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**STREAMLINED SALES AND**

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**USE TAX AGREEMENT**

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**Adopted November 12, 2002**

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**(Pending final review)**

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**ARTICLE I**  
**PURPOSE AND PRINCIPLE**

**Section 101: TITLE**

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

**Section 102: FUNDAMENTAL PURPOSE**

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

- A. State level administration of sales and use tax collections.
- B. Uniformity in the state and local tax bases.
- C. Uniformity of major tax base definitions.
- D. Central, electronic registration system for all member states.
- E. Simplification of state and local tax rates.
- F. Uniform sourcing rules for all taxable transactions.
- G. Simplified administration of exemptions.
- H. Simplified tax returns.
- I. Simplification of tax remittances.
- J. Protection of consumer privacy.

**Section 103: TAXING AUTHORITY PRESERVED**

This Agreement shall not be construed as intending to influence a member state to impose a tax on or provide an exemption from tax for any item or service. However, if a member state chooses to tax an item or exempt an item from tax, that state shall adhere to the provisions concerning definitions as set out in Article III of this Agreement.

1    **Section 104: DEFINED TERMS**

2    This Agreement defines terms for use within the Agreement and for application in the sales and  
3    use tax laws of the member states. The definition of a term is not intended to influence the  
4    interpretation or application of that term with respect to other tax types.

5

6    An alphabetical list of all the terms defined in the Agreement and their location in the Agreement  
7    is found in Appendix B of this Agreement, the Index of Definitions. Terms defined for use  
8    within this Agreement are set out in Article II of the Agreement. Many of the uniform definitions  
9    for application in the sales and use tax laws of the member states are set out in Appendix C of  
10   this Agreement, the Library of Definitions. Definitions that are not set out in Appendix C are  
11   defined when applied in a particular section of the Agreement and are set out in that section of  
12   the Agreement. The appendices have the same effect as the Articles in the Agreement.

13

14   **Section 105: TREATMENT OF VENDING MACHINES**

15   The provisions of the Agreement do not apply to vending machines sales. The Agreement does  
16   not restrict how a member state taxes vending machine sales.

1 **ARTICLE II**  
2 **DEFINITIONS**  
3

4 The following definitions apply in this Agreement:

5 **Section 201: AGENT**

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

7 **Section 202: CERTIFIED AUTOMATED SYSTEM (CAS)**

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

11 **Section 203: CERTIFIED SERVICE PROVIDER (CSP)**

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

14 **Section 204: ENTITY-BASED EXEMPTION**

15 An exemption based on who purchases the product or who sells the product.

16 **Section 205: MODEL 1 SELLER**

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

19 **Section 206: MODEL 2 SELLER**

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

22 **Section 207: MODEL 3 SELLER**

23 A seller that has sales in at least five member states, has total annual sales revenue of at least five  
24 hundred million dollars, has a proprietary system that calculates the amount of tax due each  
25 jurisdiction, and has entered into a performance agreement with the member states that  
26 establishes a tax performance standard for the seller. As used in this definition, a seller includes  
27 an affiliated group of sellers using the same proprietary system.

28 **Section 208: PERSON**

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

31 **Section 209: PRODUCT-BASED EXEMPTION**

1 An exemption based on the description of the product and not based on who purchases the  
2 product or how the purchaser intends to use the product.

3 **Section 210: PURCHASER**

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

5 **Section 211: REGISTERED UNDER THIS AGREEMENT**

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

8 **Section 212: SELLER**

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

10 **Section 213: STATE**

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

12 **Section 214: USE-BASED EXEMPTION**

13 An exemption based on the purchaser's use of the product.

1 **ARTICLE III**

2 **REQUIREMENTS EACH STATE MUST ACCEPT TO PARTICIPATE**

3  
4  
5 **Section 301: STATE LEVEL ADMINISTRATION**

6 Each member state shall provide state level administration of sales and use taxes. The state level  
7 administration may be performed by a member state's Tax Commission, Department of Revenue,  
8 or any other single entity designated by state law. Sellers are only required to register with, file  
9 returns with, and remit funds to the state level authority. Each member state shall provide for  
10 collection of any local taxes and distribution of them to the appropriate taxing jurisdictions.

11 ~~Each member state shall conduct, or authorize others to conduct on its behalf, all audits of the~~  
12 ~~sellers registered under the Agreement for that state's tax and the tax of its local jurisdictions,~~  
13 ~~and local jurisdictions shall not conduct independent sales or use tax audits of sellers registered~~  
14 ~~under the Agreement.~~

15  
16 **Section 302: STATE AND LOCAL TAX BASES**

17 Through December 31, 2005, if a member state has local jurisdictions that levy a sales or use tax,  
18 all local jurisdictions in the state shall have a common tax base. After December 31, 2005, the  
19 tax base for local jurisdictions shall be identical to the state tax base unless otherwise prohibited  
20 by federal law. This section does not apply to sales or use taxes levied on the retail sale or  
21 transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile  
22 homes.

23  
24 **Section 303: SELLER REGISTRATION**

25 Each member state shall participate in an online sales and use tax registration system in  
26 cooperation with the other member states. Under this system:

- 27 A. A seller registering under the Agreement is registered in each of the member states.  
28 B. The member states agree not to require the payment of any registration fees or other  
29 charges for a seller to register in a state in which the seller has no legal requirement to  
30 register.  
31 C. A written signature from the seller is not required.

- 1 D. An agent may register a seller under uniform procedures adopted by the member states.  
2 E. A seller may cancel its registration under the system at any time under uniform  
3 procedures adopted by the governing board. Cancellation does not relieve the seller of its  
4 liability for remitting to the proper states any taxes collected.  
5

6 **Section 304: NOTICE FOR STATE TAX CHANGES**

- 7 A. Each member state shall lessen the difficulties faced by sellers when there is a change in  
8 a state sales or use tax rate or base by making a reasonable effort to do all of the  
9 following:  
10 1. Provide sellers with as much advance notice as practicable of a rate change.  
11 2. Limit the effective date of a rate change to the first day of a calendar quarter.  
12 3. Notify sellers of legislative changes in the tax base and amendments to sales and use  
13 tax rules and regulations.  
14 B. Failure of a seller to receive notice or failure of a member state to provide notice or limit  
15 the effective date of a rate change shall not relieve the seller of its obligation to collect  
16 sales or use taxes for that member state.  
17

18 **Section 305: LOCAL RATE AND BOUNDARY CHANGES**

- 19 Each member state that has local jurisdictions that levy a sales or use tax shall:  
20 A. Provide that local rate changes will be effective only on the first day of a calendar  
21 quarter after a minimum of sixty days' notice to sellers.  
22 B. Apply local sales tax rate changes to purchases from printed catalogs wherein the  
23 purchaser computed the tax based upon local tax rates published in the catalog only on  
24 the first day of a calendar quarter after a minimum of one hundred twenty days' notice to  
25 sellers.  
26 C. ~~For sales and use tax purposes only, apply local jurisdiction boundary changes only on~~  
27 ~~the first day of a calendar quarter after a minimum of sixty days' notice to sellers.~~  
28 D. Provide and maintain a database that describes boundary changes for all taxing  
29 jurisdictions. This database shall include a description of the change and the effective  
30 date of the change for sales and use tax purposes.

- 1 E. 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 by the governing board.
- 7 F. Provide and maintain a database that assigns each five digit and nine digit zip code  
8 within a member state to the proper tax rates and jurisdictions. The state must apply the  
9 lowest combined tax rate imposed in the zip code area if the area includes more than one  
10 tax rate in any level of taxing jurisdictions. If a nine digit zip code designation is not  
11 available for a street address or if a seller is unable to determine the nine digit zip code  
12 designation of a purchaser after exercising due diligence to determine the designation,  
13 the seller may apply the rate for the five 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 digit zip code designation by utilizing  
16 software approved by the governing board that makes this designation from the street  
17 address and the five digit zip code of the purchaser.
- 18 G. Participate with other member states in the development of an address-based system for  
19 assigning taxing jurisdictions. The system must meet the requirements developed  
20 pursuant to the federal Mobile Telecommunications Sourcing Act (4 U.S.C. Sec. 119).  
21 The governing board may allow a member state to require sellers that register under this  
22 Agreement to use an address-based system provided by that member state. If any  
23 member state develops an address-based assignment system pursuant to the Mobile  
24 Telecommunications Sourcing Act, a seller may use that system in place of the system  
25 provided for in subsection (F) of this section.

26  
27 **Section 306: RELIEF FROM CERTAIN LIABILITY**

28 Each member state shall relieve sellers and CSPs from liability to the member state and local  
29 jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting  
30 from the seller or CSP relying on erroneous data provided by a member state on tax rates,  
31 boundaries, or taxing jurisdiction assignments. A member state that provides an address-based  
Streamlined Agreement

1 system for assigning taxing jurisdictions pursuant to Section 305, subsection (G) or pursuant to  
2 the federal Mobile Telecommunications Sourcing Act will not be required to provide liability  
3 relief for errors resulting from the reliance on the information provided by the member state  
4 under the provisions of Section 305, subsection (F).

5  
6 **Section 307: DATABASE REQUIREMENTS AND EXCEPTIONS**

- 7 A. The electronic databases provided for in Section 305, subsections (D), (E), (F), and (G)  
8 shall be in a downloadable format approved by the governing board.
- 9 B. The provisions of Section 305, subsections (F) and (G) do not apply when the purchased  
10 product is received by the purchaser at the business location of the seller.
- 11 C. The databases provided by Section 305, subsections (D), (E), and (F) are not a  
12 requirement of a state prior to entering into the Agreement. The governing board shall  
13 establish the effective dates for availability and use of the databases.

14  
15 **Section 308: STATE AND LOCAL TAX RATES**

- 16 A. No member state shall have multiple state sales and use tax rates on items of personal  
17 property or services after December 31, 2005, except that a member state may impose a  
18 single additional rate, which may be zero, on food and food ingredients and drugs as  
19 defined by state law pursuant to the Agreement.
- 20 B. A member state that has local jurisdictions that levy a sales or use tax shall not have  
21 more than one local sales tax rate or more than one local use tax rate per local  
22 jurisdiction. If the local jurisdiction levies both a sales tax and use tax, the local rates  
23 must be identical.
- 24 C. The provisions of this section do not apply to sales or use taxes levied on electricity,  
25 piped natural or artificial gas, or other heating fuels delivered by the seller, or the retail  
26 sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured  
27 homes, or mobile homes.

1 **Section 309: APPLICATION OF GENERAL SOURCING RULES AND EXCLUSIONS**  
2 **FROM THE RULES**

3 A. Each member state shall agree to require sellers to source the retail sale of a product in  
4 accordance with Section 310. The provisions of Section 310 apply regardless of the  
5 characterization of a product as tangible personal property, a digital good, or a service.  
6 The provisions of Section 310 only apply to determine a seller's obligation to pay or  
7 collect and remit a sales or use tax with respect to the seller's retail sale of a product.  
8 These provisions do not affect the obligation of a purchaser or lessee to remit tax on the  
9 use of the product to the taxing jurisdictions of that use.

10 B. Section 310 does not apply to sales or use taxes levied on the following:

- 11 1. The retail sale or transfer of watercraft, modular homes, manufactured homes, or  
12 mobile homes. These items must be sourced according to the requirements of each  
13 member state.
- 14 2. The retail sale, excluding lease or rental, of motor vehicles, trailers, semi-trailers, or  
15 aircraft that do not qualify as transportation equipment, as defined in Section 310,  
16 subsection (D). The retail sale of these items shall be sourced according to the  
17 requirements of each member state, and the lease or rental of these items must be  
18 sourced according to Section 310, subsection (C).
- 19 3. Telecommunications services, as set out in Section 315, shall be sourced in  
20 accordance with Section 314.

21  
22 **Section 310: GENERAL SOURCING RULES**

23 A. The retail sale, excluding lease or rental, of a product shall be sourced as follows:

- 24 1. When the product is received by the purchaser at a business location of the seller, the  
25 sale is sourced to that business location.
- 26 2. When the product is not received by the purchaser at a business location of the seller,  
27 the sale is sourced to the location where receipt by the purchaser (or the purchaser's  
28 donee, designated as such by the purchaser) occurs, including the location indicated  
29 by instructions for delivery to the purchaser (or donee), known to the seller.
- 30 3. When subsections (A)(1) and (A)(2) do not apply, the sale is sourced to the location  
31 indicated by an address for the purchaser that is available from the business records of

1 the seller that are maintained in the ordinary course of the seller's business when use  
2 of this address does not constitute bad faith.

3 4. When subsections (A)(1), (A)(2), and (A)(3) do not apply, the sale is sourced to the  
4 location indicated by an address for the purchaser obtained during the consummation  
5 of the sale, including the address of a purchaser's payment instrument, if no other  
6 address is available, when use of this address does not constitute bad faith.

7 5. When none of the previous rules of subsections (A)(1), (A)(2), (A)(3), or (A)(4)  
8 apply, including the circumstance in which the seller is without sufficient information  
9 to apply the previous rules, then the location will be determined by the address from  
10 which tangible personal property was shipped, from which the digital good or the  
11 computer software delivered electronically was first available for transmission by the  
12 seller, or from which the service was provided (disregarding for these purposes any  
13 location that merely provided the digital transfer of the product sold).

14 B. The lease or rental of tangible personal property, other than property identified in  
15 subsection (C) or subsection (D), shall be sourced as follows:

16 1. For a lease or rental that requires recurring periodic payments, the first periodic  
17 payment is sourced the same as a retail sale in accordance with the provisions of  
18 subsection (A). Periodic payments made subsequent to the first payment are sourced  
19 to the primary property location for each period covered by the payment. The primary  
20 property location shall be as indicated by an address for the property provided by the  
21 lessee that is available to the lessor from its records maintained in the ordinary course  
22 of business, when use of this address does not constitute bad faith. The property  
23 location shall not be altered by intermittent use at different locations, such as use of  
24 business property that accompanies employees on business trips and service calls.

25 2. For a lease or rental that does not require recurring periodic payments, the payment is  
26 sourced the same as a retail sale in accordance with the provisions of subsection (A).

27 3. This subsection does not affect the imposition or computation of sales or use tax on  
28 leases or rentals based on a lump sum or accelerated basis, or on the acquisition of  
29 property for lease.

30 C. The lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify  
31 as transportation equipment, as defined in subsection (D), shall be sourced as follows:

- 1        1.        For a lease or rental that requires recurring periodic payments, each periodic payment  
2                    is sourced to the primary property location. The primary property location shall be as  
3                    indicated by an address for the property provided by the lessee that is available to the  
4                    lessor from its records maintained in the ordinary course of business, when use of this  
5                    address does not constitute bad faith. This location shall not be altered by intermittent  
6                    use at different locations.
- 7        2.        For a lease or rental that does not require recurring periodic payments, the payment is  
8                    sourced the same as a retail sale in accordance with the provisions of subsection (A).
- 9        3.        This subsection does not affect the imposition or computation of sales or use tax on  
10                   leases or rentals based on a lump sum or accelerated basis, or on the acquisition of  
11                   property for lease.
- 12    D.        The retail sale, including lease or rental, of transportation equipment shall be sourced the  
13                   same as a retail sale in accordance with the provisions of subsection (A),  
14                   notwithstanding the exclusion of lease or rental in subsection (A). "Transportation  
15                   equipment" means any of the following:
  - 16                1.        Locomotives and railcars that are utilized for the carriage of persons or property in  
17                   interstate commerce.
  - 18                2.        Trucks and truck-tractors with a Gross Vehicle Weight Rating (GVWR) of 10,001  
19                   pounds or greater, trailers, semi-trailers, or passenger buses that are:
    - 20                    a.        Registered through the International Registration Plan; and
    - 21                    b.        Operated under authority of a carrier authorized and certificated by the U.S.  
22                    Department of Transportation or another federal authority to engage in the  
23                    carriage of persons or property in interstate commerce.
  - 24                3.        Aircraft that are operated by air carriers authorized and certificated by the U.S.  
25                   Department of Transportation or another federal or a foreign authority to engage in  
26                   the carriage of persons or property in interstate or foreign commerce.
  - 27                4.        Containers designed for use on and component parts attached or secured on the items  
28                   set forth in subsections (D)(1) through (D)(3).

29  
30    **Section 311: GENERAL SOURCING DEFINITIONS**

31    For the purposes of Section 310, subsection (A), the terms "receive" and "receipt" mean:

- 1 A. Taking possession of tangible personal property,
- 2 B. Making first use of services, or
- 3 C. Taking possession or making first use of digital goods, whichever comes first.

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

6

7 **Section 312: MULTIPLE POINTS OF USE**

8 Notwithstanding the provisions of Section 310, a business purchaser that is not a holder of a  
9 direct pay permit that knows at the time of its purchase of a digital good, computer software  
10 delivered electronically, or a service that the digital good, computer software delivered  
11 electronically, or service will be concurrently available for use in more than one jurisdiction shall  
12 deliver to the seller in conjunction with its purchase a form disclosing this fact ("Multiple Points  
13 of Use or MPU" Exemption Form).

14 A. Upon receipt of the MPU Exemption Form, the seller is relieved of all obligation to  
15 collect, pay, or remit the applicable tax and the purchaser shall be obligated to collect,  
16 pay, or remit the applicable tax on a direct pay basis.

17 B. A purchaser delivering the MPU Exemption Form may use any reasonable, but  
18 consistent and uniform, method of apportionment that is supported by the purchaser's  
19 business records as they exist at the time of the consummation of the sale.

20 C. The MPU Exemption Form will remain in effect for all future sales by the seller to the  
21 purchaser (except as to the subsequent sale's specific apportionment that is governed by  
22 the principle of subsection (B) and the facts existing at the time of the sale) until it is  
23 revoked in writing.

24 D. A holder of a direct pay permit shall not be required to deliver a MPU Exemption Form  
25 to the seller. A direct pay permit holder shall follow the provisions of subsection (B) in  
26 apportioning the tax due on a digital good or a service that will be concurrently available  
27 for use in more than one jurisdiction.

28

29 **Section 313: DIRECT MAIL SOURCING**

30 A. Notwithstanding Section 310, a purchaser of direct mail that is not a holder of a direct  
31 pay permit shall provide to the seller in conjunction with the purchase either a Direct  
Streamlined Agreement

1 Mail Form or information to show the jurisdictions to which the direct mail is delivered  
2 to recipients.

3 1. Upon receipt of the Direct Mail Form, the seller is relieved of all obligations to  
4 collect, pay, or remit the applicable tax and the purchaser is obligated to pay or remit  
5 the applicable tax on a direct pay basis. A Direct Mail Form shall remain in effect for  
6 all future sales of direct mail by the seller to the purchaser until it is revoked in  
7 writing.

8 2. Upon receipt of information from the purchaser showing the jurisdictions to which  
9 the direct mail is delivered to recipients, the seller shall collect the tax according to  
10 the delivery information provided by the purchaser. In the absence of bad faith, the  
11 seller is relieved of any further obligation to collect tax on any transaction where the  
12 seller has collected tax pursuant to the delivery information provided by the  
13 purchaser.

14 B. If the purchaser of direct mail does not have a direct pay permit and does not provide the  
15 seller with either a Direct Mail Form or delivery information, as required by subsection  
16 (A) of this section, the seller shall collect the tax according to Section 310, subsection  
17 (A)(5). Nothing in this paragraph shall limit a purchaser's obligation for sales or use tax  
18 to any state to which the direct mail is delivered.

19 C. If a purchaser of direct mail provides the seller with documentation of direct pay  
20 authority, the purchaser shall not be required to provide a Direct Mail Form or delivery  
21 information to the seller.

22  
23 **Section 314: TELECOMMUNICATION SOURCING RULE**

24  A. Except for the defined telecommunication services in subsection (C), the sale of  
25 telecommunication service sold on a call-by-call basis shall be sourced to (i) each level  
26 of taxing jurisdiction where the call originates and terminates in that jurisdiction or (ii)  
27 each level of taxing jurisdiction where the call either originates or terminates and in  
28 which the service address is also located.

29  B. c Except for the defined telecommunication services in subsection (C), a sale of  
30 telecommunications services sold on a basis other than a call-by-call basis, is sourced to  
31 the customer's place of primary use.

- 1 C. The sale of the following telecommunication services shall be sourced to each level of  
2 taxing jurisdiction as follows:
- 3 ✓ 1. A sale of mobile telecommunications services other than air-to-ground radiotelephone  
4 & service and prepaid calling service, is sourced to the customer's place of primary use  
5 as required by the Mobile Telecommunications Sourcing Act.
- 6 ✓ 2. A sale of post-paid calling service is sourced to the origination point of the  
7 telecommunications signal as first identified by either (i) the seller's  
8 & telecommunications system, or (ii) information received by the seller from its service  
9 provider, where the system used to transport such signals is not that of the seller.
- 10 ✓ 3. A sale of prepaid calling service is sourced in accordance with Section 310. Provided  
11 however, in the case of a sale of mobile telecommunications service that is a prepaid  
12 & telecommunications service, the rule provided in Section 310, subsection (A)(5) shall  
13 include as an option the location associated with the mobile telephone number.
- 14 4. A sale of a private communication service is sourced as follows:
- 15 y ✓ a. Service for a separate charge related to a customer channel termination point is  
16 sourced to each level of jurisdiction in which such customer channel termination  
17 point is located.
- 18 ✓ b. Service where all customer termination points are located entirely within one  
19 jurisdiction or levels of jurisdiction is sourced in such jurisdiction in which the  
20 customer channel termination points are located.
- 21 ✓ c. Service for segments of a channel between two customer channel termination points  
22 located in different jurisdictions and which segment of channel are separately charged  
23 is sourced fifty percent in each level of jurisdiction in which the customer channel  
24 termination points are located.
- 25 ✓ d. Service for segments of a channel located in more than one jurisdiction or levels of  
26 jurisdiction and which segments are not separately billed is sourced in each  
27 jurisdiction based on the percentage determined by dividing the number of customer  
28 channel termination points in such jurisdiction by the total number of customer  
29 channel termination points.
- 30

1 **Section 315: TELECOMMUNICATION SOURCING DEFINITIONS**

2 For the purpose of Section 314, the following definitions apply:

3  A. "Air-to-Ground Radiotelephone service" means a radio service, as that term is defined in  
4 47 CFR 22.99, in which common carriers are authorized to offer and provide radio  
5 telecommunications service for hire to subscribers in aircraft.

6  B. "Call-by-call Basis" means any method of charging for telecommunications services  
7 where the price is measured by individual calls.

8  C. "Communications Channel" means a physical or virtual path of communications over  
9 which signals are transmitted between or among customer channel termination points.

10  D. "Customer" means the person or entity that contracts with the seller of  
11 telecommunications services. If the end user of telecommunications services is not the  
12 contracting party, the end user of the telecommunications service is the customer of the  
13 telecommunication service, but this sentence only applies for the purpose of sourcing  
14 sales of telecommunications services under Section 314. "Customer" does not include a  
15 reseller of telecommunications service or for mobile telecommunications service of a  
16 serving carrier under an agreement to serve the customer outside the home service  
17 provider's licensed service area.

18  E. "Customer Channel Termination Point" means the location where the customer either  
19 inputs or receives the communications.

20  F. "End user" means the person who utilizes the telecommunication service. In the case of  
21 an entity, "end user" means the individual who utilizes the service on behalf of the  
22 entity.

23  G. "Home service provider" means the same as that term is defined in Section 124(5) of  
24 Public Law 106-252 (Mobile Telecommunications Sourcing Act).

25  H. "Mobile telecommunications service" means the same as that term is defined in Section  
26 124(5) of Public Law 106-252 (Mobile Telecommunications Sourcing Act).

27  I. "Place of primary use" means the street address representative of where the customer's  
28 use of the telecommunications service primarily occurs, which must be the residential  
29 street address or the primary business street address of the customer. In the case of  
30 mobile telecommunications services, "place of primary use" must be within the licensed  
31 service area of the home service provider.

- 1 J. "Post-paid calling service" means the telecommunications service obtained by making a  
2 payment on a call-by-call basis either through the use of a credit card or payment  
3 mechanism such as a bank card, travel card, credit card, or debit card, or by charge made  
4 to which a telephone number which is not associated with the origination or termination  
5 of the telecommunications service. A post-paid calling service includes a  
6 telecommunications service that would be a prepaid calling service except it is not  
7 exclusively a telecommunication service.
- 8 K. "Prepaid calling service" means the right to access exclusively telecommunications  
9 services, which must be paid for in advance and which enables the origination of calls  
10 using an access number or authorization code, whether manually or electronically dialed,  
11 and that is sold in predetermined units or dollars of which the number declines with use  
12 in a known amount. — *Known by whom?*
- 13 L. "Private communication service" means a telecommunication service that entitles the  
14 customer to exclusive or priority use of a communications channel or group of channels  
15 ~~between or among~~ termination points, regardless of the manner in which such channel or  
16 ~~channels are~~ <sup>in</sup> connected, and includes switching capacity, extension lines, stations, and  
17 any other associated services that are provided in connection with the use of such  
18 channel or channels.
- 19 M. "Service address" means:
- 20 1. The location of the telecommunications equipment to which a customer's call is  
21 charged and from which the call originates or terminates, regardless of where the call  
22 is billed or paid.
- 23 2. If the location in subsection (M)(1) is not known, service address means the  
24 origination point of the signal of the telecommunications services first identified by  
25 either the seller's telecommunications system or in information received by the seller  
26 from its service provider, where the system used to transport such signals is not that  
27 of the seller.
- 28 3. If the location in subsection (M)(1) and subsection (M)(2) are not known, the service  
29 address means the location of the customer's place of primary use.
- 30

1 **Section 316: ENACTMENT OF EXEMPTIONS**

2 A. A member state may enact a product-based exemption without restriction if the  
3 Agreement does not have a definition for the product or for a term that includes the  
4 product. If the Agreement has a definition for the product or for a term that includes the  
5 product, a member state may exempt all items included within the definition but shall  
6 not exempt only part of the items included within the definition unless the Agreement  
7 sets out the exemption for part of the items as an acceptable variation.

8 B. A member state may enact an entity-based or a use-based exemption without restriction  
9 if the Agreement does not have a definition for the product whose use or purchase by a  
10 specific entity is exempt or for a term that includes the product. If the Agreement has a  
11 definition for the product whose use or specific purchase is exempt, a member state may  
12 enact an entity-based or a use-based exemption that applies to that product as long as the  
13 exemption utilizes the Agreement definition of the product. If the Agreement does not  
14 have a definition for the product whose use or specific purchase is exempt but has a  
15 definition for a term that includes the product, a member state may enact an entity-based  
16 or a use-based exemption for the product without restriction.

17 C. For purposes of complying with the requirements in this section, the inclusion of a  
18 product within the definition of tangible personal property is disregarded.  
19

20 **Section 317: ADMINISTRATION OF EXEMPTIONS**

21 A. Each member state shall observe the following provisions when a purchaser claims an  
22 exemption:

23 1. The seller shall obtain identifying information of the purchaser and the reason for  
24 claiming a tax exemption at the time of the purchase as determined by the governing  
25 board.

26 2. A purchaser is not required to provide a signature to claim an exemption from tax  
27 unless a paper exemption certificate is used.

28 3. The seller shall use the standard form for claiming an exemption electronically as  
29 adopted by the governing board.

30 4. The seller shall obtain the same information for proof of a claimed exemption  
31 regardless of the medium in which the transaction occurred.

- 1       5.     A member state may utilize a system wherein the purchaser exempt from the payment  
2           of the tax is issued an identification number that shall be presented to the seller at the  
3           time of the sale.
- 4       6.     The seller shall maintain proper records of exempt transactions and provide them to a  
5           member state when requested.
- 6       7.     A member state shall administer use-based and entity-based exemptions when  
7           practicable through a direct pay permit, an exemption certificate, or another means  
8           that does not burden sellers.
- 9     B.     Each member state shall relieve sellers that follow the requirements of this section from  
10           any tax otherwise applicable if it is determined that the purchaser improperly claimed an  
11           exemption and to hold the purchaser liable for the nonpayment of tax. This relief from  
12           liability does not apply to a seller who fraudulently fails to collect the tax or solicits  
13           purchasers to participate in the unlawful claim of an exemption.

14

15     **Section 318: UNIFORM TAX RETURNS**

16     Each member state shall:

- 17     A.     Require that only one tax return for each taxing period for each seller be filed for the  
18           member state and all the taxing jurisdictions within the member state.
- 19     B.     Require that returns be due no sooner than the twentieth day of the month following the  
20           month in which the transaction occurred.
- 21     C.     Allow any Model 1, Model 2, or Model 3 seller to submit its sales and use tax returns in  
22           a simplified format that does not include more data fields than permitted by the  
23           governing board. A member state may require additional informational returns to be  
24           submitted not more frequently than every six months under a staggered system  
25           developed by the governing board.
- 26     D.     Allow any seller that is registered under the Agreement, which does not have a legal  
27           requirement to register in the member state, and is not a Model 1, 2, or 3 seller, to submit  
28           its sales and use tax returns as follows:
- 29       1.     Upon registration, a member state shall provide to the seller the returns required by  
30           that state.

- 1           2.     A member state may require a seller to file a return anytime within one year of the  
2           month of initial registration, and future returns may be required on an annual basis in  
3           succeeding years.
- 4           3.     In addition to the returns required in subsection (D)(2), a member state may require  
5           sellers to submit returns in the month following any month in which they have  
6           accumulated state and local tax funds for the state in the amount of one thousand  
7           dollars or more.
- 8           4.     Participate with other member states in developing a more uniform sales and use tax  
9           return that, when completed, would be available to all sellers.
- 10          5.     Require, at each member state's discretion, all Model 1, 2, and 3 sellers to file returns  
11          electronically. It is the intent of the member states that all member states have the  
12          capability of receiving electronically filed returns by January 1, 2004.
- 13

14     **Section 319: UNIFORM RULES FOR REMITTANCES OF FUNDS**

15     Each member state shall:

- 16     A.     Require only one remittance for each return except as provided in this subsection. If any  
17           additional remittance is required, it may only be required from sellers that collect more  
18           than thirty thousand dollars in sales and use taxes in the member state during the  
19           preceding calendar year as provided herein. The amount of the additional remittance  
20           shall be determined through a calculation method rather than actual collections and shall  
21           not require the filing of an additional return.
- 22     B.     Require, at each member state's discretion, all remittances from sellers under Models 1,  
23           2, and 3 to be remitted electronically.
- 24     C.     Allow for electronic payments by both ACH Credit and ACH Debit.
- 25     D.     Provide an alternative method for making "same day" payments if an electronic funds  
26           transfer fails.
- 27     E.     Provide that if a due date falls on a legal banking holiday in a member state, the taxes are  
28           due to that state on the next succeeding business day.
- 29     F.     Require that any data that accompanies a remittance be formatted using uniform tax type  
30           and payment type codes approved by the governing board.
- 31

1 **Section 320: UNIFORM RULES FOR RECOVERY OF BAD DEBTS**

2 Each member state shall use the following to provide a deduction for bad debts to a seller. To  
3 the extent a member state provides a bad debt deduction to any other party, the same procedures  
4 will apply. Each member state shall:

- 5 A. Allow a deduction from taxable sales for bad debts. Any deduction taken that is  
6 attributed to bad debts shall not include interest.
- 7 B. Utilize the federal definition of "bad debt" in 26 U.S.C. Sec. 166 as the basis for  
8 calculating bad debt recovery. However, the amount calculated pursuant to 26 U.S.C.  
9 Sec. 166 shall be adjusted to exclude: financing charges or interest; sales or use taxes  
10 charged on the purchase price; uncollectable amounts on property that remain in the  
11 possession of the seller until the full purchase price is paid; expenses incurred in  
12 attempting to collect any debt, and repossessed property.
- 13 C. Allow bad debts to be deducted on the return for the period during which the bad debt is  
14 written off as uncollectable in the claimant's books and records and is eligible to be  
15 deducted for federal income tax purposes. For purposes of this subsection, a claimant  
16 who is not required to file federal income tax returns may deduct a bad debt on a return  
17 filed for the period in which the bad debt is written off as uncollectable in the claimant's  
18 books and records and would be eligible for a bad debt deduction for federal income tax  
19 purposes if the claimant was required to file a federal income tax return.
- 20 D. Require that, if a deduction is taken for a bad debt and the debt is subsequently collected  
21 in whole or in part, the tax on the amount so collected must be paid and reported on the  
22 return filed for the period in which the collection is made.
- 23 E. Provide that, when the amount of bad debt exceeds the amount of taxable sales for the  
24 period during which the bad debt is written off, a refund claim may be filed within the  
25 member state's otherwise applicable statute of limitations for refund claims; however,  
26 the statute of limitations shall be measured from the due date of the return on which the  
27 bad debt could first be claimed.
- 28 F. Where filing responsibilities have been assumed by a CSP, allow the service provider to  
29 claim, on behalf of the seller, any bad debt allowance provided by this section. The CSP  
30 must credit or refund the full amount of any bad debt allowance or refund received to the  
31 seller.

- 1 G. Provide that, for the purposes of reporting a payment received on a previously claimed  
2 bad debt, any payments made on a debt or account are applied first proportionally to the  
3 taxable price of the property or service and the sales tax thereon, and secondly to  
4 interest, service charges, and any other charges.
- 5 H. In situations where the books and records of the party claiming the bad debt allowance  
6 support an allocation of the bad debts among the member states, permit the allocation.  
7

8 **Section 321: CONFIDENTIALITY AND PRIVACY PROTECTIONS UNDER MODEL 1**

- 9 A. The purpose of this section is to set forth the member states' policy for the protection of  
10 the confidentiality rights of all participants in the system and of the privacy interests of  
11 consumers who deal with Model 1 sellers.
- 12 B. As used in this section, the term "confidential taxpayer information" means all  
13 information that is protected under a member state's laws, regulations, and privileges; the  
14 term "personally identifiable information" means information that identifies a person;  
15 and the term "anonymous data" means information that does not identify a person.
- 16 C. The member states agree that a fundamental precept in Model 1 is to preserve the  
17 privacy of consumers by protecting their anonymity. With very limited exceptions, a  
18 CSP shall perform its tax calculation, remittance, and reporting functions without  
19 retaining the personally identifiable information of consumers.
- 20 D. The governing board may certify a CSP only if that CSP certifies that:
- 21 1. Its system has been designed and tested to ensure that the fundamental precept of  
22 anonymity is respected;
- 23 2. That personally identifiable information is only used and retained to the extent  
24 necessary for the administration of Model 1 with respect to exempt purchasers;
- 25 3. It provides consumers clear and conspicuous notice of its information practices,  
26 including what information it collects, how it collects the information, how it uses the  
27 information, how long, if at all, it retains the information and whether it discloses the  
28 information to member states. Such notice shall be satisfied by a written privacy  
29 policy statement accessible by the public on the official web site of the CSP;
- 30 4. Its collection, use and retention of personally identifiable information will be limited  
31 to that required by the member states to ensure the validity of exemptions from

- 1           taxation that are claimed by reason of a consumer's status or the intended use of the  
2           goods or services purchased; and
- 3       5.     It provides adequate technical, physical, and administrative safeguards so as to  
4           protect personally identifiable information from unauthorized access and disclosure.
- 5   E.     Each member state shall provide public notification to consumers, including their exempt  
6           purchasers, of the state's practices relating to the collection, use and retention of  
7           personally identifiable information.
- 8   F.     When any personally identifiable information that has been collected and retained is no  
9           longer required for the purposes set forth in subsection (D)(4), such information shall no  
10          longer be retained by the member states.
- 11 G.     When personally identifiable information regarding an individual is retained by or on  
12          behalf of a member state, such state shall provide reasonable access by such individual to  
13          his or her own information in the state's possession and a right to correct any inaccurately  
14          recorded information.
- 15 H.     If anyone other than a member state, or a person authorized by that state's law or the  
16          Agreement, seeks to discover personally identifiable information, the state from whom  
17          the information is sought should make a reasonable and timely effort to notify the  
18          individual of such request.
- 19 I.     This privacy policy is subject to enforcement by member states' attorneys general or other  
20          appropriate state government authority.
- 21 J.     Each member states' laws and regulations regarding the collection, use, and maintenance  
22          of confidential taxpayer information remain fully applicable and binding. Without  
23          limitation, the Agreement does not enlarge or limit the member states' authority to:
- 24       1.     Conduct audits or other review as provided under the Agreement and state law.  
25       2.     Provide records pursuant to a member state's Freedom of Information Act, disclosure  
26              laws with governmental agencies, or other regulations.  
27       3.     Prevent, consistent with state law, disclosures of confidential taxpayer information.  
28       4.     Prevent, consistent with federal law, disclosures or misuse of federal return  
29              information obtained under a disclosure agreement with the Internal Revenue Service.  
30       5.     Collect, disclose, disseminate, or otherwise use anonymous data for governmental  
31              purposes.

- 1 K. This privacy policy does not preclude the governing board from certifying a CSP whose  
2 privacy policy is more protective of confidential taxpayer information or personally  
3 identifiable information than is required by the Agreement.  
4

5 **Section 322: SALES TAX HOLIDAYS**

- 6 A. If a member state allows for temporary exemption periods, commonly referred to as sales  
7 tax holidays, the member state shall:
- 8 1. Not apply an exemption after December 31, 2003, unless the items to be exempted  
9 are specifically defined in the Agreement and the exemptions are uniformly applied to  
10 state and local sales and use taxes.
  - 11 2. Provide notice of the exemption period at least sixty days' prior to the first day of the  
12 calendar quarter in which the exemption period will begin.
- 13 B. A member state may establish a sales tax holiday that utilizes price thresholds set  
14 by such state and the provisions of the Agreement on the use of thresholds shall  
15 not apply to exemptions provided by a state during a sales tax holiday. In order to  
16 provide uniformity, a price threshold established by a member state for exempt  
17 items shall include only items priced below the threshold. A member state shall  
18 not exempt only a portion of the price of an individual item during a sales tax  
19 holiday.
- 20 C. The governing board shall establish procedures to provide uniformity for the  
21 administrative issues involved with the implementation of a sales tax holiday. These  
22 issues include, but are not limited to:
- 23 1. Treatment of layaway purchases;
  - 24 2. Exempt and nonexempt items that are packaged together;
  - 25 3. Treatment of coupons or discounts;
  - 26 4. Splitting of items normally sold together;
  - 27 5. Treatment of rainchecks;
  - 28 6. Exchanges;
  - 29 7. Shipping and handling charges;
  - 30 8. Service charges;
  - 31 9. Restocking fees; and

1       10.    Order date/Back orders.  
2

3       **Section 323: CAPS AND THRESHOLDS**

4       A.     Each member state shall:

- 5       1.     Not have caps or thresholds on the application of state sales or use tax rates or  
6             exemptions that are based on the value of the transaction or item after December 31,  
7             2005. A member state may continue to have caps and thresholds until that date.  
8       2.     Not have caps that are based on the application of the rates unless the member state  
9             assumes the administrative responsibility in a manner that places no additional burden  
10            on the retailer.

11    B.     Each member state that has local jurisdictions that levy a sales or use tax shall not place  
12            caps or thresholds on the application of local rates or use tax rates or exemptions that are  
13            based on the value of the transaction or item after December 31, 2005. A member state  
14            may continue to have caps and thresholds until that date.

15    C.     The provisions of this section do not apply to sales or use taxes levied on the retail sale or  
16            transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or  
17            mobile homes or to instances where the burden of administration has been shifted from  
18            the retailer.  
19

20       **Section 324: ROUNDING RULE**

21    A.     After December 31, 2005, each member state shall adopt a rounding algorithm that meets  
22            the following criteria:

- 23       1.     Tax computation must be carried to the third decimal place, and  
24       2.     The tax must be rounded to a whole cent using a method that rounds up to the next  
25             cent whenever the third decimal place is greater than four.

26    B.     Each state shall allow sellers to elect to compute the tax due on a transaction on an item  
27            or an invoice basis, and shall allow the rounding rule to be applied to the aggregated state  
28            and local taxes. No member state shall require a seller to collect tax based on a bracket  
29            system.