

PTAC Meeting Summary December 16, 2008

Following is a summary of the 12-16-08 Premium Tax Advisory Council Meeting. The following documents are attached:

1. Agenda for the 12-16-08 meeting.
2. Minutes for the 11-17-08 meeting.
3. The risk verification regulation as filed, including the regulation, the data manual, and the application.

In Item V, DOI Update, KDOI staff reported that the assessment had only 23% remaining outstanding, and that they were proceeding to collect from the remainder.

Under the administrative regulations subheading they reported that risk verification regulation had been filed as an ordinary regulation, meaning that it will not go into full effect until April at the earliest. The public comment period runs through February 2, and the public hearing, if required, is scheduled for January 29 at 9 AM. A public hearing must be requested by January 22.

During our discussion of the regulation I asked the department to verify that if a company is using approved vendor software then there is no need for the company to make an application also. They agreed with that position, and also stated that if a company uses that software for a variety of subsidiary companies, then no applications are required in that case either. The vendor would be the only entity that would need to make application or pay the \$2,500 fee.

KDOI also reported that the disclosure regulation and the regulation repealing various outdated regulations had both made it through Administrative Regulation and Review Subcommittee of the General Assembly.

The following was reported by the various subcommittee chairs under item VI:

- A. Risk Location: No meeting this month, but cities are still working on finishing up boundary filings.
- B. Due Diligence: No meeting since last month.
- C. Data Collection: I reported that we had a short meeting to recap the 11-17 PTAC meeting.
- D. Education: They passed out a printout of one the KDOI web pages which contains the links to the new informational brochures, among other items. The link to that webpage is here:
<http://doi.ppr.ky.gov/kentucky/Docs.asp?DivID=10>
- E. Future Reforms: No meeting since last month.

Under Item VII, Old Business, Commissioner Clark announced that KDOI is strongly considering making it possible to electronically file the annual reconciliation form. They are requesting input from companies, and they would like to have the names of company personnel that they could use as resources in implementation. They have already developed a data resources guide.

Those interested are asked to email Russ Hamblen of KDOI at Russell.Hamblen@ky.gov. As an alternative, you can email names and contact information to me and I will pass them on to Russ.

Under Item VIII, New Business, the only item on the agenda was Credits on Quarterly Statements. This item was on the agenda because of a question I had raised on behalf of two members regarding letters sent by the City of Mayfield.

Based on that letter, it is likely that the City Clerk of the City of Mayfield did not understand the provision in HB 524 that does not allow insurers to take a credit arising from an amended return against a future return until the amended return was approved. Based on her letter, the City Clerk apparently confused this type of credit with the refunds given to customers in the normal course of business.

During the discussion period I provided some background on how that provision came to be in the law, and I stated our position that refunds made in the normal course of business were not covered by the statute in question. KDOI stated that they will work with local governments to provide guidance on this issue.

As another point of new business, I raised a concern expressed to me by one of our members regarding the 2010 deadline for using a risk verification system. The concern is that vendors will not be able to

apply for verification of their software until after the regulation becomes final. After an undetermined amount of time, KDOI would approve or reject a vendor's application and would develop a list of approved vendor software.

At the best, this process will be complete in late spring or early summer. If there is a public hearing or there is General Assembly action that results in a revised regulation, then it is possible that the regulation may not become final until the fall. I am going to work with other industry partners to see if there is any sentiment for pushing KDOI to re-file the regulations as emergency regulations which would accelerate the process.

If a company waits to purchase software until there is a list of approved software, then that will likely not allow enough time to implement that software by 1-1-2010 if there is no emergency regulation. KDOI was sympathetic to that problem, but there was little sentiment for pushing back the implementation date to 2011 or later. Frankly, some of those opposing our bill this last session would also oppose that change also, and probably could kill a bill containing that change.

KDOI did seem to indicate that they would not be overly harsh with companies who are working to implement systems but who fall into this time crunch. That may be small comfort to those working to implement software, but it may be the best we can get now. There did not seem to be any desire by the rest of the industry or by KDOI or local governments for making a statutory change this session.

The final item of new business was brought up by Chris Gorman of Atticus Ventures representing Pitney-Bowes, one of the software vendors. His client believes as we do, that a better way to evaluate the software would be for KDOI to provide a list of addresses to a vendor and then have the vendor return the tax jurisdictions associated with those addresses.

KDOI's approach is to test the underlying data set and to assume that the software will correctly apply the data to arrive at the correct jurisdiction. There was a great deal of discussion about the topic, but KDOI remains convinced that its approach is the best, and that which most closely conforms to the statute.

The final item of business was to set the date for the next meeting of the PTAC for April 15 at 1:30 PM. We will not meet in the meantime except at the call of Commissioner Clark, should a need arise to do so.

There being no other business, the meeting adjourned.

Please let me know if you have any questions.

Thanks,

Mark