

**Streamlined Sales Tax Governing Board Meeting**  
*Minneapolis, Minnesota*

**Wednesday, May 15, 2013-1:00 - 5:00 PM CDT**

President Wayne Harper called to order the meeting of the Governing Board at 1:02 PM CDT.

- **Welcome and Roll Call of Member States**

Executive Director, Craig Johnson called the roll of the states. All member states were present except for Ohio and West Virginia.

President Harper announced that House Bill 253 had passed the Missouri House and Senate and is on the Governor's desk. He said the Governing Board appreciates the efforts of staff in getting the Bills moved forward.

- **Approval of Amended Minutes from September 2012 Governing Board Meeting--12004A01**

Craig Johnson stated that in the originally approved September 2012 minutes, the slate of Nominating Committee members had not been included and had been added to the amended minutes for approval. Mr. Tim Jennrich motioned to approve the amended September 2012 minutes and seconded by Senator Deb Peters. The minutes were adopted unanimously on a voice vote.

- **Approval of minutes from December 12, 2012 Governing Board meeting - MM12005**

Richard Dobson made a motion to adopt the December minutes and Senator Peters seconded the motion. The minutes were adopted unanimously on a voice vote.

- **Referral of Introduced Proposals to Committees/Councils for Study**

None

- **Reports of Committees**

- **Executive Committee Report**

President Harper reported that the Federal Bill, continuation of the Federal Affairs contracts and Federal Legislation Implementation Workgroup plans would be discussed the next morning on May 16, 2013 during the Governing Board meeting.

- **Finance Committee**

- **FY2013, Second and Third Quarter Financial Reports - FC13001, FR13002**

Victoria Daniels, Secretary-Treasurer reported that the second and third quarter ending balances were ahead of budget. She stated that she felt the previously approved 25% increase in the state membership dues was a good decision. She reported that the ending balance of the third quarter was currently \$622,594 versus the \$406,520 budgeted amount.

- **Discussion of Changes to the FY2013 Annual Budget - FR13003**

Craig Johnson referred to document FR13003 in the meeting publication, a request to move funds from one line item to the Postage and Delivery category. He said there are now people in four different states: Nashville, TN, Westby, WI, Des Moines, Iowa and Washington, DC. He said overnight deliveries of the accounting documents, (i.e., vendor payments, expense reimbursements, checks for signature, etc.) had almost depleted the funds available in the Postage and Delivery line item for FY-2013. He reported that he stopped the accounting documents from being sent via FedEx

and now they are being sent via U.S. Mail. Mr. Johnson proposed moving \$1,000 from the Online Taxability Matrix line item to the Postage and Delivery line item. There were no comments. Senator Deb Peters motioned to move \$1,000 from the Online Taxability Matrix line to the Postage and Delivery line item. Senator Luke Kenley seconded the motion. The motion passed unanimously on a voice vote.

- **Discussion of FY2014 State Membership Dues**

Craig Johnson reported that the dues invoices would be sent at the end of May. He reminded the states that there is a 25% dues increase from last year to this year which the Governing Board approved at last fall's meeting.

- **Compliance Review and Interpretations Committee - None**

- **State and Local Advisory Council (SLAC)**

Christie Comanita, SLAC Chair reported that since the last Governing Board meeting, SLAC has had two in-person meetings, one in Dallas in March and another on the day prior, May 14. The Dallas meeting was very successful and was fairly well attended. She thanked Deborah Bierbaum for providing the AT&T facility for the SLAC meeting. Ms. Comanita said they had discussed credits for taxes paid to other states, sourcing digital products and post transaction issues. They will move forward with a survey on post transaction issues and hope to have the survey completed in the near future. She reported that during the May 14 SLAC meeting they discussed credits for taxes paid to other states, sourcing digital products as well as the best or common practices which will be discussed later.

- **Workgroup on Origin Sourcing Related to Specified Digital Products Workgroup**

Tim Jennrich, Chair said that one year ago they drafted a rule that addressed sourcing of specified digital products. They continue to address issues that had not been completed to date. Yesterday during the SLAC meeting they had worked on origin sourcing as provided in Section 310.A.5.

- **Credit for Taxes Paid to Other States Workgroup**

Craig Johnson, Chair reported that the credits issues have been going on for a few years. He said they had reached agreement on a lot of different issues surrounding credits and the approach they are moving toward is the best practices/common practices type scenario. He said there would be further discussion on it this afternoon. He added that Mr. Jennrich suggested breaking it down into 3 or 4 pieces to discuss separately. He said the plan at this point is to start bringing these issues into discussion at later meetings rather than going through all of the common practices at the same time.

Craig Johnson reported that Ellen Thompson has agreed to start working on credits and to become the Chair and will take over that Workgroup. He said there are still a number of issues to be worked out.

- **Post Transaction Issues Workgroup**

Comanita Christie said at the Dallas SLAC meeting they had not moved forward on Post Transaction Issues and for the next meeting she anticipated teleconferences to further that discussion. Ms. Comanita said the issues that SLAC has been assigned are detailed.

Senator Cook asked where the Federal Digital Products legislation stood. Mr. Jennrich said there was a Bill which was addressed in 2011. That version had not been introduced in the current

Congress. He said there was an alternate draft that was removed. There are other folks who are sponsors. He said as far as whether we are in compliance with that, the sourcing rules are similar to what they had in Streamlined prior and there are some differences in the Bill. Russ Brubaker said the alternative draft was introduced. He said that Bruce Johnson from Utah and Nancy Prosser of Texas had worked hard in person and with teleconference meetings and he added that he personally felt it is a good deal. He said in Utah they were not acting in individual capacities. Mr. Jennrich added that if the amendment does not get attached it would be of interest to this group to discuss the Bill. The business community did not comment. Mr. Johnson said the original version of the Bill was awful in a lot of ways. He thanked the members of the business community who had worked on that. He said they were very receptive in recognizing the fact that we wanted to correspond as closely as possible to our sourcing rules. He stated he had found that to be a very positive experience.

- **Business Advisory Council (BAC) - Notification of potential legislation that may cause compliance issues**

Richard Prem said there were currently 6 or 7 states that have one item or another that they believe is not exactly in compliance with the Agreement. He said they had good discussions regarding best practices and will report and discuss that later in the meeting. Fred Nicely said if they become aware of proposed legislation in a member state and feel that it may result in a compliance issue, the BAC will let that state know. Craig Johnson said anytime the BAC is aware of changes to a member states' laws, especially those that might cause compliance problems, to please send that information to him and Pam Cook. Pam goes through the statutes and performs the state compliance reviews each year and this could be very useful to her. He stated that they want to make sure that all of the member states do whatever they can to remain in compliance with the SSUTA.

- **Audit Committee**

Ellen Auger reported on behalf of the Audit Committee Chair. She said in March 2013, the Audit Committee had discussed the auditor portal project. The Certified Service Providers (CSP) said that some states are combining the audit assessments for Model 1 sellers and do not separate them by seller, which the CSPs would prefer. The Committee will survey states to find out how they are making assessments and make a recommendation for any future audits. She said the next contract compliance and tax compliance audit cycle will be 2-1/2 years which is different from the normal 2-year cycle. She said it is to transition them to calendar year-end audits. This one-time shift could cause issues with some states' statutes of limitations if they audit the entire contract period. Sixteen SSUTA states have a 3-year statute of limitations.

Regarding compliance audits of CSPs for model 1 seller transactions, a survey has been sent to states regarding the next tax compliance audits of transactions processed by the CSP's. She said the Committee is also reviewing POA issues. The CSP's brought up the concerns of bankruptcy and model 1 sellers going out of business. She reported that the CSP's are rarely able to obtain reimbursement for tax liabilities when a business goes bankrupt or out-of-business. She also reported that the FAQ section was added to the website and there is a PowerPoint on the website explaining exemption certificates. The next Audit Committee meeting will be held on September 16-17, 2013 in Nashville.

Charles Collins of Taxware said the issue of a uniform or limited POA would be helpful to sellers that are registering. He said the CSP's had met with Craig Johnson and are coming up with a uniform document to provide to the states for consideration and that will improve the process in the future.

With respect to the audit reports issued by the states, Mr. Collins said in some cases there are liabilities that get passed on to the seller when the seller provided incorrect information to the CSP. He said it would be helpful if the audit report indicated the liability by seller, rather than just by state. He said it is just a procedural matter as to how the audit report is prepared. Scott Peterson of Avalara said they receive assessments from some states that simply say you owe us \$X. He said he had asked the states to change that to provide more details so the CSP can go back to their customer. Ellen Auger said they had formed a workgroup and would make recommendations to the states to determine how to break that out. She said a general recommendation would be available at a later date. Bruce Johnson said that was something that needed to be addressed. He said he wouldn't want the CSP's to be providing information about him to their other clients. He said he would like to be able to track that.

- **Certification Committee**

- **Taxware Certified Service Provider contract approval**

Tim Bennett, Chair said at the recent Louisville meeting, the Committee discussed the contract for Taxware. He said the Certification Committee had reviewed all the documents that Taxware had provided and that the Committee recommended approval of the contract to the Governing Board. President Harper said that is an action item. Richard Dobson made a motion to approve the Taxware contract and Representative David Drovdal seconded. Craig Johnson said the contract that was entered into with Taxware was identical with the contracts offered to the other CSP's. He said he recommended approval. The motion was approved on an affirmative voice vote.

Mr. Bennett also reported that various questions had been added regarding the Central Registration System to the FAQ section of the website.

- **Online Taxability Matrix**

Craig Johnson reported that Jim Romano (OK) and Brian West (AR) from the Certification Committee, along with David Thompson have been working on developing an online taxability matrix. Brian said that he, Jim, David and Craig had discussed where the online taxability matrix should go and how it would work. He said they had met and discussed the initial requirements and have some preliminary design completed. Basically the application and design is set-up for three types of users - public users, state users and administrative users.

Public users would be able to view the matrix and to print a state's matrix in a .pdf format as it is on the website now. He said public users could also import the matrices into a spreadsheet. He said a public user could select any state or all of the states if he/she wanted to download any or all of the state matrices. The state users would be the ones to update their individual state's matrix. The administrative user would have control of opening the various states matrices for editing or updating.

The admin user is the one that creates the matrix for the states to edit. The state and administrative users would have to log in to gain access. Craig Johnson said the admin users would be himself and David Thompson, IT Director. The admin user would be the one to put in the individual line items that make up the matrix (i.e., administrative definitions). Once the matrix is built, the state user will go into their specific state matrix and insert information regarding items such as state tax holidays, etc. and whether there are any thresholds associated with that holiday. State users will be responsible for updating and making any changes necessary to their matrix. Once the state has made the necessary updates, the state user will ask the administrator to freeze it and that will become the new

matrix for that state. He said the downloadable feature will make it easier for CSP's or sellers to tie this into their system. He also noted that each line item will have a unique reference number which will be the field that the CSP's could use to associate that line item with their systems. Mr. Johnson said there are product identifiers or SKU codes to identify each line item. He said we will be adding them onto the Online Taxability Matrix and when states get the matrix, that field will come in pre-populated.

Whenever a state needs to update or make changes to their matrix, a historic copy of the current matrix will be kept and the administrator will freeze that version. A new version reflecting the changes will then be created. This will help establish when a state made a change and what that change was by being able to compare the current and prior version of the matrix. The state user can print and download the revised matrix and make changes to it without others being able to see the changes until they have informed the administrative user to freeze the revised matrix. Once frozen, the revised matrix will become the current matrix that a public user will see for that state. Mr. Johnson said that when a state needed to update their matrix, they would contact David Thompson to unfreeze it. Once the state has made the necessary updates, they would contact David to have him freeze it again. Richard Dobson asked whether the previous versions of the matrix for their state will be available. Mr. Johnson said that for example if a state makes 3-changes during a year all 3-versions will show. President Harper asked if there were any comments and there were none. Mr. Johnson said that state personnel from Oklahoma and Arkansas are continuing to work on this as they have time.

- **Proposed Amendments to SSUTA for Discussion and Possible Action**

- **Section 335 - Best Practices – AM13001A01, MC13002**

Chair Jerry Johnson discussed AM13001A01 in the meeting publication. He said there was also a handout on the table for review. He said the workgroup had tried to come to some resolution that was acceptable to the majority of the states. It was generally recognized that this is an area that needed to be addressed. He said at the last meeting the Governing Board adopted a rule which appeared later on the agenda in relation to the Deal of the Day Voucher. The requirement at the time was that it needed two votes to come into effect. A workgroup was formed to deal with this issue and with the task of coming back to the Governing Board in this meeting with hopefully a resolution in this meeting and then to proceed with a second vote on the voucher rule. He said between the last meeting and now it became apparent that the workgroup was probably not going to come to a resolution on the rule.

There were concerns that with the approach they are taking on the voucher rule several states would have to change their laws and it would be extremely difficult for them to conform. If the only result is that there are states that cannot comply or fall out-of-compliance, this is another issue that other non-Streamlined states would also have in coming into conformance. During the process the idea of addressing this as a best practice or common practice came forward. They did not take many votes on their teleconferences but were able to develop consensus that this is an area that it would be best to approach it as a common practice rather than as a rule. He said if we adopted this as a rule, then every state would have to conform or would be out-of-compliance. By adopting this as a best practice, if a state doesn't adopt what would be a best practice, that state would be responsible for explaining how they treat that type of transaction. He said it's not the level of uniformity that we achieve when we do a definition, but would clearly lay out how each state treats the transaction. He wants to make sure that this is the way that we want to go. He said for some issues he thinks this is appropriate.

The workgroup also had discussions regarding how this fits into the overall picture of the Governing Board moving forward. There were discussions that the Marketplace Fairness Act of 2013, as it came out of the Senate, does not require uniform definition requirements.

He said at this point, the Workgroup has abandoned the old rule and will adopt an amendment to the Agreement that provides for the mechanism of a Common Practice. The intent would be that we move today with the amendment to the Agreement that we set up the common practices requirements and the vote necessary to adopt a common practice. Then we will bring back the common practice specifically for vouchers at the next meeting.

Section 328 of the SSUTA is being amended to provide for a Best Practice/Common Practice section that can be added to the existing Taxability Matrix. He had passed out copies of an amendment to Section 328 of the Agreement. He said the amendment basically divided the Taxability Matrix into 2 parts - one delegated to the library of definitions and the second area for the Common/Best Practices that the Governing Board adopts. He said they have dropped the creation of Section 335.1 and on the second page is the amendment for Section 335 which sets out the Common Practice.

He said the Governing Board would adopt what we determine is a Common Practice. We have historically reached a determination based on a  $\frac{3}{4}$  vote for any amendment to the library of definitions. If we say this issue is best suited to be a common practice, that would just take the majority of the Governing Board to approve it as a common practice. He said once that determination is made, it is placed in the Agreement, (i.e., we might have 3-different items under Vouchers as to how the states would treat those). The states could then say, yes I conform to the Common Practice or not.

He said there was a lot of discussion regarding whether a majority vote was required. The majority vote should be sufficient because the state does not have to conform their laws to all treat the transaction the same way. Instead, once a best practice is approved, all a state has to do is either indicate they follow it or if they don't follow it, explain how they treat the transaction. It will not require any state to change its laws on these types of issues. He said today we have the amendment of Section 328 and 335.

Senator Peters asked what the discussion was around changing this from "best" to "common." Jerry Johnson said it was originally drafted as Best Practices. Some states were concerned that there may be an implication that if a state is not following the practice, how they treat a transaction might not be as good as some of the other states. Mr. Johnson said he supported changing it to Common Practices. He said the business community has issues on why they prefer a different name. Deb Peters asked who part of the workgroup was. Mr. Johnson said the Workgroup was created at the end of the last Governing Board meeting and included business representatives, legislators and revenue people.

Victoria Daniels asked if our goal as the Governing Board was going to maintain that level of uniformity and standard. She said there should be some type of plan for formally putting in a process or criteria to show what they should do before they adopt the Common Practices. Mr. Johnson said it would be difficult to see how all that plays out and to try to put in criteria for that. He proposed that the Governing Board vote on them as one motion. They reviewed documents numbers AM13004A01 and AM13004A02.

Russ Brubaker said it was his opinion that he pushed for this as far as he did because he had come to believe that this is a necessary route to take to continue to obtain clarification and to have states

move toward uniform treatment. He said it is a great opportunity to get clarity and if structured properly it would push toward uniformity. Mr. Brubaker said he was comfortable with Section 328 and 335. Jerry Johnson said this was discussed a lot during the SLAC meeting. Michigan and North Carolina have done a lot of looking at this the past few months. He said initially the way it was drafted, the states would have had to go back to adopt changes to their laws relating to liability relief, but with the changes made in the meeting yesterday, the SLAC voted to support this proposal by 26 yes and one abstention. He said to get a good consensus on this was a positive thing and no state would be required to change its laws.

Mark Nebergall said because of uniformity he is opposed to this idea. Tim Jennrich said as a state they certainly favor uniformity and earlier in the voucher discussion they had favored the rule. He said there is a need to figure out where the organization is going. Common Practices begins a process that is a way to move forward. He said from the Washington state perspective this is an approach that would work and the goal here is transparency.

Senator Kenley said it seemed that Mr. Nebergall must be interpreting it another way. Mark Nebergall said the revision was made yesterday in the SLAC meeting and depending on how granular you get the fact pattern down to, it could lead to every state doing whatever it wants to and there's no mechanism for further uniformity or simplification. He said this is a fundamental change in the Governing Board and you should think long and hard about this.

Senator Kenley said all they would need to do is put it on the matrix. Mr. Nebergall said he felt that it is providing the opposite of a uniform practice. Bruce Johnson said he agreed with Mr. Nebergall on the smaller point and disagreed on the larger point. He said it was always his understanding that they were trying to determine the appropriate trade-off between state sovereignty and state uniformity and to have a uniform base for every state to conform to. He said there would be many small issues that will come on. He said in the future to have amendments that states have to make or to be thrown out of the Agreement can be a cop out. There may be situations where this would be an easy out to require a simple procedure. He said they need to provide states with guidance on what is believed to be the best practice and hopefully states will conform to that. He said this is a very valuable step. It does have a danger that it could be used as a refuge when not wanting to make decisions. He said sometimes perfection can be the enemy of the good. He said he believed it is a good proposal.

Senator Deb Peters asked Mark Nebergall if the issue is the way we are changing it in section 328? Mr. Nebergall said it's the entire idea and in response to Commissioner Johnson, this whole idea surrounding vouchers and the definition of sales price. The same thing is going to happen on the credits issues or uniform sourcing for digital goods.

Senator Cook said that if we take into consideration that this discussion started with the Voucher or Deal of the Day discussion, where do we find that? Jerry Johnson said it is part of the publication, but this proposal contemplates a new appendix to the Agreement. He said if we do Vouchers first that will be Best Practices number 1 and it would be an appendix. He said they converted the rule adopted the last time to the Common Practice and that's what they will be bringing the next time. Senator Cook asked if a state changes its existing policy and its matrix, does the seller have 30-days after notice to receive liability relief? Jerry Johnson said the state would have a time period and would be responsible for completing the matrix for how they treat vouchers. You basically check off, I conform to 1, 2, and 3 and that's the way I deal with it. If you don't conform, you say so and here's how I differ. You would be responsible for liability relief from the day you put that out there.

He said they are using the 30-day notice to allow a reasonable amount of time for that to go into effect. Mr. Johnson said in Oklahoma, as a revenue department, they would have to say this is how we do it in Oklahoma. He said all of the revenue folks understand that.

Richard Prem said this is a way to get better uniformity. He said the business community was very supportive of the concept overall. The business community said if you look at this from a practical manner, there's a lot of power in the word "best" verses "common" from a legislative perspective. If you don't have a practice written down, you do not know what the states are doing. He said the BAC is supportive of using Best Practices. Mark Nebergall asked if a state could be held out-of-compliance by identifying what it is doing in this best practices matrix.

Representative Justin Cronin said he would not want to explain "common" in his state again. He said he felt that "best" is direct and straight forward and this is what the states are going to follow. He said when we say "best," it is going to be the best that we have. Jerry Johnson said as Mr. Rants pointed out from the business perspective, calling something the best practice has some merit and that probably helps that argument. He said from the state perspective, there are some who did not feel comfortable with that term. On a lot of these issues there is not a correct answer. He said on some issues they had to draw a line and state some states do it this way and some another way.

Russ Brubaker said that maybe it is an approved practice a couple of ways that meet a good standard for how something could be done. Representative Cronin said if we have common, best practices or whatever, he does not want an excuse of the revenue departments. Mike Eschelbach said he supported the Common Practice proposal. Dan Noble said he didn't think it was necessary and wanted to get a feeling for how states are having this issue. He said in 2002 they passed the uniform sales and use tax administration, one of the requirements was associated with definitions and he read it to the Board. He said the definitions shall enable a state to make policy choices, not to conform to uniform definitions. He said you are going to have the states determine how they are going to deal with it and that's probably the intent of the Agreement as well. Those are the types of things where you have to take a stance. This allows the states to keep their sovereignty.

Senator Curt Bramble said he supported Representative Cronin. He said they have had to challenge the common core or common ground. He said as a tax practitioner, he is a certified public accountant. He said that he and Senator Wayne Harper had chaired the Utah tax revenue body for 10-years together. He said some of those common practices are not the common practices that this body should embrace. He said the IRS is apologizing for their common practice and to say we have adopted something other than the highest standard we are going to achieve is not going to sell very well back home. Senator Bramble said he felt that Utah would be voting against using Common Practices.

Senator Cook made a motion to change Common Practices to Best Practices in both Sections 328 and 335 and to delete the word "common" and replace it with "best" in every instance. Victoria Daniels seconded the motion. The roll of the states was called and with 13-yes, 7-no and 4-states not voting, Kansas, Ohio, Vermont, and West Virginia and the motion passed to change "common" to "best."

- **Amended Proposal**

Jerry Johnson said he recognized that this is a fairly significant shift in what they had set out to do. He said in the beginning a lot of discussion went to uniformity and balance. He said the flexibility provided by adopting this proposal is necessary and addressing issues and providing transparency

may be better than not addressing the issue at all. He stated that he appreciated the support. Jerry Johnson made a motion to adopt 328 Taxability Matrix and Best Practices as amended. The roll of the states was called and 18 voted yes, 1 no, 3 not voting and the motion passed.

- **Proposed Rules for Discussion and Possible Action**

- **Certification of Service Providers – Appendix E and Appendix O – RP13001**

Jody Bartels said every year they go through and update the Taxability Matrix and they also go through and make any necessary changes to Appendix E. They had made a couple of changes to require the CSP to send a complete tax rules list to each state for certification for each new contract. She said indicated the reference numbers are updated so that they match the Taxability Matrix. Michael Eschelbach asked, in the last paragraph the word “transaction” and “jurisdiction” were added and was that intended. Ms. Bartels said it should read “transactions” and not “jurisdictions.” The amendment passed affirmatively on a voice vote.

Motion was made by Senator Peters and seconded by Senator Cook on the amended rule, RP13001. Roll of the states was called and the motion passed.

- **CSP Contract - RP13002**

Charles Collins asked if the CSP contract should say that two signatures are required by the CSP. Craig Johnson said the contract states that two signatures are required. Eric Wayne made a motion to amend RP13002 to require only one signature by the CSP. The motion was seconded by Senator Kenley. The motion passed affirmatively on a voice vote.

Steve Krovitz said he had emailed an associate to ask them to review 2A and 2B and had just received a response which indicated that two officers from the CSP are required to sign the annual representation. Charles Collins said if it says two must sign the contract, then that worked for them. Eric Wayne made a motion leave the two CSP signature requirement in the contract and Luke Kenley seconded. The motion was approved on a voice vote.

Bruce Johnson made a motion to delegate power to the executive committee to make procedural amendments to the terms of the CSP contracts. Senator Dwight Cook seconded the motion. Mr. Johnson said the Governing Board as a body should retain the authority to change compensation. The roll of the states was called with 19 voting yes and 0 no with 3 states not voting. The motion passed.

- **Final Action on Amendments from Previous Meeting**

- **Deal of the Day Vouchers – RP12004A02, RP12013**

Jerry Johnson moved that those two rules be tabled. The motion passed affirmatively on a voice vote.

- **Proposed Bylaw Changes for Discussion and Possible Action**

- None

- **Old Business**

- **Christopher Rants Report**

Chris Rants reported on his work for the Governing Board. He said there was a lot of work going on in a lot of states this year. Almost every state had information on collecting remote sales tax. Many

states have lots of pieces of legislation. He said he had spent most of his time in Jefferson City, Missouri this year. They had 3-different committees that had different legislation to join Streamlined. He said the bad news is that overall, the bill in which the Streamlined legislation is included, has a \$700,000,000 tax cut. Mr. Rants reported that the Governor has been careful not to say anything about whether he is going to veto it or not. He said the Governor disagrees with the legislation on Income tax cuts this year, but is supportive of joining Streamlined. It is House Bill 253.

Also LD-319 would require the Department of Revenue in Maine to report back with model legislation of what it ought to look like for Maine to join Streamlined. The first hearing was held on the Bill. They weren't sure whether they needed to join Streamlined or use the light version provided for in Federal legislation. There are not a lot of peer hoops to jump through to join Streamlined. Some of the things required don't currently exist in Maine.

Colorado – various hurdles exist here such as home rule issues and there seems to be interest in passing the legislation necessary for federal collection authority. Seems to leave some locals out in the cold.

Idaho – Bill was introduced but pulled on the last day. The Governor spoke favorably about it as well. Majority Leader may be the hold up here.

He said there is a new speaker in Hawaii and this might be an opportunity to get them to consider joining. Barriers seem to be the rounding rule and local tax authority.

Mr. Rants reported that Massachusetts had a joint tax hearing on both the Streamlined and an affiliate nexus bill. Not sure where that will go since Chairman supports, but Speaker is opposed.

He said the most interesting one was Virginia. They have actually appropriated the money that they would bring in under the Marketplace Fairness Act. Looks like they are planning to go the alternate path provided in the federal legislation.

- **Certified Service Providers – Joan Wagon, Scott Peterson and Charles Collins**

Joan Wagon said they have had nice visits with several revenue departments. Most of the states they have visited have indicated an interest in using the Central Registration System and looked favorably on the process of the CSPs. She said there is strange language in the federal bill, particularly in the area of the certified software. She stated all of us that are in this from Streamlined states are in good shape but the other non-Streamlined states may have to do some things. Joining Streamlined is a good way to treat your business community very well, but some states have hurdles that will not be politically possible.

In Denver, they seemed interested in getting the Bill passed when they visited. They have visited Florida, Massachusetts, Alabama, Virginia and are going to Harrisburg and Louisiana next week. They are also visiting with the people at FTA. They will have a commissioner's breakfast there and will also be at the MTC meeting and really explain what CSPs do. Scott Peterson said you can't explain the MFA and what CSPs will do, without talking about Streamlined and how it works with Streamlined. The goal is to try to get people to understand the work Streamlined has done the last few years.

Ms. Wagon indicated that CSPs are cooperating with each other because it's in everybody's interest that the states certify as many CSPs as possible. FedTax is easy to use. They just slip into an online shopping cart. You can enter in your name and address which is the destination where your goods are going. She said on taxcloud.net there's a demo to see how it works.

Charles Collins said to use a registration system, every state had to make changes internally for their system to pull down the data from the registration system. Non-SST states would also have to make some changes to use the system unless they make remote sellers register directly with their state separately. The other states have expressed interest in using SST's central registration system, depending on the costs involved.

Scott Peterson said \$3,000 to \$5,000 is commonly expressed as an amount the states would pay. Ms. Wagon said her overriding concern has been that when the MFA passes, that it is successful. She reported that using the central registration system causes less stress on the retail community. She said, however, the sponsors are not interested in requiring a central registration system in the bill.

Bruce Johnson said they will get questions from Utah taxpayers who want to know what they need to do to comply in Utah as well as in 44-other states. He would like to tell them that they need to register with a central registration system rather than once for the 24 Streamlined states and then individually in 20 other states. He said it's a real service to the state taxpayers if they could promote other states using the central registration system.

Richard Dobson asked the CSP's to elaborate on non-Streamlined states providing free software to sellers. He said obviously the software is not free (states pay for it) and there are a lot of variables. Joan Wagon said the federal bill is written in a way that you have to read that whole section. It states that you have to provide software free of charge that can calculate the correct tax and file the return. She said you have CSPs to calculate tax and file the return in every state. It actually forecloses the opportunity for a state to do its own software. She said practically speaking, would Kentucky want to provide software that would file in all states? It sort of pushes them to the CSP's. They talk about the contract and how that might be revised and the certification process. We also talk to them about procurement issues. The non-SSUTA states will have to have some type of process in place for entering into a contract with software providers.

Dan Noble said he wondered if there's an opportunity for non-member states going forward. Could we create a mechanism in dealing with the MFA where non-Streamlined states could use the central registration system and offer the services of also dealing with the CSP's to get these states to certify that software. He said it may be something that allows us to help pay for that system. He asked if we could recruit membership of some states to help address their software issue and in some ways would help this organization grow as well.

Charles Collins said they have a Certification Committee that has to review this unless they put something in their statute to allow them to work with you on that piece of it. You would have multiple people on that contract rather than just one. There will be timing issues to get it done.

If the MFA passes, the pilot is working on 6-months and a lot of people will potentially need to come into a system very quickly. He said we need to get some of these issues resolved quickly.

Senator Cook said they should get a group of non-Streamlined states together to discuss these issues. Joan said the states all want collection authority but they are at different places. Scott Peterson said the Senate could have used different words to get a better understanding and make it clear that the states have to pay for it.

Ms. Wagon said the bottom line is not to burden the retailers. Free software is a short way of saying we are going to let the states pay and you get the extra money.

Dwight Cook said at some point Texas will have the option and will comply with the MFA. He asked how they notify the sellers of the requirement to collect in Texas. Joan Wagon said if they utilize the Central Registration System, they will have notification. Senator Cook asked what opportunity they have other than the Central Registration System. He said he determined there is tremendous value to our Central Registration System. He said we could send Pam Cook to review their compliance. We have a lot to offer them. Joan said there are a number of business groups that would also help.

Charles Collins said the biggest thing is they get them all at one time. In a large state they are not concerned about volume and the \$20,000 to \$30,000 is not a big issue. He said they certainly have a lot of information. Representative David Drovdal said we have a lot of money invested in it. He asked if this will be a continuous charge. Russ Brubaker said you need to give them a rate structure. Ms. Wagon said the non-SSUTA states will benefit from the work of the group here.

Craig Johnson asked if there is a business that does not use the shopping cart and your system doesn't integrate or can't automatically integrate, is the cost to do that integration something you would be charging them for? Charles Collins said if they already have authority in 45 states you may portion it out. The Marketplace Fairness Act states, you wouldn't charge them because that would be included in "free software." The integration charge with the remote seller should be included and would not be a burden of collection on that seller.

President Harper adjourned the meeting for continuation on Thursday, May 16.

## Streamlined Sales Tax Governing Board Meeting

Thursday, May 16, 2013-8:30 AM – Noon CDT

President Harper called the meeting to order for continuation at 8:30 AM central.

- **Marketplace Fairness Act of 2013 Bill status – Charlie Sewell**

Charlie Sewell said S743 passed in the Senate and now the Bill moves over to the House. He said passage in the House will be more difficult based on early rounds. Rep. Goodlatte of Virginia may be thinking about starting from scratch and including only parts of the bill from what the Senate has done, but also adding various other provisions as well. Note sure what those other parts might be. Goodlatte has talked about digital goods among other things.

There is one group that wants to do something more similar to the version of the Womack bill that's been introduced, but most members on the Republican side of the Judiciary Committee are going to wait to see what Mr. Goodlatte is going to do. There is rumor on Capitol Hill that there could be a hearing in the near future. It is anticipated that there will be a hearing in the House Judiciary Committee. The Senate sponsors are also looking for other opportunities for vehicles to attach this bill to and get it passed that way.

Most of the activity right now is focused on the Judiciary Committee. Mr. Sewell asked everyone to send thank you letters to their Senators for their efforts. He felt the House was a little shocked by the bipartisan vote that we got in the Senate. He said we have a lot of legislative work to do now in the House. He said that anyone who can help with the Governor of Virginia or Mr. Goodlatte would be much appreciated and encouraged positive contacts from the states. The new Bill in the House will definitely be different from the one that Mr. Womack introduced to Congress.

President Harper asked if there is a message or talking points that each state should try to deliver to the House. Mr. Sewell said you should use as a starting point that the Bill that the Senate passed reflects a coalition of over 100 different types of entities from Governors to Streamlined, to the firefighters, teachers, farmers, and so forth. The more you can reinforce the Bill the better. He reported that the Bill has slightly changed but it's very close to the Bill that passed in the Senate. He said that Streamlined and all the sponsors and major members of our coalition will map out strategies to determine what needs to be done and that includes the sponsors, Mr. Durbin, Enzi, Mr. Conyers' folks, etc. Mr. Sewell said we have 67 sponsors now in the House and 22 are Republicans. He said we now have to deal with the House process.

- **Proposed Bylaw Changes for Discussion and Possible Action**

- None

- **Federal Implementation Workgroup/MFA of 2013**

Richard Dobson provided a summary of the MFA. He reported that this calendar year the Federal Implementation Workgroup was established with 28-members. Initially we had some general Workgroup teleconferences and discussed several subjects. He reported that Ellen Thompson and Fred Nicely had work on business contacts, associations and groups that we can direct information to regarding the federal bill, Streamlined Sales Tax and so forth. He said they have received 25 state responses and 5 of those responses were from non-member states. He encouraged all the member states to complete those surveys. Any type of groups that we can collect in a database is beneficial

so that as the federal bill progresses we have points of contact throughout the country. He said we also have a subgroup working on the Central Registration system. It is chaired by David Thompson for use by our member states and particularly thinking about how the system can be opened up for use by non-member Streamlined states. There will be some discussions at the upcoming FTA meeting. Jerry Johnson and Bruce Johnson will address state commissioners regarding the Central Registration System and what is available. Joan Wagnon and the other CSPs are going to the non-member states as well. He said the Workgroup has already communicated with the states of Virginia, Illinois and Texas and will be continuing some of those contacts. He stated that upon enactment we plan to get something that is already up and running.

- **FAQ Subgroup – Craig Johnson**

The draft of FAQs was discussed and Richard Dobson said it was prepared in anticipation of the questions that may be asked by the states, businesses, and consumers. He encouraged everyone to read this document. He said group is also beginning to develop the answers. This document will be completed with uniform answers so we can be sure to be uniform in giving any answers. He expressed the appreciation of non-Streamlined state participation Virginia, Illinois and Texas. He said we want to be careful to not speak for them, but there are questions that need to be answered. Part of the implementation challenge is whether working with non-member states or member states, we need to respond with a single voice and consistent answers. If you see other issues that we do not have a workgroup addressing yet and that is also something that we need to consider, please let him or Craig know.

Craig Johnson asked everyone to review the questions in this document and make sure as many questions are thought of as possible so that all issues are covered. He said the goal is to post the Q&A's to the SSTGB website and/or the states may post them to their websites if they would like to. We need to make sure that when a seller from Texas contacts Texas or any other state and wants to know who they must collect from, that it's not difficult for them to find the answers. It will also be very important for the states and business groups to send this information out to their points of contact as well so the word gets out.

Richard said that with respect to the announcement when MFA passes and uniform message upon enactment, Senator Peters and Victoria Daniels will be working on that. Senator Peters said they would work on getting the message to the states before the bill is passed in the House. Craig Johnson pointed out that one of the requirements of the MFA is the 180 day notice states must publish of their intent to require remote seller collection authority before that collection authority can go into effect for the Streamlined states. It's something that we have to have ready to go as soon as that passes to start the 180 days ticking. Senator Cook suggested regular communication and would feel more comfortable if they knew all of the answers to these questions when they communicated. He asked if there's a need to ramp up our efforts to ensure that the non-member states know as much as possible.

President Harper said that was one of the things that Jerry brought up at FTA when all the commissioners had their meeting. Richard agreed and said Tim Jennrich may have comments on that. Tim said it's difficult to work through the non-member states if we don't have a direct line. He said there will be a breakout session at the FTA conference and he and Craig Johnson will be there. There are crossover issues and will hopefully get that going. This issue was raised by Christie Comanita early on. Ms. Comanita said one thing with regard to non-member states in answering these questions is that while the member states under the federal legislation know they are good to

go, for the non-member states, until they have the final version of the bill, they don't know what they have to comply with and cannot answer questions.

Dan Noble said currently the member states are in by default. He said if they do some of the things they are in the process of right now that are different from what is in this document, he asked if it had to have some sort of federal validation. It says they are in compliance today but could be found out-of-compliance in the future if they violate the rules. Craig Johnson and President Harper have had some initial discussions as far as potential changes of the Agreement. They looked at what all the defined bill implications are and the sections that apply. He recommended that they don't touch those sections. He said when getting into the gray line areas (i.e., digital goods sourcing), they will look very closely at that to ensure that it is not outside the federal implementation requirements. Mr. Noble said we must be cautious of recognizing that our actions here must be in concert with federal implementation as we deal with sourcing going forward. We must not be out of sync with the non-member states on digital sourcing. President Harper said we have the tax administrators but also have a NCSL task force that's meeting in Boston in 2-weeks. There are member states and non-member states that participate on that task force.

Richard Dobson addressed the 180-day notice requirements. He said they have discussed that as part of their analysis and have begun to work on a general communication to be presented. The public notice requires that each individual state would have to give notice showing their intent to invoke the remote collection authority granted in the bill. He encouraged all of the Streamlined member states to be looking at what would be required for proper and due notice. Mr. Dobson said in Kentucky they are looking at having their Office of Legal Services determine what would be required and the timing to give notice. He said their discussion has been planning the notice to occur after federal enactment. Based upon the current wording of the MFA, there has been some discussion regarding non-Streamlined states that notice of intent could be given prior to enactment of the federal bill so that the 6-month clock could already be running.

Craig Johnson said as you see articles that come out in these areas, to forward them to him – especially articles that contain misinformation. He said we need to respond to those and be ready to provide information. We are starting to hear again that this is a new tax and we need to respond with no it is not. We should provide what the facts really are. He said with Streamlined's work with Joan Wagon in Washington DC dealing with the sponsors directly, they know what they want to do with the Bill. Senator Kenley said he found that in their legislature, dealing with public response to issue is critically important to react. He said we should all respond and everyone should be sensitive to this area.

- **MFA of 2013 Bill Analysis – Craig Johnson, Tim Jennrich, Pat Calore**

Craig Johnson said one of the changes to the MFA that came through with the amendment was that Streamlined state would be qualified to collect. Those states would in effect be given that collection authority as long as any subsequent changes to the SSUTA are not in conflict with the federal minimum simplification requirements. He reported that Joan Wagon, Charlie Sewell and himself had met with the sponsor's offices as well. Other changes were the 90-day waiting or notice period which has been changed to 180 days for the Streamlined states. There is a public notice requirement that Richard will talk about that changed with the amendment as well. There was some additional language added in the section on Nexus to clarify that this does not alter current Nexus standards. The CSP's were encouraged by the language on free software. It was set up in a way that any state could use other certified service providers.

With respect to the non-Streamlined states, we are deferring providing answers to some of those questions since those should really be answered by the non-Streamlined states themselves. One additional change was the definition of “state.” They added language relating to other territories of the US and tribal organizations. There are approximately 566 tribes in the US. Joan Wagnon said several years ago they reached out to the Congress of American Indians. They discussed amending the SSUTA to make it possible for the tribes to join. At that time they did not feel that they needed to seek their sovereignty to this group and did not join. At the time there was no interest and it was not pursued.

Tim Jennrich discussed the Implementation Workgroup’s preliminary analysis of the Marketplace Fairness Act that was provided to the Governing Board, including reference to various components of the Act.

Richard Dobson asked the Governing Board to report to the Federal Implementation Workgroup, if they see other issues that need to be addressed in the area of implementation. He said the Workgroup is trying to coordinate the process. Since the beginning of this year it’s not a question of “if” but “when” regarding the passing of the Bill.

President Harper expressed his gratitude to Richard Dobson for his work with the Federal Implementation Workgroup.

- **New Business**

President Harper said there has been discussion the past few months about identifying barriers for new states and expediting certification by new states. Regarding levels of compliance, he said there has been a lot of discussion around whether it’s an administrative change, statute, etc. He said when a state joins, we have an amnesty period that is established. What happens with the passage of the MFA? These are items that have been brought up that he wants the Governing Board to be cognizant of.

President Harper asked the states if Amnesty should be discussed or not. He asked once the MFA passes, should there be within that 180-day period another amnesty for new sellers registering to say yes we’re going to go through and start collecting. He said he thought the Implementation Workgroup should do that if it should be done. Joan Wagnon said it is important that upon passage of the MFA, we have successful implementation. The amnesty would provide a certain level of comfort to businesses that are under or over the exemption amount and would help prevent some department of revenue from saying they should have been collecting all along. There’s a fear of signing up in places that you have never had to collect before.

Richard Dobson said the question of amnesty definitely keeps coming up. We can only speak for member states and we don’t know what’s going to go on with the non-member states. An Amnesty position would have to be coordinated with what states currently have in their laws or states could be forced to change. Generally when Streamlined got off the ground we were focused on getting taxpayers registered and moving forward. It’s a topic that we definitely need to discuss. It has several nuances and signs of argument. Richard Prem said it’s a sensitive hot button in the House and he echoed what Joan Wagnon said. He said he cannot under estimate when you go to the Hill how concerned people in the House are. He said you don’t want to create a back lash where someone wants to come in and revisit that bill.

Fred Nicely said the BAC does want to work with the states regarding the compliance Agreement and said he and Myles Vosberg can look at addressing any of the compliance issues that President Harper sees fit.

- **New States – Barriers to Entry**

Craig Johnson asked what is keeping states from joining Streamlined and what can we do to bring more states in. He said there are a number of things in the Agreement that we will not touch due to federal legislation. There are also sections that may be the one piece of keeping states from joining. We talked about the rounding rule. Some states have said if they have to do that it will keep them out. He said we need to determine what is keeping states out. All of the things in the Agreement are things that have been worked out. Now we look at what the MFA has done, the Senate has given us an idea of what the minimum simplifications are before a state should be able to require collection by remote sellers.

In identifying the barriers we need to consider whether the technology systems can be programmed to address the barrier. In other words, is there technology out there that can still answer that question without causing burden? There are some things that we should not do differently. Federal legislations will require us to do some simplification and there definitely are some things we should not back away from (i.e., exemption administration, single return, etc.). It has really helped the business community when they get into the exemption issues. Mr. Johnson said when Wisconsin joined and he was involved in all the things that are determined internally, we should identify those types of things as well and try to find ways to shorten the time frames and make things go quicker for states that do want to join. He said that he and Pam Cook have had discussions with states as they start drafting their legislation. David Thompson and the Certification Committee have steps that they have to go through. We will look at some of that as far as expediting the certification of new states. There were no questions or comments.

President Harper asked everyone to be sure to send any articles or items to Craig Johnson in order for him to respond. He said it's time to roll up our sleeves to start reaching out to the members of the House.

- **Adjournment**

With no further business, Jerry Johnson made a motion for adjournment and Dwight Cook seconded the motion. President Wayne Harper adjourned the meeting at 10:15 AM central.