

Streamlined Sales Tax Governing Board Meeting Minutes
Drury Plaza at the Arch- St. Louis, MO
(1:00 - 5:00 PM central, Wednesday, October 3, 2018)
(8:30 AM - Noon central, Thursday, October 4, 2018)

Welcome and roll call of member states

President Dan Noble called the meeting to order at 1:04 pm central. The roll of the states was called, 20 full member states and 1 associate member state were participating, and the quorum was established. Absent were the states Kansas, Vermont and West Virginia.

Opening Remarks

President Dan Noble welcomed everyone to Missouri. A round of applause was given for the Supreme Court win, and President Noble commended South Dakota for taking the lead.

Approval of Governing Board Meeting Minutes – MM18002, MM18003, and MM18004

President Noble asked the attendees to review the minutes of the prior meetings and offer up any corrections or additions. No comments were received. Representative Kennedy moved to approve the minutes in MM18002. Voice vote was taken and was unanimous. The motion carried.

Tim Jennrich moved to approve the minutes in MM18003. Voice vote was taken and was unanimous. The motion carried.

Tom Atchley moved to approve the minutes in MM18004. Voice vote was taken and was unanimous. The motion carried.

Implementing Remote Seller Collection Authority in view of the *Wayfair* Decision– Randi Reid

Randi Reid provided a presentation on what is happening, or not happening at the federal level and also provided an update on the status of the mid-term elections. This was followed by a Q&A session. The presentation is located [here](#).

Review of Additional Simplification Measures to Consider – George Isaacson and Steve DelBianco

George Isaacson of Brann & Isaacson and Steve DelBianco of Net Choice made a presentation related to the *Wayfair* decision and implementation efforts by the states. In addition, they provided information related to various concerns they have with how some states are implementing the decision and what Congress may do. They also provide a list of a number of simplifications the states and Streamlined should consider working on going forward to help eliminate the otherwise undue burdens states may be placing on remote sellers. They also took a number of questions from the audience. The presentation is located [here](#).

Status of Individual State Remote Sales Tax Collection Legislation and Litigation Related Issues

President Noble started the conversation by giving an update on Wyoming's collection status. Wyoming has been working with volunteers that have been coming to the state to start collecting since the decision. They are helping the taxpayers with anything they need in order to comply with the law. Steve Kranz encouraged states to provide flexibility when working with taxpayers on start dates and forgiving past failures.

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Secretary Andy Gerlach from South Dakota gave an update regarding the status of the litigation with Wayfair, Overstock and Newegg. The U. S. Supreme Court remanded the case back to the state, which remanded the case back to circuit court. They are hoping for a docket within the next month or two. He noted the circuit court has a lot of leeway. In September, South Dakota had a special legislative session to remove the injunction on all retailers, except the three named defendants. The state is working hard to implement responsibly and has a date of November 1 for compliance. President Noble then asked each state to provide an update as to implementation dates, thresholds, and how the information was provided to the public.

Reports of Committees

Executive Committee – Dan Noble (WY), President

- Federal Legislative Affairs Update

Dan Noble stated it was the determination of the Executive Committee that it would be in the best interest of Streamlined to continue the relationships with our Federal Affairs teams and these amounts are already budgeted for this year. No one had any questions or raised any concerns in this area and several agreed that we need to continue to be diligent and aware of what may or may not be happening at the federal level.

- Status of CSP Contract Renegotiations

Dan Noble stated a number of meetings have been held with the states and CSPs, separately and together to address issues. They will have a meeting tomorrow afternoon to continue discussions. Craig stated he would like to hear from the states that have any ideas or suggestions related to the contract. He also indicated that under the current contract, CSPs are entitled to compensation for remote sellers that may now be required to collect the tax solely because they exceed a state's threshold. He urged people to raise concerns now rather than once the contract is in its final stages for approval. Mike Walsh made the point that he does not think the rates should remain as is and that this needs to be part of the negotiation. Craig stated they will also be addressing other issues such as marketplace sellers, multilevel marketing companies, and what to do when a CSP is not handling all of a seller's transactions, such as when the marketplace handles the transaction.

Finance Committee – Diane Hardt (WI), Chair

- Financial Report - 4th Quarter FYE 6/30/2018 – FC18006
- Annual Final Report for FYE 6/30/2018 – FC18007
- FYE 6/30/19 Proposed Budget Amendment – FC18008A01
- FYE 6/30/20 Proposed Budget – FC18009A01

Diane Hardt stated the financial reports were approved by the Executive Committee and forwarded to the Governing Board for approval. FC18006 and FC18007 show we have assets of just over \$1.3 million, primarily in cash. Deviations from initially budgeted amounts were employee travel and legal services for the amicus brief. The remaining expenses were consistent with or under the budgeted amounts. Craig noted that with respect to FC18007, the results of the independent audit are not yet final, but they don't anticipate any changes overall to these

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documents. There were no questions on the reports. With respect to FC18008A01 and FC18009A01 Diane Hardt noted that the initial budget for each fiscal year is created well ahead of time. The FY2019 budget was approved last October and a few amendments are being recommended to those budgeted amounts based on our 2018 experience. In addition, the FY2020 budget is also revised based on our FY2018 experience. No comments or questions were received related to these documents. Diane motioned to approve all budget documents. A voice vote was taken and was unanimous. Motion carried.

Compliance Review and Interpretations Committee – David Steines (WI), Chair

- Annual State Compliance Reviews Report – CI18003 and CI18004

David Steines stated the goal for the compliance reviews this year was to try to complete the reviews so that a vote on each states' compliance could be taken in person, as opposed to on a teleconference meeting in December as had been the previous practice. Thanks to the states and the work of the SSTGB staff, we were able to accomplish this. Nebraska requested that the comments next to their state be revised to be consistent with how potential future compliance issues were handled in the past. Christie updated the written report (CI18004) to reflect this, but the note was left on CI18004 to make it clear that this issue had been raised but could not be considered as a compliance issue until at least January 1, 2020.

David Steines indicated that 22 of the 23 full member states (all except GA) were being recommended by CRIC to be found not out of compliance and that a single vote covering all of these states be taken unless someone wanted a separate vote on one or more of the states. David motioned to find the 22 member states not out of compliance. No comments were made with respect to the motion and no one requested a separate vote on any of these states. Craig indicated that when the state votes, it is voting for all of the other states and abstaining from the vote on their own state. A voice vote was taken and was unanimous. Motion carried.

David then indicated that CRIC recommended that the one Associate Member State (TN) be found not out of compliance as an Associate Member State. David motioned to find TN not out of compliance as an Associate Member State. The BAC did comment that they would really like TN to consider moving toward full membership in the future. A voice vote was taken and was unanimous. Motion carried.

David indicated that CRIC recommended that the one remaining state (GA), be found not in compliance with respect to four different issues. David indicated that CRIC voted separately on each of the issues and suggested that the same thing be done here. David motioned to find Georgia not in compliance on issue one relating to the administration of exemptions. No comments were made. A voice vote was taken and was unanimous. Motion carried. David motioned to find Georgia not in compliance on issue two relating to the acceptance of the SER. Amy Oneacre (GA) reiterated the fact the SER is inadequate to properly report local sales tax in Georgia in situations that are perfectly allowable under the SSUTA. A voice vote was taken and was not unanimous. A roll call vote was taken and all member states except Nebraska voted to

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find Georgia not in compliance with respect to acceptance of the SER. Motion carried. David motioned to find Georgia not in compliance on issue three relating to a cap on the amount of tax that applies to boat repairs. Amy Oneacre (GA) stated there is a cap on very, very large boat repairs. There are no burdens on interstate sellers, or remote commerce and therefore this is not a Streamlined issue in her opinion. Craig reminded everyone that the SSUTA applies to both in state sellers as well as remote or out-of-state sellers. A voice vote was taken and was not unanimous. A roll call vote was taken and all member states except Nebraska voted to find Georgia not in compliance with respect to the cap on the amount of tax on boat repairs. Motion carried. David motioned to find Georgia not in compliance on issue four relating to a local sales tax on food. A voice vote was taken and was unanimous. Motion carried.

State and Local Advisory Council – Richard Dobson (KY), Chair, Laura Stanley (OH), Vice-Chair

- Report of St. Paul meeting – August 2018
- Implementing Remote Sales Tax Collection Authority
 - Common Questions – SL18012A01
 - DRAFT Chart of States Implementation Information - SL18013

Richard Dobson provided the SLAC update including a report of the meeting in St. Paul in August.

Richard reported that during the emergency governing board meeting there was discussion to amend the SSUTA to change the registration system to allow sellers to pick and choose which full member states they wanted/needed to be registered in. A work group was established and at that time, 22 of the member states were in favor of looking at changing the system to provide additional flexibility. Fred Nicely commented on behalf of the BAC that they like the registration system and there is a lot of support to have options for registration and for use by non-member states. They realize some CSPs have concerns. They would like to get an amendment through which would address the concerns of some CSPs. Mike Walsh asked to vote on the amendment now. Russ Brubaker stated that language is not ready, and all the issues haven't been worked through. Fred Nicely indicated that the BAC didn't talk about a timeframe on when this should be completed, but indicated that it is something that should be done by December of this year. Jerry Johnson stated the organization has been deliberate in making changes, and there are several issues that need to be worked out. Dan Noble added when we started the amendment, the concerns that had been raised caused a workgroup to be formed. The report stated there is additional work to be done. It should be our intention to expedite this for a decision, but also be deliberate. Scott Peterson stated one of the items on the original list of simplifications was a national registration system where changes could be made by sellers. Dan Noble tabled the amendment and asked for Richard to keep working on the issue and develop an amendment that could be considered at the December teleconference meeting.

Richard also discussed the list of common questions that SLAC had been working on and indicated that progress was made working through those questions during the SLAC meeting yesterday. He will meet with a small group to try to identify the priority questions so that states can get them posted to their websites.

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Certification Committee – Tim Bennett (KY), Chair

- Report of St. Paul meeting – August 2018
- Issues being addressed by Certification Committee
 - Possible SER Schema Changes

Tim Bennett provided a report and summary of the meeting in St. Paul. Tim indicated there had been discussion of possible SER schema changes. Jody sent a survey to the states, and few were returned. It is important that these surveys be returned so we know what states are looking for and what the impact may be on them for changes being considered. Tim would like to gauge what kind of changes we can make with the current schema to accommodate states that want to make updates. He reminded states they should not be doing workarounds with registrations and filing of the SERs as we are trying to make sure everyone is handling them the same. The CSPs brought a list of issues which were brought to the states attention. Returns and registration work arounds should be eliminated. He encouraged states to look through the CSPs tax rules that have been submitted over the years. If a state has had a change in law affecting the rules, these should be given to the CSPs. Richard Dobson noted that the proposal Jody discussed would relieve at least part of Georgia's issues, except for vendor compensation.

Audit Committee –Ellen Auger (MN) and Darrell Engen (ND), Co-Chairs

- Report of St. Paul meeting – August 2018
- Necessity and Use of Expanded Test Decks
- Improvements to CSP Audit Process

Ellen Auger provided a report of the St. Paul meeting. Ellen indicated that during the August committee meetings they discussed audits and how a significant increase in the number of sellers and amount of data would affect model 1 seller audits. Audits will not be able to be done as they currently are as there is getting to be way too much data to manage effectively. It would be more effective for states to test the taxability upfront, rather than auditing after the fact. In addition, the current test decks have a limitation since the only product categories that can be tested are those product categories identified on the taxability matrix. During the March audit committee meetings, states were given the expanded test decks for each CSP that would allow the states to test every certified product category for each CSP. These test decks also identified all of the product categories that the CSPs have asked states to certify. The audit committee is working to develop an audit plan that would allow states to verify how each seller mapped the individual products they sell to the CSP's certified product categories. This type of a process would allow states to be confident that sellers and CSPs are getting it right and could reduce and/or eliminate the end for states to expend resources on the backend doing audits. Ellen was also very encouraged with the results of the mapping tests that had been completed and indicated the audit committee will continue to work toward the goal of reducing and/or eliminating the need for states to audit sellers using a CSP.

Business Advisory Council (BAC) Report – Fred Nicely (COST/BAC)

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Fred Nicely stated the BAC meeting was well attended with over 40 present, and 20 out of 25 BAC board members. Two board members are leaving - Dale Busacker will be replaced by Paul Bogdanski of Grant Thornton, and Sue Haffield will be replaced by Kathy Negggers of PWC. Fred encouraged states to refer businesses to the BAC as they want to increase membership. The BAC plans to initiate a drive for non-member states to join Streamlined. They would like to work with the Governing Board in these efforts as needed.

CSP Report and Issues to Discuss With Governing Board

David Campbell stated they are very excited post Wayfair. Tax Cloud brought on a new VP of Marketing and are planning step by step registration process videos. Chad Paulson of Avalara stated he is excited for changes in the registration system and hopes they happen soon. No specific concerns were raised by the CSPs at this time.

Executive Director Updates and Reminders – Craig Johnson

Craig Johnson reported on the numbers and trends of new registrations between past years, and since the Wayfair decision. October of 2017 had 3687 registrations, and as of today there are 4242 registrations. 340 of these have been since July 1, and 50 since October 1. He discussed outreach efforts to non-member states.

Proposed Amendments to SSUTA for Discussion and Possible Action

- Allow Sellers to Select Which States to Register for Through the SSTRS – AM18008

Dan Noble tabled this amendment on 10/4/18 to allow the workgroup to sort through the current questions and issues that were raised and asked that the workgroup bring back an amendment to the December meeting for the Governing Board to consider.

Election of Officers and Directors for 2019 – NC18001

Dwight Cook motioned to approve the slate of candidates. A voice vote was taken and was unanimous. Motion carried.

Election of Nominating Committee for 2019 – NC18002

Dwight Cook motioned to approve the slate of candidates. A voice vote was taken and was unanimous. Motion carried.

Old Business

None

New Business

None

Adjournment

Richard Dobson motioned to adjourn the meeting.