



**State of New Jersey**

DEPARTMENT OF THE TREASURY

DIVISION OF TAXATION

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October 23, 2009

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

Dear Executive Director Peterson:

This letter is New Jersey's written response to Streamlined Sales Tax's staff analysis of New Jersey's August 2009 recertification.

The Streamlined Sales and Use Tax Agreement (SSUTA) was amended by adding Section 332 'Specified Digital Property' on September 20, 2007. Subsection C states:

If a state imposes a sales or use tax on products "transferred electronically" separately from its imposition of tax on "tangible personal property", that state will not be required to use the terms "specified digital products", "digital audio visual works", "digital audio works", or "digital books", or enact an additional or separate sales or use tax levy on any "specified digital products."

As of the date of this SSUTA amendment, in its Sales & Use Tax statutes, New Jersey had already adopted a definition of 'digital property' at N.J.S.A. 54:32B-2(vv):

"Digital property" means electronically delivered music, ringtones, movies, books, audio and video works and similar products, where the customer is granted a right or license to use, retain or make a copy of such item. Digital property does not include video programming services, including video on demand television services, and broadcasting services, including content to provide such services.

The phrase "and similar products" only applies to products similar to audio and video works. New Jersey does not impose tax on other products delivered electronically.

Effective 10/1/06, tax was imposed on 'digital property' at N.J.S.A. 54:32B-3(a):

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The receipts from every retail sale of tangible personal property or digital property, except as otherwise provided in this act.

Based on this imposition of tax on electronically delivered 'digital property' independent of the imposition of tax on 'tangible personal property', New Jersey is in substantial compliance with Section 332 of the SSUTA.

In addition, New Jersey is utilizing the SSUTA definition of 'Specified Digital Products' if any interpretation is needed in defining the products included in "digital property". We believe that this resolves the issue pending before CRIC in its recertification determination.

Very truly yours,

A handwritten signature in cursive script that reads "Denise Lambert-Harding".

Denise Lambert-Harding  
Deputy Director  
Division of Taxation

DLH/bc