MULTISTATE TAX COMMISSION

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MINUTES

Sales & Use Tax Uniformity Subcommittee Teleconference

Monday, June 21, 2010
3:30 Eastern Time

I. Welcome and Introductions

Richard Cram, Chair, called the meeting to order and welcomed the participants.

Richard Cram	Kansas DOR	Michael Fatale	Massachusetts DOR
Diann Smith	Sutherland	Ken Beier Roxanne Bland Sheldon Laskin Shirley Sicilian	MTC
Ron Barnes	DMA	Associates	PWC
Nancy Prosser	Texas DOR	Tom Atchley	Arkansas DOR
Phil Horwitz	Colorado DOR	Wood Miller	Missouri DOR
Rebecca Abbo	New Mexico	Associates	North Dakota DOR
Rob Cortez	Kentucky DOR	Todd Lard and Associates	COST
Jenifer Hays	KY Legislature		

II. Public Comment Period

None at this time.

III. Sales and Use Tax Notice and Reporting Statute

Shirley Sicilian, MTC General Counsel, gave a brief summary of the project, summarized the policy checklist and indicated where the Subcommittee had left off during the last teleconference. She explained that the Policy checklist provided as materials for this teleconference reflected the direction given by the Subcommittee at the last two teleconferences. Beyond the point where the Subcommittee has answered questions, the policy checklist shows, in brackets, what the Colorado statute and rule would require. The Chair suggested that it may be possible to finish reviewing the checklist during today's meeting, so that a first draft of a model could be prepared for the July in-person meetings. He suggested that the draft be prepared using the Colorado approach as an answer to any questions that the subcommittee was unable to complete today. There was agreement expressed.

Checklist Item 2.A. iv) Should notice be required when the consumer's shipping address, billing address, either, or both are in-state? Phil Horowitz reported that CO has just adopted its permanent regulations implementing its notice statute. Both Items 2.A. iii and iv have been "tweaked" in the regs. As to iii, the regs provide that, unless the retailer is sure that the consumer owes no CO tax, the notice must provided prior to, at the time of, and after completion of the sale. If it is clear that the consumer owes no CO tax , the notice is only required once, and the retailer may choose whether notice will be provided prior to, at the time of, or after the sale is complete. The Subcommittee determined notice should be required when either the billing or shipping address in-state, and that notice should be provided at the time of transaction. Notice should not be required as to the amount of tax, but may not imply tax is $0.

Checklist Item 2B. ii) What information should be included in the report? Colorado is only requiring the retailer to report the total amount of the purchase for each date of purchase and to state that the consumer may be obligated to pay CO tax on the purchases. The other items listed under this item are now optional at the retailer's discretion. The Subcommittee determined date of purchase, purchase price and type of item purchased (e.g. "books," but not titles of the books) should be provided. Purchasers must be notified that they may have a filing requirement; where they can get more information on how to make that determination and how to file if they need to. Purchasers must also be notified that seller is required to report customer name, contact info and amount of purchases (and nothing else) to the department

Checklist Item 3. Penalties for Failure to Report. After discussion, the subcommittee concurred that there should be penalties and referenced the Colorado model.

Checklist Item 4. Adminstration. Phil Horowitz reported that in CO, the report is not contained in the Sales and Use Tax Act. Instead, it is contained in the general administration provisions of the CO Tax Law. The Subcommittee agreed that the MTC model should be intended as a stand alone model.

Following discussion, the subcommittee directed the work group to prepare a draft model statute using the Answers provided and the CO statute, as reflected in the checklist, as a model.

IV. New Business

No new business at this time.

V. Adjourn