

Business Advisory Council Vendor's Compensation Resolution – 9/21/2010

Whereas, Governing Board President Johnson has, with great effort, put forth a plan for a compromise to deal with the question of vendor's compensation for the purpose of the Federal Main Street Fairness Act (the "MSFA") and that plan has been approved in a first vote by the Governing Board;

And, whereas the current governing board proposal is designed to only require compensation, using a tiered and capped approach, that is on a statewide average no more than 0.5% for states with a single jurisdictional reporting requirement and 0.75% of the tax collected for all other states that will also provide for an unknown small seller exception (previously defined to be a seller with less than \$100,000 in annual sales);

And, whereas the Joint Cost of Collection Study sets out an objective measure of the costs of collection and finds the weighted average of those costs for all sellers to be 3.09% of the sales tax collected, with 13.47% for sellers with sales under \$1,000,000, 5.20% for sellers with sales from \$1,000,000 to \$10,000,000, and 2.17% for sellers with sales over \$10,000,000;

And, whereas the current Governing board proposal is inadequate, extraordinarily complex, contains an unknown small seller exception and could further dilute support for the MSFA, especially by small businesses;

And, whereas sellers realize that the minimum compensation required under the MSFA may not equate to full compensation but believe that the minimum standard for compensation should reimburse the retailer for at least those costs that the state would incur if it had to bear the costs of collection for the transactions that generate the tax, including, but not limited to, direct and indirect costs of credit and bad debt, exemption administration and a reasonable error rate;

Now, therefore be it resolved:

That the MSFA should be amended to require that, as a condition of receiving collection authority, a Member State must provide each seller with minimum vendor compensation as follows: (A) for states with local taxing jurisdictions, a base rate of 1% of the tax collected by each seller; (B) for states without local taxing jurisdictions, a base rate of 0.8% of the tax collected by each seller; (C) for states with additional complexities, including but not limited to a second rate on food and drugs and caps or thresholds on clothing, an addition to the base rate to compensate sellers of 0.1% for each of these additional complexities; and (D) no state shall be permitted to cap the minimum vendor compensation provided in the MSFA;

That new remote sellers with tax remittance obligations in a state with less than \$6,250 in tax collections on a monthly basis should be provided with additional compensation for a period of six months from the first month the seller is required to collect and remit a state's tax to offset the initial implementation costs for collecting sales tax in states where they do not have a physical presence which, at a minimum, shall be at least 5% based on a \$500,000 remote sales small seller exception (which should exclude wholesale transactions);

That unless additional compensation is provided to small sellers in proportion to the costs set out in the Joint Cost of Collection Study, the small seller exception should be set at \$500,000 in remote sales annually, excluding wholesale transactions;

Be it further resolved, that the MSFA should be amended to provide that the minimum vendor compensation may be amended from time to time to reflect reductions or increases in the costs sellers incur to collect sales tax as determined by an independent study, jointly administered by government and business, that measures the costs sellers incur to collect sales tax.