



STATE OF MICHIGAN  
DEPARTMENT OF TREASURY  
LANSING

JENNIFER M. GRANHOLM  
GOVERNOR

ROBERT J. KLEINE  
STATE TREASURER

October 26, 2009

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

Dear Mr. Peterson:

Re: Michigan's 2009 SSUTA Recertification – Preliminary Report

This is in response to the portion of the Preliminary Report on 2009 Annual Recertification (dated 9/24/2009) and submitted by you and Pam Cook to the Compliance Review and Interpretation Committee. The Preliminary Report identifies four items relating to Michigan. Those items are repeated below in bold font, each followed by our response.

**Michigan:**

**1. No 30 day rule for rate changes.**

As noted in Michigan's 2009 Certificate of Compliance, any increase in Michigan's sales/use tax rate requires a Constitutional amendment. Const 1963, Art 9, Sec 8. Notice of legislatively-produced rate change (decrease) must be provided on the Michigan Department of Treasury's website within 5 days of assignment of the pertinent public act number. MCL 205.831(1). Statute provides that whenever possible, rate changes should occur on the 1<sup>st</sup> day of a calendar quarter. MCL 205.831(1). Further, as noted in the Certificate of Compliance, failure to provide 30 days notice of rate changes does not take a state out of compliance.

**2. The statute for taxing interstate telecommunications service excludes one-way paging service. Paging service is defined in the Agreement and includes both one-way and two-way service. It should be all taxable or exempt.**

The definition of "paging service" in the SSUTA is "a "telecommunications service" that provides transmission of coded radio signals for the purpose of activating specific pagers; such transmissions may include messages and/or sounds." That definition does not specifically state that it includes two-way paging, and Michigan has interpreted the SSUTA definition to include only one-way paging. The conclusion that two-way paging is included in the SSUTA's definition of "paging service" is not supported by the language of the SSUTA definition. Michigan has adopted, word-for word, the SSUTA definition of "paging service" (MCL

205.93a(5)(n); our election to exclude 1-way paging service from tax is not prohibited by the Agreement.

**3. The bundling definition and rules only apply to telecommunications services. In its response last year [Michigan] said there was no need for bundling definitions and rules for other transactions. However, the de minimis rule should apply as would the food and drug, etc. Also, mobile wireless services are specifically taxed in a separate section of the statute, but the provision for transactions including telecommunications service, Internet access, ancillary service or video or audio programming service is in another section of the statute which appears to only apply to other types of telecommunications service.**

Michigan presently only uses the bundling definition in the taxation of a bundled transaction that includes telecommunications services. See MCL 205.93a(4)(a) and MCL 205.93b(8)(a). While the full definition of “bundled transaction” is contained in MCL 205.93a, it is applied to MCL 205.93b as well. As noted previously, with the exception of bundled transactions that include telecommunications services, the term “bundled transaction” is not and has never been used in Michigan statute or general tax administration practice. The definition has no general application in Michigan and its enactment would represent “form over substance.” A Rule is being considered to clarify the definition, even though it is not deemed necessary for the administration of sales/use tax in Michigan.

**4. As noted in [Michigan’s] recertification letter, [Michigan] does not have a provision allowing sellers and CSPs 10 days to correct errors as provided in section 502E.**

A statutory amendment in response to the requirements of Section 502E has passed the Michigan House and is presently in Committee in the Michigan Senate. See HB4906 (2009).

Sincerely,

Dale P. Vettel  
Director, Bureau of Tax Policy