DELBERT HOSEMANN
Secretary of State

2012 Internet Sales Tax Parity Subgroup
Minutes of the Internet Sales Tax Parity Subgroup
Meeting #1
August 20, 2012

This meeting of the Internet Sales Tax Parity Study Group (hereinafter the "Study Group" or the "Committee") was called to order on Monday, August 20, 2012 at 11:02 A.M. A list of the persons participating in the telephone conference is attached as Exhibit A.

Welcome and Introduction

Mark Hosemann introduced himself to the group and presented the issues of discussion which included an overview of current tax law, the current trends in collecting internet sales tax, and pending federal legislation. All members in attendance introduced themselves.

Mr. Hosemann provided a brief background on taxes. Forty-five (45) states and the District of Columbia collect sales taxes. The seller must bear the burden of collecting the tax. To place that burden on the seller, there must be a nexus – some level of minimum connection or contact – with the state.

Use taxes are taxes on the use, storage or consumption occurring within the state, regardless of where the purchase took place. A constant problem with use taxes is enforcement and collection of the tax. It is the duty of the purchaser to report and pay use taxes, causing particular problems with internet sales. Other states have attempted to remedy this problem by adding a use tax line to their tax returns, offering a table with estimates of use tax based on adjusted gross income, and others have expanded the concept of nexus to increase the ability to collect sales tax.

Mississippi has a seven percent (7%) sales and use tax, with some exceptions and a variety of rates. Sellers register with Mississippi Department of Revenue, file monthly returns, and remit sales tax. One advantage Mississippi has, when considering internet sales tax collection, is that Mississippi does not have different local taxes.

Mr. Hosemann then reviewed the three federal proposals for collection of internet sales tax. These federal bills are the Marketplace Equity Act and Marketplace Fairness Act, and the Main Street Fairness Act. Generally, under any of these acts, states either adopt the Streamline Sales and Use Tax Agreement or adopt certain simplified requirements to sales tax laws. The state can then require out-of-state retailers to collect and remit sales tax to state. These acts are viewed as a way to reduce the burden on multistate retailers and put all retailers on an even playing field.

Other requirements of the acts including giving notice to retailers of rate changes, designating a single organization to handle sales tax issues, providing software to help companies collect correct taxes, and addressing destination sourcing. Small business exceptions are listed in each act, but each act differs on when the exception applies.

Under the proposed federal laws, states may adopt the Streamlined Sales and Use Tax Agreement or make adjustments to the state tax code to bring the state's law into compliance. Currently twenty-four (24) states and the District of Columbia have adopted the Streamlined Agreement. Six service providers currently aid in tax collection under the agreement. Sellers who participate are required to register and collect taxes for the member state. Sellers also receive amnesty for any taxes they failed to collect in the past.

Meg Bartlett of the Mississippi Department of Revenue spoke regarding some issues Mississippi could face by adopting the requirements. The primary issue is sourcing. Mississippi does not have destination rates, but does have city diversion. With city diversion, the location where the sale is made gets a portion of the tax collected. If destination sourcing is used, it could cause companies delivering items to other cities to be required to file separate returns in each city. This could also result in some cities losing tax revenue and others gaining.

Mark Hosemann stated that the Streamlined Agreement system is currently operating with a number of companies already participating. Internet sales tax collection is inevitable because it involves too much money and an uneven playing field. The group needs to operate under the assumption that we need to be prepared to implement federal requirements to implement and collect these taxes. To do so, the group will need an in depth knowledge of the Streamlined Use and Sales Tax Agreement and any required revisions to state law. The group should also consider other options to collect the sales tax, including expanding the definition of nexus, making revisions to individual tax returns, and more stringent collections and enforcement of the use tax. It should also be kept in mind that this is not a new tax, but is something that should be paid and currently is not being paid by the consumer.

Group Discussion

Alan McBroom discussed the total amount of taxes being lost by not collecting internet sales tax. Based on 2011 numbers, Mississippi could have collected over four million dollars ($4,000,000.00) in taxes from internet sales. Amazon is currently working with states like California and Texas to begin collecting sales taxes, and the company is also bringing large numbers of jobs to those states.

Mr. McBroom next asked what local companies would have to do to comply with the new law. Ms. Bartlett explained that companies would have to report tax for the location where goods or services are delivered, not just where the store is located as under current tax law. This could result in monthly breakdowns for multiple locations; requiring companies to report a dollar figure for each location where they made a delivery. Johnny Maloney stated that their computer system could easily track that information, but it could be a problem for small companies.

Mr. McBroom added that he would choose the Marketplace Fairness Act over market equity. Drew Snyder, Assistant Secretary of State for Policy and Research, added that the fairness act has a bit more momentum, but it is hard to say which, if either, will become law.

Mark Hosemann asked if Mississippi can continue sourcing the way it is for instate sellers, and do destination sourcing for out of state sellers. Meg Bartlett stated she believes the act allows for such action.

To be prepared, Mr. Hosemann suggested the group be ready to move forward in the event federal legislation will allow Mississippi to collect taxes from out-of-state retailers. He also suggested further dividing the group to:

- Familiarize ourselves with the Streamlined Use and Sales Tax Agreement and compare joining the agreement with making changes to Mississippi's tax code, and
- Analyze state tax laws to see if we need to completely amend and redraft the sales tax section.

Meg Bartlett stated there are about 1600 tax payers who currently pay these taxes, but the state is unable to collect more without additional resources. She also added that it is a difficult issue politically to collect the tax.

Drew Snyder suggested that the Governor's office is currently unsure as to the possible federal legislation, but not necessarily opposed to any pending bill. Mark Hosemann suggested the group should consider all possibilities, whether the options are popular or not.

John McKay of the Mississippi Manufacturer's Association suggested that the extra tax revenue should not go to the general fund, but should be used to eliminate inventory and franchise taxes that are imposed in Mississippi but not in other states.

Mark Hosemann closed the meeting by evaluating what needs to be done:

1. Gain a complete understanding of Streamlined Agreement and what implementation will take
2. Review alternative methods, such as the click through nexus concept and other approaches to expand nexus without completely revamping entire sales and use tax process

Mr. Hosemann asked the group to educate themselves on the materials provided and to do any outside research they can. He added that the group will contact Scott Peterson, head of the Streamlined Tax organization, to see if anyone can speak to subgroup about the agreement and what other states have done. Policy and Research will also look into what other states have attempted when expanding nexus.

Closing

Mark Hosemann thanked everyone for their participation in the subgroup. The group agreed the next meeting should take place sometime following Labor Day. Once a date is set, it will be circulated to the group.

EXHIBIT A
Internet Sales Tax Parity Subgroup, Meeting #1
August 20, 2012

Participants

Members:

1. Meg Bartlett
2. Mark Hosemann
3. Johnny Maloney (for Eddie Maloney)
4. Allen McBroom
5. John McKay
6. Stewart Rutledge
7. Staci Tyler

Secretary of State's Office:

1. Drew Snyder
2. Justin Fitch
3. Preston Goff