

Mitigation Advisory Committee Meeting Minutes
September 11, 2007

Attendees:

John Bartz, Thurston County
Dean Carlson, Senate Ways & Means
Sheila Gall, Association of Washington Cities
Jim Justin, Association of Washington Cities
Neil Kruse, City of Kirkland
Doug Levy, Cities of Everett, Kent, Federal Way, Renton, and Puyallup
Lucy Liu, City of Bellevue
David Moseley, The Royer Group
Julie Murray, Washington State Association of Counties
Bob Nachlinger, City of Kent
Gary Prince, King County Department of Transportation
Jim Schmidt, Office of Financial Management
Ron Strabbing, Grays Harbor County
Jim Turpie, Community Transit
Iwen Wang, City of Federal Way

Department of Revenue Staff: Kim Davis, Don Gutmann, Tiffany Johnson, Rebecca Johnston, Diane Mielke, Greg Potegal

Revised minutes from the August 15, 2007, meeting were handed out. Please send comments on the minutes and the list of concerns to Miki at MikiG@dor.wa.gov by September 18.

The listserv will be available in a couple of days.

Solutions for all issues except communications must be finalized before November. Solutions cannot add an extra burden to taxpayers and must produce the most accurate mitigation possible which must also be reasonable for DOR and the local governments to implement.

Discussion of Issues

1. Use more than one year of pre-sourcing data?

Pre-sourcing data is the baseline that we use before the change in sourcing goes into effect – before July 1, 2008.

Possible solutions:

Using two years of pre-sourcing data would solve a number of problems:

- Voluntary sellers that start collecting in 2007 because we are now an associate state.
- Retailers that are already destination sourcing – are muddying the data.

Feedback on DOR possible solutions:

May use more than one year of data if needed in order to make the base data as clean as possible, but be careful about averages.

An audit in April that is resolved in July – that adjustment shouldn't be included in the base year.

Using the FY 2008 data as the base year – the tax returns are due on July 25 and will be analyzed in August which gives a short window of time to clean up the data.

DOR depends on local governments to tell them when companies change to destination sourcing.

2. Which NAICS should we use in the model?

Possible solutions:

DOR proposes to use the same NAICS that were used in the sourcing study. The committee had agreed that they were the NAICS of businesses that did deliveries and they were used to do the estimates for the \$31 million that is being appropriated.

Feedback on DOR possible solutions:

Use the same NAICS, but you might see new NAICS to capture when you do the early runs.

2a. Construction Issue

Building supply dealers are included.

Feedback on DOR possible solutions:

Don't care for the reliance on who tells DOR what is happening in jurisdictions.

- Why not just let the chips fall where they may?
- That might be okay for some jurisdictions.

How do we account for taxpayers who now start reporting correctly in construction industry?

- Seattle feels many reporting incorrectly.

2a consensus - Allow it to be addressed in the appeals process.

2b. Service Businesses

DOR possible solutions:

- Service businesses not included because they are already destination sourcing.
- Now that DOR is educating taxpayers about proper reporting, some businesses that never did destination sourcing are now doing it. It is an indirect spin-off effect of our education efforts.
- Want to get businesses to report correctly.
- Jurisdictions might see a loss due to proper reporting, not just streamlined.
- Outreach efforts maybe shouldn't be targeted towards retailers only.

Feedback on DOR possible solutions:

Exclude the service NAICS because they are supposed to be destination sourcing already.

3. Early changers to destination sourcing

- Larger local government jurisdictions may be able to help with identifying early changers.
- Smaller jurisdictions may want DOR to do the statistical analysis (DOR concern about how this is done). Conduct a workshop to show smaller jurisdictions how to analyze the data.
- Does this give larger jurisdictions an advantage?
- Use "top 20" businesses and then hold a workshop to show jurisdictions what to look for?
- Why not start now and do some early data runs to identify early changers?
- Use thresholds for dollar amounts.

How will Don find early filers in the current data?

- July, August, September data - FY 2008 compared to FY 2007.
- By number of location codes? Comparison - is four to five enough of a change?

Possible solutions:

- Look at new location codes, or
- Look at change in distribution among location codes if more than 10 percent for any location code, or
- Do both?
- Look at both the gains and the drops in location codes.
- After Don's data analysis, then group analysis possible, follow-up by DOR and cities to verify reasons for change to see if due to early destination sourcing change.

4. Annual taxpayers

Annual taxpayers are less than one-half of 1 percent of all taxpayers. DOR will only have six months of data on annual taxpayers when the analysis needs to be done.

Possible solutions:

- Expand six months to a year by formula. Will pass the formula by the committee next time.

5. Late filers

Late filers for June activity will not be included in the fourth quarter distribution in September 2009.

Possible solutions:

- Do the first three quarter distributions and roll the adjustment into the fourth quarter distribution.
- Make the fourth quarter adjustment in the fifth quarter and list the amount separately.
- There may not be any time to do the adjustment before the first distribution.
- The law says four equal distributions.
- Can we handle the adjustments like those that are due to appeals? During that time frame?
- We will need to set a cut-off date and then make the adjustments.
- There will need to be thresholds set for appeals – a dollar amount, etc.
- Remember that adjustments will impact more than one jurisdiction – adjusting the gains and losses might take some money away from jurisdictions.

6. Annexations

What happens if annexations or incorporations occur halfway through the base year?

- After mitigation is fixed, we are not going to look at the annexations or incorporations.
- Consider fact-specific annexations during the mitigation process. Isolate the businesses in the new annexed area and determine the net gains or losses.
- Set thresholds for annexations - large vs. small (boundary adjustments). Historic data will help with setting thresholds.

7. Predecessor/successor

There is a problem if a company is bought out, merges, or changes its name during the post-sourcing data period.

Possible solutions:

- DOR could manually look at each account, but there are too many for them to do.
- DOR could give each jurisdiction a list of closed firms and the jurisdictions could identify the successors and notify DOR so they could make the adjustment.
- Create an index or set a threshold based on the population of the jurisdiction. You can't just dismiss small firms because they may be very important in a small jurisdiction.
- Quantify the size of the problem by looking at the jurisdictions' taxable retail sales.
- Look at closed accounts in 2007 that are doing destination sales.
- Set thresholds of taxable retail sales.

Parking lot

- Changes made for cities will be made for the county, too.
- What will DOR do when cities identify early changers?
- Business may not change but city adjustments should be made.

Issues to take to the SST communications group

Have them ask taxpayers whether they have already made the change to destination sourcing.

- If they haven't, give them resources to show them how.
- If they have, that will give us some indicator of the number of early filers.
- Will asking the question cause some taxpayers to believe they should change early?

To do list

Review minutes from August meeting and list of issues, e-mail changes to Miki Gearhart – Committee members - by September 18

Find early filers in the current data – Don Gutmann – by November meeting

Formula for expanding data for annual taxpayers – Research – October meeting

Look at closed accounts in 2007 that are doing destination sales – Research — October meeting

Scope the parking lot items – Committee members – November meeting

DOR paper on adjustments and appeals – Greg Potegal – October meeting

Decision on PFD dates - Greg Potegal – October meeting