

Streamlined Sales Tax Governing Board, Inc.
Compliance Review and Interpretations Committee

INTERPRETATION/DEFINITION REQUEST

Complete each section

1. Name(s) of Requestor(s): Denton Childs
2. Contact Person: Name Denton Childs
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Telephone 479-290-7093
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3. Agreement Section(s) involved: Section 309 and Section 310
4. Statement of Background Facts (be succinct): Prior to January 1st, 2008, Arkansas did not impose a use tax on services that were not performed in the state of Arkansas. Effective January 1st, 2008, Arkansas enacted Ark. Code Ann. 26-53-106 which provides "there is levied and there shall be collected from every person in this state a tax or excise for the privilege of storing, using, distributing, or consuming within this state any article of tangible personal property or taxable service purchased for storage, use, distribution, or consumption in this state".
5. Issue: Does the Streamlined Sales and Use Tax Agreement ("SSUTA") require a member state to impose a use tax on services performed out of state to remain in compliance with the Agreement? If so, can a member state impose a sales tax on a service but exempt such service from its use tax under Section 316 of the SSUTA and still be in substantial compliance with the SSUTA?
6. Proposed Interpretation: No state is required to levy a new tax on services/out of state labor in order to comply with Streamlined Sales and Use Tax Agreement.

Article I, Section 103 of the SSUTA states "this agreement shall not be construed as intending to influence a member state to impose a tax on or provide an exemption for any item or service". "However, if a member state chooses to tax an item or exempt an item from tax, that state shall adhere to the provisions concerning definitions as set out in Article III of the Agreement". Thus, the Agreement specifically provides that a state is free to choose its tax imposition rules. It is only after a state has imposed the tax that the Agreement rules regarding definitions are applicable.

Based on these Agreement sections, a state may select its own imposition rules and is not required by the Agreement to impose a tax.

7. Is expedited consideration requested? No Yes If yes, please explain why expedited review is requested: _____

A request for interpretation/definition normally requires a minimum 60-day comment period. The comment period may be shortened to 10 days if the Committee grants a request for expedited consideration. See Governing Board Rule 902(D) and (H).

8. Date this Request is submitted: July 30, 2009

The Compliance Review and Interpretations Committee meets by teleconference at 10:00 am central every other Thursday. Their schedule can be found at: www.streamlinedsalestax.org under the meeting calendar.

Submit to: Scott Peterson, Executive Director
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F0007 Interpretation Definition Request (4/10/08)