

NCSL EXECUTIVE COMMITTEE TASK FORCE ON
STATE AND LOCAL TAXATION OF TELECOMMUNICATIONS
AND ELECTRONIC COMMERCE

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The Forum for America's Ideas

Principles to Govern Decisions on Options in Savannah

- 1) The Task Force recommendation should be fully supported by the Executive Committee.
- 2) The Task Force recommendation/product should not result in any legislative defeats.
- 3) Task Force recommendation should reflect an effort to create a broad front moving toward simplicity with the room for states to simplify further if they desire to do so.

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- Product - task force
→ seeking unity

Think broadly
in terms of
states

→ Recommendation of bill is best for all -
multi-state product
○ what is good for us



NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

COMMITTEE: EXECUTIVE COMMITTEE TASK FORCE ON STATE AND
LOCAL TAXATION OF TELECOMMUNICATIONS AND
ELECTRONIC COMMERCE

TITLE: ELECTRONIC COMMERCE AND THE STATE SALES AND USE
TAX

TYPE: NCSL POLICY RESOLUTION

WHEREAS, the Internet is a collection of computer networks that enables the user to communicate electronically with other users in states and around the world; and

WHEREAS, millions of organizations and consumers are engaging in electronic commerce through their Internet connection; and

WHEREAS, business-to-consumer sales transacted through the Internet are projected to exceed \$100 billion in 2002, up from just \$8 billion in 1998 and \$ 1.5 billion in 1997; and

WHEREAS, businesses, consumers, and others engaging in interstate and foreign commerce through the Internet could become subject to complex tax structures in multiple jurisdictions; and

WHEREAS, the myriad state and local sales and use tax systems could place a significant administrative burden on remote sellers; and

WHEREAS, under current court decisions, some Internet vendors and other remote sellers cannot be legally compelled to collect sales and use taxes from consumers in other states; and

WHEREAS, the difficulties in requiring sales and use tax collections from remote sellers place local "main street" merchants at an unfair competitive disadvantage; and

WHEREAS, state sales and use tax revenues comprise, on average, one-third of state revenues and provide over half of state revenues in six states; and

WHEREAS, states have the primary responsibility for education, public safety, transportation, and health and human services; and

WHEREAS, the projected growth of electronic commerce transactions will have a substantial negative impact on state sales and use tax revenues; and

WHEREAS, state legislatures recognize the critical role that the telecommunications and information technology industries will continue to play in job creation and economic development; and

WHEREAS, state legislatures recognize that there is a need for a simplified and more uniform sales tax structure that is not an impediment to the growth and financial success of these industries;

NOW, THEREFORE BE IT RESOLVED that the National Conference of State Legislatures endorses the following principles governing sales and use taxes:

First, that state and local tax systems should treat transactions involving goods and services, including telecommunications and electronic commerce, in a competitively neutral manner; and

Second, that a simplified sales and use tax system that treats all transactions in a competitively neutral manner will strengthen and preserve the sales and use tax as vital state and local revenue sources and preserve state fiscal sovereignty; and

Third, that the Internet and Internet vendors should not receive preferential tax treatment at the expense of local "main street" merchants, nor should such vendors be burdened with special, discriminatory or multiple taxes; and

Fourth, that states recognize the need to undertake significant simplification of state and local sales and use taxes to reduce the administrative burden of collection; and

Fifth, that under such a simplified system remote sellers, without regard to physical presence in the purchaser's state, should be required to collect sales and use taxes from the purchaser and remit such taxes to the purchaser's state; and

Sixth, that NCSL encourages current and future cooperative efforts by states to simplify the operation and administration of sales and use taxes; and

Seventh, that NCSL will continue to oppose any federal action to preempt the sovereign and Constitutional right of the states to determine their own tax policies in all areas, including telecommunications and electronic commerce.

Approved and adopted July 28, 1999 in Indianapolis, Indiana.



NATIONAL CONFERENCE of STATE LEGISLATURES

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NCSL TASK FORCE
CONSIDERATION OF SSTP RECOMMENDATIONS

Options for Task Force Consideration

Option # 1

Task Force recommends that states pass the Uniform Sales and Use Tax Administration Act and include the provisions of the Streamlined Sales and Use Tax Agreement as adopted by the members of the Streamlined Sales Tax Project (SSTP) dated December 22, 2000 with clarifying amendments adopted on January 24, 2001.

NO

For more information, see TABs 4-5-6

Option # 2

Task Force recommends that states pass just a model act this year, similar to the one advocated by the SSTP. The new NCSL model act would include the intent of the SSTP model Act (section 6 with minor changes) and add new sections dealing with governance for the multistate discussions and the future agreement between the states. The model act would allow each state to appoint as many as three people to represent the states in these multistate discussions, one to be appointed by the governor and one by each presiding officer of the state's legislative chambers. (In Nebraska, the Speaker of the Senate would be allowed to appoint two representatives to the discussions.)

The Task Force would recommend that the SSTP Sales and Use Tax Agreement be viewed solely as an "advisory document" for the initial discussions of the states enacting the model act and for their consideration in formulating a new "interstate agreement." The Task Force also may recommend in the model act certain agreed upon non-controversial simplifications which the states can enact to show that states are serious about these efforts, for example, the creation of state databases of boundary changes and assigning tax rates to each jurisdiction in the state.

For more information, see TAB 7.

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Options for Task Force Consideration

Page 2.

Final

Option # 3

Task Force recommends that states pass either the SSTP's Uniform Sales and Use Tax Administration Act and include the provisions of the Streamlined Sales and Use Tax Agreement as adopted on December 22, 2000 with clarifying amendments adopted on January 24, 2001 or just Sections 1-9 of the Uniform Sales and Use Tax Administration Act. Under this option, states, most likely those with less complicated sales tax systems, e.g. states with a single sales tax rate and a single base, might decide to pass the model act including amending their state sales tax statutes to comply with the SSTP's Streamlined Sales and Use Tax Agreement (1/24/01 version). As the SSTP Agreement stipulates, after five states reach this point the Agreement comes into legal force and allows the states to negotiate with certified service providers (CSP) and possibly begin the process of collecting sales tax using the CSP's.

Those states only enacting sections 1-9 of the model act (those with more complicated systems and usually with more diverse and larger populations) would be given an "equal vote" with those states passing the model act with the provisions of the Agreement. It is believed that all of these states would have the ability to vote on changes to the Agreement over time. However, the states just passing the Sections 1-9 of the model act would not have a vote on any matter dealing with the contracts between the CSP's and the states complying with the SSTP's Agreement. The SSTP had previously informed NCSL that they would consider amendment(s) to the model act and the Agreement to ensure that states passing just Sections 1-9 of the Act would have a vote on changing the Agreement, however, they decided to put off consideration of those amendments to a later date. If the Task Force recommends this option, the Task Force will need to make the appropriate changes to allow equal participation for these states.

Possible Variations for Option # 3

Option # 3 - A

Proceed with amended SSTP Model Agreement. Task Force recommends changing number of states needed to constitute a functioning Streamlined Sales and Use Tax Agreement from 5 states to 10 states. (Article VII, Section 704)

option - 7 - 10 for look

Option # 3 - B

Proceed with amended SSTP Model Agreement. The Task Force would recommend changing the number of states needed to constitute a functioning Streamlined Sales and Use Tax Agreement from 5 states to 10 states. (Article VII, Section 704) The Task Force would further recommend deleting the section of the Agreement entitled, "Uniform Definitions" (Article III, Section 312).

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Options for Task Force Consideration

Page 3.

Option # 3 -C

Proceed with amended SSTP Model Agreement. The Task Force would recommend changing the number of states needed to constitute a functioning Streamlined Sales and Use Tax Agreement from 5 states to 10 states. (Article VII, Section 704) The Task Force would further recommending deleting the sections of the Agreement entitled, "Uniform Definitions" (Article III, Section 312) and "Uniform Base Provision" (Article III, Section 304).

Option # 3 - D

Proceed with amended SSTP Model Agreement. The Task Force would recommend changing the number of states needed to constitute a functioning Streamlined Sales and Use Tax Agreement from 5 states to 10 states. (Article VII, Section 704) The Task Force would further recommend deleting the section of the Agreement entitled, "Uniform Definitions" (Article III, Section 312).

The Task Force would recommend amending provisions with regard to base and rate to require a uniform base but allowing states to have up to two rates, including "zero" as a rate. (Article III, Section 8)

Option # 3- E

Proceed with amended SSTP Model Agreement. The Task Force would recommend changing the number of states needed to constitute a functioning Streamlined Sales and Use Tax Agreement from 5 states to 10 states. (Article VII, Section 704)

The Task Force would further recommend deleting or amending all those sections of the Streamlined Sales and Use Tax Agreement that need additional discussions and amendments. The sections deleted or amended would be:

Delete Article III / Section 304 - State and Local Tax Bases

Delete Article III / Section 308 - State and Local Tax Levies

Paragraphs A(3) Caps/Thresholds
A(4) Multiple State Rates
A(5) Rounding Rule

B(1) Multiple Local Rates
B(2) Caps & Thresholds - Local Rates

G Sales Tax Holidays Restrictions
(Referenced to Uniform Definitions)

Options for Task Force Consideration Page 4.

Option # 3-E (Continued)

**Delete Article III / Section 312 - Uniform Definitions
All Paragraphs**

**Delete Article III / Section 318 - Uniform Rules for Deductions for Bad Debts
Delete all Paragraphs**

OR Amend Section to reflect language proposed by the SSTP but not adopted

**Delete Article III / Section 322 - Confidentiality and Privacy Protections
Delete all Paragraphs**

OR Amend Section to reflect language proposed by the SSTP but not adopted

**Delete Article VI / Monetary Allowance for New Technological Models for
Sales Tax Collection**

**Amend Article VII / Section 704 - Initial Adopting States
Amend to change number of states for trigger from 5 to 10**

Delete Article VII / Section 706 - Conditions for Membership

Delete Article VII / Section 708 - Agreement Administration

Delete Article VII / Section 710 - Withdrawal of Membership

Delete Article VII / Section 712 - Expulsion of Member States

**Delete Article VII / Section 714 Continued Role of Streamlined Sales Tax Project
And State Advisory Committee**

**Amend Article VII / Section 716 - Effective Date
Amend to change number of states for trigger from 5 to 10.**

Option # 3 - F

Use the model act as proposed for Option # 2 above for the model act in any of the variations of Option # 3.

For more information, see TAB 8.

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UNIFORM SALES AND USE TAX ADMINISTRATION ACT

AS APPROVED JANUARY 24, 2001

SECTION 1 TITLE

Section 1 through Section 9 shall be known as and referred to as the "Uniform Sales and Use Tax Administration Act."

SECTION 2 DEFINITIONS

As used in this Act:

- a. "Agreement" means the Streamlined Sales and Use Tax Agreement.
- b. "Certified Automated System" means software certified jointly by the states that are signatories to the Agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.
- c. "Certified Service Provider" means an agent certified jointly by the states that are signatories to the Agreement to perform all of the seller's sales tax functions.

- 1 d. "Person" means an individual, trust, estate, fiduciary, partnership, limited
2 liability company, limited liability partnership, corporation, or any other
3 legal entity.
- 4 e. "Sales Tax" means the tax levied under (CITE SPECIFIC STATUTE).
- 5 f. "Seller" means any person making sales, leases, or rentals of personal
6 property or services.
- 7 g. "State" means any state of the United States and the District of Columbia.
- 8 h. "Use Tax" means the tax levied under (CITE SPECIFIC STATUTE).

9 **SECTION 3 LEGISLATIVE FINDING (OPTIONAL)**

10 The (LEGISLATIVE BODY) finds that this State should enter into an agreement with
11 one or more states to simplify and modernize sales and use tax administration in order to
12 substantially reduce the burden of tax compliance for all sellers and for all types of
13 commerce.

14

15 **SECTION 4 AUTHORITY TO ENTER AGREEMENT**

16 The (STATE TAXING AUTHORITY) is authorized and directed to enter into the
17 Streamlined Sales and Use Tax Agreement with one or more states to simplify and
18 modernize sales and use tax administration in order to substantially reduce the burden of
19 tax compliance for all sellers and for all types of commerce. In furtherance of the
20 Agreement, the (STATE TAXING AUTHORITY) is authorized to act jointly with other
21 states that are members of the Agreement to establish standards for certification of a
22 certified service provider and certified automated system and establish performance
23 standards for multistate sellers.

1 The (STATE TAXING AUTHORITY) is further authorized to take other actions
2 reasonably required to implement the provisions set forth in this Act. Other actions
3 authorized by this section include, but are not limited to, the adoption of rules and
4 regulations and the joint procurement, with other member states, of goods and services in
5 furtherance of the cooperative agreement.

6 The (STATE TAXING AUTHORITY) or the (AUTHORITY'S) designee is authorized
7 to represent this state before the other states that are signatories to the Agreement.

8 **SECTION 5 RELATIONSHIP TO STATE LAW**

9 No provision of the Agreement authorized by this Act in whole or part invalidates or
10 amends any provision of the law of this state. Adoption of the Agreement by this State
11 does not amend or modify any law of this State. Implementation of any condition of the
12 Agreement in this state, whether adopted before, at, or after membership of this state in
13 the Agreement, must be by the action of this state.

14 **SECTION 6 AGREEMENT REQUIREMENTS**

15 The (STATE TAXING AUTHORITY) shall not enter into the Streamlined Sales and Use
16 Tax Agreement unless the Agreement requires each state to abide by the following
17 requirements:

18 a. Uniform State Rate. The Agreement must set restrictions to achieve over
19 time more uniform state rates through the following:

- 20 1. Limiting the number of state rates.
- 21 2. Limiting the application of maximums
22 on the amount of state tax that is due on
23 a transaction.

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3. Limiting the application of thresholds on
the application of state tax.

b. Uniform Standards. The Agreement must establish uniform standards for the
following:

- 1. The sourcing of transactions to taxing jurisdictions.
- 2. The administration of exempt sales.
- 3. The allowances a seller can take for bad debts.
- 4. Sales and use tax returns and remittances.

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Vendor
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Payments*

c. Uniform Definitions. The Agreement must require states to develop and adopt uniform definitions of sales and use tax terms. The definitions must enable a state to preserve its ability to make policy choices not inconsistent with the uniform definitions.

d. Central Registration. The Agreement must provide a central, electronic registration system that allows a seller to register to collect and remit sales and use taxes for all signatory states.

e. No Nexus Attribution. The Agreement must provide that registration with the central registration system and the collection of sales and use taxes in the

1 signatory states will not be used as a factor in determining whether the seller
2 has nexus with a state for any tax.

3 f. Local Sales and Use Taxes. The Agreement must provide for reduction of
4 the burdens of complying with local sales and use taxes through the following:

5 1. Restricting variances between the
6 state and local tax bases.

7 2. Requiring states to administer
8 any sales and use taxes levied by
9 local jurisdictions within the state
10 so that sellers collecting and
11 remitting these taxes will not
12 have to register or file returns
13 with, remit funds to, or be subject
14 to independent audits from local
15 taxing jurisdictions.

16 3. Restricting the frequency of
17 changes in the local sales and use
18 tax rates and setting effective
19 dates for the application of local
20 jurisdictional boundary changes
21 to local sales and use taxes.

22 4. Providing notice of changes in

1 local sales and use tax rates and
2 of changes in the boundaries of
3 local taxing jurisdictions.

4 j. Monetary Allowances. The Agreement must outline any monetary
5 allowances that are to be provided by the states to sellers or certified
6 service providers.

7 k. State Compliance. The Agreement must require each state to certify
8 compliance with the terms of the Agreement prior to joining and to
9 maintain compliance, under the laws of the member state, with all
10 provisions of the Agreement while a member.

11 l. Consumer Privacy. The Agreement must require each state to adopt a
12 uniform policy for Certified Service Providers that protects the privacy of
13 consumers and maintains the confidentiality of tax information.

14 m. Advisory Councils. The Agreement must provide for the appointment
15 of an advisory council of private sector representatives and an advisory
16 council of non-member state representatives to consult with in the
17 administration of the Agreement.

18 **SECTION 7 COOPERATING SOVEREIGNS**

19 The Agreement authorized by this Act is an accord among individual cooperating
20 sovereigns in furtherance of their governmental functions. The Agreement provides a
21 mechanism among the member states to establish and maintain a cooperative, simplified

1 system for the application and administration of sales and use taxes under the duly
2 adopted law of each member state.

3 **SECTION 8 LIMITED BINDING AND BENEFICIAL EFFECT**

4 a. The Agreement authorized by this Act binds and inures only to the benefit of this State
5 and the other member states. No person, other than a member state, is an intended
6 beneficiary of the Agreement. Any benefit to a person other than a state is established by
7 the law of this State and the other member states and not by the terms of the Agreement.

8 b. Consistent with subsection (a), no person shall have any cause of action or defense
9 under the Agreement or by virtue of this State's approval of the Agreement. No person
10 may challenge, in any action brought under any provision of law, any action or inaction
11 by any department, agency, or other instrumentality of this State, or any political
12 subdivision of this State on the ground that the action or inaction is inconsistent with the
13 Agreement.

14 c. No law of this state, or the application thereof, may be declared invalid as to any
15 person or circumstance on the ground that the provision or application is inconsistent
16 with the Agreement.

17 **SECTION 9 SELLER AND THIRD PARTY LIABILITY**

18 a. A Certified Service Provider is the agent of a seller, with whom the Certified Service
19 Provider has contracted, for the collection and remittance of sales and use taxes. As the
20 seller's agent, the Certified Service Provider is liable for sales and use tax due each
21 member state on all sales transactions it processes for the seller except as set out in this
22 section.

1 A seller that contracts with a Certified Service Provider is not liable to the state for sales
2 or use tax due on transactions processed by the Certified Service Provider unless the
3 seller misrepresented the type of items it sells or committed fraud. In the absence of
4 probable cause to believe that the seller has committed fraud or made a material
5 misrepresentation, the seller is not subject to audit on the transactions processed by the
6 Certified Service Provider. A seller is subject to audit for transactions not processed by
7 the Certified Service Provider. The member states acting jointly may perform a system
8 check of the seller and review the seller's procedures to determine if the Certified Service
9 Provider's system is functioning properly and the extent to which the seller's transactions
10 are being processed by the Certified Service Provider.

11 b. A person that provides a Certified Automated System is responsible for the proper
12 functioning of that system and is liable to the state for underpayments of tax attributable
13 to errors in the functioning of the Certified Automated System. A seller that uses a
14 Certified Automated System remains responsible and is liable to the state for reporting
15 and remitting tax.

16 c. A seller that has a proprietary system for determining the amount of tax due on
17 transactions and has signed an agreement establishing a performance standard for that
18 system is liable for the failure of the system to meet the performance standard.

19 **SECTIONS 10 THROUGH ____ INDIVIDUAL STATE**
20 **AMENDMENTS**

21 These sections are reserved for each individual state to make statutory amendments
22 necessary to bring it into compliance with the Streamlined Sales and Use Tax Agreement.
23 Some examples would be amending the state's current sourcing rule to comply with the

1 new uniform rule, making the effective dates of local rate changes to the first day of a
2 calendar quarter and providing for a sixty (60) day notice, or enacting exemptions
3 necessary to preserve, to the extent consistent with the uniform definitions, current non-
4 taxability of various goods and services.

5 **SECTION ___ EFFECTIVE DATE (OPTIONAL)**

6 Sections 1 through 9 of this Act are effective upon ratification (or whatever phrase is
7 used in the state to indicate that the act is effective immediately) or specific date.

8 Sections 10 through ___ of this Act becomes effective on the date this State becomes a
9 member of the Streamlined Sales and Use Tax Agreement.

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STREAMLINED SALES AND USE TAX AGREEMENT

AS APPROVED JANUARY 24, 2001

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- 16 1000 Review of Costs and Benefits

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19

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ARTICLE I

21

PURPOSE AND PRINCIPLE

22 **100 TITLE**

23 This multistate Agreement shall be referred to, cited and known as the Streamlined Sales and
24 Use Tax Agreement.

1 **102 FUNDAMENTAL PURPOSE**

2 It is the purpose of this Agreement to simplify and modernize sales and use tax administration in
3 the member states in order to substantially reduce the burden of tax compliance. The Agreement
4 focuses on improving sales and use tax administration systems for all sellers and for all types of
5 commerce through all of the following:

- 6 a. State level administration of sales and use tax collections.
- 7 b. Uniformity in the state and local tax bases.
- 8 c. Central, electronic registration system for all member states.
- 9 d. Simplification of state and local tax rates.
- 10 e. Uniform sourcing rules for all taxable transactions.
- 11 f. Uniform definitions within tax bases.
- 12 g. Simplified administration of exemptions.
- 13 h. Simplified tax returns.
- 14 i. Uniform rules for deductions of bad debts.
- 15 j. Simplification of tax remittances.
- 16 k. Protection of consumer privacy.

17 **104 APPLICATION**

18 This Agreement applies only to the levy of sales and use taxes identified in the Uniform Sales
19 and Use Tax Administration Act enacted by each member state.

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**ARTICLE II
DEFINITIONS**

1 The following definitions apply in this Agreement:

2 **200 AGENT**

3 A person appointed by a seller to represent the seller before the member states.

4 **202 AGREEMENT**

5 The Streamlined Sales and Use Tax Agreement and as subsequently amended.

6 **204 CERTIFIED AUTOMATED SYSTEM (CAS)**

7 Software certified under the Agreement to calculate the tax imposed by each jurisdiction on a
8 transaction, determine the amount of tax to remit to the appropriate state, and maintain a record
9 of the transaction.

10 **206 CERTIFIED SERVICE PROVIDER (CSP)**

11 An agent certified under the Agreement to perform all the seller's sales and use tax functions,
12 other than the seller's obligation to remit tax on its own purchases.

13 **208 MODEL 1 SELLER**

14 A seller that has selected a CSP as its agent to perform all the seller's sales and use tax functions,
15 other than the seller's obligation to remit tax on its own purchases.

16 **210 MODEL 2 SELLER**

17 A seller that has selected a CAS to perform part of its sales and use tax functions, but retains
18 responsibility for remitting the tax.

19 **212 MODEL 3 SELLER**

20 A seller that has sales in at least five member states, has total annual sales revenue of at least five
21 hundred million dollars (or a lower amount which may be agreed to by the states acting jointly),
22 has a proprietary system that calculates the amount of tax due each jurisdiction, and has entered
23 into a performance agreement with the member states that establishes a tax performance standard

1 for the seller. As used in this section, a seller includes an affiliated group of sellers using the
2 same proprietary system.

3 **214 PERSON**

4 An individual, trust, estate, fiduciary, partnership, limited liability company, limited liability
5 partnership, corporation, or any other legal entity.

6 **216 PURCHASER**

7 A person to whom a sale of personal property is made or to whom a service is furnished.

8 **218 REGISTERED UNDER THIS AGREEMENT**

9 Registration by a seller with the member states under the central registration system provided in
10 Article IV of this Agreement.

11 **220 SELLER**

12 A person making sales, leases, or rentals of personal property or services.

13 **222 STATE**

14 Any state of the United States and the District of Columbia.

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ARTICLE III

17

REQUIREMENTS EACH STATE MUST

18

ACCEPT TO PARTICIPATE

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300 COMPLIANCE

20 As a requisite to entering into and remaining a member of the Agreement, each State must
21 comply with the provisions of this Agreement in accordance with the provisions of Article VII of
22 this Agreement.

23

302 STATE ADMINISTRATION

1 Each State must provide state level administration of sales and use taxes. Sellers are only
2 required to register with, file returns with, and remit funds to the state taxing authority. The State
3 must collect any local taxes and distribute them to the appropriate taxing jurisdictions. Member
4 states must conduct, or authorize others to conduct on their behalf, all audits of the sellers
5 registered under this Agreement, and local jurisdictions shall not conduct independent sales or
6 use tax audits of sellers registered under this Agreement.

7 **304 STATE AND LOCAL TAX BASES**

8 a. Through December 31, 2005, if a member state has local jurisdictions that levy a sales or use
9 tax, all local jurisdictions in the State must have a common tax base. After December 31, 2005,
10 the tax base for local jurisdictions must be identical to the state tax base, unless federal law
11 prohibits the local jurisdictions from taxing a transaction taxed by the State.

12 b. This section does not apply to sales or use taxes levied on the transfer of motor vehicles,
13 aircraft, watercraft, modular home, manufactured home or mobile home.

14 **306 SELLER REGISTRATION**

15 Each State must participate in an online sales and use tax registration system in cooperation with
16 the other member states. Under this system:

17 a. A seller registering under the Agreement is registered in each of the member
18 states.

19 b. The member states agree not to require the payment of any registration fees or
20 other charges for a seller to register in a State in which the seller has no legal
21 requirement to register.

22 c. A written signature from the seller is not required.

23 d. An agent may register a seller under uniform procedures adopted by the member
24 states.

25 e. A seller may cancel its registration under the system at any time under uniform

July 04 case

- Larry Boss
CAPS & THRESHOLDS

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1 procedures adopted by the member states. Cancellation does not relieve the seller
2 of its liability for remitting to the proper states any taxes collected.

3308 STATE AND LOCAL TAX LEVIES

4 a. To reduce the complexity and administrative burden of collecting sales and use taxes, all
5 member states must:

6 1. Lessen the difficulties faced by sellers when there is a change in a state sales or use tax
7 rate or base by making a reasonable effort to do all of the following:

- 8 a. Provide sellers with as much advance notice as practicable of a rate change.
- 9 b. Limit the effective date of a rate change to the first day of a calendar quarter.
- 10 c. Notify sellers of legislative changes in the tax base and amendments to sales and
11 use tax rules and regulations.

12 Failure of a seller to receive notice or failure of a State to provide notice or limit the effective
13 date of a rate change shall not relieve the seller of its obligation to collect sales or use
14 taxes for that member state.

15 2. Provide that the effective date of rate changes for services covering a period starting
16 before and ending after the statutory effective date shall be as follows:

- 17 a. For a rate increase, the new rate shall apply to the first billing period
18 starting on or after the effective date.
- 19 b. For a rate decrease, the new rate shall apply to bills rendered on or after
20 the effective date.

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21 ③ Not have caps or thresholds on the application of state sales or use tax rates or
22 exemptions that are based on the value of the transaction or item after December 31,
23 2005. A State may continue to have caps and thresholds until that date.

24 4. Not have multiple state tax rates on items of personal property or services after December

1 31, 2005. A State may continue to have a generally applicable state tax rate and
2 additional state rates until that date.

3 5. Provide that the tax rate equals the combination of the state and local sales tax rates. In
4 computing the tax to be collected as the result of any transaction, the tax amount must be
5 carried to the third decimal place. Amounts of tax less than one-half of one cent shall be
6 disregarded and amounts of tax of one-half cent or more shall be considered an additional
7 cent. Sellers may elect to compute the tax due on transactions on an item or invoice basis.

8 6. The provisions of paragraphs (3) and (4) of this subsection do not apply to sales or use
9 taxes levied on the transfer of motor vehicles, aircraft, watercraft, modular home,
10 manufactured home or mobile home.

11b. Member states that have local jurisdictions that levy a sales or use tax must:

12 1. Not have more than one sales tax rate or more than one use tax rate per local taxing
13 jurisdiction. If the local jurisdiction levies both a sales tax and a use tax, the rates must be
14 identical.

15 2. Not place caps or thresholds on the application of local sales or use tax rates or
16 exemptions that are based on the value of the transaction or item.

17 3. Provide that local rate changes will be effective only on the first day of a calendar quarter
18 after a minimum of sixty (60) days' notice to sellers.

19 4. Apply local sales tax rate changes to purchases from printed catalogs wherein the
20 purchaser computed the tax based upon local tax rates published in the catalog only on
21 the first day of a calendar quarter after a minimum of 120 days notice to sellers.

22 5. For sales and use tax purposes only, apply local jurisdiction boundary changes only on
23 the first day of a calendar quarter after a minimum of sixty (60) days notice to sellers.

24 6. Provide and maintain a database that describes boundary changes for all taxing
25 jurisdictions. This database must include a description of the change and the effective
26 date of the change for sales and use tax purposes.

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- 1 7. Provide and maintain a database of all sales and use tax rates for all of the jurisdictions
2 levying taxes within the State. For the identification of states, counties, cities, and
3 parishes, codes corresponding to the rates must be provided according to Federal
4 Information Processing Standards (FIPS) as developed by the National Institute of
5 Standards and Technology. For the identification of all other jurisdictions, codes
6 corresponding to the rates must be in the format determined jointly by the member states.

- 7 8. Provide and maintain a database that assigns each five (5) digit and nine (9) digit zip code
8 within the State to the proper tax rates and jurisdictions. The State must apply the lowest
9 combined tax rate imposed in the zip code area if the area includes more than one tax rate
10 in any level of taxing jurisdictions. If a nine (9) digit zip code designation is not available
11 for a street address or if a seller is unable to determine the nine (9) digit zip code
12 designation of a purchaser after exercising due diligence to determine the designation, the
13 seller may apply the rate for the five (5) digit zip code area. For the purposes of this
14 section, there is a rebuttable presumption that a seller has exercised due diligence if the
15 seller has attempted to determine the nine (9) digit zip code designation by utilizing
16 software approved by the member states that makes this designation from the street
17 address and the five (5) digit zip code of the purchaser.

- 18

- 19 9. Participate with other member states in the development of an address-based system for
20 assigning taxing jurisdictions. The system must meet the requirements developed
21 pursuant to the federal Mobile Telecommunications Sourcing Act, at 4 U.S.C.A. § 119.
22 At a future date, member states acting jointly may allow a member state to require sellers
23 register under this agreement to use an address-based system provided by that member
24 state. If any State develops an address-based assignment system pursuant to the Mobile
25 Telecommunications Sourcing Act, a seller may use that system in place of the system
26 provided for in paragraph 8 of this section.

- 27 10. The provisions of paragraphs (1) and (2) of this subsection do not apply to sales or use
28 taxes levied on the transfer of motor vehicles, aircraft, watercraft, modular home,
29 manufactured home or mobile home.

- 1 c. The member states must relieve sellers and Certified Service Providers from liability to
2 the State or local jurisdictions for having charged and collected the incorrect amount of
3 sales or use tax resulting from the seller or Certified Service Provider relying on
4 erroneous data provided by a State on tax rates, boundaries, or taxing jurisdiction
5 assignments. A State that provides an address-based system for assigning taxing
6 jurisdictions pursuant to paragraph (b)(9) of this section or pursuant to the federal Mobile
7 Telecommunications Sourcing Act will not be required to provide liability relief for
8 errors resulting from the reliance on the information provided by the State under the
9 provisions of paragraph (b)(8) of this section.
- 10 d. The electronic databases, provided for in paragraphs (b)(6), (b)(7), (b)(8), and (b)(9) of
11 this section, must be in a downloadable format approved by the member states acting
12 jointly.
- 13 e. The provisions of paragraphs (b)(8) and (b)(9) do not apply when the purchased product
14 is received by the purchaser at the business location of the seller.
- 15 f. The databases provided by (b)(6), (b)(7), and (b)(8) are not a requirement of a State prior
16 to entering into the Agreement. The effective dates for availability and use of the
17 databases will be determined by the member states acting jointly.
18
- 19 g. if a member state allows for temporary exemption periods, commonly referred to as sales
20 tax holidays, the State must not apply an exemption after December 31, 2003 unless the
21 item exempted has been defined under the provisions of Section 312. Further, if the State
22 provides local jurisdictions with the option of levying a sales or use tax, the State must
23 provide notice of the exemption period at least sixty (60) days prior to the first day of the
24 calendar quarter in which the exemption period will begin and apply the exemption to
25 both state and local tax bases.

26 **310 UNIFORM SOURCING RULES**

27 The member states agree to require sellers to source the sale (including the lease or rental) of a

1 product in accordance with the following provisions. These provisions apply regardless of the
2 characterization of a product as tangible personal property, a digital good, or a service
3 (excluding, for the present, telecommunications). These provisions only apply to determine a
4 seller's obligation to pay or collect and remit a sales or use tax with respect to the seller's sale of
5 a product. These provisions do not affect the obligation of a seller as purchaser to remit tax on
6 the use of the product to the taxing jurisdictions of that use.

- 7 a. When the product is received by the purchaser at a business location of the seller, the sale
8 is sourced to that business location.
- 9 b. When the product is not received by the purchaser at a business location of the seller, the
10 sale is sourced to the location where receipt-by the purchaser (or the purchaser's donee,
11 designated as such by the purchaser) occurs, including the location indicated by
12 instructions for delivery to the purchaser (or donee), known to the seller.
- 13 c. When (a) and (b) do not apply, the sale is sourced to the location indicated by an address
14 for the purchaser that is available from the business records of the seller that are
15 maintained in the ordinary course of the seller's business when use of this address does
16 not constitute bad faith.
- 17 d. When (a), (b), and (c) do not apply, the sale is sourced to the location indicated by an
18 address for the purchaser obtained during the consummation of the sale, including the
19 address of a purchaser's payment instrument, if no other address is available, when use of
20 this address does not constitute bad faith.
- 21 e. When none of the previous rules of (a), (b), (c), or (d) apply, including the circumstance
22 where the seller is without sufficient information to apply the previous rules, then the
23 location will be determined by the address from which tangible personal property was
24 shipped, from which the digital good was first available for transmission by the seller, or
25 from which the service was provided (disregarding for these purposes any location that
26 merely provided the digital transfer of the product sold).
- 27 f. Notwithstanding the previously stated rules, a business purchaser that is not a holder of a

1 direct pay permit that knows at the time of its purchase of a digital good or a service that
2 the digital good or service will be concurrently available for use in more than one
3 jurisdiction shall deliver to the seller in conjunction with its purchase a form disclosing
4 this fact ("Multiple Points of Use or MPU" Exemption Form).

- 5 1. Upon receipt of the MPU Exemption Form, the seller is relieved of all obligation
6 to collect, pay, or remit the applicable tax and the purchaser shall be obligated to
7 collect, pay, or remit the applicable tax on a direct pay basis.
- 8 2. A purchaser delivering the MPU Exemption Form may use any reasonable, but
9 consistent and uniform, method of apportionment that is supported by the
10 purchaser's business records as they exist at the time of the consummation of the
11 sale.
- 12 3. The MPU Exemption Form will remain in effect for all future sales by the seller
13 to the purchaser (except as to the subsequent sale's specific apportionment that is
14 governed by the principle of subparagraph (f)(2) and the facts existing at the time
15 of the sale) until it is revoked in writing.
- 16 4. A holder of a direct pay permit shall not be required to deliver a MPU Exemption
17 Form to the seller. A direct pay permit holder shall follow the provisions of
18 subparagraph (f)(2) in apportioning the tax due on a digital good or a service that
19 will be concurrently available for use in more than one jurisdiction.

20 g. The terms "receive" and "receipt" mean:

- 21 1. taking possession of tangible personal property,
- 22 2. making first use of services, or
- 23 3. taking possession or making first use of digital goods, whichever comes first.

24 The terms "receive" and "receipt" do not include possession by a shipping company on
25 behalf of the purchaser.

1 h. This section is reserved for a specific sourcing rule applicable to telecommunications and
2 possibly additional specific sourcing rules for other services as necessary to effect the
3 intent of providing for uniform sourcing of transactions. Until the specific sourcing rule
4 for telecommunications is adopted, the sourcing rules presently applicable to
5 telecommunications will remain in effect in each State.

6 i. This section does not apply to sales or use taxes levied on the transfer of motor vehicles,
7 aircraft, watercraft, modular home, manufactured home or mobile home. These items
8 must be sourced according to the requirements of each member state.

9 **312 UNIFORM DEFINITIONS**

10 A. Nothing in this Agreement shall be construed to require any State to tax or not tax any item or
11 service, except that a State must use the definitions specified by the Agreement if it chooses to
12 tax or not tax the items or services covered by those definitions. A State must include all items
13 specifically listed within a definition as provided herein. A State may not vary from any
14 definition except as otherwise specifically provided by this Agreement. The terms "includes" and
15 "including" when used in a definition contained in this section does not exclude other things
16 otherwise within the meaning of the term defined.

17 Notwithstanding the foregoing requirements of this subsection or any other provision of this
18 Agreement, a State may maintain its tax treatment of food in a manner that differs from the
19 definitions provided in paragraph (D) of this section, provided its taxation or exemption of food
20 is based on a prohibition or requirement of that State's Constitution that exists on the effective
21 date of this Agreement.

22 **B. CLOTHING AND RELATED ITEMS**

23 1. "**Clothing**" shall mean all human wearing apparel suitable for general use. The following list
24 is intended to be examples and not an all inclusive list of possibilities.

25 a. Clothing shall include:

- 26 1. Aprons, household and shop

- 1 2. Athletic supporters
- 2 3. Baby receiving blankets
- 3 4. Bathing suits and caps
- 4 5. Beach capes and coats
- 5 6. Belts and suspenders
- 6 7. Boots
- 7 8. Coats and jackets
- 8 9. Costumes
- 9 10. Diapers (children and adults - including disposables)
- 10 11. Ear muffs
- 11 12. Footlets
- 12 13. Formal wear
- 13 14. Garters and garter belts
- 14 15. Girdles
- 15 16. Gloves and mittens for general use
- 16 17. Hats and caps
- 17 18. Hosiery
- 18 19. Insoles for shoes
- 19 20. Lab coats
- 20 21. Neckties

- 1 22. Overshoes
- 2 23. Pantyhose
- 3 24. Rainwear
- 4 25. Rubber pants
- 5 26. Sandals
- 6 27. Scarves
- 7 28. Shoes and shoe laces
- 8 29. Slippers
- 9 30. Sneakers
- 10 31. Socks and stockings
- 11 32. Steel toed shoes
- 12 33. Underwear
- 13 34. Uniforms, athletic and non-athletic
- 14 35. Wedding apparel

15 b. Clothing shall not include:

- 16 1. Belt buckles sold separately
- 17 2. Costume masks sold separately
- 18 3. Patches and emblems sold separately
- 19 4. Sewing equipment and supplies (knitting needles, patterns, pins, scissors,
20 sewing machines, sewing needles, tape measures, thimbles)
- 21 5. Sewing materials that become part of clothing (buttons, fabric, lace,

1 thread, yarn, zippers)

22. The following definitions are mutually exclusive of "clothing" and each other.

3 a. **"Clothing accessories or equipment"** shall mean incidental items worn on the person or
4 in conjunction with clothing. The following list is intended to be examples and not an all
5 inclusive list of possibilities.

6 Clothing accessories shall include:

7 1. Briefcases

8 2. Cosmetics

9 3. Hair notions, including barrettes, hair bows, hair nets, etc.

10 4. Handbags

11 5. Handkerchiefs

12 6. Jewelry

13 7. Sun glasses, non-prescription

14 8. Umbrellas

15 9. Wallets

16 10. Watches

17 11. Wigs and hair pieces

18 b. **"Sport or recreational equipment"** shall mean items designed for human use and worn
19 in conjunction with an athletic or recreational activity that are not suitable for general
20 use. The following list is intended to be examples and not an all inclusive list of
21 possibilities.

22 Sport or recreational equipment shall include:

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1. Ballet and tap shoes
2. Cleated or spiked athletic shoes
3. Gloves (baseball, bowling, boxing, hockey, golf, etc.)
4. Goggles
5. Hand and elbow guards
6. Life preservers and vests
7. Mouth guards
8. Roller and ice skates
9. Shin guards
10. Shoulder pads
11. Ski boots
12. Waders
13. Wetsuits and fins

c. **"Protective equipment"** shall mean items for human wear and designed as protection of the wearer against injury or disease or as protection against damage or injury of other persons or property but not suitable for general use. The following list is intended to be examples and not an all inclusive list of possibilities.

Protective equipment shall include:

1. Breathing masks
2. Clean room apparel and equipment
3. Ear and hearing protectors

- 1 4. Face shields
- 2 5. Finger guards
- 3 6. Hard hats
- 4 7. Helmets
- 5 8. Paint or dust respirators
- 6 9. Protective gloves
- 7 10. Safety glasses and goggles
- 8 11. Safety belts
- 9 12. Tool belts
- 10 13. Welders gloves and masks

11 **C. DELIVERY CHARGES**

12 **"Delivery charges"** means charges by the seller for preparation and delivery to a location
13 designated by the purchaser of personal property or services including, but not limited to,
14 transportation, shipping, postage, handling, crating, and packing.

15 **D. FOOD AND FOOD INGREDIENTS**

16 1. **"Food and food ingredients"** means substances, whether in liquid, concentrated, solid,
17 frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and
18 are consumed for their taste or nutritional value. "Food and food ingredients" does not
19 include:

20 a. **"Alcoholic Beverages"** which means beverages that are suitable for
21 human consumption and contain one-half of one per cent or more of
22 alcohol by volume, and

23 b. **"Tobacco"** which means cigarettes, cigars, chewing or pipe tobacco, or

1 any other item that contains tobacco.

2 2. The following definitions are categories that can be excluded from the definition of the
3 term "food and food ingredients" and are mutually exclusive of each other.

4 a. "**Candy**" means a preparation of sugar, honey, or other natural or
5 artificial sweeteners in combination with chocolate, fruits, nuts, or other
6 ingredients or flavorings in the form of bars, drops, or pieces. Candy shall
7 not include any preparation containing flour and shall require no
8 refrigeration.

9 b. "**Dietary supplement**" means any product, other than tobacco,
10 intended to supplement the diet that:

11 1. Contains one or more of the following dietary ingredients:

12 a. a vitamin;

13 b. a mineral;

14 c. an herb or other botanical;

15 d. an amino acid;

16 e. a dietary substance for use by humans to supplement the diet by
17 increasing the total dietary intake; or

18 f. a concentrate, metabolite, constituent, extract, or combination of
19 any ingredient described in above; and

20 2. Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or
21 liquid form, or if not intended for ingestion in such a form, is not
22 represented as conventional food and is not represented for use as a sole
23 item of a meal or of the diet; and

24 3. Is required to be labeled as a dietary supplement, identifiable by the

1 "Supplement Facts" box found on the label and as required pursuant to 21
2 C.F.R §101.36.

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4 c. "**Soft drinks**" means non-alcoholic beverages that contain natural or
5 artificial sweeteners. Soft drinks do not include beverages that contain:

- 6 1. milk or milk products;
- 7 2. soy, rice, or similar milk substitutes; or
- 8 3. greater than fifty percent of vegetable or fruit juice by volume.

9 3. The following definitions may also be excluded from the term "food and food ingredients":

10 a. "**Food sold through vending machines**" means food dispensed from a machine or
11 other mechanical device that accepts payment.

12 b. "**Prepared food**" means:

- 13 1. Food sold in a heated state or heated by the seller;
- 14 2. Two or more food ingredients mixed or combined by the seller for sale as
15 a single item; or
- 16 3. Food sold with eating utensils provided by the seller, including plates,
17 knives, forks, spoons, glasses, cups, napkins, or straws.

18 "Prepared food" does not include food that is only sliced, repackaged, or pasteurized by
19 the seller.

20 **E. PURCHASE PRICE**

21 "**Purchase price**" applies to the measure subject to use tax and has the same meaning as "sales
22 price."

23 **F. RETAIL SALE**

1 **"Retail sale" or "sale at retail"** means any sale, lease, or rental for any purpose other than for
2 resale, sublease, or subrent.

3 **G. SALES PRICE**

4 1. **"Sales price"** applies to the measure subject to sales tax and means the total amount or
5 consideration, including cash, credit, property, and services, for which personal property or
6 services are sold, leased, or rented, valued in money, whether received in money or otherwise,
7 without any deduction for the following:

8 a. The seller's cost of the property sold;

9 b. The cost of materials used, labor or service cost, interest, losses, all costs of
10 transportation to the seller, all taxes imposed on the seller, and any other expense of the
11 seller;

12 c. Charges by the seller for any services necessary to complete the sale, other than delivery
13 and installation charges;

14 d. Delivery charges;

15 e. Installation charges; and

16 f. The value of exempt personal property given to the purchaser where taxable and exempt
17 personal property have been bundled together and sold by the seller as a single product or
18 piece of merchandise.

19 2. States may exclude from the sales price the amounts received for charges included in
20 paragraphs (c) through (f) above, if they are separately stated on the invoice, billing, or similar
21 document given to the purchaser.

22 3. "Sales price" shall not include:

23 a. Discounts, including cash, term, or coupons that are not reimbursed by a third party that
24 are allowed by a seller and taken by a purchaser on a sale;

- 1 b. Interest, financing, and carrying charges from credit extended on the sale of personal
2 property or services, if the amount is separately stated on the invoice, bill of sale, or
3 similar document given to the purchaser; and
- 4 c. Any taxes legally imposed directly on the consumer that are separately stated on the
5 invoice, bill of sale, or similar document given to the purchaser.

6 **314 ADMINISTRATION OF EXEMPTIONS**

- 7 a. To reduce the complexity and administrative burden of transactions exempt from sales or use
8 tax, the following provisions must be followed when a purchaser claims an exemption:
- 9 1. The seller must obtain identifying information of the purchaser and the reason for
10 claiming a tax exemption at the time of the purchase as determined by the member states
11 acting jointly.
- 12 2. A purchaser is not required to provide a signature to claim an exemption from tax unless
13 a paper certificate is used.
- 14 3. The seller must use the standard form for claiming an exemption electronically as
15 adopted jointly by the member states.
- 16 4. The seller must obtain the same information for proof of a claimed exemption regardless
17 of the medium in which the transaction occurred.
- 18 5. A member state may utilize a system wherein the purchaser exempt from the payment of
19 the tax is issued an identification number which must be presented to the seller at the time
20 of the sale.
- 21 6. The seller must maintain proper records of exempt transactions and provide them to a
22 member state when requested.
- 23 b. The member states must relieve sellers that follow the requirements of this section from any
24 tax otherwise applicable if it is determined that the purchaser improperly claimed an exemption
25 and to hold the purchaser liable for the nonpayment of tax.

1 **316 UNIFORM TAX RETURNS**

2 To reduce the complexity and administrative burden of preparing and filing sales and use tax
3 returns, all member states must:

4 a. Require that only one return per taxing period per seller be filed for the State and all the
5 taxing jurisdictions within the State.

6 b. Require that returns be due no sooner than the 20th day of the month following the month
7 in which the transaction occurred.

8 c. Allow any Model 1, Model 2, or Model 3 seller to submit its sales and use tax returns in a
9 simplified format which does not include more data fields than permitted by the member
10 states acting jointly. States may require additional informational returns to be submitted
11 not more frequently than every six months under a staggered system developed jointly by
12 the member states.

13 d. Allow any seller that is registered under this Agreement, which does not have a legal
14 requirement to register in the member state, and is not a Model 1, 2, or 3 seller, to submit
15 its sales and use tax returns as follows:

16 1. Upon registration, the State must provide to the seller the returns required by that
17 State.

18 2. A member state may require a seller to file a return anytime within one (1) year of
19 the month of initial registration, and future returns may be required on an annual
20 basis in succeeding years.

21 3. In addition to the returns required in paragraph (d)(2) of this section, a State may
22 require sellers to submit returns in the month following any month in which they
23 have accumulated state and local tax funds for a State of \$1,000 or more.
24

25 e. Participate with other member states in developing a more uniform sales and use tax
26 return that, when completed, would be available to all sellers.

- 1 f. Require, at each member state's discretion, all Model 1, 2, and 3 sellers to file returns
2 electronically. It is the intent of the member states that all member states have the
3 capability of receiving electronically filed returns by January 1, 2003.

4 **318 UNIFORM RULES FOR DEDUCTIONS OF BAD DEBTS**

5 In order to reduce the complexity and administrative burden of taking a deduction for bad debts
6 incurred by a seller, the member states must:

- 7 a. In computing the amount of tax due, allow a seller to deduct bad debts from the total
8 amount upon which the tax is calculated for any return. Any deduction taken or refund
9 paid which is attributed to bad debts shall not include interest.
- 10 b. Define for purposes of this section, "bad debt" to mean any portion of the purchase price
11 of a transaction that a seller has reported as taxable and for which the seller legally claims
12 as a bad debt deduction for federal income tax purposes. Bad debts include, but are not
13 limited to, worthless checks, worthless credit card payments, and uncollectible credit
14 accounts. Bad debts do not include financing charges or interest, sales or use taxes
15 charged on the purchase price, uncollectible amounts on property that remain in the
16 possession of the seller until the full purchase price is paid, expenses incurred in
17 attempting to collect any debt, debts sold or assigned to third parties for collection, and
18 repossessed property.
- 19 c. Allow bad debts to be deducted within twelve months following the month in which the
20 bad debt has been charged off for federal income tax purposes. For purposes of this
21 paragraph, "charged off for federal income tax purposes" includes the charging off of
22 unpaid balances due on accounts as uncollectible, or declaring as uncollectible such
23 unpaid balance due on accounts in the instance of a seller who is not required to file
24 federal income tax returns.
- 25 d. Require that, if a deduction is taken for a bad debt and the seller subsequently collects the
26 debt in whole or in part, the tax on the amount so collected must be paid and reported on
27 the return filed for the period in which the collection is made.

- 1 e. Allow a seller to obtain a refund of tax on any amount of bad debt that exceeds the
2 amount of taxable sales within a twelve month period defined by that bad debt.
- 3 f. Where a seller's filing responsibilities have been assumed by a Certified Service Provider,
4 allow the service provider to claim, on behalf of the seller, any bad debt allowance
5 provided by this section. The CSP must credit or refund the full amount of any bad debt
6 allowance or refund received to the seller.
- 7 g. Provide that, for the purposes of computing a bad debt deduction or reporting a payment
8 received on a previously claimed bad debt, any payments made on a debt or account are
9 applied first to the price of the property or service and sales tax thereon, proportionally,
10 and secondly to interest, service charges, and any other charges.

11 **320 UNIFORM RULES FOR REMITTANCES OF FUNDS**

12 To reduce the complexity and administrative burden of remitting funds to the states, the member
13 states agree to:

- 14 a. Require only one remittance per return except as provided in this paragraph. If any
15 additional remittance is required, it may only be required from sellers that collect more
16 than \$30,000 in sales and use taxes in the State during the preceding calendar year as
17 provided herein. The amount of the additional remittance must be determined through a
18 calculation method rather than actual collections and must not require the filing of an
19 additional return.
- 20 b. Require, at each member state's discretion, all remittances from sellers under Models 1,
21 2, and 3 to be remitted electronically.
- 22 c. Allow for electronic payments by both ACH Credit and ACH Debit.
- 23 d. Provide an alternative method for making "same day" payments if an electronic funds
24 transfer fails.
- 25 e. Provide that if a due date falls on a legal banking holiday in a member state, the taxes are
26 due to that state on the succeeding business day.

- 1 f. Require that any data that accompanies a remittance be formatted using uniform tax type
2 and payment type codes approved by the member states acting jointly.

3 **322 CONFIDENTIALITY AND PRIVACY PROTECTIONS**

4 a. The purpose of this section is to set forth the member states' policy for the protection of
5 the confidentiality rights of all participants in the system and of the privacy interests of
6 consumers who deal with Model 1 sellers.

7 b. As used in this section, the term "confidential taxpayer information" means all
8 information that is protected under a member state's laws, regulations, and privileges; the
9 term "personally identifiable information" means information that identifies a person; and
10 the term "anonymous data" means information that does not identify a person.

11 c. The member states agree that a fundamental precept in Model 1 is to preserve the privacy
12 of consumers by protecting their anonymity. With very limited exceptions, a Certified
13 Service Provider must perform its tax calculation, remittance, and reporting functions
14 without retaining the personally identifiable information of consumers. To preserve the
15 privacy of consumers, member states agree that, with respect to Model 1:

16 1. A Certified Service Provider's system must be designed and tested to ensure that
17 the fundamental precept of anonymity is respected, and that personally
18 identifiable information is only used when necessary for the administration of
19 Model 1 and only when the Certified Service Provider has clear and conspicuous
20 notice of its use.

21 2. Certified Service Providers must provide consumers clear and conspicuous notice
22 of their information practice, including what information they collect, how they
23 collect the information, how they use the information, and whether they disclose
24 the information to member states.

25 3. Certified Service Providers' retention of personally identifiable information will
26 be limited to exemption claims by reason of a consumer's status or intended use
27 of the goods or services purchased, to investigations of fraud, and to the extent

1 necessary, to ensure the reliability of the Certified Service Providers' technology
2 in Model 1.

3 4. Certified Service Providers must provide such technical, physical, and
4 administrative safeguards so as to protect personally identifiable information from
5 unauthorized access and disclosure.

6 5. This privacy policy is subject to enforcement by member states' attorneys general
7 or other appropriate authorities.

8 6. When personally identifiable information is retained for limited purposes by or on
9 behalf of the member states, in the absence of exigent circumstances, individuals
10 should be provided with reasonable notification of such retention and should be
11 afforded reasonable access to their own data and a right to correct inaccurately
12 recorded data.

13 7. If anyone other than a member state seeks to discover personally identifiable
14 information, then, in the absence of exigent circumstances, a reasonable and
15 timely effort should be made to notify the individual of such request.

16 d. The member states' laws and regulations regarding the collection, use, and maintenance
17 of confidential taxpayer information remain fully applicable and binding. Without
18 limitation, this Agreement does not enlarge or limit the member states' authority to:

19 1. Conduct audits or other review as provided under this agreement and state law.

20 2. Provide records pursuant to a member state's Freedom of Information Act,
21 disclosure laws with governmental agencies, or other regulations.

22 3. Prevent, consistent with state law, disclosures of confidential taxpayer
23 information.

24 4. Prevent, consistent with federal law, disclosures or misuse of federal return
25 information obtained under a disclosure agreement with the Internal Revenue
26 Service.