

## Section 809: SANCTION OF MEMBER STATES

A. If a member state is found to be out of compliance with the Agreement, the governing board may consider sanctions against the state. The sanctions that the governing board may impose include expulsion from the Agreement, or other penalties as determined by the governing board.

1. The adoption of a resolution to ~~sanction a~~ find a member state ~~is not in substantial compliance with a requirement set forth in for noncompliance with~~ the Agreement shall require the affirmative vote of three-fourths of the entire governing board, excluding the state that is the subject of the resolution. The member state that is the subject of the resolution shall not vote on such resolution. Resolutions seeking sanctions shall be acted upon by the governing board within a reasonable period of time as set forth in the governing board's rules using these same voting procedures. The governing board shall provide an opportunity for public comment prior to action on a proposed resolution seeking sanctions.

2. A finding by the governing board that a member state is not in substantial compliance with a requirement set forth in Rule 801.1 shall require the member state to be in substantial compliance with that requirement within the period of time specified by the governing board, not to exceed the first day of January that is at least two years after the adoption of the resolution. A member state that does not obtain compliance by the requisite time period shall become an associate member state or an advisory state, as determined by the governing board.

3. A state found not in substantial compliance with a requirement of the Agreement still retains its membership status, subject to any sanctions imposed by the governing board.

B. A state found not in substantial compliance under subsection A of this section shall clearly delineate on its taxability matrix, certificate of compliance and annual certification letter, as applicable, that the state: (i) is not in substantial compliance and (ii) reasonably explain the state's compliance issue to put a person on notice on how to comply with the state's nonconforming provision. To the fullest extent possible, a state shall provide relief to a seller that was not aware of the state's noncompliance with a requirement of the Agreement.

CB. Unless the governing board specifies a different time period, ~~n~~No member state shall be found out of substantial compliance ~~sanctioned~~ for failing to comply with any amendment to the Agreement adopted under section 901 of the Agreement or an interpretation or interpretative rule adopted under section 902 of the Agreement, if compliance with the amendment, interpretation or interpretive rule requires the state to make a statutory change, until the later of the first day of January at least two years after the adoption of the amendment or interpretive rule or the first day of a calendar quarter following the end of one full session of the state's legislature.

DC. As long as it is consistent with the requirements of this section, the governing board is not prohibited from reviewing a prior resolution and: (i) finding a member state is or is not substantially compliant with a requirement in the Agreement or (ii) modifying a sanction for noncompliance. ~~No member state shall be sanctioned for failing to be in compliance with any term of the Agreement that the state has adopted, in substantially identical form, in its statutes if its noncompliance is a result of a judicial ruling in that state that interprets that term of the~~

~~Agreement in a manner inconsistent with an interpretation by, or interpretive rule of, the governing board adopted under section 902 of the Agreement and the member state comes into compliance with the interpretation of the governing board by amending its statutes before the later of the first day of January at least two years after the issuance of the judicial decision or the first day of a calendar quarter following one full session of the state’s legislature.~~

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