



100 Majestic Drive, Suite 400 ♦ Westby, WI 54667

# State and Local Advisory Council Request and Assignment Form

**Provide the name(s) and contact information of the state or parties submitting the Request.**

**Date:** 11/20/2017

**Name of State or Person(s) submitting request:** Nebraska

**Contact Person:** Blaine Kreikemeier

**Address:** 1313 Farnam Street, Suite 100, Omaha, NE 68102-1836

**Phone:** 402-595-3825 **Email:** blaine.kreikemeier@nebraska.gov

**1. Agreement Section(s), Rules or Tax Administration Practice(s) involved (if any).** (Identify the section(s) of the Streamlined Sales and Use Tax Agreement, the Streamlined Rules, or Tax Administration Practices, if any, which are affected or involved with the issue.)

Section 335 – Tax Administration Practices; Interpretations of Agreement; Appendix M; possibly Part II – listings contained in Product Definitions.

**2. Question, Issue, or Topic for discussion.** (Identify the question, issue, or topic you believe requires a study or resolution by SLAC.)

Nebraska’s compliance with the SSUTA due to four medical products in Appendix M.

**3. Statement of Background Facts.** (Provide a detailed description of the issue and supporting facts. Please be as descriptive as possible and provide examples of actual transactions.)

SSUTA Appendix M treats Gastric Bands, Implant Expander - Tissue & Breast, and Intra-gastric Balloons as Prosthetic Devices, and Wheelchair Cushions – Brace/Support as Durable Medical Equipment. NE treats them as TPP that does not meet one of the SSUTA defined medical terms or a state specific definition. NE’s departure from Appendix M on these four medical products was reviewed by the Governing Board, and NE was not found substantially out of compliance with the SSUTA. After NE was not found substantially out of compliance, a work group was formed to define substantial compliance. The workgroup brought forward an amendment to SSUTA Section 805 that states: “A state...must comply with each requirement set forth in the Agreement.” The amendment was voted on and passed by the Governing Board in October 2017. The amendment will be voted on by the Governing Board again in December 2017. This was discussed with the Streamlined Executive Director, and if the amendment is passed in December 2017 then NE may be found substantially out of compliance and have two years to come back into compliance.

A survey was sent out in 2/2007, when the medical product lists were being created, to ask the 14 member states if Gastric Bands, Implant Expander - Tissue & Breast, and Intra-gastric Balloons met the requirements of the Prosthetic Device definition. The survey was sent out since the states were not in agreement on the treatment of these products. I included the information about this survey to show that at the time appendix L & M were being created the 14 member states were not in agreement with including these medical products in the definition of a prosthetic device.

A recent survey of the 64 “Not Defined” medical products from Appendix L & M was sent out to the 24 member/associate member states. None of the 64 “Not Defined” medical products were treated the same by all 24 states. Due to the results of the survey the “Medical Products Listing” Workgroup is looking at including the “Not Defined” medical products on the Taxability Matrix, and having each state disclose for each “Not Defined” medical product if they treat it as meeting one of the SSUTA defined medical terms, meeting an other state specific definition, or treated as TPP that does not meet one of the SSUTA defined medical terms or a state specific definition. I included the information about this survey to show that the “Medical Products Listing” Workgroup is working on a solution for the medical products that the states differ on, which is part of the below proposed resolution.

**4. Proposed Resolution/Outcome/Solution.** (Provide a description of the anticipated outcome from the workgroup. For example: Development of an interpretive rule pertaining to Section XXX of the Agreement.)

NE is requesting to have the “Medical Products Listing” Workgroup include Gastric Bands, Implant Expander - Tissue & Breast, and Intra-gastric Balloons (that are currently treated as a Prosthetic Device in Appendix M), and Wheelchair Cushions – Brace/Support (that is currently treated as Durable Medical Equipment in Appendix M) in their review of the “Not Defined” medical products in Appendix L & M.

#### Submit completed form to:

Craig Johnson, Executive Director  
Streamlined Sales Tax Governing Board  
100 Majestic Dr., Suite 400  
Westby, WI 54667

Email: [Craig.Johnson@SSTGB.org](mailto:Craig.Johnson@SSTGB.org)  
Phone: 608-634-6160  
[www.streamlinedsalestax.org](http://www.streamlinedsalestax.org)

#### For SST Governing Board Use

**Approved by:** [Click here to enter name.](#)      **Date:** [Click here to select a date.](#)

**Approved with Modifications** (If the Governing Board determines the request will be addressed by SLAC but in a modified format, explain the modifications to the request here):

[Click here to enter text.](#)

**Denied by:** [Click here to enter name.](#)      **Date:** [Click here to select a date.](#)

### **Form F0021 Instructions**

The scope of work for the State and Local Advisory Council (SLAC) is to advise the Governing Board on matters pertaining to the administration of the Streamlined Sales and Use Tax Agreement (Agreement). Matters relating to noncompliance of members with the Agreement, interpretive rules clarifying Agreement language, and revisions or additions to the Agreement are all within the scope of a SLAC work assignment. This form, as submitted by a requestor, is a public document and shall be published on the Streamlined Governing Board’s website.

Any state and person making a request for a SLAC work assignment must do so by completing the **SLAC REQUEST & ASSIGNMENT FORM** and submitting it to the Executive Director of the Streamlined Sales Tax Governing Board. The Governing Board will take up the request at its next scheduled meeting or as applicable the SLAC Chair will take up the request at the next SLAC Steering Committee meeting. Any decision by the SLAC Steering Committee shall be reported to the Governing Board at its next meeting. In the interim, a request approved by the SLAC Steering Committee can be assigned to a SLAC workgroup. The Governing Board may approve, deny or modify the request at any time.

The Governing Board is not required to use this form to refer matters to SLAC. If the Governing Board refers an item to SLAC without use of this form, the Governing Board should provide written guidance to the SLAC Chair as to the expectations regarding the assigned task.

**(Note:** States or other persons requesting an interpretive opinion of existing Agreement provisions or definitions should not use this form, but should instead complete and submit the **INTERPRETATION/ DEFINITION REQUEST** form.)