

LOUISIANA SALES AND USE TAX COMMISSION FOR REMOTE SELLERS

Minutes of August 9, 2018 Meeting

- I. **Call to Order/Roll Call** - The meeting of the Louisiana Sales and Use Tax Commission for Remote Sellers (Commission) was called to order at 2:34 PM by Secretary Robinson of the Louisiana Department of Revenue. A quorum was established with all members being in attendance. Members present were:
 1. Kimberly Robinson (LDR)
 2. Darlene Allen (LDR)
 3. Vanessa LaFleur (LDR)
 4. Kelli Jumper (LDR)
 5. Tiffani Delapasse (ULSTB)
 6. Donna Andries (ULSTB)
 7. Amber Hymel (ULSTB)
 8. Gregory Ruppert (ULSTB)

- II. **Approval of Meeting Minutes from July 11, 2018**
 - A motion was made to approve the meeting minutes from the meeting of July 11, 2018 by Ms. Andries and seconded by Ms. LaFleur. All members agreed and the minutes were approved.

- III. **What is Available through Streamlined Sales Tax Governing Board?**
 - Ms. Robinson visited with the Craig Johnson the Executive Director of the Streamlined Sales Tax Governing Board (SSTGB) and the State also received a letter from the Chairman of the SSTGB inviting Louisiana to join and become a Streamlined Sales and Use Tax Agreement (SSUTA) Member State. A copy of the State Guide to the Streamlined Sales Tax Project was provided to Commission Members explaining the requirements of becoming a member state and the overall project. The Commission Members discussed the fact that membership would require constitutional and legislative changes. Based on the discussion, the Commission will continue to move forward with considering ways to utilize the software and registration process to reach the desired goal of uniformity. Ms. Delapasse mentioned that the Uniform Local Sales Tax Board (ULSTB) is also looking into software that will meet the requirements to reduce the burden of remote seller/vendor collection.

- IV. **Certified Software Providers**
 - A handout was provided to members of the current Certified Software Providers (CSP) approved and utilized by the SSTGB. There are currently seven (7) CSPs.

- The CSP contract was also provided to Commission Members for review. Ms. Andries inquired if any of the CSPs are currently working in Louisiana and have knowledge of the tax rate information. Ms. Robinson responded that Avalara does provide services in the state. All technology requirements are listed in the current contract. When the States are creating the software they would be required to at least provide the information for the area including the rate and zip code plus four.
- Discussion on establishing a technology subcommittee to meet with and vet the service providers prior to presenting to the Commission as a whole. Ms. Allen expressed an interest in having LDR staff participate in the vetting of the software providers as well. Members for the technology subcommittee were selected and will be Ms. Delapasse, Ms. Jumper and Mr. Ruppert. The SSTGB will soon be considering allowing non-member states to utilize the registration process and the certified software providers. The goal is simplicity for the taxpayer to be able to use one site to file returns. Secretary Robinson will follow-up with Mr. Johnson on whether use of both SSUTA registration process and CSPs are required.

V. LDR Report on Multistate Tax Commission Uniformity Discussion

- Luke Morris of the LDR provided an update from the Multistate Tax Commission (MTC) 2018 Annual Meeting held in July 2018, and shared a copy of the Resolution Committee Report.
- The MTC Executive Committee adopted and issued Resolution 2018-01 urging restraint by Congress as states and other stakeholders work through the implications of *South Dakota v. Wayfair, Inc.*
- Other states such as Texas, Colorado, and Alabama have similar features as Louisiana (i.e. non-Streamlined member states, imposition of local sales tax by respective local entities, and separate state and local tax bases and rates). Each state is working in conjunction with the MTC in response to the *Wayfair* decision.
- The MTC Uniformity Committee discussed additional topics of interest including states imposing collection requirements on marketplace facilitators operating a marketplace. Several other states have statutory or regulatory requirements in place on collection by the marketplace facilitator.
- At the direction of the MTC Executive Committee, the Uniformity Committee formed the Marketplace Facilitator Work Group which will prepare model legislation in the upcoming months for consideration by the states.

VI. Commission Action Items

- **January 1, 2019 Implementation Date and Guidance on Retroactive Treatment of Wayfair Decision:** A draft Information Bulletin was presented to the members that gives background of the *Wayfair* decision and legislation enacted in the 2018 Legislative Session on remote sellers. It also addressed

the State as the single collector and that the State will not seek to enforce collection of any taxable period prior to the date of January 1, 2019. Remote Sellers who currently use the Direct Marketer Return should continue to do so until further guidance is issued. Reporting requirements of Act 569 (2016 Regular Legislative Session) are still in effect. If they do not meet the economic nexus thresholds of Act 5 and do not voluntarily register with the Commission after January 1, 2019, they will remain subject to the notification requirements. The Commission will issue further guidance as appropriate. Ms. Delapasse expressed concern about the date if the Commission is not ready to implement filing. Ms. Robinson added that Remote Sellers are free to continue registering using R.S. 47:302(K) and the Direct Marketer Return. Ms. Allen made a motion to accept the modified draft for distribution adding the language that remote sellers should continue filing via the Direct Marketer Return. Ms. Andries seconded and all agreed.

- **Issuing official guidance on treatment of Marketplaces:**
 - a. Should the Commission wait and recommend legislation; or
 - b. Wait for the decision on the Jefferson Parish appeal in the Walmart.com case? Date for a hearing of the appeal is being considered for late October. A motion was made by Ms. Andries to delay guidance until a decision on the Jefferson Parish appeal is made. Ms. Allen seconded and all agreed.

VII. Other Business

- Ms. Andries let the Commission know that the LATA sent out an email to all members asking that they not pursue retroactive collection. Ms. Robinson asked if the ULSTB would like to add that language to the Information Bulletin that will be issued. Ms. Andries agreed to add the language to the bulletin. A motion was made to amend the amended draft of the bulletin to add the LATA information.
- September meeting date conflicts with the LATA Quarterly Meeting. The ULSTB is considering moving their meeting date to either September 25th, 26th or 27th. Ms. Thomas will confirm the date of the meeting with members.

VIII. Public Comment

- No public comment.

IX. Adjournment

- Meeting was adjourned at approximately 3:43 PM.