

Amendment to Rule 806.3 – Administration of the Compliance Audit,
Submitted by the State of South Dakota on Behalf of the Audit Committee

Rule 806.3 – Administration of the Compliance Audit Process

Rule 806.3.1 – Authority

A. The Streamlined Sales Tax Governing Board has the authority to execute any policies it deems to be in the best interest of the organization within the parameters of the Streamlined Sales and Use Tax Agreement, bylaws, and federal, state and local law.

B. The Streamlined Sales Tax Governing Board or its designee has the authority to perform CSP contract compliance audits, CAS Provider contract compliance audits, and coordinate tax compliance audits for member states as authorized by the Governing Board; and to develop and use standardized operating audit procedures and policies for performing both contract compliance and tax compliance audits.

C. The Streamlined Sales Tax Governing Board designates the Audit Core Team to perform contract compliance audits for member states and to coordinate the tax compliance audits of Model 1 sellers transactions processed by the CSP as authorized by the Governing Board.

Rule 806.3.2 – Definitions

A. Certified Service Provider (CSP)

As defined in the Agreement, Section 203, and any subsequent amendments, an agent certified under the Agreement to perform all the seller's sales and use tax functions other than the seller's obligation to remit tax on its own purchases.

B. Certified Automated System (CAS)

~~Software certified under the Agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.~~ As defined in the Agreement, Section 202, and any subsequent amendments, software certified under the Agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.

C. CAS Provider

The vendor of CAS software

DC. Audit Committee

The Audit Committee was created by the Governing Board to advise the Governing Board pertaining to procedures on the audit of CSPs, CAS Providers~~systems~~, and Model 1, 2 and 3 sellers. The Audit Committee will develop procedures to be used in performing contract compliance audits for member states. The Audit Committee will also recommend audit procedures to be used by member states in performing tax compliance audits of CSPs and Model 1, 2 and 3 sellers.

ED. Audit Core Team

The Audit Core Team is a group of designated representatives from full member states who are responsible for coordinating compliance audits, performing contract compliance audits and compiling feedback reports for the Governing Board.

Amendment to Rule 806.3 – Administration of the Compliance Audit,
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FE. Compliance Audit Process

The Compliance Audit ~~Process~~ includes the contract compliance audit ~~process~~ and the tax compliance audit ~~process~~.

GF. Contract Compliance Audit Process

The Contract Compliance Audit ~~Process~~ determines if the CSP performed according to the provisions of the contract with the member states.

HG. Tax Compliance Audit Process

The Tax Compliance Audit ~~Process~~ determines if transactions processed by the CSP were properly taxed, and that tax was reported and remitted to the correct jurisdiction when due.

IH. Member States

As defined in the Agreement, Section 801, and any subsequent amendments, ~~M~~member states are states that are full, contingent or associate member states of the Streamlined Sales Tax Governing Board.

JI. Simplified Electronic Return (SER), per Section 318(c)(1) of the Agreement

KJ. Audit Site Work File, per Appendix F

LK. Testing Central

As defined in Article V, Rule 501.1(E).

Rule 806.3.3 – Audit Committee

A. Membership

Members of the Audit Committee are representatives of participating states and local government.

B. Committee Meetings – (open & closed meetings)

Rule 806.3.4 – Audit Core Team

A. Membership

The Audit Core Team is made up of representatives from full member states.

B. Reporting relationship

The Audit Core Team will report to the Streamlined Sales Tax Governing Board Executive Director or its designee for audit assignments, guidance and support.

C. Team Meetings – (closed meetings)

D. Responsibilities:

I. CSP Audits

Amendment to Rule 806.3 – Administration of the Compliance Audit,
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1. The Audit Core Team is responsible for performing contract compliance audits and coordinating tax compliance audits with member states.

2. The Audit Core Team will:

a) Determine the CSP's level of compliance with the terms of the CSP contract. (Questionnaires and specific tests will be used to assess the CSP's contract compliance.)

b) Evaluate the CSP's system and processes to verify compensation is calculated in accordance with the contract~~Verify that compensation was calculated properly for all volunteer sellers.~~

c) Verify ~~that~~ appropriate procedures for mapping exist, are in conformance with the mapping requirements, and are followed in the initial mapping setup, as well as during updates and corrections to mapping.

d) Verify ~~that the~~ appropriate entity use exemption data elements are captured by the CSP system.

e) Verify ~~that all~~ tax collected was remitted ~~timely~~ to the appropriate tax authority.

f) Verify ~~that~~ sales were accurately reported by the CSP/Seller on simplified electronic returns (SERs).

g) Obtain a response from the member states of their intentions to participate in the current audit cycle for each CSP.

~~h)~~ Acquire a list of sellers represented by each CSP and provide this information to the Streamlined Sales Tax Governing Board member states.;

~~i)~~ Coordinate with state auditors to ensure they have received a download of the audit work files~~all sales processed by~~ from the CSP for each seller, which will be available through access to a FTP site maintained by the SSTGB, Inc. to receive electronic records.

~~j)~~ Create a uniform audit plan with a timeline to establish the projected dates that various audit steps should are to be completed by the state audit representatives and the Audit Core Team.;

~~k)~~ Compile the feedback reports from the member states, summarize the findings and report to the Executive Director of the Streamlined Sales Tax Governing Board. The summaries must comply with confidentiality restrictions that apply to the SST Governing Board regarding disclosure.

II. CAS Provider Contract Compliance Audits

1. The Audit Core Team is responsible for performing contract compliance audits.

2. The Audit Core Team will:

a) Determine the CAS provider's level of compliance with the terms of the CAS contract. (Questionnaires and specific tests will be used to assess the CAS Provider's contract compliance.)

b) Verify that the CAS is capable of capturing the appropriate entity use exemption data elements.

c) Acquire a list of known Model 2 Sellers represented by each CAS Provider and supply this information to the Streamlined Sales Tax Governing Board member states.

d) Compile the findings of the contract compliance audit of the CAS Provider and submit them to the Executive Director of the Streamlined Sales Tax Governing Board. The summaries must comply with confidentiality restrictions that apply to the SST Governing Board regarding disclosure.

Amendment to Rule 806.3 – Administration of the Compliance Audit,
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Rule 806.3.5 – Compliance Audit of a CSP

A. The Compliance Audit of a CSP and its Model 1 sellers will include a contract compliance audit of the CSP and tax compliance audits of Model 1 sellers' transactions processed through the CSP's system.

B. The contract compliance audit of the CSP will be performed by the Audit Core Team. The tax compliance audits of the Model 1 sellers' transactions will be performed by the member states under the coordination of the Audit Core Team.

Rule 806.3.5.1 – Communication with Model 1 Sellers ~~d~~During the Tax Compliance Audit

A. There should be no direct communication with Model 1 sellers by member states concerning transactions processed by the CSP, except in response to questions from Model 1 sellers, in case of suspected fraud or to obtain information that the CSP cannot provide.

Rule 806.3.5.2 – Timeline for the Compliance Audit Process

The timeline for conducting the compliance audit ~~may~~ will vary for each audit cycle ~~from year to year~~. The Audit Core Team will establish a timeline for each audit.

The Audit Core Team will have 30 days after receiving each member state's preliminary ~~feedback~~ audit report to compile a report on the findings of the contract compliance audit and the member states' tax compliance audits and submit the report to the CSP.

The CSP will have 30 days to review and comment on the preliminary findings of the compliance audit. Comments will be sent to the Audit Core Team and member states.

The Audit Core Team and member states will have 10 business days to amend their findings, if necessary, before the final report is sent to the Executive Director of the Streamlined Sales Tax Governing Board.

The Audit Core Team may grant extensions as deemed appropriate to the above timelines.

Rule 806.3.5.3 – Report on Audit Findings

A. The Audit Core Team through the Executive Director will provide each member state with its findings of the contract compliance audit.

B. Member states ~~may~~ will incorporate the findings of the contract compliance audit into their state's audit report for the tax compliance audit so the CSP receives only one audit report per state. (For example, if the Audit Core Team finds that a CSP has withheld more compensation than they should, the assessment for that additional tax ~~may~~ will be combined with the assessments, if any, for underreporting by the CSP's Model 1 sellers.)

Amendment to Rule 806.3 – Administration of the Compliance Audit,
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C. The report on the audit findings ~~that goes to~~ the Executive Director will contain general information on the errors found and will not contain specific taxpayer information to ensure the confidentiality of taxpayer information.

Rule 806.3.5.4 – Contract Compliance Audit of CSP

Rule 806.3.5.4.1 – Transaction Documentation

The following documentation and records are required to be provided via an electronic download through an FTP site by Certified Service Providers to the Audit Core Team and SST member and associate member states. ~~(This is required by Article V—Appendix F after 7/1/2008)~~

A. The CSP’s response to the Audit Core Team Questionnaire and a listing of each member state’s Model 1 sellers and the date each seller began processing transactions through the CSP’s system will be provided by electronic means to the Audit Core Team.

B. Sales Transaction Information

1. Electronic ~~downloads of~~ sales data may be provided at either the invoice level or the line item level of an invoice.

2. For invoices that include taxable and exempt components, each item or bundled transaction must be clearly identified so tax calculation can be verified.

3. Sales transaction data as required by Appendix F ~~must include~~

~~a. Order and billing dates for each seller’s customer.~~

~~b. Sales records with a unique transaction number assigned to each sale.~~

~~c. Billing address and shipping location for each transaction for each seller’s customer according to the appropriate sourcing rules.~~

~~d. Sales price, taxable amount and tax by jurisdiction for each transaction.~~

~~4e.~~ For any discounts applied, the taxable base should be easily discernable.

~~5f.~~ An audit trail to substantiate credits for transactions processed through the CSP’s system.

C. Exemption Information

1. Exemption information on purchasers as required in the Streamlined Sales Tax Governing Board Rules and Procedures, Article III, Rule 317.1 ~~Simplified Exemption Administration Paper.~~

~~2. Exemption Information Report as stipulated in Section 501.6.B.2.b of Article V.~~

~~23.~~ Detailed information providing a distinction between exempt transactions by product or entity/use based exemptions.

Amendment to Rule 806.3 – Administration of the Compliance Audit,
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34. Exempted sales transactions must include the customer's name in addition to all other information required for each sales transaction.

45. Uniform exemption certificates and/or data, either in electronic or paper format, must be maintained by the CSP.

D. Tax Collection and Remittance Information

1. CSPs must provide documentation to verify that all tax collected was appropriately remitted, and the tax return information is accurate.

2. Tax reversals/credits must identify every tax jurisdiction credited.

Rule 806.3.5.5 – Tax Compliance Audit of Transactions Processed by the CSP

A. Each member state's designated auditor(s) will handle its state's portion of the audit and is responsible to ensure conformance to the audit plan and timeline, according to each state's audit policies and procedures.

B. The Audit Core Team will provide the CSP with a list of the member states' auditors who will be involved in the compliance audit process.

C. Each CSP will provide a list of all sellers and the date each seller began processing transactions using its service to the Audit Core Team for distribution to the member states. Each member state will decide which Model I sellers' transactions to include in their tax compliance audit. ~~The state auditors will have access to a FTP site maintained by the SSTGB, Inc. to receive electronic records.~~ Each member state has the option to comprehensively review the electronic records or choose sampling methodology to perform ~~the~~ review of these ~~transactions processed~~.

D. Member state auditors ~~are~~ would be responsible for reviewing the seller's transactions to determine if they were taxed correctly. If errors exist, the auditors must determine if the errors were caused by any of the following reasons including but not limited to:

1. Deviation from the state's rates and boundaries tables;
2. Non-compliance with the state's taxability matrix;
3. Non-compliance with state approved expanded matrix;
4. Changes posted through Testing Central were not implemented in a timely manner (10 days); (This will be verified through the Audit Core~~ORE~~ Team);
5. Seller overrides of the CSP system;
6. Exemption information and/or certificates were not available or did not contain all of the required data elements;
7. Calculations that were tested and approved during the certification process;
8. Errors in computing tax were based on erroneous information from the states.

E. Prior to the issuance of an audit adjustment, the CSP will be given an opportunity to review the audit results with the auditor(s) from each state wherein a tax liability exists in accordance with its laws, rules and regulations.

Amendment to Rule 806.3 – Administration of the Compliance Audit,
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F. Where audit findings indicate there is an outstanding tax liability owed by the CSP, any resulting deficiencies or demand for payment of additional taxes under the terms of the contract will be generated by each member state. Accordingly, the laws of each state regarding the appeal process ~~and statute of limitations~~ would apply to the audit adjustments.

G. Upon completion of the tax compliance audit of the CSP, the member state shall provide either an audit report or close-out letter to the CSP finalizing the tax compliance audit.

Rule 806.3.6 – Compliance Audit of a CAS Provider~~Model 2 Seller (Reserved)~~

Rule 806.3.6.1 Audit Responsibilities

The contract compliance audit of the CAS Provider will be performed by the Audit Core Team.

Each state will be responsible for conducting its own tax compliance audit of Model 2 Sellers. Tax compliance audits may be conducted at the state’s discretion.

Rule 806.3.6.2 Timeline for Contract Compliance Audit Process

The timeline for conducting the contract compliance audit may vary for each audit cycle.

The CAS Provider will have 30 days to review and comment on the preliminary findings of the contract compliance audit. Comments will be sent to the Audit Core Team.

The Audit Core Team will have 10 business days to amend their findings, if necessary, before the final report is sent to the Executive Director of the Streamlined Sales Tax Governing Board.

The Audit Core Team may grant extensions as deemed appropriate to the above timelines.

Rule 806.3.6.3 Report on Audit Findings

A. The Audit Core Team through the Executive Director will provide each member state with its findings of the contract compliance audit.

B. The report on the audit findings that goes to the Executive Director will contain general information on the errors found and will not contain state specific information to ensure the confidentiality of taxpayer information.

Rule 806.3.6.4 Contract Compliance Audit of CAS Provider

Rule 806.3.6.4.1 Documentation

Amendment to Rule 806.3 – Administration of the Compliance Audit,
Submitted by the State of South Dakota on Behalf of the Audit Committee

The following documentation and records are required to be provided via an electronic download through an FTP site to the Audit Core Team.

A. The CAS Provider’s response to the Audit Core Team Questionnaire and a listing of each member state’s known Model 2 Sellers and the date each seller purchased the CAS Provider’s software will be provided by electronic means to the Audit Core Team.