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May 26, 2005

Senator Angela Z. Monson
2300 North Lincoln Boulevard, Room 428
Oklahoma City, Oklahoma 73105

Commissioner Bruce Johnson
Utah Tax Commission
210 North 1950 West
Salt Lake City, Utah 84134

RE: West Virginia’s Petition for Membership in the Streamlined Sales and Use Tax Agreement

Dear Senator Monson and Commissioner Johnson,

The State of West Virginia has petitioned for membership in the Streamlined Sales and Use Tax Agreement, and accordingly has submitted to you, as Co-Chairs of the Streamlined Sales Tax Implementing States, the following:

1. Petition for Membership;
2. Compliance Checklist;
3. Certificate of Compliance, and;
4. Taxability Matrix.

The Petitioning States are responsible to determine whether West Virginia is in compliance with the Agreement sufficient to meet the requirement of § 805. The Draft Rules and Procedures for the Governing Board provide the opportunity for public comment related to a state’s petition for membership and certificate of compliance. *See* Draft Rule 702(E). That draft rule states that public comment as to West Virginia’s petition for membership and certificate of compliance shall be filed with the Co-Chairs of the Streamlined Sales Tax Implementing States and with West Virginia’s authorized representative. The West Virginia Department of Revenue has designated Virgil Helton as its “authorized representative” for receiving written notices on matters governed by the Agreement. *See* Draft Rule 806.2(D).

Upon review of the documents submitted by West Virginia and as a result of its analysis of these documents, the group of business that have organized as the informal Business Advisory Council have reached several conclusions concerning West Virginia’s compliance as detailed below.

General Concerns

The BAC expressed a general concern regarding the effort of many of the states to promulgate regulations where the state intends to achieve compliance with the Agreement through regulatory authority. In numerous states, many regulations have not yet been promulgated and preexisting regulations have not been repealed. In addition, a concern exists that states may promulgate regulations without having the proper underlying statutory authority to do so. Each state should ensure that its regulations are properly legislatively authorized.

Pursuant to §§ 303 and 401, each state is required to participate in the Agreement's registration system. This system must be operational by October 1, 2005 for the states to be in compliance with the Agreement.

Not all states have developed taxability matrixes, required by § 328 of the Agreement. In addition, there is a lack of consistency in the approach to completing these matrixes when they are compared state-to-state. Sales price, delivery charge, direct mail, medical definitions, and installation charges are areas where the lack of consistency is most noticeable. Does "NA" mean that an item is exempt or that the defined term is not necessary because the state taxes everything?

Specific Concerns

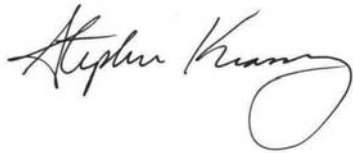
The BAC requests that West Virginia verify its "clothing" and "school supplies" administrative definitions, especially with regard to their use in the state's annual sales tax holiday. *See* § 322.

Second, the BAC would like confirmation that W. Va. Code § 11-15B-36(a) provides retailer and CSP relief from liability for using erroneous data pursuant § 328 of the Agreement.

The above issues only reflect the BAC's primary concerns and cannot be construed to signal a totality of the concerns of the business community or a specific industry.

Should you have questions concerning the BAC's position with respect to West Virginia's compliance with the Agreement or need additional information thereon, please contact me at the number above.

Regards,



Stephen P.B. Kranz
Tax Counsel

cc: Virgil Helton, West Virginia Department of Revenue
via Dale Steager, General Counsel
dsteager@tax.state.wv.us