

- For Information
- For Discussion
- For Decision Making

BOARD OF GOVERNANCE
INFORMAL ISSUE PAPER

Streamlined Sales and Use Tax Agreement (SSUTA)

Proposal 12 – Motion to Amend Section 811, Business and Taxpayer Advisory Council

I. Issues

Should the Board of Governance grant authority to its representative to vote on the motion to amend SSUTA Section 811, as proposed by Mr. Jerry Johnson of Oklahoma?

Should the Board of Governance vote to amend Section 811 to change the word “create” to “recognize” in the first sentence of the section to allow the Business and Taxpayer Advisory Council to operate as a separate and independent entity? (Exhibit 1 provides the language of Section 811, including the proposed revision. Exhibit 2 provides the motion.)

II. Staff Recommendation

Staff recommends the Board of Governance authorize its representative to vote on the motion to amend SSUTA Section 811.

Staff also recommends the Board of Governance vote “yes” on the motion to amend Section 811 to allow the Business and Taxpayer Advisory Council to operate as a separate and independent entity.

III. Background

Section 811 provides that the Governing Board shall create a Business and Taxpayer Advisory Council (Council) from the private sector to advise the Governing Board on matters pertaining to the administration of the SSUTA. The intent of the language is to have the Council operate under, and as a body of, the Governing Board. As such, the Council would be subject to the same rules of operation as the Governing Board, including open meeting rules.

Proposal 12

Amend Section 811

Members of the business community claim that the Council could only operate effectively if it were a separate and independent entity from the Governing Board. To address the concerns of the business community, the Conforming States Committee drafted Governing Board bylaws that contemplate the Council operating as a separate and independent entity. The adoption of this motion would amend Section 811 to remove any conflict between the SSUTA and the Governing Board bylaws. An additional effect of this proposed amendment would be that the Governing Board could recognize more than one business council. The business councils could be more homogeneous as compared to one large unwieldy group.

IV. Summary

This proposed amendment would allow the Governing Board to recognize one or more Councils reflective of their interests, that would operate separate and independent of the Governing Board. The Councils would have a formal process to bring issues of concern to the Governing Board.

The business community has stated that in order for a Council to be effective, it must be separate and independent from the Governing Board. The business community believes they should have the right to limit membership to businesses that have similar issues or concerns, and that they should be able to determine their leadership or operating procedures.

If the Councils were not created by the Governing Board, they would not be subject to the same operating rules as the Governing Board. The Governing Board's recognition of separate and independent Councils would allow the Councils to operate without violating any member states open meeting rules or other rules of operation.

For the reasons stated above, staff recommends a "yes" vote on the proposed amendment.

Prepared by Larry Bergkamp, Sales and Use Tax Department
Current as of March 30, 2005

Section 811: BUSINESS AND TAXPAYER ADVISORY COUNCIL

The governing board shall ~~create~~recognize a Business and Taxpayer Advisory Council from the private sector to advise the governing board on matters pertaining to the administration of the Agreement. These matters shall include, but not be limited to, admission of states into membership, noncompliance, and interpretations, revisions or additions to the Agreement. The Business and Taxpayer Advisory Council shall advise and assist the State and Local Government Advisory Council in the functions noted in Section 810.

Amendment # 12 – Offered by Jerry Johnson, Oklahoma

Motion to amend Section 811 of the Streamlined Sales and Use Tax Agreement with regard to recognizing a business and taxpayer advisory council.

BACKGROUND AND EXPLANATION

At the recent meeting of the Conforming States in Phoenix an issue arose concerning a possible conflict between the language of the Agreement related to the Business and Taxpayer Advisory Council and the proposed bylaws and rules. The primary concern was that the Agreement states the Governing Board will “create” this Council while the proposal contemplates the Council operating as a separate and independent entity.

Subsequent to the Phoenix meeting a conference call was held with both private sector and state representatives who had expressed an interest in discussing this issue further. Based on that discussion, Oklahoma offers the following amendment to the Agreement.

PROPOSED AMENDMENT

Section 811: BUSINESS AND TAXPAYER ADVISORY COUNCIL

The governing board shall ~~create~~ recognize a Business and Taxpayer Advisory Council from the private sector to advise the governing board on matters pertaining to the administration of the Agreement. These matters shall include, but not be limited to, admission of states into membership, noncompliance, and interpretations, revisions or additions to the Agreement. The Business and Taxpayer Advisory Council shall advise and assist the State and Local Government Advisory Council in the functions noted in Section 810.

Can you please distribute and publish this amendment to fulfill the requirements of Section 901 of the Agreement. If there is anything that I need to do to make sure that these requirements are met to allow for the consideration of this amendment at an April 16th meeting of the Implementing States, please let me know. Thank you for your assistance.