



SST State and Local Advisory Council

SLAC MEETING MINUTES November 30, 2010

Steering Committee

Jane Page
Chair
South Dakota

Sherry Harrell
Vice-Chair
Tennessee

Mike Bailey
GFOA
City of Renton, WA

Christie Comanita
Arizona

Robert Scott
USCOM
Carrollton, TX

Mike Eschelbach
Michigan

Craig Johnson
Wisconsin

Peter McVay
Rhode Island

Bruce Johnson
Utah

Welcome and Introductions

Jane Page (SD), SLAC Chair, opened the teleconference meeting and roll was taken. Twenty-four (24) states, the Government Finance Officers Association (GFOA), and the National League of Cities were present. Several business representatives were also present.

The minutes from the October 5, 2010 meeting were reviewed. Mike Eschelbach (MI) moved to approve the minutes. Cathy Wicks (MN) seconded the motion. The minutes were approved with a unanimous voice vote.

Discussion and vote on SL10065- Additional Remittances

This is the amendment that provides guidance to states if they require more than one remittance a month.

Larry Paxton (IA) indicated the only change in the amendment from the October meeting was in Section 5(ii) of the amendment. The language was changed to state an overpayment could apply to the next return or next required remittance.

Fred Nicely (COST) stated the amendment provides uniformity for additional remittances. He thanked Larry Paxton for his work on the amendment.

Cathy Wicks (MN) moved to approve SL10065. Bruce Johnson (UT) seconded the motion.

Roll Call Vote: 17 “YES”, 4 “NO”, and 7 Abstained.

Discussion and vote on Candy Rules – SL10046A01 and SL10069

Craig Johnson (WI) explained the only differences between the two candy definition rules presented are in the definition of “flour” and whether the term is limited to grain-based flours. The workgroup surveyed the states and of the 14 states that taxed candy, 11 preferred to use the broader definition of flour. Each rule is accompanied by an appendix which lists various products and indicates whether the products are classified as “candy”.

Tim Jennrich (WA) stated Washington initially wanted to limit the definition to grain-based flours but since the tax on candy was recently repealed in their state, the issue was not as critical. Tim believes the original intent of the flour discussion was to limit it to

grain-based flours, but he is not opposed to the expanded definition. Tim would like to hear from representatives from the food industry. No members from the food industry provided comments.

Craig Johnson (WI) stated the workgroup wanted to draft the rule, without requiring a change to the definition of “candy” in the agreement, to clarify whether the term “flour” meant any type of flour or only grained-based flour. Craig further explained how the rules address bundled products. For packages of products with individually wrapped items, the retailer must use the 50% test found in the bundling provisions when the ingredients are listed for each item. If all ingredients are listed together, the packaged product is presumed to be candy. Products with a mixture of food and candy – such as cereals – are not bundles.

Eric Wayne (NC) inquired how the rule affected his state, which taxes both food and candy, but at different rates. Sherry Harrell (TN) explained the product must first be examined to determine if the bundling rules apply. If it is determined to be primarily (more than 50%) food, it would be taxed according to state law as food. If it is determined to be primarily (more than 50%) candy, it would be taxed according to state law as candy.

Myles Vosberg (ND) commented that the phrase “not commonly thought of as candy” may lead to some confusing interpretations. He also felt some items listed in the appendix as “candy” should be listed as “food”. One example is BBQ sunflower seeds. Myles also stated that having a list is important.

Craig Johnson (WI) explained that a retailer must first look at how the item is commonly seen; then apply the objective test of looking at the ingredients.

Cathy Wicks (MN) expressed concern that flaked coconut was listed as a candy item since it is not sold as a bar, in drops, or in pieces. Craig Johnson (WI) explained that flaked coconut is sold in pieces with sweetener added.

Vicki Gibbons moved the approval of SL10069 that states all flours are considered “flour” in the candy definition. Myles Vosberg (ND) seconded the motion.

Roll Call Vote: 22 “YES”, 1 “NO”, 6 Abstained.

Jane Page (SD) stated more discussion on the accompanying appendix would take place before the rule goes to the Governing Board. Craig Johnson (WI) asked that states notify him of other products they would like to have included in appendix.

Discussion on Netting Overpayments on Audit – SL10032

Bruce Christensen (SD) commented that this amendment was deferred at the last SLAC meeting. Bruce indicated the workgroup recommends this amendment be withdrawn.

Fred Nicely (COST) would like to see more work on the amendment.

Craig Johnson (WI) will notify Jane Page of Wisconsin’s plans to either continue work on the amendment or withdraw it.

Discussion on Local Communication Taxes Amendment AM9002A06

Jane Page (SD) stated the Governing Board has instructed SLAC to draft rules for the proposed amendment to Section 315.1 dealing with the mandatory provisions on local communications taxes. Jane explained the amendment requires states to maintain databases of tax rates and taxing jurisdiction boundaries. States may have to add county or other boundaries to their databases.

Mike Bailey (GFOA) stated this section applies to all member states and that states should understand the requirements.

Ellen Thompson (NE) commented that states will need to think about the administrative tasks associated with maintaining the required databases and matrix. Ellen stated it will be similar to the work performed on local sales taxes as far as communicating with local jurisdictions and maintaining the documents authorizing the taxes and fees.

Richard Cram (KS) indicated Kansas will have to make statutory changes to address refunds.

Jane Page (SD) explained that a workgroup will be set up later to discuss these requirements.

Sherry Harrell (TN) noted that if states do not have to use common terms, the matrix will be hard to do if states' statutes for other taxes on communications services differ on the terminology.

Discussion on Credit Issues

Jane Page (SD) commented that the Credit Issues workgroup had met on November 22, 2010 to continue work on SL10061.

Discussion on Sales Price and Employee Points

Sherry Harrell (TN) reported the amendment to "Sales Price" and rule on employee earned points were being revised to reflect Option #3 of issue paper SL10031A02. Sherry indicated the revisions will be drafted in December and the workgroup would hold another conference call after the first of the year.

Discussion on Sourcing of Services Delivered Electronically

Alan Lynn (WA) reported that a new rule on sourcing of services delivered electronically was being developed. Mark Nebergall (SoFTEC) offered to provide some sample transactions for the rule.

Sherry Harrell (TN) motioned to adjourn the meeting. Meeting adjourned.