

## **Interpretative Opinion 2010-02**

This Interpretative Opinion recommendation is made to the Governing Board by the Compliance Review and Interpretations Committee this day of May 27, 2010 in accordance with Article IX, Rule 902 of the Rules and Procedures adopted by the Streamlined Sales Tax Governing Board, Inc.

The Governing Board requested the interpretation as a result of the issue being raised during the 2009 recertification compliance review.

### Issue:

The issue being considered is whether an exemption for one-way paging conflicts with the Agreement's definition of paging? During the compliance review, the Compliance Review and Interpretations Committee determined that a number of states were exempting one-way paging. The Agreement contains a definition of "paging" which includes both one-way and two-way paging. The Committee decided not to consider the issue as part of the compliance review and to bring the issue to the attention of the Governing Board. The Governing Board asked the State and Local Advisory Council (SLAC) to conduct research and to make a recommendation to the Compliance Review and Interpretations Committee (CRIC).

### Public Comment:

At the Governing Board's request, the SLAC conducted research on the issue. There were state and public comments received by SLAC which resulted in a paper that was submitted to CRIC.

### Recommendation:

By a unanimous vote, the Compliance Review and Interpretations Committee submits to the Governing Board a recommendation that the interpretation action proposed by the SLAC be accepted. No action by the SLAC or the Governing Board to address "one-way paging" is necessary at this time. States identified in the CRIC's 2009 Compliance Review Report have expressed the intent to address this matter within their states by eliminating use of the term "one-way paging" (administratively or legislatively, as appropriate) so that all paging services in those states (including one-way paging) are either taxed or exempt.

### Rationale:

The Agreement defines "paging service" as "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.” The Agreement does not contain a definition for “one-way paging.”

Governing Board Rule 327.2, Part D provides that with respect to telecommunications, partial exclusion of a definition is prohibited. A member state choosing to tax telecommunication services shall use applicable definitions contained in the Streamlined Sales and Use Tax Agreement and shall not exclude from imposition a part of any definition or any item included in such a definition unless the Streamlined Sales and Use Tax Agreement specifically permits such a variation. There is no such provision for taxing or exempting one type of paging and not the other.

Most transmissions considered as paging now include some capacity for direct response (such as a text message). True “one-way” paging (where there is no ability to directly respond to the paging transmission) continues to exist, though perhaps on a very limited basis.

Participating Members:

Myles Vosberg, Tom Atchley, Rep. Deb Peters and Richard Cram