

**Minutes of Sales Tax Simplification Implementing States and
Conforming States Committee
April 16, 2005
Washington, DC**

The twelfth meeting of the Implementing States was held on April 16, 2005 in Washington, DC. This was immediately followed by a meeting of the Conforming States Committee. Votes of the Implementing States and Conforming States Committee, reported in these minutes, were by unanimous voice vote unless otherwise indicated.

The following state delegates participated in the meeting of the Implementing States.

Alabama

Michael Mason, Department of Revenue

Arizona

Christie Comanita, Department of Revenue

Arkansas

Tom Atchley, Department of Finance and Administration

Karen Hathaway, Bureau of Legislative Research

Martha Hunt, Department of Finance and Administration

California

Larry Bergkamp, Board of Equalization

District of Columbia

William Bowie, Office of Tax and Revenue

Stephen P.B. Kranz, Council on State Taxation

David Tseng, Office of Tax and Revenue

Florida

Marshall Stranburg, Department of Revenue

Georgia

Anita DeGumbia, Department of Revenue

Illinois

Senator Steven Rauschenberger

David Vite, Illinois Retail Merchants Association

Indiana

James Turner, Tax Policy Consultant, Department of Revenue

Iowa

Donald Cooper, Department of Revenue
Kristi Magill, RSM McGladrey, Inc.

Kansas

Senator Les Donovan
Senator Janis K. Lee
Representative Arlen Siegfried
Joan Wagnon, Secretary of Revenue

Kentucky

Robert Cox, Office of State Budget Director
Richard Dobson, Department of Revenue

Louisiana

Senator Willie Landry Mount
Cynthia Bridges, Secretary of Revenue

Maine

Peter Beaulieu, Director, Revenue Services

Maryland

Delegate Sheila Ellis Hixson

Massachusetts

Representative Robert K. Coughlin
Ted Lauper, Department of Revenue
William Rennie, Retailers Association of Massachusetts

Michigan

Representative Fulton J. Sheen
Dale Vettel, Department of Treasury

Minnesota

Senator Ann H. Rest
Larry Wilkie, Department of Revenue
Paul Wilson, House of Representatives

Nebraska

Mary Jane Egr Edson, State Tax Commissioner

New Jersey

Harold Fox, Division of Taxation
Craig Rook, Division of Taxation

New York

Michelle A. Cummings, Department of Taxation and Finance

Robert Hotz, Senate Finance Committee

Ryan McAllister, Office of Governor George Pataki

Christopher O'Brien, Department of Taxation and Finance

North Carolina

Andy Sabol, Department of Revenue

North Dakota

Senator Dwight C. Cook

Ohio

Senator Ronald Amstutz

Representative Bob Gibbs

Fred Nicely, Department of Taxation

Commissioner William W. Wilkins, Department of Taxation

Oklahoma

Senator Angela Monson

Jerry Johnson, Vice Chairman, Oklahoma Tax Commission

Thomas Kemp, Jr., Chairman, Oklahoma Tax Commission

Rhode Island

John Nugent, Division of Taxation

South Dakota

Senator H. Paul Dennert

Senator Royal G. McCracken

Representative Orville Smidt

Representative Hal Wick

Secretary Gary Viken, Department of Revenue and Regulation

Tennessee

Senator Bill Clabough

Representative Mark Maddox

Commissioner Loren Chumley, Department of Revenue

Connie Hardin, General Assembly

Texas

Senator Leticia Van de Putte

Representative Jim Pitts

Robin Corrigan, Comptroller of Public Accounts

William Hamner, Comptroller of Public Accounts

Wayne Pulver, Legislative Budget Board

Utah

Senator Lyle Hillyard

Representative Wayne Harper

Commissioner R. Bruce Johnson, State Tax Commission

James V. Olsen, Utah Retail Merchants Association

Vermont

Michael Wasser, Department of Taxes

Virginia

Delegate Vivian E Watts

Washington

Cindi Yates, Director, Department of Revenue

West Virginia

Delegate John Doyle

Virgil Helton, Acting Commissioner, Department of Tax and Revenue

Melissa Lilly, Senate Committee on Finance

Dale Steager, General Counsel, Dept. of Tax and Revenue

Wisconsin

Diane L. Hardt, Department of Revenue

Wyoming

Representative Rodney Anderson

Dan Noble, Department of Revenue

The following additional individuals attended the meeting:

Ralph Amon, Manager—Excise Tax, The Boeing Company

Paul Baney, Manager Audits & Planning, DuPont Finance

Barbara Barton, Director Global Transaction Taxes, EDS Corporation

Michael Behm, Senior Vice President, Stateside Associates Inc

Ken Beier, Project Manager, Multistate Tax Commission

Deborah Bierbaum, Director External Tax, Policy, AT & T

Delena Bratton, Fast Enterprises

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Katherine M. Breaks, Senior Manager, KPMG
Glenn Brickman, Tax Consultant, Marathon Ashland Petroleum LLC
Mary Cameron, Attorney, Bureau of Legislative Research, State of Arkansas
Jean Cantrell, Regional Director Global Government Affairs, EDS
Terry Charlton, Attorney, Illinois Department of Revenue
Denton Childs, Director Non-Income Taxes, Tyson Foods Inc.
Stephanie Childs, Vice President Tax Policy, ITAA
Colin Chiles, Manager State Relations, ICSC
Tony Chirico, Dir of Tax Audits & Incentives, YORK International Corporation
Rick Cimmerman, Director of State Telecommunications Policy, National Cable
Television Association
John Cmelak, Director of Tax Policy, Verizon Wireless
Charles Collins, Vice President, Taxware
Christie Comanita, Manager Tax Policy & Research, AZ Department of Revenue
Pamela Cook, State and Local Tax Director, BellSouth Corp.
Anne Craine, Senior Tax Analyst, Marathon Ashland Petroleum LLC
Richard Cram, Director of Policy & Research, KS Dept of Revenue
Emily Dagostino, State Tax Notes
James DeBord, Executive Policy Director, Pennsylvania Department of Revenue
Steve DelBianco, Executive Director, NetChoice
Harley Duncan, Executive Director, Federation of Tax Administrators
Carolyn Elerson, Manager Sales & Use Taxes, FedEx Corporate Services
Sheryl Flynn, Senior Manager Sales & Use Taxes, Daimler Chrysler Services
Jeffrey Friedman, Sutherland, Asbill & Brennan LLP
Susan Gaffney, Director, Federal Liaison Center, Government Finance Officers Assn
Meredith Garwood, Vice President – Tax, Time Warner Cable
Tom Gillaspie, Administrator Legal Services, Nebraska Department of Revenue
Robert Goehring, Audit Manager, City of Kent, Washington
Paul Goodman, Teleflora
Drew Gruenburg, Senior Vice President, Society of American Florists
Susan Haffield, PricewaterhouseCoopers LLP
Sherry Harrell, Tennessee Department of Revenue
Mark C. Haskins, Tax Policy Analyst, Virginia Department of Taxation
Ferdinand Hogroian, PricewaterhouseCoopers LLP
Stuart Hoins, VP, Sales & Property Tax, First Data Corporation
Kendall Houghton, Sutherland Asbill & Brennan LLP
Jeffrey L. Hyde, Senior Tax Counsel, G.E. Capital Corporation
Carolyn S. Iafate, Attorney at Law
Steve Janson, Manager Government Relations, Pfizer Inc
Robert Kattan, Tax Counsel, IBM
Beth Kendzierski, Tax Director, Apria Healthcare, Inc.
Thomas Kimmitt, Assistant Counsel, Department of Revenue
John Kroll, TX Government Rep, CASTLE
Mary Ellen Ladouceur, Senior Attorney, New York State Dept. of Taxation & Finance

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Sandra Long, Senior Tax Manager, HCA
Charles P. Maniace, Tax Counsel, Taxware
Leonard Martin, City Manager, City of Carrollton, Texas
Richard L. Martin, Director, External Tax Policy, Sprint
Robert Meador, Director GeoTax Product Management, Group 1 Software
Lora Miller, Governmental Affairs Director, Ohio Council of Retail Merchants
Sean M Morrissey, Vice President, Dutko Worldwide
Mark Nebergall, President, Software Finance & Tax Exec Counsel
Kathy Negggers, Manager-Sales, Use & Excise Taxes, General Electric Company
Kristina Newton, EDS Corporation
Sean Nicholson, Senior Manager, Sales & Use Tax, Target
Stephen Olivier, Manager, Excise Tax Manager, Chevron Texaco Company
Neal Osten, Federal Affairs Counsel, National Conference of State Legislatures
Michael O. Parker, Dover Dixon Horne PLLC, Little Rock, Arkansas
Michelle Peacock, Deputy Director State Public Policy, eBay Inc
Scott C Peterson, Director, Business Tax Division, South Dakota Department of Revenue
& Regulation
Valerie Pfeiffer, Tax Director, CIT
Greg Potegal, Tax Policy Specialist, Washington Department of Revenue
Bill Pound, Executive Director, National Conference of State Legislatures
Rich Prem, Director, Global Indirect Taxes, Amazon.com
Molly Ramsdell, Director, Budgets & Revenue, National Conference of State
Legislatures
Rory Rawlings, Founder Chief Tax Officer, Avalara
Bruce Reid, Director—Excise & Property Taxes, Microsoft Corporation
Jeffrey M. Rhines, Sr Mgr State & Local Tax Services, Grant Thornton LLP
Maureen Riehl, VP Government & Industry Relations, National Retail Federation
Arthur R. Rosen, McDermott, Will & Emery
Daniel Schibley, News Director, CCH Incorporated
Phil Schlisinger, Director of Tax Research, Avalara
Janine Jones Smith, Principal Legislative Counsel, National League of Cities
Eric Songayllo, Policy Analyst, New York Dept of Taxation & Finance
Nick Steidel, Research Analyst II, National Conference of State Legislatures
Jonathan Stelling, Director Solutions, Salis
Dan Thompson, President, Thompson Tax & Associates, LLC
Kevin P. Thompson, Legislative Counsel, Council on State Taxation
Matt Tomalis, Attorney, Federation of Tax Administrators
Warren Townsend, Director, Sales, Use & Product Taxes, Wal-Mart Stores, Inc.
Carl Tubbesing, Deputy Executive Director, National Conference of State Legislatures
Myles Vosberg, Supervisor Sales & Withholding Taxes, North Dakota, Office of State
Tax Commissioner
Cathy Wicks, Assistant Director, Minnesota Department of Revenue

Kelly Youngken, Manager State and Local Affairs, American Beverage Association
Wayne Zakrzewski, Assistant General Counsel – Tax, J C Penney Company Inc.

Welcome

Co-Chair Angela Monson of Oklahoma called the meeting to order at 8:50 am. Following the introduction of delegates and other attendees, she thanked legislators, administrators and private sector representatives for their contribution to the streamlined sales tax effort. Senator Monson also thanked Commissioner Loren Chumley and Senator Cook for their efforts with the Conforming States.

Co-Chair Bruce Johnson acknowledged that many of the participants were seeing the substitute amendments for the first time. He noted the effort to be inclusive in discussions leading up to the meeting, but invited participants to let the co-chairs know if more could be done in this area.

Nomination and Election of Co-Chairs

Angela Monson noted that annual election of the co-chairs is required. Kansas moved and South Dakota second the nomination of Senator Angela Monson as legislative co-chair. This was passed. Tennessee moved and Nebraska seconded the nomination of Bruce Johnson as administrative co-chair. This was passed.

Approval of Minutes from November 2004

Florida moved and Tennessee seconded acceptance of the minutes of the November 2004 meeting of the Implementing States. This was passed.

Consideration of Amendments

Bruce Johnson reminded the delegates of the need to move forward so that the Streamlined Sales and Use Tax Agreement (Agreement) will be in effect on July 1, 2005 and noted the compliance issues, including sourcing, that could preclude the states from reaching the 20% population requirement on July 1. He explained that this poses a choice to the states—of lowering the population threshold, overlooking certain compliance issues, or delaying effective dates for certain provisions of the Agreement. In response to these concerns, the Conforming States, at its March meeting, arrived at an approach that involved some relaxed standards for a limited period of time.

Following introduction of Senators Van de Putte of Texas and Steve Rauschenberger of Illinois, the group reviewed proposed amendments to the Streamlined Sales and Use Tax Agreement.

Jerry Johnson then explained proposed Amendments 1 and 2 and the proposed substitute for these amendments that deal with tax rate and jurisdiction databases. The amendments allow for databases provided by the state or databases provided by a state-certified vendor. Bruce Johnson noted the superiority of address-based system over a zip plus four-based system, but that the Agreement should allow flexibility for states to initially provide either. It was also noted that a vote on these amendments was not necessary for the states to move forward with the Agreement.

Loren Chumley explained the compliance issues that were reviewed in Atlanta in March and noted that proposed Amendments 3, 8, 10 and 16 all have timing issues, that is, provisions for a delayed effective date for particular requirements of the Agreement. She then noted the proposed changes in Article VII of the Agreement, including provisions for associate membership in Section 705. For Associate Members, compliance with the Agreement would be expected by January 1, 2008. It was explained that all petitioning states would vote on membership, but that once the Agreement is in effect, only full member states would vote to accept new members. Associate members would vote on all other matters coming before the Governing Board, except for amendments to the Agreement. In addition, with the lack of an affirmative (3/4) vote, a state can apply for associate member status. In response to a question from Kentucky, Bruce Johnson indicated that there would not be a second application charge when an associate member applies for full membership.

In response to a question from Minnesota on what constitutes “good faith effort” that would be required of Associate Member states, Bruce Johnson explained that the co-chairs made an initial judgment on good faith effort for designating Conforming States. He suggested that the group is now asking the states to make a similar judgment for Associate Members. Mr. Johnson added that there are two types of Associate Members—those who thought they had everything right, but find that they still need some law changes to comply, and those who have delayed implementation dates. Bruce Johnson also noted that the Section 703 continues the involvement of the Implementing States until the thresholds for enacting the Agreement in Section 701 are met by full members.

South Dakota then removed proposed Amendment #10 from consideration.

Minnesota then removed proposed Amendment #16 from consideration.

South Dakota moved and Tennessee seconded a proposal to accept all proposed amendments so that they can be considered at future meetings. This was passed.

Tennessee then moved to withdraw a previous motion for a new proposed Amendment 3 and moved that Amendment 3 be replaced by a substitute Amendment that had been distributed to the group and changed in the electronic version (displayed on the screen in the meeting room). This was seconded by Wisconsin. Bruce Johnson noted that the vote on this motion was for consideration of the Amendment, not a vote to change the

Agreement. This was passed on a voice vote with a “no” vote from Texas and an abstention from California.

Fred Nicely of Ohio moved for consideration of the proposed Amendment 8. West Virginia seconded the amendment “so that it could be discussed.” Fred Nicely then reviewed the sourcing issue and suggested changes to the proposed Amendment 8. In response to a question, he clarified that, except for the sourcing issue, Ohio is in compliance with the Agreement. Following compliments to Ohio from private sector representatives on their hard work on this, the changes to the amendment failed on a voice vote.

Illinois moved and the District of Columbia seconded to table Amendment 3.

Dianne Hardt then described substitute Amendment 4 that allows tangible and other software to have similar treatment regarding sourcing to multiple points of use. Several private sector representatives spoke in favor of the proposal. Scott Peterson added that the proposal would have a deferred effective date of January 1, 2007. Texas moved and South Dakota seconded a procedural motion to table substitute Amendment 4. This was passed.

Following lunch, Senator Rauschenberger of Illinois cited three critical amendments—3, 4 and 15—that are a test of the states in the Internet age. He noted the importance of moving forward with the Agreement, and stated that the associate membership provision does not devalue the effort. He then moved to consider substitute Amendment 4. This was passed on a voice vote. Senator Rauschenberger then moved that the effective date for Amendment date be changed to January 1, 2008. Following expression of concerns from Michigan on the proposal, Steve Kranz stated a commitment to work with Michigan and North Carolina to make sure that they pick up the inbound part of use tax on software. Co-chair Johnson then called the question. Amendment 4 passed with 30 votes. (See addendum to these minutes for the text of the amendment.)

South Dakota moved and Tennessee seconded a motion to consider Amendment 3. Following an explanation of the amendment, Loren Chumley moved and Wisconsin seconded adoption of the amendment. Ohio then withdrew its support for Amendment 8 and joined the 11 other states supporting Amendment 3. Amendment #3 then passed with 34 yes votes, 1 no vote (Texas) and 1 abstention (California). (See addendum to these minutes for the text of the amendment.)

Scott Peterson then explained Amendment 6 which applies to section 317 of the Agreement (Administration of Exemptions) and added that the Streamlined Sales Tax Project recommended approval of the amendment. Changes to Sections C.1. and C.2. were accepted. Following supportive comments from private sector representatives, Oklahoma moved and Tennessee seconded to lay over the amendment. This was approved. (See addendum to these minutes for the text of the proposed amendment.)

Scott Peterson then explained Amendment 7, which would add paragraph A.8. to the Section 317 of the Agreement and allows a drop shipment to be recognized as a sale for resale. The effective date was changed to January 1, 2008. Wisconsin moved and New Jersey seconded approval of Amendment 7. This passed with 30 votes. (See addendum to these minutes for the text of the proposed Amendment.)

Following an explanation of Amendment 9 from Senator Cook, he moved and Texas seconded the amendment that applies to Article VI of the Agreement. Senator Cook expressed concerns about the effect of monetary allowances for certified service providers on the states. Charles Collins of Taxware explained the history of the project that envisions a zero burden on sellers. He added that support of technology with compensation to certified service providers (CSPs) and vendors has been a long-term expectation that is also part of the request for proposals for CSPs. Following discussion of potential communication with legislators about compensation arrangements, the amendment was defeated. Jerry Johnson of Oklahoma then cited the need for establishing a committee to analyze CSP compensation and moved the following:

The co-chairs of the Implementing States shall establish a committee to analyze the issue of compensation pursuant to Article VI of the Agreement. The committee shall coordinate their work with the work currently proceeding on compensation for CSPs. The committee shall report back to the Implementing States, the Conforming States, or the Petitioning States at their next meeting.

This was seconded by Nebraska and passed.

Scott Peterson explained that Amendment 11 would allow the Governing Board to go into closed executive session regarding litigation. Acceptance of the motion was moved by Tennessee, seconded by Wisconsin and passed. (See addendum to these minutes for the text of the amendment.)

Jerry Johnson reviewed discussions of the relationship of the Governing Board and the Business and Taxpayer Advisory Council that started at the Phoenix meeting in January 2005. He noted that Amendment 12 called for changing “create” to “recognize” in Section 811 of the Agreement. Steve Kranz suggested removal of “and Taxpayer” from the name of the advisory council. There was no objection to this substitution. Acceptance of the amendment was moved by the District of Columbia and seconded by Kansas. Bruce Johnson emphasized the need for the Governing Board to encourage other avenues of involvement for taxpayers. The amendment passed with a “No” vote from Texas and an abstention from California. Angela Monson noted that the title of this section also needed to be changed. This was accepted by the group. (See addendum to these minutes for the text of the proposed Amendment.)

The group then returned to consideration of Amendment 6. Bruce Johnson explained that the proposed language changes the burden of proof with respect to the buyer's responsibility for the tax. Kentucky moved that the substitute version displayed on the screen be approved. This was seconded by Oklahoma and passed with 31 votes. (See addendum to these minutes for the text of the amendment.)

Sherry Harrell explained substitute Amendment 13 that would amend the definition of sales price to address bundled transactions and manufacturer's coupons and noted that states in the Agreement will apply these definitions at the state and local level. Acceptance of the amendment was moved by Tennessee and seconded by Wisconsin. Following discussion of employee discounts and expression of support from Steve Olivier, the motion passed with 32 votes. (See addendum to these minutes for the text of the amendment.)

The group consented to substitutions to the substitute Amendment 15 which provides for telecommunications definitions. Acceptance of this amendment was moved by Wisconsin, seconded by Tennessee and passed with 32 votes. (See addendum to these minutes for the text of the proposed Amendment.)

Amendment 16 was withdrawn by Minnesota

Approval of the issue paper for exemption administration was moved by Wisconsin and passed.

Report of the Conforming States

Loren Chumley noted that changes in the Conforming States Bylaws will need to be made to reflect changes relating to associate members. She reminded states of the May 1 deadline for petitions for membership in the Agreement and that associate memberships allows some additional states to proceed on that basis.

Steve Kranz thanked participants for all of their work over the past five years and, in particular, over the past six weeks.

Bruce Johnson cited the accomplishments of the day and thanked the group for the reappointment as co-chair of the Implementing States.

Loren Chumley noted that there will be a June 30-July 1 meeting of the Petitioning States in Chicago and presented a tribute to Scott Peterson in honor of his 50th birthday.

The meeting was adjourned at 3:40 pm.

Meeting of the Conforming States Committee

Immediately following the meeting of the Implementing States, the Conforming States Committee, with representatives from Arkansas, Indiana, Iowa, Kansas, Kentucky, Minnesota, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wyoming, met and approved changes in the Interim Operating Rules of Procedure of the Conforming States Committee (Operating Rules). These changes accommodate the full and associate member status that was recognized by the Implementing States earlier in the day. The new Section 8 of the operating rules is:

8. Petition Fee

Each state that files a petition for membership, whether as a full member or as an associate member, shall submit a petition fee in the amount of \$20,000 to the Interim Executive Director not later than five business days after the initial meeting of the Petitioning States. Petitions submitted subsequent to the initial meeting, but prior to the effective date of the Agreement, shall be accompanied by the \$20,000 petition fee. This amount shall be held in escrow pending the date on which a sufficient number of states have either been found to be in substantial compliance with the Agreement or have been found to be an associate member pursuant to Section 704. In the event an insufficient number of states are granted either full or associate membership at the meeting of Petitioning States the petition fee will be refunded to the States. If an individual state is not granted either full or associate membership, the petition fee will be refunded to the State. When the Agreement becomes effective and the State is granted either full or associate membership to the Agreement, the fee may be applied as a dollar-for-dollar credit against any future dues imposed by the Governing Board and payable by that state. Notwithstanding the foregoing, if the Agreement fails to become effective at the meeting of Petitioning States but the effective date appears to the Co-Chairs of the Implementing States to be within 90 days of that date, the Petitioning States shall, by majority vote, have the discretion to delay the refunding of dues to the states for that time period.

Section 9 of the Operating Rules was eliminated and the previous section 10 changed to Section 9.

The meeting was adjourned at 3:50 pm.

Respectively submitted

Kenneth R. Beier
Multistate Tax Commission

Addendum to Minutes

The addendum consists of the following amendments:

- Amendment 3 (Sections 701-705)
- Amendment 4 (Section 312)
- Amendment 6 (Section 317, Administration of Exemptions—Other Provisions)
- Amendment 7 (Section 317, Administration of Exemptions—Drop Shipment Sales)
- Amendment 11 (Section 807)
- Amendment 12 (Section 811)
- Amendment 13 (Appendix C, Library of Definitions)
- Amendment 15 (Sections 314 and 315 and Appendix D, Library of Definitions)

Amendment 3

ARTICLE VII AGREEMENT ORGANIZATION

Section 701: EFFECTIVE DATE

The Agreement shall become binding and take effect when at least ten states comprising at least twenty percent of the total population, as determined by the 2000 Federal census, of all states imposing a state sales tax have petitioned for membership and have either been found to be in compliance with the requirements of the Agreement pursuant to Section 805 or have been found to be an associate member pursuant to Section 704. The Agreement shall take effect on the first day of a calendar quarter at least sixty days after the tenth state is found in compliance or is found to be an associate member. ~~but cannot take effect prior to July 1, 2003~~

Section 702: APPROVAL OF INITIAL STATES

Prior to the effective date of the Agreement, a state ~~that has adopted changes to its statutes, rules, regulations, or other authorities necessary to bring the state into compliance as provided in Section 805~~ may seek membership by forwarding a petition for membership and certificate of compliance to the Co-Chairs of the Streamlined Sales Tax Implementing States. The certificate of compliance shall meet the requirements of Section 802. If some changes to a state's statutes, rules, regulations, or other authorities have been adopted, but are not yet in effect, the petition for membership shall include the date on which those changes shall be effective. A petitioning state shall also provide a copy of its petition for membership and certificate of compliance to each of the Streamlined Sales Tax Implementing States. A petitioning state shall also post a copy of its petition for membership and certificate of compliance on that state's web site.

Upon receipt of the requisite number of petitions as provided in Section 701, the Co-Chairs shall convene and preside over a meeting of the petitioning states for the purpose of determining if the petitioning states are in compliance with the Agreement. The meeting shall be convened as soon

as practicable after receipt of the requisite number of petitions provided in Section 701 ~~but shall not be earlier than the date the relevant statutes, rules, regulations, or other authorities of the requisite number of petitioning states are effective.~~ An affirmative vote of three-fourths of the other petitioning states is necessary for a petitioning state to be found in compliance with the Agreement. A petitioning state shall not vote on its own petition for membership.

The Co-Chairs shall provide the public with an opportunity to comment prior to any vote on a state's petition for membership.

Section 703: STREAMLINED SALES TAX IMPLEMENTING STATES

A. From the time of ratification of this Agreement until the provisions of Section 701 have been met, the Streamlined Sales Tax Implementing States shall maintain responsibility for the Agreement, including the disposition of all proposed amendments to the Agreement. If the provisions of Section 701 have been met with the use of associate members as defined in Section 704, the Streamlined Sales Tax Implementing States shall be responsible for the disposition of all proposed amendments to and interpretations of the Agreement until such time as the provisions of Section 701 have been met without the use of associate members.

B. Amendments to the Agreement considered by the Streamlined Sales Tax Implementing States shall follow the provisions as set forth in Article IX, Section 901.

C. For a period of not less than six months nor longer than one year after the provisions of Section 701 are met without the use of associate members, the Streamlined Sales Tax Implementing States shall provide advice to the Governing Board of the Agreement and shall be consulted by the Governing Board before amending the Agreement.

Section 704: CONSIDERATION OF PETITIONS

A. A petitioning state that is found to be in compliance pursuant to Section 805 of the Agreement and the changes to their statutes, rules, regulations or other authorities necessary to bring them into compliance are in effect shall be designated a Member State.

B. A petitioning state that is found to be in compliance pursuant to Section 805 of the Agreement and the changes to their statutes, rules, regulations or other authorities necessary to bring them into compliance are not in effect, but are scheduled to take effect on or before January 1, 2008, shall be designated an associate member. Provided the statutes, rules, regulations or other authorities remain in effect, the state shall automatically become a Member State upon the effective date of the conforming legislation.

C. A petitioning state that fails to receive an affirmative vote of three-fourths of the petitioning states as required under Section 702 may request associate membership.

If such a request is made, the Petitioning States may grant such membership by majority vote upon a finding that the state has achieved substantial compliance with the terms of the Agreement taken as a whole, but not necessarily each provision as required by Section 805, measured qualitatively, and there is a reasonable expectation that the state will achieve compliance by January 1, 2008. A state that is granted associate membership by this section shall be required to re-petition for full membership under the requirements of the Agreement.

Section 705: ASSOCIATE MEMBERSHIP

A. An associate member shall have all the rights and privileges of a member state except that an associate member may not vote on amendments to or interpretations of the Agreement when the provisions of Section 701 have been met without the use of associate members. Associate members may vote on amendments to or interpretations of the Agreement as an Implementing State under Section 703A.

B. An associate member shall retain such status until the Governing Board finds such state to be in compliance pursuant to Section 805 or December 31, 2007, whichever is earlier, without regard to whether the population requirement of Section 701 has been met. Any associate member that has not been found in compliance by December 31, 2007 shall forfeit its status as an associate member. No state may be an associate member after December 31, 2007. The Co-Chairs of the Streamlined Sales Tax Implementing States shall provide an associate member state with the reasons why such state is not in compliance with the Agreement.

C. Notwithstanding any provision of this Agreement to the contrary, a seller may, but is not required to collect sales or use tax on sales into an associate member state unless the seller is otherwise required to collect such taxes under applicable law. Notwithstanding the provisions of Section 401B, a seller that volunteers to collect tax in an associate member state is not required to collect tax in any other associate member state. An associate member shall be responsible for payment of costs as provided in Article VI for those sellers that volunteer to collect tax in an associate member state.

D. Neither the Governing Board nor a member state may share or grant access to an associate member state any seller information from the seller's registration pursuant to Section 401. Neither the Governing Board nor a member state may share or grant access to an associate member state any seller information from an audit conducted by the Governing Board or a member state on behalf of the Governing Board unless the associate member state is a party to the audit.

E. An associate member shall be responsible for the payment of the petition fee and the annual cost allocation as determined by the Streamlined Sales Tax Implementing States or Governing Board.

F. An associate member state shall provide amnesty pursuant to the provisions of Section 402, provided, the amnesty shall be in effect from the date the associate member status is attained until 12 months after the associate member state has been found to be in compliance with the Agreement.

Amendment 4

Motion to amend Section 312 to read as follows:

Section 312: Multiple Points of Use

A. Notwithstanding the provisions of Section 310, a business purchaser that is not a holder of a direct pay permit that knows at the time of its purchase of a digital good, computer software ~~delivered electronically~~, or a service that the digital good, computer software ~~delivered electronically~~, or service will be concurrently available for use in more than one jurisdiction shall deliver to the seller in conjunction with its purchase ~~a form disclosing this fact (“Multiple Points of Use or MPU” Exemption Form)~~ an exemption certificate claiming multiple points of use or meet the requirements of subsections (B) or (C). Computer software, for purposes of this section includes, but is not limited to computer software delivered electronically, by load and leave, or in tangible form. Computer software received in-person by a business purchaser at a business location of the seller is not included.

[Paragraph headings changed from letters to numbers]

1. Upon receipt of ~~the MPU Exemption Form~~ an exemption certificate claiming multiple points of use, the seller is relieved of all obligation to collect, pay, or remit the applicable tax and the purchaser shall be obligated to collect, pay, or remit the applicable tax on a direct pay basis.
2. A purchaser delivering the ~~MPU Exemption Form~~ an exemption certificate claiming multiple points of use may use any reasonable, but consistent and uniform, method of apportionment that is supported by the purchaser’s ~~business books and records as they exist at the time of the consummation of the sale~~ the transaction is reported for sales and use tax purposes.
3. A purchaser delivering an exemption certificate claiming multiple points of use shall report and pay the appropriate tax to each jurisdiction where concurrent use occurs. The tax due will be calculated as if the apportioned amount of the digital good, computer software or service had been delivered to each jurisdiction to which the sale is apportioned pursuant to Section 312, subdivision A(2).
4. The ~~MPU Exemption Form~~ exemption certificate claiming multiple points of use will remain in effect for all future sales by the seller to the purchaser (except as to the subsequent sale’s specific apportionment that is governed by the principles of ~~Section 312, subdivisions A(2) and A(3)(B) and the facts existing at the time of the sale~~ Section 312, subdivisions A(2) and A(3)(B)) until it is revoked in writing.

- B. Notwithstanding subsection A, when the seller knows that the product will be concurrently available for use in more than one jurisdiction, but the purchaser does not provide an exemption certificate claiming multiple points of use as required in subsection A, the seller may work with the purchaser to produce the correct apportionment. The purchaser and seller may use any reasonable, but consistent and uniform, method of apportionment that is supported by the seller's and purchaser's business records as they exist at the time the transaction is reported for sales and use tax purposes. If the purchaser certifies to the accuracy of the apportionment and the seller accepts the certification, the seller shall collect and remit the tax pursuant to Section 312, subsection A(3). In the absence of bad faith, the seller is relieved of any further obligation to collect tax on any transaction where the seller has collected tax pursuant to the information certified by the purchaser.
- C. When the seller knows that the product will be concurrently available for use in more than one jurisdiction and the purchaser does not have a direct pay permit and does not provide the seller with an exemption certificate claiming multiple points of use exemption as required in Section 312, subsection A, or certification pursuant to Section 312, subsection B, the seller shall collect and remit the tax based on the provisions of Section 310.
- D. A holder of a direct pay permit shall not be required to deliver a ~~MPU Exemption Form~~ an exemption certificate claiming multiple points of use to the seller. A direct pay permit holder shall follow the provisions of Section 312 ~~subsection (B)~~ subdivisions A(2) and A(3) of this section in apportioning the tax due on a digital good, computer software, or a service that will be concurrently available for use in more than one jurisdiction.
- E. Nothing in this section shall limit a person's obligation for sales or use tax to any state in which the qualifying purchases are concurrently available for use, nor limit a person's ability under local, state, federal, or constitutional law, to claim a credit for sales or use taxes legally due and paid to other jurisdictions.

Member States shall comply with the provisions of this Section as amended not later than January 1, 2008.

Amendment 6

Part I. Motion to amend Section 317 B to read:

- B.** Each member state shall relieve sellers that follow the requirements of this section from ~~any~~ the tax otherwise applicable if it is determined that the purchaser improperly claimed an exemption and to hold the purchaser liable for the nonpayment of tax. This relief from liability does not apply to a seller who fraudulently fails to collect tax; ~~or~~ to a seller who solicits purchasers to participate

in the unlawful claim of an exemption; to a seller who accepts an exemption certificate when the purchaser claims an entity-based exemption when (1) the subject of the transaction sought to be covered by the exemption certificate is actually received by the purchaser at a location operated by the seller and (2) the state in which that location resides provides an exemption certificate that clearly and affirmatively indicates (graying out exemption reason types on the uniform form and posting it on a state's web site is an indicator) that the claimed exemption is not available in that state; or to a seller who accepts an exemption certificate claiming multiple points of use for tangible personal property other than computer software for which an exemption claiming multiple points of use is acceptable under Section 312.

Part II. Motion to amend Section 317 to add the following subsection (C):

C. (Effective on January 1, 2008) Each state shall relieve a seller of the tax otherwise applicable if the seller obtains a fully completed exemption certificate or captures the relevant data elements required under the Agreement within 90 days subsequent to the date of sale.

1. If the seller has not obtained an exemption certificate or all relevant data elements as provided in Section 317, subsection C. the seller may, within 120 days subsequent to a request for substantiation by a member state, either prove that the transaction was not subject to tax by other means or obtain a fully completed exemption certificate from the purchaser, taken in good faith. For purposes of this section, member states may continue to apply their own standards of good faith until such time as a uniform standard for good faith is defined in the Agreement.
2. Nothing in this section shall affect the ability of Member States to require purchasers to update exemption certificate information or to reapply with the state to claim certain exemptions.
3. Notwithstanding the aforementioned, each member state shall relieve a seller of any tax otherwise applicable if it obtains a blanket exemption certificate for a purchaser with which the seller has a recurring business relationship. States may not request from the seller renewal of blanket certificates or updates of exemption certificate information or data elements when there is a recurring business relationship between the buyer and seller. For purposes of this section "a recurring business relationship" is defined as at least one sale transaction within a period of twelve consecutive months.

Member States shall comply with the provisions of this Section as amended not later than January 1, 2008.

Amendment 7

Motion to amend Section 317 to add create paragraph (A)(8) as follows:

After December 31, 2007, in the case of drop shipment sales, member states must allow a third party vendor (e.g., drop shipper) to claim a resale exemption based on an exemption certificate provided by its customer/re-seller or any other acceptable information available to the third party vendor evidencing qualification for a resale exemption, regardless of whether the customer/re-seller is registered to collect and remit sales and use tax in the state where the sale is sourced.

Amendment 11

Motion to amend Section 807 of the Agreement by adding a new Subsection F to read as follows:

- F. The consideration of pending litigation in which the governing board is a party the discussion of which in a public session would, in the judgment of the governing board, adversely affect its interests. In the meeting, the governing board shall excuse any attendee to whom confidential taxpayer information cannot be disclosed under the law of any member state.

This amendment is effective upon approval.

Amendment 12

Motion to Amend Section 811 of the Agreement to read as follows:

Section 811: BUSINESS ~~AND TAXPAYER~~ ADVISORY COUNCIL

The governing board shall ~~create~~ recognize a Business ~~and Taxpayer~~ Advisory Council from the private sector to advise the governing board on matters pertaining to the administration of the Agreement. These matters shall include, but not be limited to, admission of states into membership, noncompliance, and interpretations, revisions or additions to the Agreement. The Business ~~and Taxpayer~~ Advisory Council shall advise and assist the State and Local Government Advisory Council in the functions noted in Section 810.

This amendment shall be effective upon approval.

Amendment 13

1. Amend the Library of Definitions in Appendix C, Part I to delete subsection 6(f) from the definition of sales price.

2. Amend the Library of Definitions in Appendix C, Part I to insert the following new language after Subsection C, at line 17 on page 63

“Sales price” (Effective January 1, 2008) applies to the measure subject to sales tax and means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

- A. The seller's cost of the property sold;
- B. The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;
- C. Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;
- D. Delivery charges;
- E. Installation charges;
- F. ~~The value of exempt personal property given to the purchaser where taxable and exempt personal property have been bundled together and sold by the seller as a single product or piece of merchandise; and~~
- G. Credit for any trade-in, as determined by state law.

States may exclude from “sales price” the amounts received for charges included in paragraphs (C) through (G) above, if they are separately stated on the invoice, billing, or similar document given to the purchaser

3. Amend the Library of Definitions in Appendix C, Part I to add the term and definition of bundled transaction in the following manner.

“A bundled transaction” is the retail sale of two or more products, except real property and services to real property, where (1) the products are otherwise distinct and identifiable, and (2) the products are sold for one non-itemized price. “A bundled transaction” does not include the sale of any products in which the “sales price” varies, or is negotiable, based on the selection by the purchaser of the products included in the transaction.

- A. “Distinct and identifiable products” does not include:

1. Packaging – such as containers, boxes, sacks, bags, and bottles – or other materials – such as wrapping, labels, tags, and instruction guides – that accompany the “retail sale” of the products and are incidental or immaterial to the “retail sale” thereof. Examples of packaging that are incidental or immaterial include grocery sacks, shoeboxes, dry cleaning garment bags and express delivery envelopes and boxes.
 2. A product provided free of charge with the required purchase of another product. A product is “provided free of charge” if the “sales price” of the product purchased does not vary depending on the inclusion of the product “provided free of charge.”
 3. Items included in the member state’s definition of “sales price,” pursuant to Appendix C of the Agreement.
- B. The term “one non-itemized price” does not include a price that is separately identified by product on binding sales or other supporting sales-related documentation made available to the customer in paper or electronic form including, but not limited to an invoice, bill of sale, receipt, contract, service agreement, lease agreement, periodic notice of rates and services, rate card, or price list.
- C. A transaction that otherwise meets the definition of a “bundled transaction” as defined above, is not a “bundled transaction” if it is:
1. The “retail sale” of tangible personal property and a service where the tangible personal property is essential to the use of the service, and is provided exclusively in connection with the service, and the true object of the transaction is the service; or
 2. The “retail sale” of services where one service is provided that is essential to the use or receipt of a second service and the first service is provided exclusively in connection with the second service and the true object of the transaction is the second service; or
 3. A transaction that includes taxable products and nontaxable products and the “purchase price” or “sales price” of the taxable products is de minimis.
 - a. De minimis means the seller’s “purchase price” or “sales price” of the taxable products is ten percent (10%) or less of the total “purchase price” or “sales price” of the bundled products.
 - b. Sellers shall use either the “purchase price” or the “sales price” of the products to determine if the taxable products are de minimis. Sellers may not use a combination of the “purchase price” and “sales price” of the products to determine if the taxable products are de minimis.
 - c. Sellers shall use the full term of a service contract to determine if the taxable products are de minimis; or

4. The “retail sale” of exempt tangible personal property and taxable tangible personal property where:
 - a. the transaction includes “food and food ingredients”, “drugs”, “durable medical equipment”, “mobility enhancing equipment”, “over-the-counter drugs”, “prosthetic devices” (all as defined in Appendix C) or medical supplies; and
 - b. the seller's “purchase price” or “sales price” of the taxable tangible personal property is fifty percent (50%) or less of the total “purchase price” or “sales price” of the bundled tangible personal property. Sellers may not use a combination of the “purchase price” and “sales price” of the tangible personal property when making the fifty percent (50%) determination for a transaction.

4. Add the following as a new subsection to Article III of the Agreement entitled Bundled Transactions and the provisions for requirements of member states regarding bundled transactions.

BUNDLED TRANSACTIONS

- A. A member state shall adopt and utilize to determine tax treatment, the core definition for a “bundled transaction” in Appendix C, Part I of the Library of Definitions in the Agreement.
- B. Member states are not restricted in their tax treatment of bundled transactions except as otherwise provided in the Agreement. Member states are not restricted in their ability to treat some bundled transactions differently from other bundled transactions.
- C. In the case of a bundled transaction that includes any of the following: telecommunication service, ancillary service, internet access, or audio or video programming service:
 1. If the price is attributable to products that are taxable and products that are nontaxable, the portion of the price attributable to the nontaxable products may be subject to tax unless the provider can identify by reasonable and verifiable standards such portion from its books and records that are kept in the regular course of business for other purposes, including, but not limited to, non-tax purposes.
 2. If the price is attributable to products that are subject to tax at different tax rates, the total price may be treated as attributable to the products subject to tax at the highest tax rate unless the provider can identify by reasonable and verifiable standards the portion of the price attributable to the products subject to tax at the lower rate from its books and records that are kept in the regular course of business for other purposes, including, but not limited to, non-tax purposes.

3. The provisions of this section shall apply unless otherwise provided by federal law.

Amendment 15

1. **Motion to amend Appendix C, Part II, Product Definitions, by adding new definitions as follows:**

TELECOMMUNICATIONS

Tax Base/Exemption Terms

“Ancillary services” means services that are associated with or incidental to the provision of telecommunications services, including but not limited to detailed telecommunications billing, directory assistance, vertical service, and voice mail services.

“Conference bridging service” means an ancillary service that links two or more participants of an audio or video conference call and may include the provision of a telephone number. Conference bridging service does not include the telecommunications services used to reach the conference bridge.

“Detailed telecommunications billing service” means an ancillary service of separately stating information pertaining to individual calls on a customer’s billing statement.

“Directory assistance” means an ancillary service of providing telephone number information, and/or address information.

“Vertical service” means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services.

“Voice mail service” means an ancillary service that enables the customer to store, send or receive recorded messages. Voice mail service does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

“Telecommunications service” means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. The term “telecommunications service” includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing without regard to whether such service is referred to as voice over Internet protocol services or is classified by the Federal Communications Commission as enhanced or value added. Telecommunications service does not include:

- A. Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where such purchaser's primary purpose **for** the underlying transaction is the processed data or information;
- B. Installation or maintenance of wiring or equipment on a customer's premises;
- C. Tangible personal property;
- D. Advertising, including but not limited to directory advertising.
- E. Billing and collection services provided to third parties;
- F. Internet access service;
- G. Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of such services by the programming service provider. Radio and television audio and video programming services shall include but not be limited to cable service as defined in 47 USC 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 CFR 20.3;
- H. Ancillary services; or
- I. Digital products delivered electronically, including but not limited to software, music, video, reading materials or ring tones.

“800 service” means a telecommunications service that allows a caller to dial a toll-free number without incurring a charge for the call. The service is typically marketed under the name “800”, “855”, “866”, “877”, and “888” toll-free calling, and any subsequent numbers designated by the Federal Communications Commission.

“900 service” means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service. “900 service” does not include the charge for: collection services provided by the seller of the telecommunications services to the subscriber, or service or product sold by the subscriber to the subscriber's customer. The service is typically marketed under the name “900” service, and any subsequent numbers designated by the Federal Communications Commission.

“Fixed wireless service” means a telecommunications service that provides radio communication between fixed points.

“Mobile wireless service” means a telecommunications service that is transmitted, conveyed or routed regardless of the technology used, whereby the origination and/or termination points of the transmission, conveyance or routing are not fixed, including, by

way of example only, telecommunications services that are provided by a commercial mobile radio service provider.

“Paging service” means a telecommunications service that provides transmission of coded radio signals for the purpose of activating specific pagers; such transmissions may include messages and/or sounds.

“Prepaid calling service” means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

“Prepaid wireless calling service” means a telecommunications service that provides the right to utilize mobile wireless service as well as other non-telecommunications services including the download of digital products delivered electronically, content and ancillary services, which must be paid for in advance that is sold in predetermined units of dollars of which the number declines with use in a known amount.

“Private communications service” means a telecommunications service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels.

“Value-added non-voice data service” means a service that otherwise meets the definition of “telecommunications services” in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance or routing.

Modifiers of Sales Tax Base/Exemption Terms

The following terms can be used to further delineate the type of telecommunications service to be taxed or exempted. The terms would be used with the broader terms and subcategories delineated above.

“Coin-operated telephone service” means a telecommunications service paid for by inserting money into a telephone accepting direct deposits of money to operate.

“International” means a telecommunications service that originates or terminates in the United States and terminates or originates outside the United States, respectively. United States includes the District of Columbia or a U.S. territory or possession.

“Interstate” means a telecommunications service that originates in one United States state, or a United States territory or possession, and terminates in a different United States state or a United States territory or possession.

“Intrastate” means a telecommunications service that originates in one United States state or a United States territory or possession, and terminates in the same United States state or a United States territory or possession.

“Pay telephone service” means a telecommunications service provided through any pay telephone.

“Residential telecommunications service” means a telecommunications service or ancillary services provided to an individual for personal use at a residential address, including an individual dwelling unit such as an apartment. In the case of institutions where individuals reside, such as schools or nursing homes, telecommunications service is considered residential if it is provided to and paid for by an individual resident rather than the institution.

The terms “ancillary services” and “telecommunications service” are defined as a broad range of services. The terms “ancillary services” and “telecommunications service” are broader than the sum of the subcategories. Definitions of subcategories of ancillary services and telecommunications service can be used by a member state alone or in combination with other subcategories to define a narrower tax base than the definitions of ancillary services and telecommunications service would imply. The subcategories can also be used by a Member State to provide exemptions for certain subcategories of the more broadly defined terms.

A Member State that specifically imposes tax on, or exempts from tax, local telephone or local telecommunications service may define “local service” in any manner in accordance with Section 327 of the Agreement, except as limited by other sections of this Agreement.

2. Motion to amend definition of “sales price” in Appendix C, Part I, to add an exclusion for “telecommunications nonrecurring charges”:

Insert after “States may exclude from ‘sales price’ the amounts received for charges included in paragraphs (C) through (G) above if they are separately stated on the invoice billing, or similar documents [given to the purchaser].” the following:

States may exclude from (B) above, telecommunications nonrecurring charges if they are separately stated on the invoice, billing, or similar documents. A state doing so must define telecommunications nonrecurring charges as follows:

“**Telecommunications nonrecurring charges**” means an amount billed for the installation, connection, change or initiation of “telecommunications service” received by the customer.

3. Motion to amend Section 314 of the Agreement regarding telecommunications sourcing as follows:

Section 314: TELECOMMUNICATION SOURCING RULE

- C. The sale of the following telecommunication services shall be sourced to each level of taxing jurisdiction as follows:
3. A sale of a prepaid calling service or a sale of a prepaid wireless calling service is sourced in accordance with Section 310. Provided however, in the case of a sale of ~~mobile telecommunications service that is a prepaid telecommunications~~ prepaid wireless calling service, the rule provided in Section 310, subsection (A)(5), shall include as an option the location associated with the mobile telephone number.

4. Motion to amend Section 315 of the Agreement regarding telecommunications sourcing as follows:

Section 315: TELECOMMUNICATION SOURCING DEFINITIONS

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

[Subsections A through I remain unchanged.]

- J. "Post-paid calling service" means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number which is not associated with the origination or termination of the telecommunications service. A post-paid calling service includes a telecommunications service, except a prepaid wireless calling service, that would be a prepaid calling service except it is not exclusively a telecommunication service.

Add new definition L., and re-letter subsequent definitions accordingly:

- L. "Prepaid wireless calling service" means a telecommunications service that provides the right to utilize mobile wireless service as well as other non-telecommunications services, including the download of digital products delivered electronically, content and ancillary services, which

must be paid for in advance that is sold in predetermined units of dollars of which the number declines with use in a known amount.

Member States shall comply with the provisions of this Section as amended not later than January 1, 2008.