

STREAMLINED SALES AND USE TAX AGREEMENT
COMPLIANCE REVIEW AND INTERPRETATIONS COMMITTEE

Compliance Determination 2008-02

New Jersey

This Compliance Determination is made to the Streamlined Sales Tax Governing Board by the Compliance Review and Interpretations Committee this 17th day of July, 2008 in accordance with Article IX, Rule 904 of Rules and Procedures adopted by the Streamlined Sales Tax Governing Board, Inc.

The party petitioning for the compliance determination is the Streamlined Sales Tax Governing Board at the request of the Business Advisory Council. The petition was approved by motion at their June 18, 2008 meeting. To expedite the process, the Governing Board suspended the minimum notice and response requirements in Rule 904. The Executive Director provided written notice to New Jersey of the Governing Board's petition and the hearing by the Compliance Review and Interpretations Committee.

The Compliance Review and Interpretation Committee met on July 3 and determined that a succinct description of the issue causing the claims of noncompliance was needed. The Business Advisory Council agreed to provide the information by July 11 and New Jersey agreed to respond to the allegations by July 15. The Committee conducted a hearing on July 17. At this hearing the Committee took testimony from New Jersey officials and members of the public.

Issue:

Is New Jersey out of compliance with the Streamlined Sales and Use Tax Agreement (SSUTA) for having a gross receipts use tax on clothing with fur at a different rate than the sales and use tax rate?

Determination:

It is the determination of the Compliance Review and Interpretation Committee that the Governing Board find that New Jersey is in substantial compliance with the Streamlined Sales and Use Tax Agreement (SSUTA) on this issue.

Rationale:

Compliance with the SSUTA is governed by Section 805: "A state is in compliance with the Agreement if the effect of the state's laws, rules, regulations, and policies is substantially compliant with each of the requirements set forth in the Agreement."

Section 308 of the Agreement prohibits a member state from having multiple sales and use tax rates. New Jersey imposes a sales and use tax at a rate of 7%. Clothing, including fur clothing, is exempt from the sales and use tax. New Jersey, in another section of its statutes, imposes a

gross receipts and gross receipts use tax on fur clothing at a rate of 6%. The sales and use tax and the gross receipts and gross receipts use tax are separate and distinct taxes. The gross receipts and gross receipts use tax is not a sales and use tax and is therefore not governed by SSUTA. Since the New Jersey sales and use taxes are both imposed at a rate of 7% there is no violation of Section 308.

In an unanimous decision, it is the determination of the Compliance Review and Interpretations Committee that the fact that New Jersey imposes a gross receipts use tax on fur clothing at a different rate from the sales and use tax rate does not cause the state to be out of compliance with SSUTA.

Committee Members:

Larry Wilkie, Dale Vettel, Myles Vosberg, Tony Mastin, Joe Vandevender, John Doyle and Andy Sabol.