

**STREAMLINED SALES AND USE TAX AGREEMENT**  
**COMPLIANCE REVIEW AND INTERPRETATIONS COMMITTEE**

Interpretative Opinion 2008-2

This Interpretative Opinion recommendation is made to the Governing Board by the Compliance Review and Interpretations Committee this day of June 5, 2008 in accordance with Article IX, Rule 902 of the Rules and Procedures adopted by the Streamlined Sales Tax Governing Board, Inc.

The party requesting the interpretation is Software Finance & Tax Executives Council (SoFTEC) represented by Mark Nebergall. The request was made on April 7, 2008.

**Issue:**

SoFTEC raises an issue associated with the direct mail definition in Appendix C of the Agreement. The fact pattern presented involves a company in the data processing business. The company electronically receives accounts receivable information from its customers, processes the information on its computers to develop billing information, and creates billing statements. The company prints and mails the billing statements along with return envelopes to the individual account holders. The issue presented is whether this activity constitutes “direct mail” as the term is defined by the Agreement in those states that treat this activity as a data processing or billing service.

**Public Comment:**

No state or public written comments were received.

**Recommendation:**

By a vote of five to two, the Compliance Review and Interpretations Committee submits to the Governing Board a recommendation that the transactions outlined in the issue section above are not direct mail.

**Rationale:**

The Agreement defines “direct mail” as “printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addresses on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients.” Although printed material is distributed in the fact pattern, the development of the billing information is the majority of the work performed. Many states take the position that this transaction is a sale of a service and not of tangible personal property. It is necessary to look at the transaction and how it is characterized. In those states that treat the transaction as a sale of a service, it would not be a sale of direct mail as printed material is not what is being sold.

IO08002

June 5, 2008

**Participating Committee Members:**

This interpretation was supported by Larry Wilkie, Andy Sabol, Tony Mastin, Joe Vandevender and John Doyle. This interpretation was not supported by Myles Vosberg and Dale Vettel.

IO08002

June 5, 2008