Registration, Return and Remittance Amendment

For Discussion Purposes - June 08

VERSION 2 - Zero Filer Option

A motion by Oklahoma relating to uniform tax returns.

Section 303: SELLER REGISTRATION

Each member state shall participate in an online sales and use tax registration system in cooperation with the other member states. Under this system:

A. A seller registering under the Agreement ~~is~~ shall be registered in each of the member states. A seller, other than a Model 1 seller registering under the Agreement may elect, for one or more of the member states, to register as a seller which anticipates making no sales which would be sourced to the state pursuant to the terms of this Agreement.

B. The member states agree not to require the payment of any registration fees or other charges for a seller to register in a state in which the seller has no legal requirement to register.

C. A written signature from the seller is not required.

D. An agent may register a seller under uniform procedures adopted by the member states.

E. A seller may cancel its registration under the system at any time under uniform procedures adopted by the governing board. Cancellation does not relieve the seller of its liability for remitting to the proper states any taxes collected.

F. A seller, other than a Model 1 seller, may elect to be treated as a seller which anticipates making no sales into a state for an individual state under the system at any time it has not had sales into such state for the preceding 12 months. Such election does not relieve the seller of its agreement to collect taxes on all sales into such state or its liability for remitting to such state any taxes collected. If the

seller subsequently makes sales into such state it is then required to reregister for that state and to collect and remit tax in accordance with Sections 318 and 319.

G. Nothing in this section shall be construed to relieve a seller of any legal obligation it may have under a state's laws to register in that state or its obligation to collect and remit taxes for at least thirty-six months in a state and meet all other requirements for amnesty set out in Section 402 of this Agreement in order to be eligible for amnesty in such state.

H. Whenever a state joins the Agreement after a Model 1 seller has registered under the Agreement, the Model 1 seller will be automatically registered in such state. Whenever a state joins the Agreement after a seller other than a Model 1 seller registers in one or more states under the Agreement, the Executive Director shall give notice to such seller of the new state's membership. The seller will be automatically registered in such state but may elect to register in such state as a seller which anticipates making no sales into such state.

I. Upon registration, the governing board shall provide to the seller information regarding the requirements and options for filing a simplified electronic return and for filing remittances in any member state.

J. The governing board shall cause the system for registering under the Agreement to include a feature that allows sellers registered under the Agreement to update relevant registration data in the system and have such updated data provided to all member states. The governing board shall establish conditions and procedures to allow states which are not members of the Agreement to participate in the registration system.

Section 318: UNIFORM TAX RETURNS

Each member state shall:

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

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

C. ~~Allow any Model 1, Model 2, or Model 3 seller to submit its sales and use tax returns in a simplified format that does not include more data fields than permitted by the governing board. A member state may require additional informational returns to be submitted not more frequently than every six months under a staggered system developed by the governing board~~

Make available to all sellers, except sellers of products qualifying for exclusion from the provisions of Section 308 of this Agreement, a simplified electronic return 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 exemptions and credits.
2. Each member state must notify the governing board if it requires the submission of the Part 2 information. States which require the Part 2 information must submit a schedule for the submission of such information which must be approved by the governing board. Such schedule may not require the submission of the Part 2 information more often than once every six months.
3. CSP's must file a SER in all member states on behalf of Model 1 sellers. CSP's, on behalf of such sellers shall file the audit reports provided for in Article V of the Rules and Procedures of this Agreement 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 Part 2 of the SER. A Model 1 seller which chooses to file both Part 1 and the Part 2 of SER shall still be required to file the Audit reports provided for in Article V of the Rules and Procedures of this Agreement.
4. Model 2 and Model 3 sellers must file a SER in all member states other than states for which they have indicated that they anticipating making no

sales. Such sellers shall file Part 1 of the SER for all states in which they anticipate making sales every month and shall have the following options for meeting their obligation to furnish Part 2 information:

a) File Part 2 of the SER together with Part 1 of the SER every month for a state which has notified the governing board that it requires the submission of the Part 2 information pursuant to paragraph 2 of this subsection; or

b) File Part 2 of the SER according to the schedule submitted by the state and approved by the governing board pursuant to paragraph 2 of this subsection; or

c) file such audit reports as are approved by the governing board in lieu of filing Part 2 of the SER.

Such sellers shall not be required to file Part 2 of the SER for any state which has notified the governing board that it will not require the submission of the Part 2 information pursuant to paragraph 2 of this subsection.

5. All sellers other than Model 1, Model 2 and Model 3 sellers may choose to file a SER in one or more member states. Such sellers shall file Part 1 of the SER every month and shall have the following options for meeting their obligation to furnish Part 2 information:

a) File Part 2 of the SER together with Part 1 of the SER every month for a state which has notified the governing board that it requires the submission of the Part 2 information pursuant to paragraph 2 of this subsection; or

b) File Part 2 of the SER according to the schedule submitted by the state and approved by the governing board pursuant to paragraph 2 of this subsection; or

c) file such audit reports as are approved by the governing board in lieu of filing Part 2 of the SER.

Such sellers shall not be required to file Part 2 of the SER for any state which has notified the governing board that it will not require the submission of the Part 2 information pursuant to paragraph 2 of this subsection.

6. A seller, other than a Model 1, 2 or 3 seller, which files a SER in a member state shall give the state at least 3 months' notice, and shall continue to file the SER during such period, prior to fulfilling the seller's tax reporting obligations by filing of any type of return allowed under that state's law other than a SER.

D. Allow any seller that is registered under the Agreement, ~~which does not have a legal requirement to register in the member state~~, and is not a Model 1~~, 2, or 3~~ seller, to submit its sales and use tax returns as follows:

1. ~~Upon registration, a member state shall provide to the seller the returns required by that state~~. A state may not require the filing of a return from a seller which has indicated at the time of registration that it anticipates making no sales which would be sourced to the state for any period in which the seller did not have any sales which would be sourced to the state under this Agreement.
2. ~~A member state may require a seller to file a return anytime within one year of the month of initial registration, and future returns may be required on an annual basis in succeeding years~~. A seller which is exempt in a state from the requirement of filing returns for periods in which it had no sales which would be sourced to such state shall lose such exemption upon making any sales generating state and local sales or use tax.
3. ~~In addition to the returns required in subsection (D)(2), a member state may require sellers to submit returns in the month following any month in which they have accumulated state and local tax funds for the state in the amount of one thousand dollars.~~ A seller which loses its exemption from the requirement

of filing returns for periods in which it had no sales pursuant to paragraph 2 of this subsection may regain such exemption following a period of 12 months or more in which it had no sales into a member state by giving notice that it anticipates making no sales into such state.

E. ~~Participate with other member states in developing a more uniform sales and use tax return that, when completed, would be available to all sellers.~~

~~F. Require, at each member state's discretion, Model 1, 2, and 3 sellers to file returns electronically. It is the intent of the member states that all member states have the capability of receiving electronically filed returns by January 1, 2004.~~

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 single person or entity, whether such person is a seller, a CSP or a tax preparer, to file returns for more than one seller in a single electronic transmission.

F. Give notice to a seller registered under this Agreement of a failure to file a required return and a reasonable opportunity to file thereafter prior to making an assessment of taxes based solely on a seller's failure to timely file a return.

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 Model 1, 2, and 3~~ accompanying the approved simplified return format to be remitted electronically.

C. Allow for electronic payments by all remitters by both ACH Credit and ACH Debit.

D. Allow CSP's and sellers to transmit funds for all accounts in a single transmission for each state in a format approved by the governing board.

E. Provide an alternative method for making "same day" payments if an electronic funds transfer fails.

~~E.~~F. 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.

~~F.~~G. Require that any data that accompanies a remittance be formatted using uniform tax type and payment type codes approved by the governing board.

H. Adopt a standardized transmission process approved by the Governing Board for the filing of separate remittances for multiple legal entities in a single transmission for each state.

EFFECTIVE DATE

The provisions of the amendments to the Agreement contained herein shall become effective on _____.