

Other Communications Tax Workgroup – progress update

Background

The Other Communications Tax Workgroup met three times in 2011. This workgroup was tasked with drafting rule language identifying taxes and fees qualifying as “taxes on communication services.” The rule is intended to clarify this phrase for purposes of draft amendment 315.1 (Document # EC10021). The Governing Board has not yet adopted amendment 315.1, a provision that would apply a limited set of SSUTA simplifications to “taxes on communications services.” “Communications services” is a term that includes both telecommunications and ancillary services.

Applicable simplifications (amendment 315.1)

Amendment 315.1 would apply the following simplifications to “taxes on communications services:”

- Database requirements in accordance with Sections 305 and 307,
- Refund procedures consistent in Section 325,
- Liability relief consistent with Sections 306 and 328, and
- A Taxability Matrix compliance consistent with Section 328.

In adopting the requirements of 315.1, a member state would apply the applicable sourcing rules in Article III of the Agreement.

Progress update

The current draft rule addresses the following:

- **Included “taxes”:** The term “taxes” now refers to “any tax, charge, or fee levied by a taxing jurisdiction as a fixed charge for each connection or line or measured by gross amounts charged for communications services, regardless of whether such tax, charge, or fee is imposed on the seller or purchaser of the service and regardless of the terminology used to describe the tax, charge, or fee.”
- **Excluded “taxes”:** The rule lists a number of impositions specifically excluded from the term “taxes,” including net income taxes, equitably apportioned income taxes, rights of way fees, and generally applicable gross receipts, and modified gross receipts taxes.
- **Telecommunications Tax List:**
 - *The concept:* Workgroup participants discussed different methods available to member states for identifying and reporting their individual taxes on communications services. The Workgroup determined the most promising method for accomplishing this goal may be the creation of a Telecommunications Tax List. The list would collectively identify the member states’ taxes on communications services and provide related statutory references.
 - *The Taxability Matrix requirement:* If this list approach is pursued, the

states and the business community representatives may want to explore the merits of either modifying or deleting the Taxability Matrix requirement in amendment 315.1. This is because it is unclear whether, and to what extent, the Taxability Matrix requirement would be useful if such list were created.

Next Steps

- **Finalize language:** The Workgroup will continue reviewing the draft rule in anticipation of finalizing language for wider dissemination among SLAC.
 - **Tax identification efforts:** Workgroup member states are in the process of identifying state and local taxes within their own jurisdictions that constitute taxes on communications services. Some of these member states will be working with business community representatives to get this work done. The goal of these efforts is to establish a model and process that member states outside the Workgroup can leverage when identifying their taxes on communications services.
 - **Telecommunications Tax List:** The Workgroup will continue to further analyze this approach and report back.
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