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May 26, 2005

Senator Angela Z. Monson
2300 North Lincoln Boulevard, Room 428
Oklahoma City, Oklahoma 73105

Commissioner Bruce Johnson
Utah Tax Commission
210 North 1950 West
Salt Lake City, Utah 84134

RE: Ohio's Petition for Membership in the Streamlined Sales and Use Tax Agreement

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The ServiceMaster Company

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Waste Management, Inc.

R. Paul Weatherford
Sears, Roebuck and Co.

Michael J. Woo
Levi Strauss & Co.

Dear Senator Monson and Commissioner Johnson,

The State of Ohio has petitioned for membership in the Streamlined Sales and Use Tax Agreement, and accordingly has submitted to you, as Co-Chairs of the Streamlined Sales Tax Implementing States, the following:

1. Petition for Membership;
2. Compliance Checklist;
3. Certificate of Compliance; and
4. Taxability Matrix.

The Petitioning States are responsible to determine whether Ohio is in compliance with the Agreement sufficient to meet the requirement of § 805. The Draft Rules and Procedures for the Governing Board provide the opportunity for public comment related to a state's petition for membership and certificate of compliance. *See* Draft Rule 702(E). That draft rule states that public comment as to Ohio's petition for membership and certificate of compliance shall be filed with the Co-Chairs of the Streamlined Sales Tax Implementing States and with Ohio's authorized representative. The Ohio Department of Taxation has designated William Risenberger as its "authorized representative" for receiving written notices on matters governed by the Agreement. *See* Draft Rule 806.2(D).

Upon review of the documents submitted by Ohio and as a result of its analysis of these documents, the group of business that have organized as the informal Business Advisory Council have reached several conclusions concerning Ohio's compliance as detailed below.

General Concerns

The BAC expressed a general concern regarding the effort of many of the states to promulgate regulations where the state intends to achieve compliance with the Agreement through regulatory authority. In numerous states, many regulations have not yet been promulgated and preexisting regulations have not been repealed. In addition, a concern exists that states may promulgate regulations without having the proper underlying statutory authority to do so. Each state should ensure that its regulations are properly legislatively authorized.

Pursuant to §§ 303 and 401, each state is required to participate in the Agreement's registration system. This system must be operational by October 1, 2005 for the states to be in compliance with the Agreement.

Not all states have developed taxability matrixes, required by § 328 of the Agreement. In addition, there is a lack of consistency in the approach to completing these matrixes when they are compared state-to-state. Sales price, delivery charge, direct mail, medical definitions, and installation charges are areas where the lack of consistency is most noticeable. Does "NA" mean that an item is exempt or that the defined term is not necessary because the state taxes everything?

Specific Concern

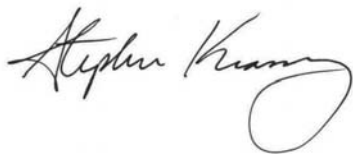
Ohio does not currently meet the uniform remittance of funds requirements under § 319 of the Agreement relating to the data accompanying remittance. Ohio can come into compliance, however, if the Department of Taxation promulgates a rule that conforms to this section's requirements.

In R.C.5739.02(B)(19), Ohio provides, "Sales of prosthetic devices, durable medical equipment for home use, or mobility enhancing equipment, when made pursuant to a prescription and when devices or equipment are for use by a human being." The Agreement does not allow the "for use by a human being" limitation on any of the Agreement definitions accept Drugs.

The above issues only reflect the BAC's primary concerns and cannot be construed to signal a totality of the concerns of the business community or a specific industry.

Should you have questions concerning the BAC's position with respect to Ohio's compliance with the Agreement or need additional information thereon, please contact me at the number above.

Regards,



Stephen P.B. Kranz
Tax Counsel

cc: William Risenberger, Ohio Department of Taxation
William_Risenberger@tax.state.oh.us