it would be much easier to implement than the alternative which is a tax on the wholesalers. Representative Ross Hunter said legislators need to be able to make reasonable policy choices. He said Washington's Governor wants the wholesale tax but a sales tax on bottled water would be easier to administer.

Mr. Patrick Donoho of the International Bottled Water Association said his organization was opposed to adopting this definition. He said the issue of how to treat bottled water was negotiated and settled in 2002 when Streamlined Sales and Use Tax Agreement (Agreement) was enacted. In addition, he said there is no standard for the Governing Board to use to decide how to move a particular item from the food definition. He recommended that the Governing Board develop such a standard. In response, Delegate John Doyle said the Governor of West Virginia had also suggested a definition of healthy foods.

Mr. Richard Dobson asked how many states had a separate tax on bottled water and if the industry had figures on how that impacted sales. Mr. Donoho said his organization had information that showed the decrease in sales when the item is taxed. Mr. Tim Jennrich of Washington said he believes there are several states that tax bottled water and he thought Florida was about to tax bottled water.

Ms. Elizabeth Tansing from the Food Marketing Institute agreed with Mr. Donoho's comments and added that this would be a slippery slope for taxes because the definition of food was already confusing.

Finance Committee:

- **FY2010 Second Quarter Financial Report – FR10001**

Mr. Richard Dobson explained the FY2010 Second Quarter Financial Report. Delegate Doyle moved to accept the report and the motion was approved on a voice vote.

- **Amendment to FY2011 Budget – FC10001**

Mr. Dobson said this amendment corrects the incorrect dues listed in the FY2011 budget adopted in September 2009. Delegate Doyle moved to accept the amendment and the motion was approved on a voice vote.

Executive Committee:

President Johnson said the Executive Committee had several meetings on the compensation issue. He said it was his goal to have the Executive Committee send the compensation amendment to the Governing Board for its April meeting. President Johnson also said it was critical that the Governing Board determine its position on federal legislation.

Issue Resolution Committee:

- **In the matter of the substantial compliance of the State of Nevada**

Speaking for the Issue Resolutions Committee, Mr. Robert Thompson explained that Mr. Stephen Kranz submitted a petition objecting to the Governing Board's decision to find Nevada in compliance. Mr. Thompson explained the process used by the Issue Resolution Committee to arrive at their recommendation. He said it was the recommendation of the Issue Resolution Committee that Nevada was not in compliance because they do not accept tax payments by ACH credit.

President Johnson said that accepting this report does not find Nevada out of compliance. He said that would require another vote that he would schedule for the April Meeting.

Mr. Dino Dicianno stated that the report is accurate and Nevada is doing everything they can to be able to accept payment by ACH credit. Mr. Fred Nicely said that the Business Advisory Council's goal is to get Nevada back into compliance. He also thanked the Issues Resolution Committee for all the work they've done on substantial compliance. President Johnson agreed with Mr. Nicely's comments and added that this is the first time that the Governing Board has working on defining substantial compliance. Mr. Dale Vettel said that we have not yet defined substantial compliance and there is still a lot of work that needs to be done.

Delegate Doyle moved to accept the recommendation of the Issue Resolution Committee on Nevada. That motion was approved on a roll call vote with 18 states voting yes, Indiana, Rhode Island, Ohio, and Utah absent, and Nevada abstaining.

- **In the matter of Interpretative Opinion 2009-01**

Mr. Thompson said that Mr. Mark Nebergall had submitted a petition objecting to the Governing Board's adoption of an interpretation relating to software upgrades. He said it was the recommendation of the Issue Resolution Committee that Mr. Nebergall's petition requesting reconsideration of the interpretation be denied.

Mr. Nebergall urged the Governing Board to not accept this recommendation. He said the recommendation said there were no court decisions on point and he had cited a case in his petition. Mr. Thompson said that in his opinion the case that Mr. Nebergall cited didn't relate the issue.

Mr. Russ Brubaker moved to accept the recommendation of the Issue Resolution Committee on the interpretation. That motion was approved on a roll call vote with 19 states voting yes and Indiana, Rhode Island, Ohio and Utah absent.

Mr. Dale Vettel moved that the Governing Board accept the recommendation of the Issues Resolutions Committee and deny the request to reconsider the interpretation request. That motion was approved on a roll call vote of full member states with 18 states voting yes and Indiana and Rhode Island absent.

State and Local Advisory Council:

Ms. Jane Page said the council met in March and will submit three issues to the Governing Board. She said they were working on the interpretation request from Ms. Loren Chumley.

Audit Committee:

Mr. Bruce Christensen said the Audit Core Team was completing its analysis of the CSPs and developing the process for a single audit.

Certification Committee:

Mr. Gary Centlivre said the committee was working on the recertification of the current CSPs and the certification of the two new applicants.

Adjournment:

There being no new business, Delegate Doyle moved to adjourn the meeting at 2:18 PM. The motion carried on a voice vote.