

A motion by Kansas, Kentucky, and Washington to amend the SSUTA relating to vendor compensation:

The intent of this amendment is to start defining the Governing Board's standards for reasonable compensation, to become effective with the passage of and in accordance with the federal legislation (the Main Street Fairness Act). This proposed amendment may need to change, depending on the language of the act at the time of enactment.

Compensation for all sellers

A. Requirement for Collection Authority under federal legislation.

Upon passage by Congress of the Main Street Fairness Act, a Member State shall provide vendor compensation which meets the requirements of the Main Street Fairness Act and the Agreement in order to require remote sellers to collect the sales and use tax on remote sales for such member states.

B. Petition for Authority and Compensation Compliance Determination.

The Governing Board shall determine which Member States are in compliance with this provision. Upon a finding of compliance by the Governing Board, the authority to require collection by remote sellers as authorized in the Main Street Fairness Act will commence for a specific state on the first day of a calendar quarter after the date the Governing Board makes its compensation compliance determination. This state specific authorization shall not precede the 6-month general collection authority activation date provided within the Main Street Fairness Act. Such collection authority will continue as long as the Member State provides a certified level of compensation to all sellers, both in-state and remote, and remains in compliance with the Main Street Fairness Act and the Agreement. The authorization to require collection by remote sellers shall terminate for a Member State, if such Member State no longer meets the requirements for Member State status under this section or any other terms of the Agreement.

Collection authority for all states will terminate if membership of the Governing Board falls below 10 states representing 20 percent of the population.

1. A Member State shall petition the Governing Board for certification that it meets all the compensation requirements of this section. The petitioning state may begin collection on the first day of the next calendar quarter after the date the Governing Board makes its compensation determination, regardless of the status of other states' compensation certification requests.
2. Compliance with compensation requirements shall be reevaluated as determined necessary by the Governing Board.
3. A petition for certification of collection authority may be submitted to the Governing Board at any time.

4. The Governing Board shall establish within its bylaws a Compensation Compliance Review committee comprised of members of both Advisory councils, and legislative and executive branch delegates to the Governing Board. The purpose of this committee is to:

- (a) review each Member State's petition pursuant to subdivision 1;
- (b) perform subsequent compliance reviews of states with respect to compensation; and
- (c) make recommendations to the Governing Board for action on any matter related to compensation.

C. Standards for Compensation

1. In order for compensation to be certified, the amount of such compensation shall:
 - (a) Compensate sellers for the approximate costs arising from sales and use taxes collected on credit sales, including bad debt, and documenting tax-exempt sales. These costs may be state as a percentage of sales
 - (b) The costs described in (a) shall be based initially on the Joint Cost of Collection Study completed in 2007. An independent study of costs of collection may replace this study if ordered by the Governing Board at a future date.
2. Such compensation may vary in each Member State depending on the complexity of the sales and use tax laws in that Member State and may vary by the characteristics of sellers in order to reflect differences in collection costs.
3. Such compensation may be adjusted from year to year in relationship to adjustments in the size of the small business exception. The amount of compensation paid may be inversely proportional to the size of the small business exception.
4. States that have adopted the origin sourcing provision authorized by Section 310.1 shall provide payment for the incremental costs of maintaining an origin based system.
5. States that have caps on clothing shall provide payment for the incremental costs of not simplifying their system to the fullest extent unless the member state assumes the administrative responsibility in a manner that places no additional burden on the retailer.
6. States with no requirement to distribute local sales and use tax to local jurisdictions could have a lower rate of compensation than states with many local jurisdictions.

7. A Member State may include reasonable caps on total compensation, but total compensation shall be no less than the compensation mandated in C 1(a) to any seller.
8. Such compensation may be provided to a seller or a third party service provider whom a seller has contracted with to perform all the sales and use tax responsibilities of a seller.

Section 603: MONETARY ALLOWANCE FOR MODEL 3 SELLERS AND ALL OTHER SELLERS THAT ARE NOT UNDER MODELS 1 OR 2

~~The member states anticipate that they will provide a monetary allowance to sellers under Model 3 and to all other sellers that are not under Models 1 or 2 based on the following:~~

- ~~A. For a period not to exceed twenty-four months following a voluntary seller's registration through the Agreement's central registration process, a percentage of tax revenue generated for a member state by the voluntary seller for each member state for which the seller does not have a requirement to register to collect the tax.~~
- ~~B. Vendor discounts afforded under each member state's law.~~

Section 604: ADDITIONAL MONETARY ALLOWANCE REQUIRED FOR MEMBERS MAKING CERTAIN ELECTION (Effective January 1, 2010)

~~In addition to the monetary allowance provided pursuant to Sections 601, 602 and 603 of this Agreement, each state that makes the election by Section 310.1 of this Agreement, upon becoming a full member state, shall provide reasonable compensation for the incremental expenses incurred in establishing or maintaining a uniform origin system for administering, collection and remitting sales and use taxes on origin-based sales.~~