

## Minutes: SST Mitigation Advisory Committee Meeting 2017 Legislative Session – EHB 2163 Meeting

**Purpose** EHB 2163, from the 2017 Legislative Session requires a meeting of the SST Mitigation Advisory Committee prior to January 1, 2018. This is that meeting and the Department presented [this document](#).

**Date, Time and Place** Date: Thursday, December 14, 2017  
Time: 8:30 a.m.  
Place: WebEx Meeting and In-person Conference Room 114 (B,C),  
6400 Linderson Way, Tumwater WA

**Participants**

<p><b>Committee Members in Attendance:</b> Aaron BeMiller, City of Kent Mary Albert, Community Transit Lyman Howard, City of Sammamish Tom Kirn, City of Seattle Gary Prince, King County Metro</p> <p><b>Others in Attendance:</b> Andrew Pittelkau, AWC Sheila Gail, AWC Blaine Fritts, City of Woodinville Doug Levy, Outcomes by Levy Tom Mikesell, City of Kirkland Sharon Schroder, City of Tacoma Rae Ann Weighter, City of Everett Shelley Coleman, City of Auburn</p>	<p><b>DOR Staff:</b> Patti Wilson Gil Brewer David Duvall Kathy Oline Don Gutmann Kristine Rompa Valerie Torres Beth Leech Ashley Boss Miki Gearhart Wan Chen Cindy Autuchovich Denine Lathrop</p>
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**Topics Discussed** The table below identifies the topics discussed in the meeting and the person who led each discussion.

Topic	Discussion Leader
Introductions and Purpose of the Annual Meeting	Gil Brewer
How EHB 2163 Part IV changed SST Mitigation payments	Valerie Torres
Identifying marketplace facilitators, remote sellers, and referrers and Questions regarding identification	Kristine Rompa
Input from Local Jurisdictions	Miki Gearhart
Reconciliation by December 1, 2019	Valerie Torres

## **Minutes: SST Mitigation Advisory Committee Meeting** **2017 Legislative Session – EHB 2163 Meeting, Continued**

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### **Introductions and Purpose of the Annual Meeting**

Our purpose today is to talk about what passed and obligations of the department in respect to mitigation payments. We are not here to discuss merits of the bill.

The trade press has reported that Amazon will start collecting tax (public information). Some other facilitators have indicated they will do the same, while others have indicated that they are going with the use tax notification option.

The bill requires DOR to meet with localities for the purposes of getting input into these calculations. There are many challenges in implementing this bill.

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### **How EHB 2163 Part IV changed SST Mitigation payments**

The Department presented the following points:

- No change to Annual Gain/Loss
  - Effective July 1, 2017, transportation authorities, public transportation benefit areas, and regional transit authorities no longer receive SST mitigation payments
  - Beginning with the March 2018 distributions, jurisdictions may see additional revenue from Marketplace Fairness. Any additional revenue will reduce SST Mitigation payments starting with the June 30, 2018 payment
  - Effective October 1, 2019, cities, counties, and public facility districts no longer receive SST mitigation payments
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### **Identifying marketplace facilitators, remote sellers**

The Department is in the process of identifying relevant taxpayers (Marketplace Facilitators and Remote Sellers). We developed a process involving the review of business license application information, tax reporting, and finding taxpayers through audits and other outreach.

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## Minutes: SST Mitigation Advisory Committee Meeting 2017 Legislative Session – EHB 2163 Meeting, Continued

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**Questions from  
Local  
Jurisdictions  
and Local  
Jurisdiction  
input**

**Question/Doug Levy:** Remote seller definition seems straightforward. How does DOR define a market place facilitator?

**Answer/Kristine Rompa:** The bill defines it actually. We cannot give names (CTI), but a general definition would be large company that sells goods for other companies. The facilitator does not own the inventory. This is not exclusive to online retailers. Remote sellers can also be catalog sales. 36 companies have come forward through VDA program, stating that they may owe tax under this legislation.

**Question/Sheila Gall:** Did DOR make assumptions about a ramp up in total sales?

**Answer/DOR:** Yes. However, the bill provides for a 1 time waiver for businesses to allow more time to get this implemented in their system. This waiver delays that company's start date. However, there are penalties if the company does not make that deadline. We are still working on this process.

**Question/Doug Levy:** With the whole process that you are going through to identify these companies, it seems that your biggest job is 'before the fact.' Once you have the companies identified, the work becomes easy.

**Answer/Kristine Rompa:** Definitely, the big hurdle is getting the correct indicator on each account.

**Question/Shellie Coleman, Auburn:** Will the mitigated cities see the amount of marketplace/remote revenue received in their city (DL – will they see the specific dollars identified in their distribution)?

**Answer – yes.**

**Question/Blaine Fritts, Woodinville:** will the Quarterly distribution report give details by taxpayer?

**Answer/Valerie Torres:** You will see those businesses the same as other taxpayers listed in your current distribution reports, but they will not be identified as a remote sellers or facilitators. The offset will list a single total, not identified by specific business accounts.

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**Questions from  
Local  
Jurisdictions  
and Local  
Jurisdiction  
input, *continued***

**Question**/Tom Kirn, Seattle: Will cities that do not receive mitigation payments receive quarterly estimates of tax revenue from remote sellers? We are interested because we have incorporated DOR's estimates of tax revenue from remote sales into our revenue forecasts. We want to know if actual revenue is tracking DOR's estimates.

**Answer**/Valerie Torres: Yes, at this time we expect that we will add the same data to the SST calculation detail for all jurisdictions.

**Question**/Sheila Gall, AWC: If a city suspects that a business is not responding, how do we report that to DOR?

**Answer**/DOR: Same as you do now.

**Question**/Andrew Pittelkau AWC: For companies that start up after Jan 2018 – will their sales be deducted from mitigation calculation payments?

**Answer**/Kristine Rompa: It depends if they are a remote seller or a traditional brick and mortar store in WA. If they open in WA – then no, they would not fall under this legislation or be deducted from mitigation. If they are a remote seller, then yes, they fall under this legislation and would be included in the mitigation deduction calculation.

Remember there are some thresholds – i.e. less than \$10,000 then they are not subject to this bill. Once they hit that \$10,000 mark during the year, then they need to start reporting.

**Question**/Aaron Bemiller, Kent: How will DOR differentiate between those registering via the SST federal level (SSUTA) versus WA Marketplace Fairness Act?

**Answer**/Valerie Torres: FOR SSUTA registrants, there are more rules than normal. Those accounts would count in SSUTA figures, but not marketplace fairness.

**Question**/Blaine Fritts, Woodinville: It is difficult to identify existing businesses that fall under this new legislation. Is there more that cities can do to help identify existing businesses?

**Answer**/Kristine Rompa: DOR has thought about this and is open to ideas. 'Existing' businesses will not be counted – meaning that if they registered prior to July 7 (the effective date of the bill) then they are considered an existing business and will not be counted. If they registered with us after that, then they are counted as 'new' per this bill.

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## Minutes: SST Mitigation Advisory Committee Meeting 2017 Legislative Session – EHB 2163 Meeting, Continued

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**Questions from  
Local  
Jurisdictions  
and Local  
Jurisdiction  
input, *continued***

**Question**/Brandon Hilby, Everett Transit: How do we identify whether correct tax rates are charged based on unincorporated county vs city? Will they have to submit reports based on how they are charging taxes and will they have to list rates and what they are collecting per city? How will these companies do this for every jurisdiction in every state? How will DOR verify?

**Answer**/Kristine Rompa and Ashley Boss: We have specific information GIS, downloadable database, etc. the Local Tax team reviews returns each month for verification. Audit is looking at methods to confirm that remote sellers and facilitators are using DOR tools to determine location coding - not something the business has developed in house.

**Question**/Gary Prince, King County Metro: Following up on the previous question; in Vehicle License Fee collections (not using DOR data), we had an error rate of about 1%, do you have a similar estimate for the sales tax data?

**Answer**/DOR: DOL was using data incorrectly- our sales tax boundaries are different than those used for DOL license fees. This has been corrected and is no longer an issue.

**Question**/Sheila Gall, AWC: If the full years' worth of consumer use tax, (Kristine emphasized – this is for consumers, not businesses) will be due April 2019, which mitigation payment would this affect?

**Answer**/Valerie Torres: This would affect the Sept mitigation. If the consumers pay earlier (ex in March), then it would affect the June mitigation.

**Comment**/Doug Levy: It seems that there are a couple of years of the great unknown for cities planning their budgets. It might be into the next biennium before DOR has a clear handle on this revenue and mitigation adjustment?

**Question**/Sheila Gall AWC: Does DOR have a contingency plan if the supreme court accepts review of the South Dakota case?

**Answer**/DOR: This pending issue will not affect our implementation. We have to continue moving forward per the current law.

**Question**/Shelley Coleman, Auburn: Does the state expect a lawsuit from businesses?

**Answer**/DOR: There was some chatter and fundraising started for a lawsuit, but nothing has been filed. With Amazon publically announcing that they are going to collect, we are not hearing much about this potential lawsuit anymore. Other states are implementing this type of legislation, as internet sales is the way this is going.

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## Minutes: SST Mitigation Advisory Committee Meeting 2017 Legislative Session – EHB 2163 Meeting, Continued

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**Reconciliation by December 1, 2019** Another thing the bill does is create a reconciliation process. The Department will need to determine total marketplace facilitator/remote seller revenue for reporting periods between January 1, 2018 and June 30, 2019.

If total SST Mitigation payments to each jurisdiction are not reduced by the total marketplace facilitator/remote seller revenue for reporting periods between January 1, 2018 and June 30, 2019 then the Department will need to reduce the local jurisdictions sales and use tax distributions by the excess amount received.

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**Additional Questions**

**Valerie Torres**

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**Meeting Minutes**

Denine Lathrop and Cindy Autuchovich submitted the meeting minutes.

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