

IFI Bulletin

April 2018

www.incentivefederation.org

Who are the Incentive Federation's members?

The Incentive Federation is the only organization whose membership and leadership includes all the industry's national trade associations, as well as individual industry companies. It is under The Incentive Federation umbrella that the collective interests of the Incentive Marketing Association (IMA), the Promotional Products Association International (PPAI), The Incentive Research Foundation (IRF), the Recognition Professionals International (RPI) and Society for Incentive Travel Excellence (SITE) are discussed, nurtured and advanced.

IFI Mission Statement

The Incentive Federation is dedicated to promote, protect and research the incentive field, including corporate gifts, rewards, recognition, promotional products and related promotions.

IFI Board Approves Steps for the Federation to Be the Developer of Standards for the Incentives and Recognition Industry

The Federation Board voted in late March for the Federation to apply for membership in the American National Standards Institute (ANSI) and to also seek approval for the Incentive Federation, Inc. to serve as an ANSI Accredited Standards Developer for the incentives and recognition industry.

The Board's action acknowledges that standards developed and applied in thousands of industries worldwide have helped improve efficiency, productivity and quality in manufacturing and delivery of products and services. Only in the past few years has the concept of standards for quality management gained acceptance, and efforts are now being made to extend those principles to organizational engagement with employees and customers.

Standards for the incentive and recognition industry, when properly applied and executed, promise to help businesses deliver more powerful and effective solutions and programs for rewarding and recognizing excellent employee performance, increasing productivity and ensuring customer retention and satisfaction.

The Board recognized that each of the five non-profit organizations serving as IFI members (see on left) have an interest and stake in developing standards for the benefit of their members and sponsors. Since the IFI has served for many years as the umbrella group for the broad marketplace of incentives, recognition, rewards, promotional products, corporate gifts, awards, incentive travel and motivation in areas such as research, legislative monitoring and public outreach, the Board decided that the IFI is a logical "home" for standards development.

Developing standards for the disparate interests of the members represented by the five non-profit organizations, as well as IFI's corporate members, will be a lengthy and rigorous process requiring ongoing work for several months. Once standards are eventually developed and approved, regular monitoring, revision, measurement and evaluation procedures are required by the developer organization.

The first steps are for the Federation to join ANSI and apply to become an accredited standards developer, which will take a couple of months. IFI members will be invited to participate in the

standards development process, assuming the IFI is approved by ANSI.

To learn a bit more about what industry standards are, why they are important and how they can be applied to benefit your organization and your customers, review this brief [presentation](#). We welcome your questions and comments.

Supreme Court to Hear Oral Arguments April 17 on South Dakota Law Requiring Out-of-State Vendors to Collect Use and Sales Taxes

The U.S. Supreme Court hears the argument April 17 over whether the state government of South Dakota has authority to collect sales tax on goods and services delivered from remote sellers that don't have a physical presence in South Dakota.

At issue is a decision the justices made 25 years ago that ruled sales tax could be levied only on businesses within a state's physical jurisdiction. The Trump administration has urged the court to let state and local governments collect billions of dollars from online retailers.

The Supreme Court has held in two separate cases decided in 1967 and 1992 that the interstate commerce clause of the U.S. Constitution prohibits a state from requiring an out-of-state vendor who solicits sales by mail-order catalogues to collect use tax for sales made to customers in that state when the vendor lacked outlets, sales representatives, or other significant property in the state.

Those two cases were *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992) and *National Bellas Hess, Inc. v. Department of Revenue*, 386 U.S. 753 (1967). In so doing, the Supreme Court established a "bright line" physical presence test. Without physical presence, the seller does not have "substantial nexus" with a state and cannot be required to collect its use tax.

Two states, Alabama and South Dakota, passed new sales tax regulations within the past two years with the strategy to have the Supreme Court eventually rule on the legitimacy of the regulations.

The strategy of the states has finally paid off because on January 12, 2018 the Supreme Court agreed to hear *South Dakota v. Wayfair, Inc.*, a case challenging the constitutionality of South Dakota's newly enacted sales and use tax law. Now we shall see if the Supreme Court is willing to acknowledge the changed and ever-changing nature of retail sales.

Within a few months, the Supreme Court can decide once and for all the circumstances under which states may impose sales and use tax collection obligations on remote sellers. While the outcome of the *South Dakota v. Wayfair, Inc.* case is far from certain, the Supreme Court may be prepared to modernize its state sales and use tax jurisprudence and do away with the outmoded physical presence requirement. As a result, remote sellers may soon find themselves treated the same way as brick and mortar retailers when it comes to collecting sales and use taxes. The implications for incentive industry companies is obvious. For background on this issue read George Delta's February 2018 [Washington Update](#) prepared exclusively for the Incentive Federation.

Circuit Court Overturns Department of Labor Fiduciary Rule

On March 15, 2018, a panel of the Fifth Circuit Court of Appeals struck down the fiduciary rule in a 2-1 decision. See *Chamber of Commerce of the United States of America v. Dep't of Labor*, No. 17-10238 (5th Cir. Mar. 15, 2018). The decision is sweeping in that it rejected the rule that redefined fiduciary investment advice, as well as the new prohibited transaction exemptions, and the modifications to old exemptions adopted along with the rule.

As reported in past months on this website and in other communications by the Incentive Federation the fiduciary rule, issued by the Department of Labor in 2016 and originally scheduled to be implemented by January 2018, had significant implications for companies offering incentive travel and awards programs to the

financial marketplace. As we reported in 2017, unless the current administration changed the course of the rule, the new “fiduciary” rule may well make incentive programs a thing of the past for those selling financial products to the public.

George Delta, Esq., the Federation’s legal counsel, has provided an update on the status of the fiduciary rule given the District court’s recent action. Interesting, another Circuit court, in an unrelated case, has upheld the fiduciary rule, perhaps setting up an appeal to the Supreme Court. Read Delta’s latest [Washington Update](#) prepared exclusively for the Incentive Federation and his earlier [description](#) of the impact of the fiduciary rule in 2017.

PPAI Reports Record Promotional Products Annual Sales Of \$23.3 Billion In 2017, Up 9.31 Percent

The Promotional Products Association International the world’s largest not-for-profit association serving more than 15,000 corporate members of the \$23.3 billion promotional products industry has announced industry sales in 2017 increased by 9.31 percent to a record \$23.3 billion, according to the PPAI Sales Volume Survey, an annual estimate of U.S. distributor promotional products sales.

The 2017 sales volume increase is the highest since 2000, when industry sales grew by 19.5 percent. [In 2016, sales were up by only 2.4 percent.](#) Two major factors driving industry growth were online sales and sales of products from non-industry providers.

Online sales of promotional products grew significantly in 2017, representing 23.2 percent of the year’s total sales volume compared to 19.8 percent in 2016. Total online sales grew by 28.1 percent to \$5.3 billion, compared to \$4.2 billion in 2016, and that trend is driven by a significant increase from both large and small distributors.

In addition, on average, almost \$3.4 billion came from product sales from non-industry providers—14.6 percent of the total dollar volume. Overall, sales from non-industry providers increased by 20 percent over 2016.

The industry-wide survey was conducted this spring with 23,564 participating distributor companies and indicates that there was significant growth among large distributors (sales of more than \$2.5 million) that drove the strong increase.

PPAI has collected and released industry sales data since 1965 and maintains an extensive industry sales information [library](#). Its annual distributor sales study reflects actual sales data reported by U.S. distributor companies and is considered the most definitive and comprehensive of its kind in the industry.

Incentive Federation Welcomes New Members

We’re very pleased to have some new members joining the Federation since the first of the year. The companies, their website links and the principal contacts for the Federation are:

[bookyourdata.com](#) – Mark Giz

[Inspirus](#) – Theresa Harkins

[Recognition Professionals International](#) – Carl Anderson

[Samsonite](#) – Scott Whitehead

[Tumi, Inc.](#) – Mike Landry

[Zane’s](#) – Warren Weaver

Please Re-New Your IFI Membership Today!

If you haven't re-newed your 2018 Incentive Federation membership yet, please do so today. If you misplaced your 2018 pledge invoice emailed to you in January or want to upgrade your membership to a new level, contact Steve Slagle at steves3309@gmail.com

2018 IFI Board of Directors

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If you have questions, advice for the Board, or want to raise issues for the Board to think about, please contact Steve Slagle at steves3309@gmail.com or 864-710-6739.