

ARTICLE IV – AMENSTY REGISTRATION

Rule 402. Amnesty for Registration

Rule 402.1 Definitions

A. Uncollected or unpaid sales and use tax. As used in § 402 of the Streamlined Sales and Use Tax Agreement, “uncollected or unpaid sales and use tax” means tax that was not collected on retail sales made, either by an in-state seller or by a seller located out-of-state. The term shall not include taxes collected but not reported or remitted to the taxing state and shall not include taxes due on purchases and inventory withdrawals for a sellers own use.

B. Effective date of state’s participation in the Agreement. As used in § 402 of the Streamlined Sales and Use Tax Agreement, “effective date of state’s participation in the Agreement” means the date that a state’s membership, whether an associate membership or a full membership, is effective as described in § 804 of the Streamlined Sales and Use Tax Agreement. Such date is the proposed date of entry from the state’s petition for membership or the first day of the calendar quarter after the state’s petition is approved by the Governing Board, whichever is later, and is at least 60 days after the state’s petition is approved.

C. Notice of commencement of an audit. As used in § 402 of the Streamlined Sales and Use Tax Agreement, “notice of commencement of an audit” means the date that written notification is sent to the seller indicating that the state intends to audit the business records for sales and/or use tax purposes.

D. Toll statute of limitations.

1. Right to audit. As used in § 402 of the Streamlined Sales and Use Tax Agreement, “toll statute of limitations” means that states preserve their right to audit all periods that were open under the state’s statute of limitations at the time of the seller’s registration if the seller fails to meet the amnesty provisions. If a seller defaults within 36 months after registration, then member states may audit the seller for tax periods prior to registration and assess sales and use taxes as though no time had elapsed.

2. Default. A seller that fails to file sales and use tax returns or files returns without remittance, will be considered to

have defaulted even if such seller maintains its registration. If the state can prove that a seller has committed fraud or intentionally misrepresented material facts, the seller will be considered in default even though the seller has maintained its registration. Nothing in these provisions shall be construed as prohibiting a member state from auditing the seller for tax periods following registration, provided that the tax periods audited are within the member state's statute of limitations.

Rule 402.2 Administrative Amnesty Provisions

A. Nexus is irrelevant. The amnesty provisions of the Streamlined Sales and Use Tax Agreement apply to all sellers that register to pay or collect and remit sales and use taxes in accordance with the Agreement's terms. This includes sellers with physical presence in member states, provided that they meet the limitations set out in § 402A of the Agreement. Each member state must determine whether the seller qualifies for amnesty within their state based on information available from their state's registration systems.

B. Purchases and items withdrawn from inventory for seller's own use. Notwithstanding a seller's qualification for amnesty under § 402 of the Streamlined Sales and Use Tax Agreement, for all periods open under the member state's statute of limitations, the seller shall remain liable for sales or use taxes due on purchases made for the seller's own use and for items withdrawn from inventory for the seller's own use.

C. Amnesty in specific situations not addressed in the Agreement. A member state may, but is not required, to grant amnesty on terms and conditions that are more favorable to the seller than the amnesty terms required by the Streamlined Sales and Use Tax Agreement. A member state shall not impose amnesty terms that are more restrictive than the terms that the Agreement permits for qualifying sellers.

D. Amnesty period for associate member states. A state that is an associate member of the Streamlined Sales and Use Tax Agreement shall offer amnesty to qualifying sellers from the date that such state becomes an associate member of the Agreement until at least 12 months after the date it becomes a full member of the Agreement.

E. Amnesty period when no certified service provider or certified automated system had been approved. A member state or an associate member state shall not cease to offer amnesty to qualifying sellers until 12 months from the date that adequate services of a certified service provider or a certified automated system become available or until

12 months from the date the state becomes a full member of the Agreement, whichever is later.

Source: SST Amnesty Registration Paper and other published sources.