

DISCLOSURE & BEST PRACTICES DRAFT – FOR DISCUSSION

Section 328: TAXABILITY MATRIX

A. Taxability Matrix

(1) Library of Definitions: To ensure uniform application of terms defined in the Library of Definitions adopted by the governing board pursuant to Section 327, each member state shall complete, to the best of its ability, Section 1 of the taxability matrix.

(2) Disclosure of Best Practices: To inform the general public of its practices regarding certain products, procedures, services or transactions as adopted by the governing board pursuant to Section 335, each member state shall complete, to the best of its ability, Section 2 of the taxability matrix. Section 2 of the taxability matrix should also identify those practices adopted as a “best practice” by the Governing Board pursuant to Section 335.

B. The member state’s entries in the matrix shall be provided and maintained in a database that is in a downloadable format approved by the governing board. A member state shall provide notice of changes in the taxability of the products or services listed in the taxability matrix as required by the governing board.

C. A member state shall relieve sellers and CSPs from liability to the member state and its local jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from the seller or CSP relying on erroneous data provided by the member state in the taxability matrix. If a member state amends an existing provision of its taxability matrix, the member state shall, to the extent possible, relieve sellers and CSPs from liability to the member state and its local jurisdictions until the first day of the calendar month that is at least 30 days after notice of a change to a member state’s taxability matrix is submitted to the governing board, provided the seller or CSP relied on the prior version of the taxability matrix.

D. If a state levies sales and use tax on a specified digital product and provides an exemption for an item within the definition of such specified digital product pursuant to Section 332 (H) of this Agreement, such exemption must be noted in the taxability matrix.

E. Each state that provides for a sales tax holiday pursuant to Section 322 of this Agreement shall, in a format approved by the Governing Board, give notice in the taxability matrix of the products for which a tax exemption is provided.

Section 335: DISCLOSURE & BEST PRACTICES

A. For purposes of this section, (1) “disclosure of best practices” shall mean those practices as adopted by the governing board ~~as the best practices in administration of the sales and use taxes~~ ~~in to disclose~~ the member states practices regarding certain identified products, procedures,

services, or transactions; (2) “best practices” shall mean those practices approved by the Governing Board pursuant to paragraph F of this section.

B. A majority vote of the entire governing board is required to approve a motion to adopt a disclosure of best practices standard. The governing board shall provide public notice and opportunity for comment prior to voting on a motion to adopt a disclosure of best practice.

C. Disclosure of Best practices adopted by the governing board shall be maintained in an Appendix to the Agreement.

D. Conformance by member states to ~~best~~ the practices adopted by the governing board shall be voluntary and no state shall be found not in compliance with the Agreement because the effect of the state’s laws, rules, regulations, and policies do not follow ~~each a practice of the best practices~~ adopted by the governing board. ~~However, all member states are encouraged to follow the best practices as much as possible.~~

E. States must complete the disclosure of best practices matrix by the first day of the calendar month that is at least 30 days after the date the governing board approves a ~~best~~-practice and submit it to the Executive Director for posting on the governing board’s website. For subsequent disclosure of best practices that are approved by the governing board, the states must update their disclosure of best-practice matrix by the first day of the calendar month that is at least 30 days after the date the governing board approves a new disclosure of best-practice and submit it to the Executive Director for posting on the governing board’s website.

F. Designation of “best practices” - Upon request by giving at least 30 days public notice prior to the governing board meeting upon which a vote is sought, a state or a taxpayer can petition the governing board to designate from among the “disclosure of practices” a “best practice.” Adoption of a “best practice” requires a majority vote of the entire board. While member states are not required to adopt and follow a best practice, they are encouraged to do so to the extent possible.