

The purpose of this amendment is to begin admitting larger, ~~multistate~~ tribal governments that wish to simplify their sales and use taxes and gain the benefits of voluntary compliance in anticipation of passage of federal legislation.

Section 213: STATE

Any state of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. Any federally recognized Indian Tribe shall be ~~considered~~ treated as a "state" for purposes of the Agreement, except that such a tribe shall not be ~~considered~~ treated as a "state" for purposes of representation and voting under Section 806, and except as may otherwise be provided in the Agreement.

Section 309: APPLICATION OF GENERAL SOURCING RULES AND EXCLUSIONS FROM THE RULES

- A. Each member state shall agree to require sellers to source the retail sale of a product in accordance with Section 310. The provisions of Section 310 apply regardless of the characterization of a product as tangible personal property, a digital good, or a service. The provisions of Section 310 only apply to determine a seller's obligation to pay or collect and remit a sales or use tax with respect to the seller's retail sale of a product. These provisions do not affect the obligation of a purchaser or lessee to remit tax on the use of the product to the taxing jurisdictions of that use.
- B. Sections 310 and 312 do not apply to sales or use taxes levied on the following:
 - 1. The retail sale or transfer of watercraft, modular homes, manufactured homes, or mobile homes. These items must be sourced according to the requirements of each member state.
 - 2. The retail sale, excluding lease or rental, of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment, as defined in Section 310, subsection (D). The retail sale of these items shall be sourced according to the requirements of each member state, and the lease or rental of these items must be sourced according to Section 310, subsection (C).

3. Telecommunications services and ancillary services, as set out in Section 315, and Internet access service shall be sourced in accordance with Section 314.

4. Florist sales as defined by each member state. Such sales must be sourced according to the requirements of each member state.

C. The provisions of this Agreement shall not be used to determine whether or not a State's tax applies to retail sales to federally recognized Indian Tribes or their qualifying members pursuant to the balancing test established by the United States Supreme Court.

Section 706: TRIBAL GOVERNMENT MEMBERSHIP.

A. Status as Member.

(1) In General. Any federally recognized Indian Tribe that lawfully imposes a generally applicable sales tax may, if such Tribe complies with the terms of this Agreement, petition to become a Member under the Agreement. The Governing Board shall consider such Tribe for admission as a Member to the Agreement on the same basis as States.

(2) Decision of the Governing Board.

(a) In general. The Governing Board shall consider such Tribe for admission as a Member to the Agreement on the same basis as States, if the effect of any federally recognized Indian Tribe's laws, rules, regulations, and policies is compliant with each of the terms of the Agreement and if the Indian Tribe has entered into an agreement with the primary State where it is located., and if the following operational aspects of the Agreement have been implemented:

(i) Tribal level administration of sales and use tax — collection.

(ii) Uniformity in tax base.

(iii) Uniformity of major tax base definitions.

(iv) Central, electronic registration system.

(v) Simplification of tax rates.

(vi) Uniform sourcing rules for all taxable transactions.

(vii) Simplified administration of exemptions.

- ~~(viii) Simplified tax returns;~~
- ~~(ix) Simplification of tax remittances;~~
- ~~(x) Protection of consumer privacy.~~

(b) No state-tribal agreement present. If an Indian Tribe and the primary State in which it is located have made a good faith attempted to negotiate, but have not reached, an agreement as described in subparagraph (2)(a) within 5 years after the date of the submission of such petition, the Governing Board shall consider such Tribe for admission as a Member to the Agreement on the same basis as States without regard to the presence of a State-tribal agreement.

(c) If an Indian Tribe is admitted as a Member to the Agreement without a state-tribal agreement in place, the Indian Tribe shall provide and maintain a rate and boundary database as provided in Section 305 of the Agreement.

(3) Membership on the Governing Board.

(a) In general. If any federally recognized Indian Tribe is accorded Member status under the Agreement under this section, such Tribe shall be represented on the Governing Board by at least 1, but not more than 4, representative(s), and shall be entitled to one vote on the governing board.

(b) Multiple Tribes. If 2 or more federally recognized Indian Tribes are accorded Member status to the Agreement under this section, such member Indian Tribes may jointly appoint up to four representatives in its their delegation to the governing board. The representatives shall be members of the executive or legislative branches of the members' member Tribal Governments. The Tribal delegation shall be entitled to one vote on the governing board. ~~the Governing Board shall appoint () representatives from a list of names nominated by the Member Tribes to represent the interest of all Member Tribes, and all Member Tribes jointly shall be entitled on one vote on the governing board.~~

(c) A federally recognized Indian Tribe is not eligible for any status under the Agreement other than member (e.g., a tribe is not eligible for associate membership.)

B. Rule of Construction. Nothing in the Agreement shall be construed as:

(1) diminishing or expanding a State's or an Indian Tribe's sovereignty or characterizing an Indian Tribe as a state for any other purposes;

(2) affecting existing tax agreements between Indian Tribal Governments and States;

(3) preventing Indian Tribal Governments and States from entering into bilateral agreements for the collection and allocation of sales taxes (whether or not such bodies are admitted as Member States to the Agreement), or;

(4) overriding established principles of Federal law governing:

(a) the taxing jurisdiction of States or Indian Tribal Governments, and;

(b) the immunities of States and their citizens from Indian Tribal Government taxation or of Indian Tribal Governments and their members from State taxation, with respect to ~~on-reservation~~ transactions occurring within Indian Country (as defined in 18 USC 1151).

(5) diminishing or otherwise impact a state's sovereignty or taxing authority;

(6) State sanctioning of Indian Tribal Government taxes or Indian Tribal Government sanctioning of State taxes, or;

(7) a reflection of specific federal Indian doctrine principles.

C. Concurrent Taxes.

(1) An Indian Tribal Government that is a member under the Agreement shall be responsible only for the collection of its own lawfully-imposed taxes, and not any concurrent taxes imposed by a State in which that Indian Tribe is located.

(2) A member State in which is located an Indian Tribe whose Tribal Government is a member under the Agreement shall be responsible only for the collection of that State's taxes, and not any concurrent taxes imposed by that Indian Tribal Government.

SECTION 1101: COOPERATING SOVEREIGNS

This Agreement is among individual cooperating sovereigns in furtherance of their governmental functions. The Agreement provides a mechanism among the member states to establish and maintain a cooperative, simplified system for the application and administration of sales and use taxes under the duly adopted law of each member state. The inclusion treatment of a federally organized Indian Tribes in the definition of as a "State" for purposes of the Agreement, as provided found in section 213 of the Agreement, does not diminish or otherwise impact a state's sovereignty or taxing authority.