Minutes: SST Mitigation Advisory Committee Meeting

Meeting purpose	This was the annual meeting of the SST Mitigation Advisory Committee. The purpose of the meeting was to discuss the suggested adjustments to the mitigation calculation as a result of business issues brought forth by the jurisdictions and the Department of Revenue and to have the Committee decide whether the adjustments would be included in the mitigation calculation.
Date, time, and place	Date: Wednesday, August 25, 2010 Time: 10 a.m. Place: Department of Revenue, 1025 Union Avenue, SE, Olympia, WA

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Minutes: SST Mitigation Advisory Committee Meeting,
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Attendees

Lorrie Brown, Office of Financial Management
Shelley Coleman, City of Auburn
Sheila Gall, Association of Washington Cities
Peter Heineccius, Joint Legislative Audit Review Committee
Lyman Howard, City of Sammamish
Shawn Hunstock, City of Tukwila
Karen Jester, City of Auburn
Danielle Larson, City of Tacoma
David Layden, City of University Place
Lucy Liu, City of Bellevue
Scott Merriman, Washington State Association of Counties
Bob Nachlinger, City of Kent
Jim Plaster, Spokane Transit
Jennifer Santalnes, City of Tukwila
Jim Turpie, Community Transit

Department of Revenue Staff – Matthew Bryan, Kim Davis, Joyce Fouts, Miki Gearhart, Don Gutmann, Tim Jennrich, Diane Mielke, Bob Petteys, Larry Schmitt, Valerie Torres

Topics discussed

The table below identifies the topics discussed in the meeting and the person who led each discussion.

Topic	Discussion Leader
Review of the Mitigation Process by the Joint Legislative Audit Review Committee (JLARC)	Peter Heineccius, JLARC
Adjustments to the Mitigation Data	Valerie Torres, Matthew Bryan
Discussion on Future Adjustments	Don Gutmann
“Really” Late Implementers	Valerie Torres
Adjustments from Jurisdictions	Don Gutmann

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Key points: Review of the mitigation process by JLARC

JLARC was mandated by the Legislature to review the mitigation provisions of Senate Substitute Bill 5089. JLARC staff will send out a survey to all of the cities, counties, and transit districts in the state to get input on the mitigation process, comments on the estimates, and suggestions for any improvements to the process.

Key points: Adjustments to the mitigation data

The jurisdictions asked the Department to review 2,145 businesses for compliance with destination-based sourcing. Of those, 93 businesses are still being reviewed. The Department identified 648 businesses that needed to be reviewed; of those, 111 are still under review.

DOR Adjustments

Fast food restaurants – DOR staff looked at fast food restaurants that kept showing up in the data. Their reporting patterns were reviewed to see if they really made a change to destination-based sourcing. If necessary, the businesses were called and asked if they do deliveries. Of the fast food businesses that were reviewed, 881 were removed from the mitigation calculation. Notify DOR if you see a business in your data that looks like a fast food restaurant.

Annual taxpayers – Taxpayers that report on an annual basis were included in the data for the first time; however, the annual accounts have been reviewed all along. Inclusion of the annual taxpayers caused a small fluctuation in the data.

Unmitigated NAICS – The Mitigation Advisory Committee had recommended that DOR examine businesses that are in unmitigated NAICS codes. Of the 2,638 businesses that DOR examined, 234 businesses warranted further review and 99 of those businesses are now included in the mitigation calculation. The largest number of firms that changed to destination-based sourcing are in the Professional, Scientific, and Technical Services classification – they are included because they ship software.

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Key points: Adjustments to the mitigation data (continued)

Top gainers/losers - The Department reviewed about 1,400 businesses with very large gains or losses. They prioritized the businesses by total taxable retail sales and whether or not they impacted the mitigation calculation. Fifty-one businesses are still in review because DOR contacted the taxpayers and the taxpayers have not gotten back to them.

Construction – In a review of the construction NAICS, 12 businesses were included in the mitigation calculation because they definitely did change to destination-based sourcing because of some type of delivery aspect that is part of their business.

Restaurants – During 2009 the Department identified 17 large restaurants that changed to destination-based sourcing. Five of those restaurants continue to be included in the mitigation calculation because they do catering.

Key points: Future adjustments

Because of budget cuts and reduced staff in the Research Division, the Department will not be able to make future adjustments to the mitigation data except those that are brought forth by the jurisdictions. The bulk of the adjustments have been done, and only three jurisdictions had adjustment inquiries from the data that was sent out in mid-July.

Shelley Coleman stated that it would be nice to get the mitigation analysis set so there would be some predictability to the calculation. However, if there is some material adjustment that needs to be made, it needs to be done.

Bob Nachlinger thanked Department staff for the work they have done – he is pleased with the work and the process itself.

Sheila Gall agreed that there is a good comfort level with the data.

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Key points: Really late implementers

The Department identified 13 businesses that did not change to destination-based sourcing in Fiscal Year 2008 or Fiscal Year 2009. These businesses were brought forward by the jurisdictions. DOR staff called the businesses and told them they had to change, and they have now changed.

The top three businesses in this group did more than $10 million of taxable retail sales in deliveries and had gains and losses to 111 jurisdictions. Impacts to a single jurisdiction range from taxable losses of $4,000 to $2.7 million.

The Department needs the Committee's input on what to compare for these late implementers. Option 1 is to use the latest full fiscal year before the business made the change to destination-based sales tax as the origin period and 12 months of data after the business made the change to destination-based sales tax as the destination period. The drawback to this option is that the Department needs to wait 12 months to get the complete data and, because changes can only be made once a year, it might be two years before the data is available to make the adjustments.

Option 2 is to use Fiscal Year 2008 as the origin period and the first full fiscal year available after the business made the change to destination-based sales tax as the destination period. This option would be more accurate, but it would take longer to get the complete data.

Bob Nachlinger asked if it would be possible to annualize the data that was available instead of waiting for the complete data. Don Gutmann stated that he had no problem with doing the calculation that way as long as the Department is able to convince the Committee members that it has a high comfort level with the data.

Decision: For any really late implementers, Research will compare the 12 months before the business changed to destination-based sourcing and the 12 months after on a case by case basis. If there is sufficient data, Research staff will do an estimate with less than 12 months of data. Research will share the data with the Committee at the annual meeting and get the Committee's buyoff on the adjustments. Research will also look at whether there is underlying data that can be captured through the audit process.

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Key points: Really late implementers (continued)

Research will make the adjustments to the 13 firms that they are aware of in time to include them in the 2011 payments. Department staff will contact the jurisdictions whose mitigation payments are impacted by the adjustments made for these late implementers.

Key points: Adjustments from jurisdictions

The calendar year 2011 payments will be finalized in early December. After that, if a jurisdiction identifies a firm or the Department finds a very late implementer, the Department will review the information to see if any adjustments to the underlying data are needed. That information will be shared with the Committee at the annual meeting next year, and the Committee will determine whether the adjustments should be made. The microdata will be sent to the jurisdictions after the annual meeting. Sheila Gall suggested that the microdata be sent in December with an April deadline to notify the Department of any adjustments.

After all the adjustments are made, the jurisdictions want to know what the estimated payments will be by early September for their budget cycle.

Other issues

Bob Nachlinger asked that someone do some research on what is really required by statute at the annual meeting.

Don Gutmann stated that Department staff will find out what the process is and will email that information to the Committee members.

Meeting minutes

The meeting minutes are submitted by Diane Mielke.