

State and Local Advisory Council (SLAC)
Business Meeting
May 13, 2014

Welcome and Roll Call

Tim Jennrich (WA), SLAC Chair called the meeting to order. Twenty seven states were present as well as representatives from the National Association of Counties and U.S. Conference of Mayors.

New Assignments

Tim Jennrich presented three new topics for consideration by SLAC members.

1. *Post Transaction Issues.* The Business Advisory Council (BAC) has requested that SLAC review issues related to transactions which occur after the sale of a product is completed, such as returns, refunds, and restocking fees. The scope of the assignment would address the format for providing state-by-state guidance on these topics.
2. *Continuing Education for SLAC members.* Due to complexities of the Streamlined Sales and Use Tax Agreement (SSUTA) and the inevitable turnover among employees representing each state at SLAC, the Executive Committee requested the initiation of an educational effort. The on-going effort would provide instruction to SLAC representatives and revenue departments on the requirements of the SSUTA and procedures followed by the various committees and workgroups.
3. *Voluntary Exemption Matrix.* The Executive Committee requested the development of a uniform format for providing information on state-specific exemptions. The information could be provided in a matrix with sections for entity and product exemption, miscellaneous exemptions, and service exemptions.

Bruce Johnson (UT) moved that SLAC move forward with these assignments. The motion carried on a unanimous voice vote.

Craig Johnson, Executive Director, presented the revisions and updates to the 2014 Certificate of Compliance and Taxability Matrix. Minor changes were recommended to remove unnecessary instructions and revise statements to mirror the language in the SSUTA. Myles Vosberg (ND) moved adoption of the revised Certificate of Compliance and Taxability Matrix. The motion carried on a unanimous voice vote.

Best Practice Proposal

Tim Jennrich presented a review of the Credit Best Practice proposal (SL14003) and accompanying Matrix (SL14004). The Practice is the result of over three years of work on an issue that has many complexities and variances among states. The overall goals of the workgroup were to provide for administration of credit provisions in a simplified manner. The proposal contains sixteen practices, four of which contain two options. States complete the Matrix by indicating the Practice followed in their respective state. If a State's policy is not reflected in the Practice, the State must provide information on how its treatment differs from the Practice. The matrix language "The credit the State provides in 2.1 and 2.2 applies" is intended to be read disjunctively as referring to either the credit provided by a state under 2.1 or 2.2, or both with respect to those states providing credit under both 2.1 and 2.2.

Various states recommended minor wording changes to section headings and to exclude tax incentive refund programs in the "Tax Paid" definition. Pat Calore (MI) requested a statement be added to the instructions that conformance to a Practice is voluntary and that no state can be found not in compliance with the SSUTA if it does not follow a practice adopted by the Governing Board. Pat also recommended the instructions indicate the term "State," as used throughout the Matrix, refers to the state completing the Matrix.

Fred Nicely (COST) recommended removal of the word "previously" before the words "properly sourced" in the "Tax Paid" definition. Mark Nebergall (SoFTec) questioned the language in Example D that refers to a State not providing a refund to the purchaser. After further review of the issue, the language in question was removed from Example D and the entire Example E was removed.

Pat Calore moved that the word "Best" be removed from the heading to reflect the proposal to the Governing Board (MC14006) which amends a definition in Section 328 from "Best Practices" to "Disclosure of Practices." The motion failed.

Bruce Johnson (UT) move to approve the Credits Best Practice (SL14003, as amended) and Credits Matrix (SL14004, as amended). The motion carried with twenty four states (AZ, AR, GA, ID, IN, IA, KY, MA, MN, MO, NE, NV, NJ, NC, ND, OH, OK, SD, UT, VA, WA, WV, WI, WY) and the National Association of Counties and the U.S. Conference of Mayors voting

“YES”; one state (MI) voting “NO”. Tim Jennrich will report the result of the vote to the Governing Board.

SSUTA Amendments

AM 14002 - Tim Jennrich opened the discussion on AM14002 which amends the “Prepared Food” definition to allow for a toggle of food that ordinarily requires additional cooking or baking by the consumer beyond what is need for FDA food safety purposes. There was no discussion from the member states or the BAC. Dan Noble (WY) moved that SLAC recommend to the Governing Board adoption of AM 14002. The motion carried with twenty three states (AR, AZ, GA, ID, IN, IA, KY, MA, MI, MN, MO, NV, NC, ND, OH, OK, SD, UT, VA, WA, WV, WI, WY) and the National Association of Counties and the U.S. Conference of Mayors voting “YES”, and two states (NE, NJ) voting “NO.” Tim Jennrich will report the results of the vote to the Governing Board.

AM 14003 - Chad Paulson (MN) explained the proposal which adds a toggle to the “Prepared Food” definition for meat and/or seafood sold in an unheated state. Minnesota law currently excludes meat and seafood sold in an unheated state by weight from Prepared Food. Ellen Thompson (NE) asked whether the amendment addressed a food product on which the CRIC committee and Governing Board had already ruled and found Minnesota “not-out-of-compliance”. Chad indicated it was the same product. Ellen and Phyllis Shambaugh (OH) questioned the need for the amendment. Fred Nicely stated that BAC preferred the SSUTA be changed instead of having Minnesota change its law. Bruce Johnson commented that one Governing Board cannot bind a future Governing Board.

Bruce Johnson (UT) moved that SLAC recommend to the Governing Board adoption of AM 14003. The motion carried with twenty two states (AR, GA, ID, IN, IA, KY, MA, MI, MN, MO, NV, NJ, NC, ND, OK, SD, UT, VA, WA, WV, WI, WY) and the National Association of Counties and the U.S. Conference of Mayors voting “YES”, and two states (NE, OH) voting “NO”, and one state (AZ) abstaining. Tim Jennrich will report the results of the vote to the Governing Board.

AM 14001 - Amy Oneacre (GA) explained the proposal which adds a new category for Water Sense products to the Sales Tax Holiday definitions. With the new definition, states would be able to exempt all or specified products which meet the water efficiency and performance criteria

set by the U.S. Environmental Protection Agency. Amy noted that the state of Georgia has already enacted a sales tax holiday for such products which will take place in August, 2014.

There was no further discussion. Chad Paulson (MN) moved that SLAC recommend to the Governing Board adoption of AM 14001. Eric Wayne (NC) seconded the motion. The motion carried with twenty five states (AR, AZ, GA, ID, IN, IA, KY, MA, MI, MN, MO, NE, NJ, NV, NC, ND, OH, OK, SD, UT, VA, WA, WV, WI, WY) and the National Association of Counties and the U.S. Conference of Mayors voting "YES".

Minutes

The minutes from the May 24, 2013 and October 28, 2013 meetings were presented for approval. Ken Roberts (ID) moved to approve the minutes. The minutes were approved on a unanimous voice vote.

Public Comment

There were no public comments.

Announcements

Craig Johnson announced that there would be a reception following the Governing Board meeting on Wednesday, May 14th, 2014, to honor past President Wayne Harper and to welcome the State of Ohio as a full member.

The meeting was adjourned.