

Federal Remote Seller Collection Authority FAQ Workgroup

A. Goals of Workgroup

1. Develop questions and answers for Streamlined and non-Streamlined states , remote and non-remote sellers, consumers, legislators, and other interested persons, such as the media, to explain what the Marketplace Fairness Act (MFA) is and how it may impact those affected by it.
2. Develop educational materials to make states, businesses, consumers, legislators and other interested persons aware of the passage of the MFA, the requirements that states must meet to obtain remote seller collection authority, the effect of a state meeting those requirements on businesses, and the impact on consumers who may start to see more out-of-state businesses collecting their states sales (or use) taxes on the purchases they make.

B. State Questions and Answers

1. **Streamlined States (For Full Member States)**
 - a. Glossary of abbreviations/acronyms – CSP as used by SST states versus CSP as used in non-SST states, SER, MFA, SSUTA, SST, etc.
 - b. Which Streamlined member states can assert remote seller collection authority?
 - c. As a Streamlined Sales Tax full Member State, what must I do to begin exercising remote seller collection authority in my state? – Need to include a “Caution” statement that each state make sure its laws permit the remote seller collection authority.
 - d. What is the earliest date that I can begin requiring remote sellers to collect my state’s sales (or use) tax?
 - e. How does a state meet the “publishes notice” requirement contained in the Marketplace Fairness Act to indicate its intent to exercise remote seller collection authority?
 - o Consider drafting a model notice for states to consider.
 - f. If I am a “member state” but have been notified of a potential compliance problem with the requirements of the SSUTA, do I automatically lose my remote seller collection authority?
 - g. Do I have to prepare a matrix of the various exemptions from sales tax that are available in my state?
 - h. If my state only has one tax rate, do I still need to have a rate and boundary database?
 - i. What does it mean to be a Model 1 or Model 2 seller?

- j. What does it mean to be a Model 3 seller?
- k. What does it mean to be a Model 4 seller?
- l. As a Streamlined Member State, can I still require a Model 1 Seller to file their returns every month, even though I would only require that seller to file their returns once a quarter if they were not a Model 1 Seller?
- m. How does the MFA affect the classification of sellers as Model 1, Model 2, Model 3 or Model 4 sellers?
- n. What are the filing requirements for Model 1 sellers?
- o. What are the filing requirements for Model 4 sellers?
- p. Can I audit sellers that are only collecting my state's sales (or use) tax because of the requirements contained in the MFA?
- q. What is the process a seller follows to select and begin using a CSP? – Ideally the CSPs will be able to provide a uniform/general description of each of the steps a seller goes through from the time they select a CSP to the time the CSP submits their first SER. (This would be good information for state personnel to have available to them so that when they get questions from businesses they are able to provide them some basic information about how this process works.)
- r. If a seller is a remote seller in several states, but a non-remote seller in other states, can the seller just use the services of the CSP for the states where they are a remote seller and take care of the tax calculation, filing etc. themselves in the states where they are NOT a remote seller?

CSPs may have some additional questions to include

2. Non-Streamlined Full Member States

- a. Now that the MFA is law, what are the federal minimum simplification requirements that a state must meet?
- b. What must a state legislature do to begin exercising remote seller collection authority if it does not belong to the Streamlined Sales and Use Tax Agreement (“a non-SST state”)?
- c. What types of taxes can a non-SST state ask remote sellers to collect?
- d. What does it mean when the MFA says a non-SST state has to specify the products and services that are not covered by the remote collection authority the state is seeking?
- e. The MFA says a non-SST state has to provide information about the taxability of products and services, along with information about exemptions. What qualifies as appropriate information under the MFA?
- f. If a non-SST state currently provides a database and the ability now for anyone to look up an address and determine what the applicable state and local sales and use tax rates that apply, does that satisfy the requirement for a rates and boundaries database?

- g. If my state only has one tax rate, do I still need to have a rate and boundary database?
- h. What is the earliest date that a non-SST state can begin requiring remote sellers to collect the taxes that are designated by a non-SST state?
- i. Does a non-SST have to “publish notice” of its intention to exercise remote seller collection authority like the Streamlined Member States?
- j. Can a non-SST state use the Central Registration System that was developed and is used by the Streamlined states to register remote sellers? If yes, what does a non-SST state do and how much does it cost?
- k. What are the benefits of using the Central Registration System?
- l. The MFA requires non-SST states to provide free software to remote sellers. What must that software do and are there any options for how a non-SST state provides that software?
- m. The MFA requires non-SST states to have certification procedures for certified software providers. What does that mean and how do states certify such providers?
- n. What is the difference between a “certified service provider” under the SSUTA (“CSP-SST”) and a “certified software provider” under the MFA (“CSP-MFA”)?
- o. How does a non-SST state certify someone to be approved as a certified software provider?
- p. The MFA requires a non-SST state to have a uniform base between state and local taxing jurisdictions. What does that mean?
- q. What transactions are covered by the sourcing rule for non-SST states who receive remote collection authority?
- r. What does the sourcing rule require?
- s. Does the MFA make any changes to existing sourcing rules under state law in non-SST states?
- t. What are the liability protections for remote sellers under the MFA? – Also need to include in business section?
- u. What are the liability protections for CSP-MFAs under the MFA? – Also need to include in business section?
- v. What happens to existing nexus laws in a non-SST state during the time it chooses not to seek remote collection authority under the MFA? Does the MFA change any of those laws?
- w. What happens if a remote seller that does not meet the small seller exemption refuses to collect the taxes in a state that has remote seller collection authority? What authority does a state have over these businesses?

C. Business Questions and Answers

- 1. Am I required to collect taxes as a “remote seller”?
 - o Consider flowchart, decision tree, checklist to answer this question

2. Who is a “remote seller”? (Note: Include nonprofits in the answer since some states may exempt nonprofits from collection requirements while other states may not).
3. What is a “remote sale”?
 - o Split between TPP and services?
 - o What are the sourcing rules that apply – remote sales and intrastate differences
4. What states have remote seller collection authority and when did the remote seller collection authority begin for each of the states?
 - o Provide list of all the states and effective dates of their collection authority and links to the DORs in those respective states.
5. How will I know if a new state begins to exercise remote seller collection authority?
6. What happens if I don’t begin collecting taxes timely for the states that have remote seller collection authority?
7. How is the \$1 million small seller threshold computed?
 - o Examples (start-up business, businesses that are over \$1 million one year and under the next, etc.)
8. How do I register for the states that have remote seller collection authority?
 - o Central Registration System option
 - All SST states
 - Other states that have chosen to use the Central Registration System
 - o Registering with each state individually option
9. What are the benefits to me of using the central registration system?
10. Will registering through the central registration cost me anything?
11. Can I register just for the few states that I am making remote sales to using the Central Registration System or do I have to register for all of the states that have remote seller collection authority? (Streamlined vs. non-Streamlined states different???)
12. Who do I contact with questions related to the filing of returns in each of the states?
 - o Provide email address or number for each state
13. Do I have to collect taxes for states in which I do not have a physical presence (i.e., nexus)?
14. Do I have to collect taxes for other states if my only physical business location is in a state that does not impose a sales or use tax?
15. Why should I have to collect the sales tax for a state in which I do not have a physical presence since I don’t receive any benefit from collecting and remitting the taxes for those states?
16. If I am a remote seller and do not qualify for the small seller exception, do I have to collect the sales tax on all my sales?
17. If I am selling a product that is not subject to sales tax in the state where I am located, would I need to collect sales tax for all the states to which I am shipping the product?
18. Can a remote seller include nonprofit organizations?
19. How do I know what is taxable in each of the other states?

- Taxability matrix and contact each state or their tax preparer, accountant, attorney, etc.
 - How do I map my product codes to the taxability matrix?
20. Do I have to collect just the state taxes or would I also have to collect the applicable local taxes?
 21. How do I know which local taxes apply in each state?
 22. How do I know which local taxes a state has exercised its remote seller collection authority over?
 23. What is a “Certified Service Provider”?
 24. How can “Certified Service Providers” help me with my tax calculation, collection and reporting requirements for all the states that I make sales into?
 25. How do I sign-up with a Certified Service Provider?
 26. How does a Certified Service Provider integrate their tax calculation, collection and reporting systems into my existing system?
 27. What is the process a seller follows to select and begin using a CSP? – Ideally the CSPs will be able to provide a uniform/general description of each of the steps a seller goes through from the time they select a CSP to the time the CSP submits their first SER.
 28. How much do Certified Service Providers cost?
 29. If a seller is a remote seller in several states, but a non-remote seller in other states, can the seller just use the services of the CSP for the states where they are a remote seller and take care of the tax calculation, filing etc. themselves in the states where they are NOT a remote seller?
 30. I know I have to register and collect the appropriate sales tax on my remote sales into the various states, but does this mean I also now have “nexus” in those other states and have to register and start reporting other types of taxes to those states such as income taxes, withholding taxes, and franchise taxes?
 31. Does this federal legislation change how I am currently treating intrastate sales or sourcing intrastate sales?
 32. Does the Marketplace Fairness Act change the Mobile Telecommunications Sourcing Act in any way?
 33. Doesn't the Internet Tax Freedom Act prohibit businesses from collecting any sales tax on sales made over the Internet?
 34. Can a state in which I am a remote seller audit me? Single audit – all local jurisdictions cannot each audit.

D. Consumer Questions and Answers

1. Why is a company that is not located in my state charging sales tax on the products they are delivering to me in my state?
2. I have ordered goods from the same company for many years and was never charged any sales or use tax until now. Why is this seller now collecting tax?
3. Do I have to pay the sales tax an out-of-state company that is not located in my state charged me?

4. How do I know if a company that is not located in my state, but who charged me my state's sales tax is remitting that tax to my state?
5. Do I owe any additional tax if the remote seller only collected the state sales (or use) tax but not the appropriate local sales (or use) tax? If so, how do I pay that additional tax?
6. Doesn't the Internet Tax Freedom Act prohibit businesses from collecting any sales tax on sales made over the Internet?

E. Educational Materials to Convey Key Messages

1. What does passage of the Marketplace Fairness Act really mean?
 - Materials for sellers
 - Materials for tax preparers, accountants, attorneys, etc.
2. What is the next step for businesses affected by the MFA?
3. Where to go for additional information about the MFA and its impact?

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