



Streamlined Sales Tax Executive Committee Meeting Minutes
Tuesday, December 7, 2021, 10:45 am central
Teleconference

Call to Order and Roll Call

President Rest called the meeting to order at approximately 10:50 am central. The roll of the Committee was called. Present were Senator Rest (MN), Richard Dobson (KY), Michael Walsh (NE), Laura Stanley (OH), Tim Jennrich (WA), and Senator Jessica Bell (ND). Absent were Senator Curt Bramble (UT) and Senator Dina Neal (NV) and Representative Tim Reed (SD). With six out of nine members present, the quorum was established.

Report on closed session

President Rest provided a report on the closed session and that discussions were held related to litigation related to the *Wayfair* decision, a proposal to add a full-time position and moving forward with the trademarks.

Review and approve minutes from October 5, 2021 Executive Committee Meeting (EM21008)

President Rest stated the minutes from the October 5, 2021 meeting had been posted to the website and a link added to the agenda. She asked for a motion to approve the minutes. Tim Jennrich provided the motion. No comments were received. A voice vote was taken and was unanimous. Motion carried.

Committee Reports

Finance Committee- Richard Dobson

- Financial Report – 1st Quarter FYE 6/30/2022 (FC21007)
- Final Annual Independent Audit (FC21008 and FC21009)

Richard Dobson provided the Finance Committee report. He highlighted items from FC21007 such as the balance sheet assets and the normal expenses such as salaries and contracted monthly services related to federal affairs consulting. He also noted the continued stable financial condition of the Governing Board. Richard Dobson motioned to receive FC21007. No comments were received. A voice vote was taken and was unanimous. Motion carried.

Richard stated FC21008 and FC21009 are the independent audit report and we have seen these documents during the presentation at the Executive Committee meeting in October. He noted that the final report indicates the financial statements for FYE 6/30/2021 present fairly the financial activities of the Governing Board. Richard Dobson motioned to receive FC21008 and FC21009. No comments were received. A voice vote was taken and was unanimous. Motion carried.

Upcoming Governing Board Meeting

President Rest stated that we have a Governing Board teleconference meeting coming up on December 21 at 10:30 am central. As part of that meeting there is an amendment and



document the Governing Board may be asked to approve. She indicated that we will walk through these documents to make sure everyone is aware of them and their intent and provide an opportunity for any comments or suggestions related to these items so that the workgroup that developed these items has a chance to consider those comments prior to the Governing Board meeting on December 21.

Craig provided information on the background of AM21007 which is an amendment to Sections 305, 306 and 307 of the Agreement related to the rate and jurisdiction databases and the purpose of the amendment.

Craig indicated that he wanted to make sure all of the states and business community are aware of the proposed amendment and the intention of the amendment. Document SL21013 was a SLAC work request that created a workgroup tasked with addressing the issue of how to properly calculate the sales tax on sales of digital goods and what liability relief applies if only a 5-digit zip code is obtained or what happens if a seller requests a full address and the purchaser refuses to provide that information. During the workgroup discussions the states and business groups looked together and independently at the requirements contained in the SSUTA related to the rate and jurisdiction databases, etc. A couple of issues were pointed out with respect to the provisions in Sections 305 and 306 of the SSUTA.

The first issue was that sellers and CSPs are expected to use “due diligence” when trying to determine the 9-digit zip code, but what constitutes “due diligence” was not defined in the SSUTA or in most states’ laws. The SSUTA contains a rebuttable presumption which indicates a seller or CSP has exercised due diligence if they attempt to make the 9-digit zip determination using software approved by the Governing Board. The Governing Board has never approved any such software – so that is one of the things this amendment does. It is important to remember that this is just for those wanting to have the “rebuttable presumption” apply with respect to “due diligence.” It is not necessarily the only way that “due diligence” may be demonstrated. The amendment identifies the type of software (not a specific software) that if used will meet this rebuttable presumption.

The second issue that was identified relates to the use of address-based databases and goes back to when these provisions were initially adopted. States were not sure how or if they would be able to develop these databases, what they would look like, etc. The current provision in the SSUTA indicates that the Governing Board may allow a member state that develops an address-based database to require sellers and CSPs to use that database in place of the zip code databases. The reality is that the Governing Board developed the requirements such that all of these records (address-level, Zip+4 and Zip) are contained in a single database. There are not separate databases, but instead various type of records within a single database. The Governing Board has never approved, nor has a state requested approval to require sellers and the CSPs to use the address-based database. However, the expectation and experience has been that sellers and CSPs do first try to match the address they have with the address in the database. If they can’t match the address, then they determine the 9-digit zip that applies and



try to match that. If they can't match the 9-digit zip, they use the 5-digit zip. The amendment results in the requirement to use the address-based database records to automatically be in place for those states that provide address-based database records. They do not need to request Governing Board approval. It is not intended to be changing or putting any new requirement on sellers or CSPs – but instead to reflect what the expectation is and has been since these databases have been in use.

Craig indicated that from his perspective, getting these amendments in place will allow the SLAC workgroup to get back to working on the initial issue assigned to them under the work request which is how to handle transactions if all the seller receives is a 5-digit zip code.

Alison Jares explained the amendment is to maintain the status quo and does not change what is currently taking place. She also indicated that she did not realize the Governing Board never officially approved state's requiring the use of the address-based database records until this workgroup discussion took place. She also indicated that she thought having the Governing Board approve the type of software to meet the rebuttable presumption contained in Section 305 was also a good thing to get completed.

Mike Walsh (NE) asked if there was any notice or posting requirement related to the required use of the address-based database records. Craig indicated that the databases that contain the address-level records are required to be provided to the SSTGB and posted by the first day of the month prior to the start of each calendar quarter and then beginning the next calendar quarter, those are the databases that sellers and CPSs would use beginning in that quarter.

Tim Jennrich asked about the USPS and CASS software. Alison explained that software takes the address provided and standardizes or normalizes it prior to trying to match it up to the information contained in the state's databases related to the rates and jurisdictions.

No other questions or comments were received related to that amendment.

Christie provided comments on the revised exemption certificate as shown in document SL21018A01. Christie explained the workgroup that developed these revisions was formed due to the increased inquiries from sellers who wanted to make sure they were gathering the proper information from their customers who were claiming resale, particularly when the purchaser was not registered in the state to which the product was being delivered. This has become more of an issue due to the *Wayfair* decision and the state's enacting their economic nexus laws which resulted in more sellers being registered in more states and requiring their purchasers to provide them with exemption certificates. Craig explained that prior to *Wayfair*, many of these sellers were able to ship their products to their customers in other states without charging sales or use tax because the seller did not have a physical presence in those states and was not required to collect and remit those states taxes. After *Wayfair*, many of these sellers have a filing requirement and now are required to maintain the exemption documentation for their exempt sales. There is still additional work that will be done by this



workgroup related to the exemption certificate, but that work is not expected to result in any changes to the form itself and we believe it is important to get this revised certificate out to provide some much-needed guidance for both sellers and purchasers.

Christie also indicated that if your state is not listed in the instructions related to the requirement to provide (or not provide) an exemption number, that means we have not received your state's response to the survey that was sent to your SLAC delegate and that you please follow-up with your SLAC delegate to get this information to us as quickly as possible.

Mie Walsh (NE) asked if the current version of the certificate would no longer be valid. Christie explained that the revised certificate and the current version contain the same information so the current versions should be fine. However, if the Governing Board approves the new certificate, the expectation would be that sellers and purchasers would start using the new version.

Tim Jennrich (WA) asked if the workgroup could consider revising the language in the drop shipper section so that it read "registered or required to be registered." Christie indicated the workgroup considered that during the meetings but wanted to make sure the language was consistent with what is provided in the SSUTA.

2022 Planning Meeting

- Topics
- Attendees

President Rest stated the 2022 Planning Meeting will likely take place on Sunday January 16 – Monday January 17. Representatives of the GB, EC, BAC and CSPs will be participating. Various topics will be discussed as we plan for the upcoming year under Tim Jennrich's leadership as the 2022 President. Tim Jennrich stated he is looking forward to the meeting and for continuing Clark Jolley's vision of discussing the future vision of Streamlined and what we may look like 10 or 20 years from now. Craig indicated that topics of discussion for the meeting would include items related to educating sellers about SST, collection requirements, etc., educating state personnel regarding SST requirements, pursuing nonmember states, etc. He also indicated that some of his other ideas include setting up a filing portal for sellers and a possible sales tax look-up application that would work for all member states. Craig asked that anyone that has topics for discussion and consideration for this year's meeting to contact him and send those to him as soon as possible.

Senator Rest reminded folks of the upcoming Executive Committee and Governing Board meetings.

Upcoming Executive Committee meetings

January 14, 2022 – Teleconference (10 am central)



Upcoming Governing Board Meetings

December 21, 2021 – Teleconference (10 am central)

May 23-25, 2022- Tacoma, WA

Old Business

None

New Business

None

Adjournment

President Rest motioned to adjourn at 12:10 PM Central.