



Iowa Department of Revenue

Director: Courtney
M. Kay-Decker
Hoover State Office
Building

October 21, 2011

Scott Peterson
Executive Director
Streamlined Sales Tax Governing Board
4219 Hillsboro Pike, Suite 234
Nashville, TN 37215

Dear Scott:

This letter is in response to the September 21, 2011 preliminary report regarding Iowa's compliance with the Streamlined Sales and Use Tax Agreement. We will address the issues in the order presented.

1. **Issue:** The following citations need to be added or changed on the Taxability Matrix: Computer and Prewritten computer software – 423.1(1); Mandatory computer software maintenance contracts with respect to prewritten computer software – 423.2(1)(a)(5); all computer software maintenance contracts that provide updates and upgrades delivered electronically – 423.3(67); All oxygen delivery equipment and kidney dialysis equipment – change 423.3(60)(c) to 423.3(60)(d).

Response: All of the suggested changes to the Taxability Matrix have been made.

2. **Issue:** The Taxability Matrix indicates that value-added non-voice data service is taxable. The rule cited states that such services are not taxable.

Response: This item should have been exempt on the Taxability Matrix. The Taxability Matrix has been corrected.

3. **Issue:** The following citations need to be added or changed on the Certificate of Compliance: Section 301, question 1 – change 423B.6(3)(b) to 423B.6(2)(b) and add 423B.6(2)(a); question 2 – 423B.5, 423B.6; question 5 – 423B.6; Section 304, paragraph C – 423.46; Section 305, paragraphs F1 and F2 – Rule 701.240.1; Prewritten Computer Software – 423.1(36) and change Rule 701-18.20(34)"a"(3) to 701-18.20(34)"b"(3); Paging Service – Rule 701-18.20(7)"b"(18).

Response: All of the suggested changes to the Certificate of Compliance have been made. PLEASE NOTE: On Issue Number 3, you list 701-18.20(34)"b"(3) as the rule

for prewritten computer software. The correct rule citation for Prewritten Computer Software is 701-18.34(1)"b" (3). This will be reflected on the revised Certificate of Compliance.

4. **Issue:** In Section 306, the statute cited provides that if an address-based database is provided, for assigning taxing jurisdictions, the director is not required to provide liability relief for errors resulting from reliance on the information provided by the state. The Agreement provision only allows the state to not provide relief from liability for errors in a zip code based database if an address based database is provided.

Response: The statute cited in Iowa's Taxability Matrix, Iowa Code § 423.52(1), reads as follows:

"Sellers and certified service providers using databases derived from zip codes or state or vendor provided address-based databases are relieved from liability...for...relying on erroneous data provided by this state on tax rates, boundaries or taxing jurisdiction assignments."

Iowa does provide an address-based database and as such, we do not have to provide relief from liability for errors in a zip code based database. We understand that the wording in the statute could be inferred to mean that Iowa could deny relief from liability to sellers and providers relying upon erroneous data in ANY type of database. However, this is not the case. In fact, to date, Iowa has never denied relief from liability for any reason. As such, we maintain that Iowa is in substantial compliance with the Agreement on this point. Nonetheless, we will amend § 423.52(1) in Iowa's 2012 Legislative Session to clarify that denial of relief from liability would only apply to those relying upon erroneous information in a zip code based data base.

5. **Issue:** Section 322, paragraph B2 should be changed from "Yes" to "No."

Response: The suggested change to Section 322 has been made.

6. **Issue:** The statute cited for the rounding rule required in Section 324, paragraph B1 does not address allowing rounding to be applied to aggregated state and local taxes.

Response: A citation for 701 IAC14.2, "Retail Bracket system for state sales and local option sales and service tax," has been added to Section 324. This rule includes a "combined tax schedule" and provides instructions for rounding of the combined state and local taxes.

7. **Issue:** Section 328, paragraphs A1 and D should be changed from “No” to “Yes.”

Response: The suggested change to Section 328 has been made.

8. **Issue:** The rule cited for Section 329, paragraphs 1 and 2 provides that the rate changes will be applied on a bill after the effective date of the change instead of “on or after” the effective date.

Response: 701 IAC 14.3 (1) provides that “A change in the sales tax rate applies to a sale of tangible personal property if delivery of the property under a contract of sales occurs *on or after the effective date* of the legislation which changes the rate of taxation.” (emphasis added). We have added the citation to the matrix.

9. **Issue:** Sections 333 and 334 should be changed from “N/A” to “No.”

Response: The suggested changes to Sections 333 and 334 have been made.

10. **Issue:** The statute cited for “telecommunications nonrecurring charges” does not define the term. No definition is needed since it is included in the sales price definition. This should be changed from “Yes” to “N/A” and the statute deleted.

Response: This suggested change has been made.

We will submit Iowa’s revised Taxability Matrix and Certificate of Compliance after the hearing in order to reflect any additional changes needed. In the interim, if you have any questions, do not hesitate to contact me at Victoria.daniels@iowa.gov or Larry Paxton at Larry.paxton@iowa.gov.

Very truly yours,

Victoria L. Daniels
Administrator, Policy & Communications Division

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