SC Taxation Realignment Commission ("TRAC")

MINUTES

Wednesday, December 2, 2009 at 10:00 AM

I. Welcome

The meeting was called to order at 10:10

The following were in attendance:

- Don Weaver
- Kenneth Cosgrove
- Ben Kochenower
- Jimmy Addison
- Burnie Maybank
- Jack Shuler
- Ray Stevens
- Ken Wingate
- Brian Moody
- Bob Steelman

The following were not in attendance:

- Charlie Way (due to adverse weather in Charleston)

Chairman Maybank reminds the Commissioners and audience that the next TRAC meeting will be on January 6th.

II. Adoption of Proposed Agenda

Commissioner Addison motions to adopt agenda, Commissioner Kochenower seconds.

The agenda is adopted via voice vote.

III. Adoption of Minutes from previous meeting

Commissioner Shuler motions to adopt the minutes from the previous meeting, Commissioner Steelman seconds.

The minutes are adopted via voice vote and will be place on the website immediately upon adjournment.

Rena Grant reminds the audience where the webpage can be found on the Legislature's home page.

IV. Presentation by Charles Collins: *Streamline Sales Tax Initiative*

Government/business effort to simplify sales and use tax administration:

Streamlining effectively puts businesses and the Department of Revenue on one system. This positively affects all businesses and commerce by reducing the complexity of the current structure. This could help reduce the cost for compliance and also improve the cooperation between businesses. Streamlining taxes can lead to increased collection, reduced cost of compliance by business, level playing field for in-state merchants, and an increased collection of remote commerce. The streamlined agreement sets forth principles for interstate cooperative tax administration and modernization by creating a system that is simple, uniform, technologically advanced, and easily governed. The national business community would like to have one rate per state and as it would be beneficial for them.

Streamlining can mean simplified exemption administration as this relates to entity exemption. Sellers can use a standard form for claiming an exemption electronically or retain the data elements on the form, as adopted by the Governing Board. State and local bases for product exemptions should be at the same level. Products exempt at the state level should be exempt at the local level.

Uniformity provisions: Streamlining creates a common state and municipal base in a state.

Chairman Maybank asks how a specific exemption could be affected by streamlining, such as the basket weavers in the lower part of SC. These artisans had very low compliance until their product was made exempt. He would like to know if streamlining taxes would make it difficult to have such a narrow exemption.

Charles believes it would be possible but it is an issue that would have to be looked at more closely.

With a streamlined tax structure one tax return is required for each taxing period per state and all taxing jurisdictions within the state. Due date is uniformly due anytime after the 20th of each month, just not before. There is a state option of additional remittances. The certified tax compliance system calculates transaction taxes, provides for appropriate returns and handles exempt transactions.

Chairman Maybank inquires if there is software that can handle transactions for all jurisdictions and if any states provide statutory immunity if the software makes a mistake or malfunctions.

Yes - there are three companies that can handle that transactions for all jurisdictions; ADP, Vertex, Saborix. Most states try to aid in paying for software for remote vendors. If a mistake is made and discovered during audit corrections are made and remote vendors are held harmless.

Some states have also implemented a 'Streamlined Amnesty Provision,' this ensures that a company can register and receive amnesty for any prior uncollected sales taxes.

Commissioner Steelman inquires about the cost to join a system such as these.

There is a fee that the governing board charges ranging from around 20K per states. This helps to run the organization.

Commissioner Steelman would like to have cost benefit analysis done by the DOR to see if SC could benefit from a streamlined sales tax system.

Commissioner Kochenower would like to know what about this system is working, is revenue up or down.

Charles states that he is not with the state any longer thus making it difficult to say. Revenues went up when states were providing amnesty but have now leveled off. Commissioner Kochenower questions that if initially revenues go up but eventually level out then where is the benefit.

1) System is better for in-state merchants with simplified system. There will be less opportunity for having issues on an audit. 2) There will be businesses paying taxes that were not before.

Commissioner Wingate inquires if there are hidden costs to retailers for running the software, especially to small local businesses.

Charles explains that most businesses using the software today did not see much change except with their databases. For smaller businesses, if they were not remote sellers, he believes that they are probably not using his software. If they did decide to use the software then there were be some cost associated.

Commissioner Weaver inquires about disadvantages to the streamlined system, there are only 20 of 50 states with the tax systems this way.

Chairman Maybank explains that when he was the DOR director, there was no incentive to streamline so there was no point in going to the trouble.

Charles states that states will earn some revenue by streamlining, even though it might be a small amount. The push from retail community is the big draw, collecting tax with all the state's rules can be difficult and complicated, the businesses need uniformity to make it more simplified.

Commissioner Steelman notes that SC could immediately pick up 1100 vendors and it is a simpler system. He would also like to request a cost benefit analysis.

Commissioner Stevens indicates that the DOR has a preliminary examination but he would like an opportunity to update it. He believes he is looking at a 60 day time frame to provide the information.

Commissioner Kochenower moves that the request form the cost benefit analysis be adopted so as to ensure receipt, Commissioner Steelman seconds the motions.

The request is adopted via voice vote.

V. Presentation by Robert M. Cline, PhD: *State Business Tax Reforms*

There have been many states looking at their tax structure. Many have begun making their changes. Some common themes among different states include:

- Improving in- state and local business tax competitiveness, shift taxes to out of state taxpayers by doing destination- based taxes;
- Finding a more stable source of business tax revenue as state corporate income taxes fell 24% in last recession, increased 115% in 5 years and are now down more than 20% in this recession. SC corporate income taxes fell 17% from FY 07- to FY 09; Tax all forms of doing business, not just corporations;
- Broaden the base, lower tax rates, reduce distortions.
- Some states are finding an effective way to tax services and cross- border sales effectively changing business tax rationale from ability-to-pay to benefits received.

Some states have had recent state business tax reforms. Ohio Reform (2005) implemented a new commercial activity tax (CAT): 0.26% times gross receipts in excess of $1 million ($150 minimum tax); minimum filing threshold of $150,000. CAT applies to all forms of business and most industries. This eliminated the local business tangible property tax ($1.3 Billion cut) and corporate income tax and net worth tax; cut overall business taxes by $1.4 billion (-9%).

Texas (2006) implemented a taxable margin tax: 1.0% general rate (.5% for wholesalers and retail) times selected base. They tax most forms of doing business. There was a $3.4 billion increase in business entity taxes offset by $3.4 billion cut in business personal property tax. Destination sales apportionment; PL 86-272 not applicable; mandatory combined reporting. First year, collections came in 20% short of estimate. In 2009, the Texas legislature increased the minimum filing threshold from $300 K to $600K permanently and to $1 million for two years.

Chairman Maybank explains that if a business comes in below the threshold they are out of the the system. They still will pay property tax, etc. but not an entity tax to the Government. He inquires if there has been an explosion of businesses dividing up so that they can come in below threshold.

Robert clarifies that the combined reporting brings together the entities that are related.

Chairman Maybank inquires about how many states are doing TRAC like commissions.

There have been about 8 to 10 in the last 3 or 4 years who have currently looked or talked about similar or the same issues but not every state is trying to accomplish the same thing. Some are trying to improve state business competitiveness.

Chairman Maybank inquires about what are other states doing on services, broadening sales taxation.

Robert believes that if you do not tax business inputs, predominantly consumed by business exempt, then you will not tax education or health care. Once those items are removed from the table as taxable services, there is not much left that could contribute to collected taxes.

VI. Future Meetings

Craig explains for the audience and commissioners that the next TRAC meeting will be January 6, 2010 in Room 105 of the Gressette Building at 10 AM.

VII. Adjournment

Chairman Maybank notes that he believes the Commission may need to split up into subcommittees after the next meeting. He would like for the Commissioners to be thinking about what subcommittees should be created and which one they would like to be a part of.

The meeting adjourned at 12:05.