

## **Governing Board Meeting September 19-20, 2012**

President Russ Brubaker called the meeting to order at 1:03 pm MDT. All member states were present.

- **Approval of minutes from May and June, 2012**

Ms. Ellen Thompson noted a correction in the last sentence of the voucher discussion that it was Mr. Tom Gillaspie who made the motion to refer both issues to SLAC and not Senator Tom Hansen. Ms. Sherry Hathaway noted that in the fourth paragraph of the voucher discussion the word “tax” should be replaced with “exempt.” Commissioner Bruce Johnson moved the adoption of the corrected May minutes and the June minutes. That motion was approved unanimously on a voice vote.

- **Special report**

- **Class Action Law Suits and Qui Tam**

Mr. Fred Nicely, Ms. Deborah Bierbaum, and Commissioner Bruce Johnson jointly presented a discussion on class action lawsuits and qui tam actions. Ms. Bierbaum reported that class action lawsuits are becoming a big problem for large retailers like AT&T. She said lawsuits are very costly to fight with legal fees often much higher than the cost of returning money to the customers. She explained the effectiveness of the Governing Board’s requirement that the customer to go to the retailer first. She specifically cited class action litigation in New Jersey that was overturned because they were a Streamlined state.

Commissioner Bruce Johnson stated that the American Bar Association’s tax section took on the task of drafting model legislation. He said they ABA tax section decided what Streamlined did was a step in the right direction. Ms. Bierbaum said business felt it would be better if states went further. Commissioner Bruce Johnson said this differs from the Streamlined provisions because it calls for states to refund overpayments to the taxpayer if the consumer doesn’t ask the retailer or if the retailer denies the refund. Commissioner Bruce Johnson said ABA concept rests on the fact that the real parties at interest are the taxpayers and the state, and the retailers should be kept out of it. Mr. Fred Nicely encouraged states to consider the legislation because it recognizes the important role that the retailer plays and it keeps the burden off the retailers as much as possible.

Mr. Nicely said the other issue is qui tam actions, a Latin phrase that means false claims against the government. He said it dates back to the Civil War and was designed to allow the public to help keep contractors from cheating the government. He said it is now being used in the sales tax arena in states like Illinois and New York. He described how Wal-Mart and others had been sued by 3<sup>rd</sup> party Qui Tam lawyers resulting in damages and attorney fees.

Mr. Nicely said the Business Advisory Council (BAC) would like to see states exclude taxes from their False Claim Acts. Mr. Steve Kranz said ambiguity could create a situation where a retailer collects tax thinking it was correct and become exposed to a lawsuit. He said more and more attorneys advise their clients not to collect the tax because their exposure in an audit is less than their exposure in a lawsuit. Ms. Bierbaum said there are instances where the taxpayer was

told by a state to collect and then to be told by a court that they should have known the state was wrong.

## **Report of Committees**

- **Executive Committee Report**
  - **Federal Legislation**

Representative Wayne Harper reported that he testified before the House Judiciary Committee. He said that Mr. Scott Peterson testified before Senator Rockefeller's Commerce Committee. He said staff from Representative Womack and Senator Durbin attended the recent NCSL annual meeting to give a report of what's going on with the legislation. He said everyone felt something might happen during the lame duck session. He said there is a lot of momentum and an understanding that the undue burden has been satisfied with technology that will continue to improve as more businesses and more states follow along.

President Brubaker said he thought it was very telling that at the NCSL conference Senator Durbin's and Representative Womack's staff sat next to each other and said they meet weekly to get to one bill. Mr. Warren Townsend said Streamlined should keep their state senators and representatives actively involved given the golden opportunity we may have in the lame duck session. President Brubaker said we will start having our weekly legislative briefings. Ms. Susan Gaffney said the Government Finance Officers Association and all local organizations have policy statements supporting the legislation. She said they like the Senate Bill rather than the House Bill. Ms. Joan Wagnon said the retailers have a call every week.

- **Strategic Planning Meeting**

President Brubaker reported that Representative Harper and Ms. Deborah Bierbaum were going to schedule an in-person meeting to talk about the issues that would be coming up for the coming year.

- **Finance Committee Report**

Mr. Richard Dobson said at this time every year the Governing Board adopts a budget for the year starting the following July. He said the Finance Committee FY2014 budget includes three different options. He said the first option did not include a dues increase and would leave an ending balance of \$150,000. He said the second option included a 25% dues increase and would leave an ending balance of \$305,000. He said the third option would increase dues by 50% and leave an ending balance of \$449,988. He said the spending presumptions were the same in each option.

Mr. Dobson said the Governing Board has been very careful spending states dues. He said the spending on federal lobbyists has shrunken the Board's surplus to a point that worried the Finance Committee. He said for that reason the Finance Committee recommended a 25% increase in the state membership dues. President Brubaker reported that the Executive Committee also voted to recommend a 25% increase in membership dues. Mr. Dobson said it would be a \$155,000 increase spread among the 24 states. In response to a question from Senator Deb Peters, Mr. Dobson said half the dues are spread equally amongst the states and the other half are based on the amount the states collect in sales tax revenue.

Mr. Dobson said the dues have never been increased and that generally when new states join the other states dues go down by that amount. Mr. Dobson said that all the items in this budget and the prospective budgets are essential, but it is the ending balance that is an issue. Mr. Peterson said the ending balance was an issue for cash flow purposes. He said the Governing Board spends a consistent \$68,000 per month, including the federal lobbyists. He said the invoices for annual dues are sent at the end of May, and a few states pay in June with the majority paying in July and August.

Senator Dwight Cook said the contracts with the federal lobbyists have expired and we are working on 60-day extensions. President Brubaker said Senator Luke Kenley, Representative Wayne Harper, and Senator Peters are trying to raise funds to pay for the federal lobbyists, and if they are successful the dues could be reduced. Senator Cook said his state has a biannual budget and this changes a state budget that is already in place. Commissioner Jerry Johnson suggested that if the 25% increase is approved that the amount be set aside as a contingency to pay for implementation of federal legislation. Mr. Peterson said there were a number of things, such as staff and additional server space for the registration system that would be necessary.

In response to a question from Senator Peters about the procedures for spending money, President Brubaker said the Governing Board would make that decision. President Brubaker said if a federal legislation passes there will be several Governing Board meetings to figure out what to do and how to spend those funds. Commissioner Bruce Johnson said his preference would be that the reserve fund be set up with a provision that it could spend it at the discretion of the Executive Committee.

Senator Cook moved adoption of the FY2014 budget with a 25% dues increase with Representative Richard Olson's language that places the money in a specific line item. President Brubaker added that the Executive Committee would have provisions to direct those funds if federal legislation passes. That motion was approved unanimously on a roll call vote with Ohio and Vermont absent.

Mr. Dobson explained the third quarter and annual FY2012 reports. He moved their adoption. That motion was approved unanimously on a voice vote. Mr. Dobson explained the recommended changes to the FY2013 budget. He said the changes included correcting the FY2012 ending year balance, and moving money around budget categories to reflect actual FY2012 spending. Senator Peters moved adoption of the amended FY2013 budget. That motion was approved unanimously on a voice vote.

Representative Harper moved that the Federal lobbyist contracts be extended to the end of this calendar year. That motion was approved unanimously on a voice vote.

President Brubaker thanked Mr. Richard Dobson for his contributions as Secretary/Treasurer to the Finance Committee over the past 4-years and announced that 2012 is the end of that term. Mr. Dobson thanked his fellow Finance Committee members of Ms. Diane Hardt, Ms. Amy Oneacre, Mr. Larry Paxton and Senator Curt Bramble.

- **Update on other state activities**

Mr. Christopher Rants said there are a number of states that are interested. He said he spent a lot of time last year in Alabama and they have made a huge jump by approving a centralized collection authority. He said the other big issue is getting to a single audit. He said Arizona had similar issues, plus having a different tax base. He said he was going back to Missouri and Maine and he and Mr. Peterson were going to Mississippi to talk to a public/private partnership about Streamlined.

- **Audit Committee**

Mr. Bruce Christensen presented a paper requesting that certified service providers create an “auditor console.” He said when the Audit Committee completed their third round of CSP audits the committee came to the conclusion that the transaction files are getting to big to transfer using the current process. He said the auditor console would something created by each CSP that would allow the Audit Core team to access the CSP’s system to obtain that information. He said the CSP’s don’t want to do the work complying unless the Governing Board supports the project. He said they are setting it up so the CSP’s will give each state a password to access the system. In response to a question from President Brubaker Mr. Christensen said security was very important and access would be very strictly controlled. Commissioner Jerry Johnson moved that the auditor console paper and project be approved. That motion was approved unanimously on a voice vote.

- **Nominating Committee**

President Brubaker reported that the Nominating Committee recommended the following slate of candidates for the 2013 Officers and Directors:

### **2013 Slate of Candidates for Officers and Directors**

#### **Officers** (annual terms beginning January 1, 2013)

President Wayne Harper (Utah)

1<sup>st</sup> Vice President Diane Hardt (Wisconsin)

2<sup>nd</sup> Vice President Deb Peters (South Dakota)

Secretary/Treasurer Victoria Daniels (Iowa)

#### **Directors** (two-year terms beginning January 1, 2013/ending December 31, 2014)

Senator Luke Kenley (Indiana)

Senator Don Balfour (Georgia)

Delegate John Doyle moved the adoption of the slate of candidates. That motion was approved unanimously on a voice vote.

- **SLAC Committee**

- **Credits for other taxes**

Mr. Craig Johnson said the credits workgroup had a tentative agreement on ten of the fifteen issues. He said the committee needed the Governing Board’s direction on out-of-state taxes, credit for both sales and use taxes (which state has priority) and local taxes.

Mr. Craig Johnson said the workgroup created the scenario in MC12006A01 to explain two options that might happen under the SSUTA sourcing rules with a product that is downloaded. He said in this scenario the retailer correctly sourced the sale to state 1 based on the information they had at the time of the sale, but the purchaser downloaded the product in state 2 and wants the tax. He said the questions are which state gets the tax and how much, does state 2 have to respect the tax that the seller collected, or can state 2 not respect the tax paid to state 1 and demand use tax from the purchaser?

He said the workgroup has come up with two options. He said under the first option no additional tax is due because the seller correctly sourced the sale and the purchaser would get a credit for the entire amount paid against any tax owed to state 2. He said under the second option, state 2 would not have to give credit for the tax paid in state 1 because the taxable event occurred in state 2 and state 1 would have to refund the tax it received.

In response to a question from Senator Deb Peters about how there can be reciprocity between the states if the proper protocol was followed, Mr. Craig Johnson said that just because a sale is sourced to a state doesn't mean there is a corresponding imposition. He said the point of the example is to show what happens with software and other things that are downloaded. He said the sale was properly sourced, but wasn't taxable where it was sourced because it wasn't delivered to where it was sourced.

Mr. Craig Johnson said option 2 in the scenario was developed by Commissioner Bruce Johnson who explained that it is presumed that the tax was correct if the seller followed the SSUTA, but that the seller would be entitled to a refund if state 2 could prove the tax was not legally due in state 1 based on the actual facts, including facts not known at the time of the sale. Commissioner Bruce Johnson said this isn't a case where the tax is collected twice, but getting to the correct tax after all the facts are known. Commissioner Bruce Johnson said that this follows the original intent because it protects the seller who charged tax based on the facts as they were known and protects the purchaser who may know additional facts after the sale.

President Brubaker said it would help the debate if it were possible to estimate how often this occurs. Mr. Craig Johnson gave an example of this happening in the leasing world, but Ms. Kathy Neggers said it rarely happens. She said that as states broaden their taxes to include remote access to software there will be risk every time.

In response to a question from Senator Peters, Mr. Richard Dobson said option 2 generally represents what states do today and isn't a new audit opportunity. He said if an auditor finds tax due based on where the product is used rather than where the vendor charged tax based on the best information available the state would look to the purchaser. He said that in his experience if the purchaser determined that the tax was collected from state A, but was never used in State A, the person can get a refund. Commissioner Bruce Johnson agreed that option 2 is the safest path.

Senator Peters said this can easily become overly complicated and using the already existing sourcing rules provides a simple, even though imperfect solution. Senator Bill Dotzler said the real problem comes with the purchaser not being clear where they using a product. He suggested that we have the retailers notify the purchaser of the tax difference between where a product is

purchased and used. He said a couple of percent of tax can add up to a lot of money as time goes on and so much will be downloaded when purchased. He said when someone purchases they must have some idea where they're going to use it.

Ms. Amy Oneacre said she could understand why some folks may think they are making this more complicated than it needs to be, but the underlying premise is really simple. She said that the alternative is that a member state must automatically allow a reciprocal credit when a sale is properly sourced, even when the sale wasn't taxable at all in the first state. She said no one wants a transaction to avoid taxation even though properly sourced.

Mr. Brian Perry said for purchasers this will come up in an audit. He said in a large company there is a presumption that if the tax was charged it was the correct tax. He said if the rate is the same as what they expect to see they have no opportunity to know if there's a difference in which state should have the tax. He said that when the buyer is audited often the statute of limitations is expired with no opportunity to get the tax back from the seller.

Commissioner Bruce Johnson said the language from the SSUTA it is clear the sourcing provisions apply only to the sales or use tax collected by the seller. He said they do not affect how tax applies based on the taxing jurisdictions where the property is used. He said if the property never got into the state then the purchaser would get the refund.

Mr. Mark Nebergal said it seemed that the states are unsure of which is worse giving the credit or the refund. Commissioner Bruce Johnson said this isn't about the money, but the process that protects the sellers. Mr. Richard Dobson said option 1 would require every member state to change their existing law while option 2 mirrors current law.

Senator Dwight Cook said the number one priority is that the seller be held harmless and that the state gets the money due them. He said if SLAC wanted direction he would recommend option 2.

Mr. Nebergal said he wished the Governing Board would head the problem off at the beginning by considering the multiple points of use (MPU) concept. He said under the old MPU provision the purchaser could give the seller an exemption certificate and pay the correct tax accordingly and never have to get a credit or refund.

Commissioner Jerry Johnson said he supported Senator Cook about going ahead with option 2. He said there was some concern originally regarding how the sourcing provisions worked. He said he also supported Mark Nebergal's comments about the MPU and wondered if companies would want to move forward. President Brubaker called for vote on option 2 which passed unanimously on a voice vote.

- **Presentation by Representative Vicki Schneider (MO)**

Representative Schneider presented an idea said was trying to get adopted in Missouri. She said the idea utilized specific software and hardware that would allow the state to receive the sales tax at the time of sale when the customer uses a credit or debit card. She said like most states there were a number of retailers in Missouri who collected the tax but then never paid the tax to the

state. She said her legislation would require delinquent retailers to purchase the hardware and software. She said that eventually all retailers would use the software and hardware. She said the hardware cost about \$1200.00 and would be in lieu of posting the current bond equal to three months sales tax.

In response to question from Mr. Rich Prem, Representative Schneider said the system would work with mobile merchants. In response to question from Representative Dave Drovdal about their goal, Representative Schneider said they estimate they would reduce their delinquencies by 50%. In response to a question from Mr. Steve Kranz, Representative Schneider said Missouri has a law making an officer responsible but the problem is that it is months before they get to them and they are either out of business or are put on payment plans that don't work. In response to a question from Senator Dotzler, Representative Schneider said no state was using the system yet. In response to a question from Senator Dotzler, Representative Schneider said credit card companies are not in this business because the credit card companies don't actually process the payment because a third party processor handles the transaction. In response to a question from Representative Justin Cronin, Representative Schneider said no one had raised any privacy concerns.

- **Deal of the Day Vouchers**

Ms. Christie Comanita said the State and Local Advisory Council (SLAC) spent the summer discussing the issues brought up at the May Governing Board meeting. She said they worked to develop a rule to address a very narrow fact pattern. She said SLAC voted 18 yes, 8 no and 3 abstentions to adopt a revision to what is commonly referred to as the Tennessee rule.

Mr. Tom Gillaspie said Nebraska's position is that the state should have the right to apply tax as they see fit and in Nebraska's case apply the tax to the price listed on the voucher or coupon. He said Nebraska proposed a rule on the definition of sales price and a SSUTA amendment, both of which would provide a toggle.

Ms. Amy Oneacre said the business community and the states have worked tirelessly on this over the past 3-months. She said a lot of issues were raised, but there is a lot of conflicting interest from the states. She asked that the Governing Board support the position outlined in the Tennessee rule as a recommendation to the states instead of a hard rule that would put states out-of-compliance. She said what has not been resolved yet in this rule is how to tell the difference between a gift card, gift certificate and a voucher at the time of redemption. Ms. Oneacre provided as something confusing is an email with a subject line "\$3.00 for a \$10.00 Shell gift card" that was marketed as a gift card. She said that when open it was a Deal of a Day voucher for \$10.00 in gas for \$3.00 with the merchant providing a \$7.00 discount. She added that in Georgia the sales tax is paid at the wholesale level which made it difficult to implement the Tennessee rule on this transaction because the taxes were paid at wholesale level. She said with the market and business platform changing every day the whole concept will continue to change. She said she would support a vote for having a choice and a toggle.

Mr. Tim Jennrich said the question is relatively simple in what is consideration. He said he was concerned that under the Nebraska rule the sales price is the fair market value regardless of what the consumer paid. He said the sales price in the Tennessee amendment reflects what the

consumer pays, and the Nebraska option looks to the fair market value of the item. He recommended that toggles not be provided as that idea seems not to be the appropriate way forward.

Senator Jim Smith of Nebraska agreed a rule is not the right way to go. He said the appropriate discussion is about amending the definition sales price.

Mr. Max Behlke said the NCSL Telecommunications and Electronic Commerce Taskforce on Federal and State Taxation unanimously voted that Streamlined support the Tennessee rule. He said the Taskforce feels the Nebraska approach could lead to a tax on the fair market value.

Mr. Harry Fox expressed his concern with the characterization of the Nebraska proposal because fair market value is not stated in that proposal.

Mr. Steve Kranz said the Business Advisory Council (BAC) opposes the Nebraska proposals.

Mr. Tom Gillaspie said he would like to pass over his amendment.

Mr. Warren Townsend said if it was still confusing, it should be sent back to SLAC. He said SLAC should develop a white paper. He said retailers need clear decisions on which way to proceed. He said it seemed that no one had a clear understanding of Groupon and Living Social. He asked the Governing Board consider sending it back for a white paper to provide examples.

Mr. Steve Kranz agreed with Mr. Townsend's request for a white paper. Senator Curt Bramble said Utah would support a white paper as well as all of the variables being thrown out there today. Delegate Doyle agreed with the idea of a white paper.

Ms. Anita DeGumbia said in her experience using Deal of the Day vouchers in Georgia that retailers do not know how to apply tax. She said if they do not have guidance to give to the taxpayers so they know how to maintain it, that will be difficult for the taxpayers who will get audited and Legislators are probably going to hear from their constituents.

Senator Peters asked how a retailer can tax a transaction for something they do not receive. She asked how a retailer determines the value if the cash does not actually transfer. Ms. Amy Oneacre said the concern is that there are multiple parties. She said when transacting with a third party Deal of the Day company the retail establishment sees the \$100.00 face value and treats it like cash.

Mr. Richard Prem asked if anyone thought if a customer uses a \$1,000.00 deal-of-the-day voucher he paid \$500.00 for and later the same a day later returns the item that they would get back \$500.00 or \$1,000.00? He said no retailer would return the \$1,000.00.

Mr. Christopher Rants representing the National Retail Federation urged adoption of the Tennessee rule. He said when he talks to states about joining and to Congress about supporting legislation he says it is about simplification and uniformity for businesses. He said the Nebraska proposal is stepping away from simplification and uniformity and making it difficult for retailers.

He said the state cannot abandon simplicity when the critics in Washington, DC are saying it's not simple enough. He said retailers crave one set of rules, so make something that can be administered.

Mr. Mike Bailey said as a local government representative, he agreed the Governing Board is the place the policy direction should come from. He said they would support the Tennessee approach.

Commissioner Jerry Johnson said he appreciated the clarifying comments the states had made, but was concerned about adopting a final product and then drafting a white paper. President Brubaker suggested that someone offer an amendment requiring a second vote allowing us to use the time between this meeting and the December meeting to work through the issues.

Mr. Tom Gillaspie asked that if the Tennessee rule does not pass what do states tell retailers about Groupons, etc. President Brubaker said if that happened the Board will use the time before the December meeting to provide some direction.

Commissioner Bruce Johnson said he understood Mr. Kranz and Mr. Rants wanted to vote on the amendment, but he wasn't sure he understood Mr. Townsend. Mr. Townsend said he agreed with Mr. Rants that retailers need guidance. He said he believed they needed to vote today.

Ms. Deborah Bierbaum said as a retailer with over 2500 AT&T stores around the country they need guidance. She said in the old days they would advertise in newspapers that they have \$100 headphones on sale today for \$50.00. She said today they accomplish the same thing through a coupon and they still only tax the \$50.00. She said if the states make her tax \$100.00, she will be sued by her customers and asked that states not put her in that situation going into the Christmas holiday. She recommended they vote today, work on a white paper and have a second vote in December. Senator Cook asked Ms. Bierbaum how any action they take today is going to cause any problems for this holiday. She said if her choice were either a class action lawsuit or an audit, she would pick the audit.

Ms. Ellen Thompson said soon after SLAC started discussing vouchers the programs changed so it was possible to get vouchers for a free product and she did not want a rule that would exclude those transactions. She said Nebraska wanted one consistent policy that treats all third party instruments the same. She said they felt this should go back to SLAC because it's too detailed for the Governing Board to deal with it.

Ms. Amy Oneacre said that when we talk about an audit that we talk about the burden on mom and pop stores who would have a difficult time documenting proof to an auditor a year after a sale.

Mr. Brian Kuntz said Best Buy supported the Tennessee rule. He said they use a lot of deal-of-the-day vouchers and know exactly how much the consumer pays because they account for them very specifically in their system. Senator Jim Smith asked if there's ever a chance that the Groupon includes a reimbursement from a third party like a manufacturer's coupon to help take

that discount. Mr. Kuntz said if they had a third party providing funding he said they would want that consideration included so they knew what the coupon is worth.

Mr. Steve Kranz said Georgia and Nebraska raised good questions and there will certainly be new models created every day. He said the Tennessee proposal solves the key marketing business model being used by Best Buy and others. President Brubaker said retailers need guidance. He said he didn't think it was a good idea to tell the sellers what the sales price is.

Ms. Sherry Hathaway said she felt a vote needed to be taken today. She said the rule is narrowly written and in her opinion should have been a CRIC interpretation. She said it is not intended to include all possibilities and you could not do that because this is advertising. She said for the paper they gathered information that was very specific because when they started the workgroup process. She said this is not an exemption, but is a reduction in the sales price, and there is no reason for a retailer to keep any documentation like is necessary to prove an exemption. She said retailers know they are supposed to do that. She said if there is an agreement with some third party the retailer or the voucher company would certainly know the amount the voucher was to be sold for and the amount the seller is discounting.

Mr. Richard Cram said he supported the comments of Nebraska and Georgia on this issue. Ms. Susan Mesner said Vermont was prepared to vote for this amendment, but she didn't believe they could support it until they knew there could be a second vote and a white paper that could be examined before that second vote is taken.

Commissioner Jerry Johnson moved the adoption of the Tennessee rule, with the condition that it require a second vote before it would go into effect. Mr. Dan Noble moved that the Tennessee rule be amended by adding language from the issue paper. That motion was approved unanimously on a voice vote.

The motion to adopt the Tennessee motion as amended was approved on a roll call vote with seventeen states voting yes, and Georgia, Kansas, Nebraska and New Jersey voting no. President Brubaker appointed Commissioner Jerry Johnson to lead a volunteer group to work on the white paper.

- **Certification**

Mr. Scott Peterson said that in May when the Governing Board changed the certification process from an every two year event to something that can happen at any time there was a miscommunication about who would initiate the process. He said the rule amendment before the Board would clarify that the process is driven by those who want to be certified as long as the states were ready and able to conduct the certification. Mr. Eric Wayne asked how this would impact the length of contracts and wouldn't a new certified service provider (CSPs) have a different contract term than existing CSPs. Mr. Peterson said that was an issue that would need to be worked out when they had a new applicant.

Mr. Peterson said the amendment also included a requirement that CSPs collect and pass through to the states the full street address. Mr. Gary Centlivre said the rule includes the two separate issues of the certification timeline and the address issue. Mr. David Campbell said his company

wasn't prepared to implement the address issue. In response to a question from President Brubaker, Mr. Centlivre said the Certification Committee would take as much time as necessary to implement the address issue. Mr. Centlivre moved adoption of the rule. That motion was approved unanimously on a voice vote.

- **Post Transaction Issues**

Mr. Richard Prem of Amazon.com asked the Governing Board to look into issues that come up after a transaction. He said retailers often have customers who return products. He said that states generally give the tax back on returned merchandise but there is enough variation to create headaches for remote retailers. He said some states have rules that say if the retailer keeps the shipping and handling there is no refund of the tax on the shipping and handling. He said that some states have rules that say if a retailer keeps the shipping and handling the state will not refund any tax. He said that some states have a rule that say if the consumer doesn't return the item within 30 to 60 days they do not get the tax back. He said restocking fees are another area where states differ. He said it is imperative that a retailer selling online have guidance. He said at a minimum there should be a column on the taxability matrix to show how each state treats returns, restocking fees and layaways. President Brubaker assigned this issue to SLAC.

- **Delegate John Doyle**

President Brubaker thanked Delegate John Doyle for being the third president and for his service to the Streamlined Sales Tax Governing Board as this would be his last meeting as a Delegate. Ms. Joan Wagnon said Delegate Doyle followed her as president and was the one who worked tirelessly to get Legislators to meetings. She said she had the privilege of working with him on Capitol Hill where he was very persuasive.

Delegate John Doyle moved to adjourn at 11:47 AM.