



STATE OF MICHIGAN  
DEPARTMENT OF TREASURY  
LANSING

RICK SNYDER  
GOVERNOR

ANDY DILLON  
STATE TREASURER

October 21, 2011

Mr. Scott Peterson, Executive Director  
Streamlined Sales Tax Governing Board, Inc.  
4219 Hillsboro Pike, Suite 234  
Nashville, Tennessee 37215

Mr. Myles Vosberg, Chairman  
Compliance Review and Interpretation Committee  
Streamlined Sales Tax Governing Board, Inc.  
4219 Hillsboro Pike, Suite 234  
Nashville, Tennessee 37215

Re: Michigan's 2011 SSUTA Recertification – Response to Report

Dear Messrs. Peterson and Vosberg:

This is in response to the Report on 2011 Annual Recertification (dated 9/21/2011) and submitted by Scott Peterson and Pam Cook to the Compliance Review and Interpretation Committee. The Report identifies eight items relating to Michigan. Those items are repeated below in bold font, each followed by our response.

**Michigan:**

- 1. The statute for taxing telecommunications service excludes one-way paging service. Paging service is defined in the Agreement and includes both one-way and two-way service. This was an issue from the 2009 review that was referred to the Governing Board. The Governing Board ruled in their August 2010 meeting that they would have to be all taxable or all exempt.**

Response: This matter will require action by the Michigan Legislature. Draft legislation has been submitted for further handling.

- 2. The taxability matrix indicates that international prepaid calling service and international prepaid wireless calling service are taxable. The statute cited specifically excludes prepaid calling service and international telecommunications service.**

Response: We will change the citations on the Taxability Matrix to refer to 205.52(2)(b).

- 3. The statute cited for the taxation of intrastate and interstate prepaid calling service taxes prepaid telephone calling cards and prepaid authorization numbers for telephone use. These terms are not defined in the Agreement.**

Response: We will change the citations on the Taxability Matrix to refer to 205.52(2)(b).

- 4. Several exemption statutes provide that the exemption applies to the extent used for exempt purposes and that a percentage will be developed. How is this administered?**

Response: MCL 205.54a(2) sets forth the apportionment statute adopted by the Michigan Legislature. Pursuant to the statute, taxpayers are permitted to present a formula or method for review by the Department for a determination of reasonableness.

- 5. The answer for the question of whether tax is imposed on products transferred electronically other than specified digital products should be changed from "Yes" to "No" and the comment deleted. This section specifically excludes software from consideration.**

Response: We will make the change from "yes" to "no," but will retain the comments.

- 6. The included/excluded columns on the taxability matrix are not marked for food sold by manufacturers without eating utensils. Under the Agreement, this is considered prepared food unless specifically excluded. There is nothing in the statute to exclude such sales and the include column should be marked.**

Response: We will mark the "included in definition" for food sold by manufacturers without eating utensils and retain the comments.

- 7. The following citations should be added, changed or deleted in the certificate of compliance: Section 314, paragraphs C4a-d - delete the citation (could not be found); paragraph E - change 205.93c(2) to 205.93c(3)(c); Section 317, paragraph G3 - add 205.62(9); Section 319, paragraph A1 - change the first 205.96(1), (2) to 205.56(1), (2); paragraph A2 - change the first 205.96(2) to 205.56(2); Section 331, paragraphs A1-3, B - delete 205.57; Section 502, paragraph B - change 205.825(1) to 205.825(3); Tobacco - change 205.51a(q) to 205.51a(r); Mobile wireless service - change 205.93b(4)(h) to 205.93b(9)(h).**

Response:

**Section 314, paragraphs C4a-d - delete the citation (could not be found):** the citation for C4a should be changed to MCL 205.93c(1); the citation for C4b should be changed to MCL 205.93c(1); the citations for C4c and d should be deleted as they appear to relate to multiple jurisdictions within a state and Michigan does not have multiple taxing jurisdictions. We will also change the “yes” to N/A for C4c and C4d.

**Section 314, paragraph E - change 205.93c(2) to 205.93c(3)(c):** this change will be made.

**Section 317, paragraph G3 - add 205.62(9):** this change will be made.

**Section 319, paragraph A1 - change the first 205.96(1), (2) to 205.56(1), (2):** this change will be made.

**Section 319, paragraph A2 - change the first 205.96(2) to 205.56(2):** this change will be made.

**Section 331, paragraphs A1-3, B – delete 205.57:** this change will be made.

**Section 502, paragraph B – change 205.825(1) to 205.825(3):** this change will be made.

**Tobacco – change 205.51a(q) to 205.51a(r):** this change will be made.

**Mobile wireless service – change 205.93b(4)(h) to 205.93b(9)(h):** this change will be made.

8. **In Section 333, change the “Yes” to “No” and delete the citations and comment. Prewritten computer software is specifically excluded from this section.**

Response: Based on the language in Section 333 of SSUTA, we believe the response is proper and that no change is necessary.

In sum, we believe that Michigan was substantially compliant with the Agreement at the time the Certificate of Compliance and the Taxability Matrix were filed with the Governing Board.

Sincerely,

Michael A. Eschelbach, Director  
Bureau of Tax Policy