

A motion by South Dakota and Tennessee to amend the SSUTA relating to filing returns and making remittances:

Section 319: UNIFORM RULES FOR REMITTANCES OF FUNDS

Each member state shall:

- A. Require only one remittance for each return except as provided in this subsection. If any additional remittance is required, it may only be required from sellers that collect more than thirty thousand dollars in sales and use taxes in the member state during the preceding calendar year as provided herein. The state shall allow the amount of any additional remittance to be determined through a calculation method rather than actual collections. Any additional remittances shall not require the filing of an additional return.
- B. Require, at each member state's discretion, all remittances from sellers under Models 1, 2, and 3 to be remitted electronically.
- C. Allow for electronic payments by both ACH Credit and ACH Debit.
- D. Provide an alternative method for making "same day" payments if an electronic funds transfer fails.
- E. 1. Provide that if a due date falls on a legal banking holiday in a member state, the taxes are due to that state on the next succeeding business day. Provide that if a due date for a payment falls on a Saturday, Sunday or legal holiday in a member state, the payment, including any related payment voucher information, is due to that state on the next succeeding business day.
2. Additionally, if the Federal Reserve Bank is closed on a due date that prohibits a person from being able to make a payment by ACH Debit or Credit, the payment shall be accepted as timely if made on the next day the Federal Reserve Bank is open.
- F. Require that any data that accompanies a remittance be formatted using uniform tax type and payment type codes approved by the governing board.
- G. Adopt a standardized transmission process approved by the governing board that allows for the remittance in a single electronic transaction of a single (bulk) payment for taxes reported on multiple SERs by affiliated entities, certified service providers or preparers. Each state shall comply with this provision no later than two years after the governing board approves such a standardized transmission process.

Section 318: UNIFORM TAX RETURNS

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Each member state shall:

A. Require that only a single tax return for each taxing period for each seller be filed for the member state to include all the taxing jurisdictions within the member state.

B. 1. Require that returns be due no sooner than the twentieth day of the month following the month in which the transaction occurred.

2. When the due date for a return falls on a Saturday or Sunday or legal holiday in the subject member state, the return shall be due on the next succeeding business day. If the return is filed in conjunction with a remittance and the remittance cannot be made pursuant to Section 319.E.2, the return shall be accepted as timely filed on the same day as the remittance under that subsection.

C. Make available to all sellers, whether or not registered under the Agreement, except sellers of products qualifying for exclusion from the provisions of Section 308 of this Agreement, a simplified return that is filed electronically as follows:

1. The simplified electronic return (hereinafter SER) shall be in a form approved by the governing board and shall contain only those fields approved by the governing board. The SER shall contain two parts. Part 1 shall contain information relating to remittances and allocations and part 2 shall contain information relating to exempt sales.

2. Each member state must notify the governing board if it requires the submission of the part 2 information. Provided, no state may require the submission of part 2 information from a model 4 seller which has no legal requirement to register in such state.

3. Returns shall be required as follows;

a. Certified service providers must file a SER in all member states on behalf of model 1 sellers. Certified service providers, on behalf of such sellers, shall file the audit reports provided for in Article V of the governing board's rules and procedures for such states, and in addition, shall be required to file part 1 of the SER each month for each member state. A state shall allow a model 1 seller to file both part 1 and the part 2 of the SER. A model 1 seller which chooses to file both part 1 and the part 2 of the SER shall still be required to file the audit reports provided for in Article V of the governing board's rules and procedures.

b. Model 2 and model 3 sellers must file a SER in all member states other than states for which they have indicated that they anticipate making no sales. Such sellers shall file part 1 or the SER every month for all states in which they anticipate making sales. Such sellers need not file part 2 information until January 1, 2012. After such date they shall have the following options for meeting their obligation to furnish part 2 information:

SL10052

9/1/10

i) File part 2 of the SER together with part 1 of the SER every month; or

ii) File part 2 of the SE at the same time part 1 of the SER for the month of December is due. Part 2 information filed pursuant to this option shall cover the month of December and all previous months of the same calendar year and shall only require annual and not monthly totals. Such sellers shall only be required to file part 2 of the SER for any state which has notified the governing board that it will require the submission of the part 2 information pursuant to paragraph 2 of this subsection.

c. No later than January 1, 2011, every member state shall allow model 4 sellers to file a SER. Such sellers shall file part 1 of the SER every month unless a state allows less frequent filing. Model 4 sellers which have a legal requirement to register in such state shall have the following options for meeting their obligation to furnish part 2 information:

i) File part 2 of the SER together with part 1 of the SER; or

ii) File part 2 of the SER at the same time part 1 of the SER for the month of December is due. Part 2 information filed pursuant to this option shall cover the months of December and all previous months of the same calendar year and shall only require annual and not monthly totals.

Such sellers shall only be required to file part 2 of the SER for any state which has notified the governing board that it will require the submission of the part 2 information pursuant to paragraph 2 of this subsection. Model 4 sellers which elect not to file a SER shall file returns in the form and pursuant to schedules afforded to sellers not registered under the Agreement according to the requirements of each member state.

d. No later than January 1, 2013 every member state shall allow sellers not registered under the Agreement that are registered in the state to file a SER. Such sellers shall file part 1 of the SER every month unless a state allows less frequent filing and shall have the following options for meeting their obligation to furnish part 2 information:

i) File part 2 of the SER together with part 1 of the SER; or

ii) File part 2 of the SER at the same time part 1 of the SER for the month of December is due. Part 2 information filed pursuant to this option shall cover the month of December and all previous months of the same calendar year and shall only require annual and not monthly totals. Such seller shall only be required to file part 2 of the SER for any state which has notified the governing board that it will require the submission of the part 2 information pursuant to paragraph 2 of this subsection.

4. A state which requires the submission of part 2 information pursuant to paragraph 2 of this subsection may provide an exemption from this requirement to a seller under terms and conditions set out by the state.

5. A state may require a seller which elects to file a SER to give at least three months notice of the seller's intent to discontinue filing a SER.

D. ~~Not a~~After January 1, 2010 not require the filing of a return from a seller that is registered under the Agreement which has indicated at the time of registration that it anticipates making no sales which would be sourced to the state under the Agreement. A seller shall lose such exemption upon making any taxable sales into such state and shall file a return in the month following such sale. A state may, but is not required to, allow a seller to regain such filing exemption upon such terms and condition as the state may impose.

E. Adopt a standardized transmission process to allow for receipt of uniform tax returns and other formatted information as approved by the governing board. Such a process will provide for the filing of separate returns for multiple legal entities in a single transmission for each state and will not include any requirement for manual entry or input by the seller of any of the aforementioned information. This process will allow a certified service provider, a tax preparer, or any other person authorized to do so, to file returns for more than one seller in a single electronic transmission. However, sellers filing returns for multiple legal entities may only do so for affiliated legal entities.

F. After January 1, 2010 give notice to a seller registered under this Agreement which has no legal requirement to register in the state, or a failure to file a required return and a minimum of thirty days to file thereafter prior to establishing a liability amount for taxes based solely on the seller's failure to timely file a return. Provided, a member state may establish a liability amount for taxes based solely on the seller's failure to timely file a return if such seller has a history of non-filing or late filing.

G. Nothing in this section shall prohibit a state from allowing additional return options or the filing of returns less frequently.