

**3/03/06 – Preliminary Draft Per Rule 807.1 D 1 (a) of the Streamlined Sales Tax Governing Board, Inc. Rules and Procedures**

**Definition of Volunteer Seller**

A “volunteer seller” in a Member State or Associate Member State means a Seller that has registered pursuant to Article IV of SSUTA through the Central Registration System and:

- (A) Represented in its registration that it does not have a legal requirement to register and in fact did not have a requirement in the Member State or Associate Member State at the time of registration regardless of any previous registration the Seller may have made in the Member State or Associate Member State; or
- (B) Registered with the Member State or Associate Member State after November 12, 2002 and during the twelve (12) month period immediately preceding the date of registration with the member state did not meet any of the following criteria in the Member State or Associate Member State:
  - 1) a dollar amount of \$50,000 of property; or
  - 2) a dollar amount of \$50,000 of payroll; or
  - 3) twenty-five percent (25%) of total property or total payroll.

◆ Property and payroll are defined as follows:

a. Property counting toward the threshold is the average value of the taxpayer’s real property and tangible personal property owned or rented and used in the member state during the tax period. Property owned by the seller is valued at its original cost basis. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the seller less any annual rental rate received by the taxpayer from sub-rentals. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period;

b. Payroll counting toward the threshold is the total amount paid by the seller for compensation in the member state during the tax period. Compensation means wages, salaries, commissions and any other form of remuneration paid to employees and defined as gross income under Internal Revenue Code §61. compensation is paid in the member state if (1) the individual’s service is performed entirely within the member state, (2) the individual’s service is performed both within and without the member state, but the service performed without the

member state is incidental to the individual's service within the member state, or (3) some of the service is performed in the member state and (a) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the member state, or (b) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in the member state.

◆ Entities that are part of a commonly owned enterprise shall determine whether they meet the threshold for nexus by first aggregating the property and payroll of their entities that have a minimum presence in the member state of \$5,000 of combined property and payroll, including those entities that independently exceed a threshold and separately has nexus. The aggregate number shall be reduced based on detailed disclosure of any intercompany transactions where inclusion would result in a member state's double counting assets or revenue.

◆ "Commonly owned enterprise" means a group of entities under common control either through a common parent that owns, or constructively owns, more than 50 percent of the voting power of the outstanding stock or ownership interests or through five or fewer individuals (individuals, estates or trusts) that own, or constructively own, more than 50 percent of the voting power of the outstanding stock or ownership interests taking into account the ownership interest of each such person only to the extent such ownership is identical with respect to each such entity.

◆ A Volunteer Seller shall retain its status as a Volunteer Seller for a period ending the earlier of (a) 24 months after its obligation to collect sales and use taxes begins, (b) the date of the termination of the contract between the Contractor and the Volunteer Seller, or (c) the date of termination of this Contract between the Governing Board and the Contractor, regardless of the activities of the Volunteer Seller in that state during the period

#### **Definition of Non-Volunteer Seller**

A "non-volunteer seller" shall include any seller that is not a volunteer seller as defined in the Contract.