

A motion by SLAC for a rule relating to exemption administration:

ARTICLE III - REQUIREMENTS EACH STATE MUST ACCEPT TO PARTICIPATE

Rule 317. Administration of Exemptions

Rule 317.1. Simplified Administration Process

A. Administrative Issues

1. Identifying Information of Purchasers Claiming Exemption from Tax. Unless waived by a state pursuant to Section B7, a seller shall obtain the following information from a purchaser who claims exemption from tax: its name, address, type of business (see A2 below), reason for exemption (see A4 below), ID number required by the state to which the sale is sourced, state and country issuing ID number and, if a paper form is used, a signature of the purchaser.

2. Identification of business type. A purchaser claiming exemption from tax shall select one of the following business type-- codes to identify its type of business:

- a. Accommodation and food services
- b. Agricultural, forestry, fishing and hunting
- c. Construction
- d. Finance and insurance
- e. Information, publishing and communications
- f. Manufacturing
- g. Mining
- h. Real Estate
- i. Rental and leasing
- j. Retail trade
- k. Transportation and warehousing
- l. Utilities
- m. Wholesale trade
- n. Business services
- o. Professional services
- p. Education and health-care services
- q. Nonprofit organization

- r. Government
- s. Not a business
- t. Other \_\_\_\_\_

3. Exemption Reason Coding System. All sellers and governing board states shall adopt the following exemption reason coding system to assist member states in identifying purchasers whose eligibility to claim exemption should be verified.

4. Reason for exemption. A purchaser claiming exemption from tax shall select one or more of the following reason codes for claiming exemption from tax:

- a. Federal government
- b. State or local government
- c. Tribal government
- d. Foreign diplomat
- e. Charitable organization
- f. Religious or educational organization
- g. Resale
- h. Agricultural production
- i. Industrial production/manufacturing
- j. Direct pay permit
- k. Multiple points of use
- l. Direct mail
- m. Other \_\_\_\_\_

5. Uniform paper exemption certificate. Member states shall adopt the uniform paper exemption certificate developed for use by member states and adopted by the Governing Board. [See SSUTA § 317.A.3.]

a. A member state shall not customize the uniform exemption certificate except to gray out exemption reason types not authorized by a particular state's law.

b. A member state shall accept the uniform paper exemption certificate or the electronic form described in A7 below for all exemptions.

c. A member state shall allow purchasers and sellers to use substitute exemption certificates if they contain the same information as the uniform exemption certificate.

6. ID numbers. The following provisions shall apply to member states with regard to ID numbers required from purchasers claiming exemption from tax:

a. Each member state shall be permitted to choose whether to require an ID number. A state has the option to require a number for some exemptions, e.g., resale, but not for others, e.g., farmers.

b. If a member state requires the use of an ID number, it shall require purchasers claiming exemption from tax to use only:

- (i) A state-issued business number;
- (ii) A state-issued exemption number;
- (iii) A state-issued driver's license number; or
- (iv) A United States federal ID number.

c. Use of an ID number issued by a foreign government shall only be acceptable when claiming a resale exemption for purchases of services, other than services to real or tangible personal property.

d. A member state shall not request a purchaser's social security number.

e. A member state shall advise the Governing Board and the general public as to whether it requires a purchaser to provide an ID number to claim exemption from the tax.

f. If a member state requires a purchaser to provide an ID number to claim exemption from tax, such member state shall advise the Governing Board and the general public as to which of the ID numbers set forth in (6)(b) above is required or allowed for each type of exemption claimed.

g. A seller shall not be required to verify whether the purchaser has provided the correct ID number to claim exemption from the tax.

7. Electronic forms. The standard form for claiming an exemption electronically shall be a standard set of data elements (Standard Data Elements) that correspond to the information that the purchaser would otherwise provide the seller in the uniform paper exemption certificate at the time of purchase. The Standard Data Elements will be specifically identified by the Governing Board at the time the uniform paper exemption certificate is adopted. Once such Standard Data Elements are captured, a seller shall be deemed to have received a proper electronic exemption form.

8. Direct pay authority, multiple points of use, and direct mail. Direct pay authority, multiple points of use, and direct mail are reasons for claiming exemption from tax at the time of purchase and self-assessing tax to the appropriate state or states (see A4 above). Reason codes shall be established for tax exemptions for these purposes and listed on the uniform exemption certificate form in the "reason for exemption" section of the form.

9. Multistate Supplemental Form. Purchasers may complete the Multistate Supplemental Form as an attachment to a single exemption certificate when they regularly make exempt purchases from the same seller and the purchases from that seller will be sourced to different states. Purchasers shall identify the reason for exemption and the identification number (if required) for each state the purchaser wants to claim exemption from tax.

10. Fully Completed Exemption Certificate and Required Standard Data Elements to be captured. Member states shall relieve a seller of the tax otherwise applicable if the seller obtains a fully completed paper exemption certificate or captures the Standard Data Elements from an electronic form.

a. A fully completed paper exemption certificate includes all information fields requested on the Streamlined Sales and Use Tax Agreement's Certificate of Exemption and Multistate Supplemental Form except for the exemption reason identification numbers requested in Section 5 of the paper Certificate of Exemption.

b. The Standard Data Elements are the same as for a fully completed paper exemption certificate except the signature of the authorized purchaser is not required.

c. A faxed exemption certificate is considered a paper exemption certificate and requires a signature.

d. Sellers that enter the Standard Data Elements from a paper exemption certificate into electronic format are not required to retain the paper copy of the exemption certificate.

## B. Policy and Operational Issues

1. Completion of Taxability Matrix. Member states shall complete the Taxability Matrix approved by the Governing Board and shall show thereon their treatment of the definitions in the Streamlined Sales and Use Tax Agreement's Library of Definitions.

2. Completion of information forms. Member states may complete the following forms:

a. Member State Information on Product-Based Exemptions

b. Member State Information on Taxable Services

c. Member State Information on Other Exemptions

3. Blanket exemption certificates. All member states shall accept either the uniform paper exemption certificate form (see A5 above) or a substitute form containing the Standard Data Elements (see A5c and A7 above) filed for a particular reason and applicable to a current transaction and subsequent similar transactions. For example, a purchaser that has provided a seller with an exemption certificate for the purchase of items for resale shall not be required to provide the same seller with another exemption certificate when subsequently purchasing items for resale.

4. Blanket exemption certificates allowed for all purposes. Member states shall allow blanket exemption certificates for all exemption purposes.

5. Renewal of blanket exemption certificate information.

a. Member states may require purchasers to update exemption certificate information or to reapply with the member state to claim certain exemptions.

b. Member states may not request from sellers renewal of blanket certificates or updates of exemption certificate information or data elements when there is a recurring business relationship between the purchaser and seller. For purposes of this section, "a recurring business relationship" exists when a period of no more than twelve months elapses between sales transactions. [See SSUTA § 317.C. effective 1/1/08.]

6. Nonresident purchasers. With respect to seller liability, a member state shall honor an exemption certificate filed by a purchaser even if the purchaser is not a resident, resident organization or registered business in the member state.

7. When seller is required to obtain an exemption certificate. A seller shall obtain an exemption certificate or data elements from the purchaser on all sales of taxable products and services sold without collecting the tax unless the state imposing the tax has waived the requirement for an exemption certificate on the sale (e.g., a state may choose to waive the exemption certificate requirement on sales made to tax-exempt organizations).

C. Systems Related Issues

1. Default rules for coding the taxability of products.

a. Sellers, Certified Service Providers (CSP's), and Model 2 Automated Systems (CAS's) shall code all products that are tangible personal property as taxable unless a member state has specifically exempted or excluded the product from its tax base.

b. Sellers, CSP's, and CAS's shall code all services sourced to member states that enumerate taxable services as exempt unless a member state has specifically enumerated the service as a taxable service.

c. Sellers, CSP's, and CAS's shall code all services sourced to member states that tax services in the same manner as tangible personal property as taxable unless a member state has specifically exempted or excluded the service from its tax base.

3. Verification of exemption numbers not required. A member state shall not require a seller or a certified service provider to verify exemption numbers.

#### D. Audit Issues

1. Multi-item invoices containing exempt and nonexempt items. If a purchaser only claims exemption from tax on some of the items purchased on a multiple-item invoice and a seller, who does not have a mechanism in place to accurately track exempt and non-exempt items on a multi-item invoice, allows an exemption on all items on the invoice, then a member state shall hold the seller liable for the tax on the nonexempt items on the invoice.

2. Retention of records by a seller. A seller shall retain an exemption certificate submitted by a purchaser, or the Standard Data Elements, for as long as such seller is required to retain other sales and use tax business records under the law applicable in the state to which the sale is sourced.

3. Certified service providers ("CSP") and certified automated software ("CAS"). A CSP or a seller using a CAS shall collect and provide to member states on a periodic basis, sufficient aggregated information on each purchaser claiming exemption from the tax to enable member states to verify each purchaser's exemption eligibility status. Such aggregated information shall be provided to member states in the standardized format required by the Governing Board to facilitate data-extraction and data-mining so as to enable member states to identify purchasers as potential audit candidates and to verify the claimed tax exempt status of purchasers. Pursuant to SSUTA § 317A(6) of the Streamlined Sales and Use Tax Agreement, the Governing Board shall develop standard rules and requirements for collecting and providing aggregated information on purchasers claiming exemption from the tax.

4. Joint state auditing of exempt transactions. The Governing Board shall develop standard rules and administrative practices for joint auditing of exempt transactions by member states.