EXECUTIVE COMMITTEE – SANCTIONS RECOMMENDATIONS

Initial Summary of Findings by the SSTGB and Status as of July 11, 2016
The following states were voted to not be in substantial compliance with the Streamlined Sales and Use Tax Agreement (SSUTA) in December 2015: GA, IN, MI, RI and WI.

The MI and WI legislatures have already amended their laws to address their compliance issues and these two states are now back in compliance with the SSUTA. Therefore, no sanctions are being recommended for these states.

The SSUTA was amended in May 2016 relating to the clothing threshold. The result of this amendment is that RI is no longer out of compliance with the SSUTA and no sanctions are being recommended for RI.

GA and IN remain out of compliance with the SSUTA and the Streamlined Sales Tax Governing Board's (SSTGB) Executive Committee met on April 21, 2016, May 2, 2016 and July 11, 2016 to discuss and develop sanction recommendations for GA and IN. Following is a brief description of each of these states compliance issues, their status as of July 11, 2016 as well as the SSTGB Executive Committee's sanction recommendation and rationale for that recommendation:

Georgia

1. Education local option sales tax generally applies to energy used in manufacturing, but the other local option sales taxes provide an exemption for energy used in manufacturing – Section 302 of the SSUTA.
2. Good faith requirement for accepting exemption certificates – Section 317 of the SSUTA. The legislature reinstated the "good faith" requirement for accepting exemption certificates in 2012.
3. Only accepts the SER from Model 1 sellers. Not able to accept the SER from Model 4 or other sellers at this time – Section 318 of the SSUTA. The SER has limitations in its schema that will not accommodate correct vendor compensation for sellers with multiple locations in Georgia. Such sellers receive more vendor compensation if they do not use the SER. In addition, due to some of the complexities of their local taxes the schema for the SER also does not currently contain sufficient details for retailers to be able to properly report all of the local taxes.

   Status as of July 11, 2016 – No change from above.

Sanctions Recommended By Executive Committee

The Executive Committee recommends that the following sanctions be imposed on Georgia:

Executive Committee Recommendation: If Georgia corrects their compliance issues by December 1, 2016, no sanction will be imposed. If Georgia does not correct their compliance issues by that date, Georgia will not be permitted to (a) vote on issues related to other state's compliance and (b) amendments to the SSUTA, until such time as the issues are corrected.

Rationale: Georgia has been aware of these issues for a couple years. With respect to the good faith issue and the local option sales tax issue, those were changes that their legislature made after they were approved as an SST full member state knowing it would take them out of compliance with the SSUTA. Imposing the good faith requirement leads to a potential liability and potentially places a significant burden on every seller that accepts exemption certificates. With respect to the SER issue, Georgia may be able to accept the SERs, but it would result in the sellers receiving less vendor compensation than they are entitled to under Georgia's law.

Indiana

1. Not able to accept the SER from Model 4 sellers or sellers not registered under the SSUTA – Section 318 of the SSUTA.

   Status as of July 11, 2016 – Larry Molnar reported that they have finalized the project charter required to make the necessary updates to their system and their IT Department has started outlaying the necessary resources. They anticipate having this completed by January 1, 2017. He will provide additional updates as they become available.

Sanctions Recommended By Executive Committee

The Executive Committee recommends that the following sanctions be imposed on Indiana:

Executive Committee Recommendation: If Indiana corrects their compliance issue by December 1, 2016, no sanction will be imposed. If Indiana does not correct their compliance issue by that date, Indiana will not be permitted to vote on issues related to other state's compliance with the SSUTA, until such time as the issue is corrected.

Rationale: Indiana has been aware of this compliance issue for several years and has not been successful in taking the steps necessary to correct it. Indiana had a project plan drafted last year to correct the issue, but a newly adopted amnesty program in 2015 consumed the available resources that would have been used to address this issue. Indiana has a similar project plan developed to address the issue this year and is showing an effort to correct the problem.