

LOUISIANA SALES AND USE TAX COMMISSION FOR REMOTE SELLERS

Minutes of July 11, 2018 Meeting

- I. **Call to Order/Roll Call** - The meeting of the Louisiana Sales and Use Tax Commission (Commission) was called to order at 2:07 PM by Secretary, Kimberly Robinson of the Louisiana Department of Revenue. A quorum was established with one member being absent, Kelli Jumper (LDR). Members present were:
 1. Kimberly Robinson (LDR)
 2. Darlene Allen (LDR)
 3. Vanessa LaFleur (LDR)
 4. Donna Andries (ULSTB)
 5. Tiffani Delapasse (ULSTB)
 6. Amber Hymel (ULSTB)
 7. Gregory Ruppert (ULSTB)

- II. **Approval of Meeting Minutes from June 29, 2018**
 - A motion was made to approve the meeting minutes from the meeting of June 29, 2018 by Donna Andries and seconded by Tiffani Delapasse. All members agreed and the minutes were adopted.

- III. **Implication of South Dakota v. Wayfair in Louisiana**
 - Ms. Robinson shared a document from National Council of State Legislators (NCSL) on the Principles of Implementation after *South Dakota v. Wayfair*. The document provides guidance for policymakers to consider as they look to establish new laws and regulations for collection of sales tax from remote sellers. The Commission agreed to consider the NCSL principles in charting its path forward.
 - Ms. Robinson explained that LDR is currently reviewing all statutes related to remote sellers to decide if any changes will be needed. Further discussion on the Commission's effective date being the date of the *Wayfair* decision. Mr. Ruppert suggested the Commission exercise caution when issuing guidance on retroactivity. Ms. Andries suggested the Commission issue guidance on a prospective basis. Commission is still considering the effective date for collection to be January 1, 2019. The Uniform Local Sales Tax Board (ULSTB) could issue guidance relative to retroactivity for local collectors; Mr. Ruppert indicated this will be discussed at their next meeting.
 - Discussion on the Commission's role as the single collector for remote sellers. Local governments still have their authority as well the state and the Commission doesn't have the authority to bind the local governments or the state on how to collect taxes. The Commission needs to gather feedback

from the local governments. Ms. Andries will poll the locals through Louisiana Association of Tax Administrators (LATA).

- Discussion on taxability and exemption tables being expanded to include local government rates. Further discussion on developing software that ties rates to the domicile codes that the Office of Motor Vehicles is currently using for vehicle sales tax.
- The existing Certified Software Providers utilized by Streamlined Sales and Use Tax Agreement (SSUTA) states were discussed and will be looked at more at the upcoming meetings. The Commission does not have a budget just yet but will continue discussions on vendors and hopefully start having presentations from vendors at future meetings.

IV. Other States Response/Approach to Wayfair Decision

- Two handouts were provided to members to review on the SSUTA States Reaction and Non-SSUTA States Reaction to the *Wayfair* decision and any guidance they have issued on compliance since the decision.

V. Basic Requirements of Streamlined Sales and Use Tax Agreement

- General discussion in other items

VI. Basic Requirements of Marketplace Fairness Act for Non-SSUTA States

- Handout was given to members with a summary of the basic requirements contained in the Marketplace Fairness Act for non-SSUTA States.
- Status of Marketplace Fairness Act; introduced and referred to Senate Finance with no further action taken.
- An anti-*Wayfair* bill was introduced in Congress last week and a copy was provided to members. Members were tasked with reading the bill to discuss further at the next meeting of the Commission.

VII. Treatment of Marketplaces

- Discussion on whether the Commission will issue guidance to marketplaces on a requirement for the marketplace to collect sales tax on behalf of all businesses or sellers on the marketplace. Alabama is requiring marketplace facilitators to collect for individual sellers.
- Questions the Commission has to consider include whether the individual seller would still need to register if the marketplace is collecting, whether the individual seller would need to meet the sales threshold or only the marketplace, and the treatment marketplaces that facilitate the transaction versus those where the sellers handle the transactions independently. Commission also has to consider whether legislation is needed and give consideration to the 24th JDC decision in the Walmart case finding the definition of “dealer” covers a marketplace facilitator.

VIII. Other Business - Tasks

- Ms. Delapasse proposed the Commission adopt a staged approval process that items introduced in one meeting not be voted on until the next meeting. Mr. Ruppert made a motion to have a staged approval process with regard to any proposal requiring a vote of the Commission other than an administrative matter, i.e. approval of meeting minutes or an agenda, would require introduction and then lie over until a subsequent meeting of the Commission for a vote. Ms. Andries seconded the motion and then amended the motion to allow for a suspension of the rule to allow for a vote on urgent matters by unanimous vote of the members present at the meeting when the proposal is introduced. Mr. Ruppert seconded the amended motion. A vote was taken, all members present agreed to the amended motion and the motion was passed.
- At the next meeting votes will be taken on the following proposals:
 - Issuing official guidance on the treatment of marketplaces
 - Official go live date of January 1, 2019
 - Guidance on the Implications of Wayfair - retroactivity
- LDR will follow up with the SSUTA Board to find out what's available and provide a presentation on such.
- The Commission will have a website in the future but currently all meeting materials have been put on a page on LDR's website under "Remote Sellers Commission." Any guidance issued will be posted here for the time being until the Commission's website is created. Will also put a link on the homepage of LDR's website.
- LDR is drafting guidance and once ready it will be forwarded to the members for review.
- The Multistate Tax Commission has a project on remote sellers and uniformity for the states. LDR participated in the initial conference call and will also attend the annual conference in a couple of weeks and report back.
- Next meeting is scheduled for August 9, 2018 at 2:30 PM at LDR.
- Special meeting could be called before August 9th. Will poll members if information is received and needs to be discussed prior to the next meeting.

IX. Public Comment

- No public comment

X. Adjournment

- Meeting was adjourned at approximately 3:14 PM.