Gregory S. Matson

From: Loretta King
Sent: Wednesday, May 18, 2011 3:17 PM
To: Gregory S. Matson
Subject: FW: Proposed Model Sales and Use Tax Notice and Reporting Statute

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From: Jennrich, Timothy (DOR) [mailto:TimJe@DOR.WA.GOV]
Sent: Thursday, May 12, 2011 5:20 PM
To: Loretta King
Cc: Gil Brewer; Chris Coffman; Potegal, Greg; Russ Brubaker
Subject: Proposed Model Sales and Use Tax Notice and Reporting Statute

Dear Ms. King:

The State of Washington thanks the Multistate Tax Commission (MTC) for its efforts in this area and for giving us the opportunity to provide comments related to the "Proposed Model Sales and Use Tax Notice and Reporting Statute." Washington state relies heavily on sales and use taxes to fund state services and we are acutely aware of the problems posed by the issue of remote seller collection authority, which this model proposal is designed, in part, to address. With this background in mind we have the following comments:

- **Incomplete solution:** The proposed model act does much to help notify consumers of their tax obligations and may result in some increased tax collections from voluntary compliance and targeted enforcement. However, the solution is incomplete and does not address the substantial costs and barriers that will continue to exist with respect to collecting sales and use taxes from consumers directly. Therefore, we think it is important that the states recognize the limited utility of this approach and strongly support or continue to support a comprehensive solution that would give states remote seller collection authority over sellers through federal action, including federal legislation.

- **Taxpayer convenience and compliance:** A purpose of the MTC Tax Compact is to promote uniformity in significant components of tax systems and to facilitate taxpayer convenience and compliance in administration. This proposal focuses on the sellers of goods, but does not offer solutions for the ultimate taxpayer relating to administration. Admittedly, some states provide a method for use tax compliance that may compliment the proposed model act, but for taxpayers in states like Washington that does not have an income tax return for use tax reporting the options are less clear. If this proposal moves forward, this issue should be addressed.

- **Sourcing of sales and digital products:** A purpose of the MTC Tax Compact is to promote compatibility in significant components of tax systems. This proposal requires notice for sales or leases subject to tax in a state. However, the proposal does not adopt or recommend any consistent method of sourcing. Therefore, it is possible that two states adopting this proposed model act may subject a single transaction to the seller notice requirements and related penalties. This is especially likely in the area of digital products. This situation creates great potential that sellers will have to send notices to multiple states for the same taxpayer or face penalties. It is unclear how this result would promote compatibility in significant components of tax systems. If this proposal moves forward, this issue should be addressed.

- **Issue development:** This approach has been the subject of recent litigation and it is unclear what the ultimate outcome will be if further litigated. However, the MTC membership should consider whether it makes sense to adopt a model approach now before the idea has had time to be more fully developed through experimentation in the laboratory of the many states.

Thank you again for allowing Washington this opportunity to these provide comments.

Very truly yours,

/s/

Tim Jennrich

WA Department of Revenue