FOR DISCUSSION PURPOSES ONLY

Example 1:

Facts: Seller sells prewritten software under a perpetual license to purchaser. Purchaser uses its credit card to pay for the software. The credit card address is in state 1. One of the purchaser's employees downloads the software to state 2. State 1's sales tax rate is 5%. State 2's sales and use tax rate is 7%. Both states 1 and 2 are SST member states.

Result: The sale is properly sourced to state 1 under Sec. 310.A.4. Purchaser is entitled to a credit against its use tax liability to state 2 for the sales tax collected by the seller and remitted to state 1.

Example 2:

Same facts as in example 1 except instead of a perpetual license, the license is for a one-year term. For sourcing purposes only, ~~T~~the one-year license will be treated as~~is~~ a lease under the definition of "lease or rental" because it is for a fixed term.

Result: The payment is properly sourced to state 1 under Section 310.B.2. Purchaser is entitled to a credit against its use tax liability to state 2 for the sales tax collected by the seller and remitted to state 1.

Example 3:

Same facts as in example 2 except the license is automatically extended twice unless the purchaser requests that the software license be terminated. The purchaser continues to use the same credit card with a state 1 address to pay for the extensions. The software, once downloaded, at all times is in state 2.

Result: The initial payment and the extension payments are properly sourced to state 1 under Section 310.B.~~1.~~ Purchaser is entitled to a credit against its use tax liability to state 2 for the sales tax collected by the seller on the initial payment and the two extension payments and remitted to state 1.