



STATE OF MICHIGAN  
DEPARTMENT OF TREASURY  
LANSING

RICK SNYDER  
GOVERNOR

ANDY DILLON  
STATE TREASURER

October 1, 2012

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 2012 SSUTA Recertification – Response to Preliminary Report

Dear Messrs. Peterson and Vosberg:

This is in response to the Preliminary Report on 2012 Annual Recertification and submitted by Scott Peterson and Pam Cook to the Compliance Review and Interpretation Committee. The Report identifies six items relating to Michigan. Those items are repeated below in bold font, each followed by our response.

**Michigan:**

- 1. Taxability Matrix - State, local and tribal taxes - Change the "X" to "N/A" in both categories.**

Response: We will make these changes.

- 2. Report Issue 2: Certificate of compliance changes - The following citations should be changed in the certificate of compliance: Section 319, paragraph E1 - change 205.56(6) to 205.56(7) and 205.96(5) to 205.96(6); Section 320, paragraph B - change 205.99a(5) to 205.99a(6); Section 320, paragraph F, change 205.54(4) to 205.54(5); paragraph H, change 205.54(5) to 205.54(6) and 205.99a(4) to 205.99a(5) .**

Response: We will make these changes.

**3. Report Issue 3: Direct Mail Sourcing - In Section 313, the statute cited for sourcing both advertising and promotional direct mail and other direct mail if not[sic] certificate or sourcing information is given the seller is the general sourcing statute, but does not designate subparagraph e in question A4 or c in question B1. In the comment section, the state indicates that they do not differentiate between types of direct mail (which in the Agreement are sourced differently).**

Response: We will modify our comments to indicate that i) MCL 205.69(1)(e) will control for “advertising and promotional direct mail” (MCL 205.69(1)(e) is the corollary to SSUTA 310 A.5.), and ii) MCL 205.69(1)(c) will control for “other direct mail” (MCL 205.69(1)(c) is the corollary to SSUTA 310 A.3.).

**4. Report Issue 4: Private Communications Sourcing - In Section 314, the statute cited for sourcing private communications is for sourcing service sold on a call-by-call basis. No other statute could be found addressing private communications.**

Response: MCL 205.93a(1)(a) only taxes intrastate private communications. MCL 205.93a(1)(c) exempts interstate private communications. Consequently, since private intrastate telecommunications both originate and terminate in Michigan, the only taxing jurisdiction that would be relevant is the State of Michigan. MCL 205.93c(1) addresses the sourcing of telecommunications services sold on a call-by-call basis, including private telecommunications. MCL 93c(2) addresses the sourcing of telecommunications sold on a basis other than a call-by-call basis, including private telecommunications. We do not believe any changes are necessary.

**5. BAC Issue 5: Access to prewritten software - Governing Board referred to SLAC where it is under discussion.**

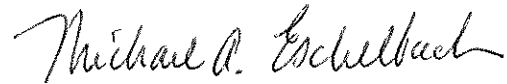
Response: The SLAC Remote Access to Prewritten Computer Software Workgroup has recommended that the definition of tangible personal property under the SSUTA be clarified to indicate that the definition includes prewritten computer software delivered in any manner, including but not limited to the remote access of prewritten computer software. We do not believe any changes are necessary.

**6. Report Issue 6: One-way paging services - The state was declared out of compliance by the Governing Board because the tax on 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.**

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Response: Legislation has been introduced in the Michigan House of Representatives that addresses this issue (HB 5937). See <http://www.legislature.mi.gov/documents/2011-2012/billintroduced/House/htm/2012-HIB-5937.htm>. The legislation treats one-way and two-way paging services consistently.

Sincerely,

A handwritten signature in cursive script that reads "Michael A. Eschelbach".

Michael A. Eschelbach, Director  
Bureau of Tax Policy