

November 10, 2010

A motion by Oklahoma to adopt the following as a substitute amendment for AM09002A02 relating to other taxes on communications services:

Section 315.1

A. For purposes of this section, the term “communications services” shall include only “telecommunications services” and “ancillary services” as defined in the Library of Definitions.

(B) For taxes on communications services, a member state must provide:

- (1) databases in accordance with the provisions of Sections 305 and 307 containing applicable rates and jurisdictional boundaries.
- (2) refund procedures consistent with the provisions in Section 325 of the Agreement,
- (3) relief consistent with the provisions set out in Sections 306 and 328 of the Agreement, and
- (4) a taxability matrix consistent with Section 328 of the Agreement.

In adopting the requirements of this subsection, a member state shall apply the applicable sourcing rules in Article III of the Agreement.

C ~~B~~. The Governing Board shall promulgate an interpretive rule pursuant to Section 902 of the Agreement to determine which taxes shall be considered “taxes on communications services” for purposes of this Section.

D ~~E~~. A member state shall not be required to comply with the provisions of subsection ~~A~~ B of this Section until 2 years after the Governing Board has promulgated the rule required in subsection ~~B~~ C of this Section.

Section 315.2

- A. For purposes of this section, the term “communications services” shall include only “telecommunications services” and “ancillary services” as defined in the Library of Definitions.
- B. A member state shall not be required to comply with the provisions of this section in order to meet the requirements for member state status under the Agreement. A member state or a non-member state may petition the Governing Board to have the Governing Board determine that it complies with the provisions of this section with respect to a specific type of tax on communications services.
- C. Except as otherwise provided in subsection D of this section, a member state that chooses to simplify a tax on communications services shall apply each of the provisions in the Agreement and the Library of Definitions to such tax in the same manner and to the same extent as such provisions and definitions apply to sales and use taxes. The Governing Board shall promulgate interpretive rules pursuant to Section 902 of the Agreement to determine whether two or more taxes shall be treated as the same “type of tax” on communications services, giving due consideration to the grant of authority to impose the tax, the nature of the tax, the purpose of the tax, and the persons subject to the tax and to determine what charges or fees are covered by the term “tax”.
- D. The following are exceptions to the application of the Agreement and the Library of Definitions to each type of tax on communications services.
 - 1. When a provision of the Agreement or Library of Definitions, excluding Article III, is clearly not applicable to such taxes as determined by a three fourths vote of the Governing Board.
 - 2. In applying the requirements of Subsection (C) to other taxes on communications services, the following modifications shall apply:
 - a. The requirement in Section 301 for a member state to provide state level administration of sales and use taxes is modified to allow a designated

agent to provide for the administration of each type of tax on communications services.

- b. The requirement of Section 318 for one uniform return for each state and all the local jurisdictions within the member state for sales and use taxes is modified to provide that there shall be one State-specific uniform return for each type of tax on communications services.
- c. The requirement for tax base uniformity in Section 302 of the Agreement shall apply to each type of tax on communications services within a state, but shall not be construed to require that the tax base for each type of tax on communications services must be identical to the tax base for sales and use taxes imposed on communications services. In addition, if a state does not impose a particular type of tax on communications services that is imposed by more than one local jurisdiction in such state, Section 302 shall be construed to require that all local taxes have the same tax base.
- d. The requirement of Sections 302 and 401 for a centralized registration system for sales and use taxes is modified to permit a centralized, one-stop registration system at the state-level for taxes administered solely within the state. ~~Sellers shall also be allowed to register directly with local jurisdictions.~~
- e. The provisions of Section 806 of the Agreement relating to joint audits are clarified to provide that sellers may not request that audits on taxes on communications services be conducted jointly by more than one state.
- f. The requirements for states to provide compensation to sellers shall be modified to provide that compensation to sellers shall be paid on taxes on communications services which are transactional taxes measured by gross amounts charged to customers for communications services that are not broadly applicable to other types of transactions. The total amount that a state must pay as the minimum compensation to sellers ~~on transactional taxes measured by gross amounts charged to customers for~~ communications services for collecting and remitting such taxes shall be Seventy-five hundredths of one percent (0.75%) of total tax revenue

collected and remitted for such taxes which sellers are required to report by local jurisdiction and Five-tenths of one percent (0.50%) of total tax revenue collected and remitted for such taxes which sellers are not required to report by local jurisdiction. The Governing Board shall certify a member state's schedule of compensation for sellers of communications services to insure that such requirement is met. There shall be no requirement for a state to pay different rates of compensation based on the amount of tax on communications services collected and remitted by a seller. The provisions of subsection D of Section 608 limiting the amount of compensation a state is required to provide a seller is modified to allow a state to provide caps on compensation in different amounts so long as the total amount of compensation paid by a state pursuant to this section is not reduced.

g. There shall be no requirement to provide a small seller exception.