



STATE OF ARKANSAS
**Department of Finance
and Administration**

**REVENUE DIVISION
Excise Tax Administration**
1800 West Seventh Street, Suite 2440
Post Office Box 8054
Little Rock, Arkansas 72203-8054
Phone: (501) 682-7200
Fax: (501) 682-7900
<http://www.state.ar.us/dfa>

October 4, 2010

Mr. Scott Peterson
Executive Director
Streamlined Sales Tax Governing Board, Inc.
4205 Hillsboro Pike, #305
Nashville, TN 37215-3339

RE: Preliminary Report on 2010 Annual Recertification

Dear Mr. Peterson:

The following is Arkansas's response to the potential compliance issues noted in the Preliminary Report on 2010 Annual Recertification issued to the Compliance Review and Interpretations Committee by yourself and Pam Cook on August 31, 2010. Each potential compliance issue concerning Arkansas will be addressed in turn.

Issue 1: There is no provision for relief for liability if a state rate change takes effect in less than 30 days.

Response: Section 304 of the Streamlined Sales and Use Tax Agreement ("Agreement") provides that each member state must relieve sellers of liability for failing to collect tax at the correct rate if there is less than thirty days between the enactment of the statute providing for the rate change and the effective date of the rate change. Whether member states were required to codify this provision and the time allowed to do so was debated during the 2009 recertification process, but a consensus was not reached. Even so, Arkansas has not enacted a rate change that violates this provision and liability relief for state rate changes is part of Arkansas's legislative package for the 2011 session.

Issue 2: The rule providing for the use of a blanket exemption certificate only applies to resellers. The Agreement provision does not appear to limit the use of blanket certificates to resellers.

Response: The availability of a blanket exemption certificate was not intended to be strictly limited to resale transactions. Sale for resale is, however, the Arkansas exemption that readily lends itself to use of the blanket exemption certificate. Sellers may use any information to document an exemption, including a blanket exemption certificate. The Department of Finance and Administration will clarify this issue to avoid confusion.

Issue 3: The definition of "sales price" does not contain the provisions related to consideration received from third parties which is in the Agreement definition.

Response: The language at issue appears in Arkansas Gross Receipts Tax Rule GR-3(H)(1):

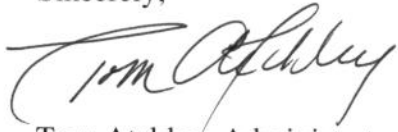
"Gross receipts" or "gross proceeds" is synonymous with "sales price" and means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise. Sales price includes consideration received by the seller from third parties as follows:

- a. The seller actually receives the consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;
- b. The seller has an obligation to pass the price reduction or discount through to the purchaser;
- c. The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and
- d. One of the following criteria is met:
 - (1) The purchaser presents a coupon, certificate, or other documentation to the seller to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;
 - (2) The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount (a "preferred customer" card that is available to any patron does not constitute membership in such a group); or
 - (3) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser.

Citation to Arkansas Gross Receipts Tax Rule GR-3(H)(1) was inadvertently omitted from Arkansas's Certificate of Compliance and will be remedied. Based on the above responses, Arkansas believes it is in substantial compliance with the Agreement.

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Sincerely,

A handwritten signature in black ink, appearing to read "Tom Atchley". The signature is fluid and cursive, with the first name "Tom" being more prominent and the last name "Atchley" following in a similar style.

Tom Atchley, Administrator
Office of Excise Tax Administration