

RP06002A01

A motion by the Indiana, Michigan, Minnesota, North Carolina, North Dakota, Oklahoma, and Wyoming for a rule relating to interpretive rules:

Rule 902.1. Interpretive Rules.

- A. Purpose.** Interpretive rules are distinguished from interpretive opinions in section 902 of the Streamlined Sales and Use Tax Agreement (“Agreement”). The intent of this procedural rule is to prescribe procedures applicable only to interpretive rules.
- B. Intent.** Section 902 of the Agreement provides that interpretations of the Agreement, including interpretive rules, can only be accomplished by action of the Governing Board.

Article VIII A, Section 1 of the Bylaws of the Streamlined Sales Tax Governing Board, Inc. provides for establishment of the State and Local Advisory Council (“SLAC”) to advise the Governing Board on matters pertaining to the administration of the Agreement, including interpretations. Section 1 continues by stating that the Governing Board may work through its committees to solicit and consider SLAC positions on matters. SLAC is uniquely qualified and positioned to develop draft interpretive rules.

Article VII of the Bylaws of the Streamlined Sales Tax Governing Board, Inc. provides for establishment of Standing Committees of the Governing Board. Section 2 of Article VII establishes the Compliance Review and Interpretations Committee (“CRIC”). Among the responsibilities given to CRIC is “... making recommendations to the Governing Board on matters involving interpretations ...”. CRIC is uniquely qualified and positioned to provide commentary and recommendations to the Governing Board on interpretive rules developed and proposed by SLAC.

Article VIII B, Section 1 of the Bylaws of the Streamlined Sales Tax Governing Board, Inc. provides for establishment of a Business Advisory Council (“BAC”) to advise the Governing Board on matters pertaining to the administration of the Agreement, including interpretations. Section 1 continues by stating that the Governing Board and its committees shall solicit and consider BAC positions. Section 6 provides that BAC shall seek the advice of and respond to SLAC prior to formulating a recommendation to the Governing Board or its committees.

- C. Requests for Interpretive Rules.** Pursuant to Section 902 of the Agreement, the Governing Board shall act on requests for interpretation of the agreement, including interpretive rules, brought by any member state or any other person within a reasonable period of time and in a manner prescribed in the

Governing Board rules. The Governing Board may choose to not issue an interpretative rule or it may choose to not act on a request for an interpretative rule. Where the Governing Board chooses to act on a request for interpretative rule it will initiate the interpretive rule process by making a request of SLAC to develop a draft interpretive rule.

D. State and Local Advisory Council.

1. SLAC will create an initial draft through the use of experts and assistance of the SLAC Steering Committee.
2. Upon development of an initial draft, the SLAC Chair will provide public notice of the formation of an interpretative rule workgroup and will invite participation from all interested parties. SLAC will establish a workgroup comprised of interested state, local and business representatives who will review and comment on the initial draft interpretive rule.
3. The SLAC Chair will provide the draft interpretive rule to BAC with a reasonable opportunity for review, comment, and participation in continued development of the draft interpretive rule.
4. The SLAC Chair will have sole discretion to call for final comments on draft interpretive rules from states, BAC and other interested parties. Final comments must be submitted to SLAC within 30 days of the Chair's call for them. SLAC will finalize the draft interpretive rule and forward it to the Governing Board and CRIC at least 60 days prior to the Governing Board meeting in which it will be considered.

E. Compliance Review and Interpretations Committee.

1. CRIC will place the proposed interpretive rule on its next regularly scheduled public meeting agenda for discussion by CRIC members and for public comment by other interested parties. It is the intent of this rule that the time period for CRIC review be held to a minimum in light of the extensive review, discussion and comment previously provided through the SLAC process. Therefore it is expected that CRIC will generally review the proposed interpretive rule no later than the second scheduled meeting following receipt of the proposed interpretive rule from SLAC.
2. After review of the draft interpretive rule and any public comment received separately from the SLAC rule development process, CRIC will prepare advisory written commentary and recommendations for submission to the Governing Board for its consideration.

F. Business Advisory Council.

1. BAC may participate in the review and comment process undertaken by SLAC concerning development and finalization of a draft interpretive rule to be forwarded to the Governing Board and CRIC.
2. BAC may provide comments on a draft interpretive rule to CRIC for consideration during its review.
3. BAC may provide written comments directly to the Governing Board on draft interpretive rules and comments forwarded to the Governing Board by CRIC.

G. Agenda. A proposed interpretive rule together with all written comments shall be presented to the Governing Board and placed on the agenda of the Governing Board for either a regular or a special meeting. At least thirty days notice to the member states and the public is required by Section 902 of the Agreement.