

LOUISIANA SALES AND USE TAX COMMISSION FOR REMOTE SELLERS

Minutes of November 8, 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 2:20 PM by Secretary Robinson of the Louisiana Department of Revenue. A quorum was established with seven of the eight members being in attendance. Tiffiani Delapasse (ULSTB) was absent. Members present were:
 1. Kimberly Robinson (LDR)
 2. Vanessa LaFleur (LDR)
 3. Kelli Jumper (LDR)
 4. Darlene Allen (LDR)
 5. Donna Andries (ULSTB)
 6. Amber Hymel (ULSTB)
 7. Jeanine Theriot (ULSTB)

- II. **Approval of Meeting Minutes from October 24, 2018**
 - A motion was made to approve the meeting minutes from the meeting of October 24, 2018 by Ms. Andries and seconded by Ms. Allen. They were unanimously approved without corrections.

- III. **Council On State Taxation (COST) Presentation**
 - Mr. Patrick Reynolds, Senior Tax Council with COST, appeared before the Commission to provide an overview on COST's perspective and position on the simplification and uniformity in sales and use taxes. COST's mission is to preserve and promote the equitable and non-discriminatory taxation of their 550 or so member businesses which consist of the largest multi-jurisdictional taxpayers in the U.S.
 - COST encouraged the Commission to consider making as many simplification and uniformity changes as possible. He also explained that COST is focused on and believes states should adhere to three key points highlighted by the Supreme Court in the Wayfair decision: the *de minimis* threshold, no retroactivity, and streamlined sales tax member status. The more states vary from these key points, the greater the likelihood for litigation.
 - Ms. Theriot asked COST's position on how the *de minimis* threshold should be applied as far as when the collection threshold is met. Mr. Reynolds answered that COST's position is that a grace period should be allowed. A suggestion of thirty (30) days was offered.
 - Mr. Reynolds was asked to explain COST's Scorecard. He explained that sales tax rates nor the sales tax base are determining factors in the scores states are

given. Ms. Robinson asked where Louisiana falls on COST's scorecard. Mr. Reynolds stated that Louisiana's score is an "F".

IV. Definition of Remote Seller

- An updated draft of the information bulletin was provided to Commission members based on the discussions had at the October 24, 2018 meeting.
- Ms. Theriot asked about a definition of marketplace facilitator. Ms. Robinson responded that it was the decision of the Commission, at a previous meeting, to not define facilitator until there is a decision from the court of appeals in the Walmart case currently pending in Jefferson Parish. She added that the MTC Workgroup is also working on uniform definitions related to marketplace facilitators that could likely provide input for the Commission's definition.
- Ms. Andries asked for clarification on when a seller will be required to start collecting and remitting sales tax once the economic nexus threshold is met. After discussion the consensus of the Commission is that from the date the economic nexus threshold is met, the seller will have ninety (90) days to register as a remote seller and begin collecting sales tax on taxable sales made in Louisiana.
- Physical presence and affiliate nexus were discussed. Ms. Robinson clarified that after the *Wayfair* decision, physical presence is no longer required for collection and remittance of sales tax. A state or local collector no longer has to look to affiliate nexus in order to require a dot com retailer to collect and remit sales tax. The question for the Commission is whether it will allow dot com retailers that were previously registered with both state and local collectors because of affiliate nexus to now register with the Commission.

V. Draft Return for Remote Seller Commission

- LDR presented Commission members with a draft return for remote sellers. Ms. Andries stated that earlier in the day at the Uniform Local Sales Tax Board (ULSTB) meeting they discussed a single return and converting the columns to rows only reporting the net sales without deductions for simplification. The parishes would only need the information for net taxable sales and total tax, including any penalty and interest due. All other lines can be deleted. Optional exemption information would already be built into the software. Page two of the return will be filled in first and will populate information to page one.
- Ms. Robinson explained the goal is for the return to be filed electronically. Due to the Commission being housed under the Department of Revenue, the plan for now is to have the electronic filing of the return be accessed through the LaTAP application.
- The local members will take a look at their returns to see if they would like to have anything else captured and report back to the Commission at the next meeting.

VI. Action Item: Adoption of Remote Seller Information Bulletin 18-002

- The information bulletin will be updated with the timelines for collection and filing. Adoption of the information bulletin is deferred until the definition of remote seller is agreed upon by the Commission.

VII. Other Business

- **Commission Action Items**
 - Discussion: Remote Seller Definition
 - Discussion and Adoption: Remote Seller Information Bulletin 18-002
 - Discussion and Adoption: Remote Seller Commission Return

VIII. Public Comment

- No public comment

IX. Adjournment

- Meeting was adjourned at approximately 4:33 PM.