

# **A motion by Kentucky to amend Streamlined Sales Tax Governing Board Rule 809 Relating to Sanctions.**

## **Rule 809 – Sanction of Member States**

### **A. Executive Committee to Consider Sanctions**

If the Governing Board finds a member state is out of compliance with the Agreement, the Executive Committee shall, using its discretion, consider what sanctions should be recommended to the Governing Board pursuant to the procedures set out in this rule.

### **B. Stay of Consideration of Sanctions**

1. If a member state files a petition for reconsideration pursuant to Rule 1001, the Executive Committee shall stay consideration of sanctions for those findings of non-compliance for which the member state has filed the petition.
2. If the Governing board confirms a state is out of compliance under Rule 1001, the Executive Committee shall consider what sanctions, if any, should be recommended to the Governing Board pursuant to the procedures set out in this rule in light of any sanctions already imposed.

### **C. Notice and Comments**

Within 30 days after the notice provided for in Section 805.1 is sent by the Executive Director, the Executive Committee shall provide a 30-day public comment period during which written comments may be submitted to the Executive Committee. All comments received by the Executive Committee shall be posted on the Governing Board website.

### **D. Public Meeting**

No sooner than 10 days after the close of the public comment period, the Executive Committee shall hold a public meeting, which may be by teleconference pursuant to Rule 807.1(B)(2), convened in accordance with Rule 807 to determine the recommendation regarding sanctions to be made to the Governing Board. If a member of the Executive Committee represents the member state that has been found by the Governing Board to be out of compliance, that committee member shall not vote on the recommendation. The meeting shall provide an opportunity for public comments. The subject state shall be afforded an opportunity to be heard by the Committee at such meeting.

### **E. Possible Recommendation**

1. In arriving at a recommendation for sanction(s), the Executive Committee shall consider the following factors and may consider other factors:
  - (a) the requirement(s) of the Agreement with which the state is out of compliance;
  - (b) the ~~action which will be required to bring~~ resulting additional burden the subject state back into noncompliance places on sellers and purchasers, as applicable;
  - (c) whether the noncompliance is the result of a newly identified issue with a

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- ~~requirement of the Agreement and;~~
- ~~(d) whether the length of time which will be required for noncompliance is the subject result of an action by the state to return to or its local jurisdictions compliance with the Agreement;~~
- ~~(e) the length of time the state has been out of compliance with a requirement of the Agreement;~~
- ~~(f) any efforts taken by the subject state to address the noncompliance;~~
- ~~(g) any increase in the number of noncompliance issues the subject state has with the Agreement; and~~
- ~~(h) any actions which will be required to address the noncompliance.~~

2. Recommendations which may be made by the Executive Committee include, but are not limited to:

- ~~(a) No sanction being imposed;~~
- ~~(b) Suspension of the subject state's right to vote on amendments to the Agreement;~~
- ~~(c) Suspension of the subject state's right to vote to determine if a petitioning state is in compliance with the Agreement;~~
- ~~(d) Suspension of the subject state's right to vote on any matter which may come before the Governing Board;~~
- ~~(e) Suspension of the subject state's right to have any delegates serve on the Governing Board; or~~
- ~~(f) Expulsion from membership in the Agreement.~~

### F. Written Recommendation

1. When a recommendation ~~of the proposed sanction(s)~~ is made by the Executive Committee, it shall issue a written report which shall provide the Committee's rationale for its recommendation. ~~If there are multiple sanctions recommended, the Committee shall identify which sanction or sanctions, if any, would be removed if a particular instance of noncompliance is corrected. A copy of the recommendation shall be sent to the subject state and the Governing Board delegates of each member state. The recommendation shall be posted on the Governing Board's website.~~
2. The Executive Committee shall issue a written recommendation within 90 days after the public meeting provided for in subsection (D) of this rule.

G. A copy of the recommendation shall be sent to the subject state and the Governing Board delegates of each member state. The recommendation shall be posted on the Governing Board's website.

### G.H. Agenda

Sanctions recommended by the Executive Committee shall be placed on the agenda of the Governing Board for the next regular or special meeting for which there is sufficient time for the required notice to be given.

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## H.I. Governing Board Action

1. At a meeting where a recommendation of the Executive Committee for a sanction is on the agenda, the Governing Board shall:

- (a) impose a sanction recommended by the Executive Committee;
- (b) impose a different sanction;
- ~~(c.)~~ defer any action on imposition of a sanction until a date certain; or
- ~~(d.)~~ decide not to impose a sanction.

2. If a sanction is imposed, the Governing Board shall specifically identify in writing:

- (a) the corrective action(s) the member state must take to have the sanction(s) removed; and
- (b) the person(s) who will verify and document that the member state has completed the corrective action(s);

3. When the member state has completed the required actions, which have been verified by the person(s) identified in subsection 2-~~(b.)~~, the sanction imposed by the Governing Board with respect to that issue shall be lifted.

## I.J. Effective Date of Sanction

The Governing Board shall determine the effective date of any sanction it imposes. The effective date may be conditional which would result in the sanction being imposed only if the subject state fails to come into compliance by a date certain.

## J.K. Review of Sanctions for Continued Noncompliance

If a member state remains out of compliance with the same requirement of the Agreement after the next annual recertification process under section 803, the Executive Committee shall reconsider potential sanctions and make a recommendation to the Governing Board pursuant to the procedures set out in this rule.

## K.L. Publication of Decision

The Executive Director shall ~~send notice to~~notify the subject state and each member state's Governing Board delegates ~~when~~in writing when the Governing Board renders a decision to impose or lift a sanction ~~is imposed or lifted.~~ A copy of ~~the~~any such decision shall be posted on the subject state's and the Governing Board's website.