

A motion by Kansas, Arkansas, Indiana, Iowa, Kentucky, Michigan, Minnesota, Nebraska, Nevada, New Jersey, North Dakota, Ohio, Rhode Island, South Dakota, Tennessee, Utah, West Virginia, and Wyoming to amend the SSUTA relating to membership:

Section 801: ENTRY INTO AGREEMENT

A. ~~After the effective date of the Agreement, a~~ A state may apply to become a full member, a contingent member, or an associate member of party to the Agreement governing board by submitting a petition for membership and certificate of compliance to the governing board. ~~The petition for membership shall include such state's proposed date of entry. The petitioning state's proposed date of entry shall be on the first day of a calendar quarter. The proposed date of entry shall be a date on which all provisions necessary for the state to be in compliance with the Agreement are in place and effective. The Co-Chairs president shall provide the public with an opportunity to comment prior to any vote on a state's petition for membership.~~

B. ~~The petitioning state governing board shall provide a copy of it's~~ a petitioning state's petition for membership and ~~the~~ certificate of compliance to ~~each~~ all member state states when the petitioning state submits its petition for membership to the governing board. A petitioning state shall ~~also~~ post a copy of its petition for membership and certificate of compliance on that state's web site. The governing board shall post a copy of the state's petition for membership and certificate of compliance on the governing board's web site.

C. ~~— A state that petitions for membership after January 1, 2007, that is found to be in compliance pursuant to Sections 804 and 805 of the Agreement except that the changes to their statutes, rules, regulations or other authorities necessary to bring them into compliance are not yet in effect, shall be designated an associate member effective on the first day of the calendar quarter that is not more than twelve months before its proposed date of entry as a member state. Such twelve month period may be extended to eighteen months if the governing board, by unanimous vote approves such extension. Such extension shall be granted only if the petitioning state can present adequate justification of the necessity for the future effective date and that the application of the future effective date beyond twelve months is limited to the provisions of the law for which such necessity is demonstrated. Such states shall be subject to the annual recertification requirement set forth in Section 803 of this Agreement for all issues other than the~~

~~delayed effective date issues identified at the time the state becomes an associate member. Extensions of effective date delays beyond those identified at the time the state becomes an associate member shall require the state to submit a statement of non-compliance pursuant to Section 803. Provided the statutes, rules, regulations or other authorities remain in effect, the state shall automatically become a member state on the state's proposed date of entry.~~

~~D. — A state which becomes an associate member after January 1, 2007 shall forfeit its status as an associate member on the date provided for compliance pursuant to subsection C of this section, if the state's laws are not in compliance at that time. A state that forfeits its status as an associate member because it has extended its effective date for required law changes beyond the date set forth in its petition for membership may not file another petition for membership for a period of twelve months after such state forfeits its status as an associate member.~~

Section 801.1: FULL MEMBERSHIP

A full member is a state that has been found in compliance pursuant to Sections 804 and 805 and the changes to their statutes, rules, regulations or other authorities necessary to bring them into compliance are in effect. The petition for full membership shall include such state's proposed date of entry. The petitioning state's proposed date of entry shall be on the first day of a calendar quarter. The proposed date of entry shall be a date on which all provisions necessary for the state to be in compliance with the Agreement are in place and effective.

Section 801.2: CONTINGENT MEMBERSHIP

A. — A contingent member is a state that is found to be in compliance pursuant to Sections 804 and 805 of the Agreement except that the changes to their statutes, rules, regulations or other authorities necessary to bring them into compliance are not yet in effect. Such state shall be admitted as a contingent member if their statutes, rules, regulations or other authorities necessary to bring them into compliance are scheduled to become effective no later than the first day of a calendar quarter that is not more than twelve months subsequent to its proposed date of entry as a contingent member state. The petition for contingent membership shall include such state's proposed dates of entry as a contingent member and a full member. Its proposed date of entry as a contingent member shall be on the first day

of a calendar quarter that is no more than twelve months prior to the date on which all provisions necessary for the state to be in compliance with the Agreement are in place and effective. Provided the statutes, rules, regulations or other authorities remain in effect and the statutes, rules, regulations or other authorities with delayed effective dates go into effect, the state shall automatically become a full member state on the state's proposed date of entry as a full member. A state which is admitted as a contingent member shall become an associate member on such proposed date of entry if the state's statutes, rules, regulations or other authorities are not in compliance at that time.

B. A contingent member shall have all the rights and privileges of a full member state, except as provided in this subsection. A contingent member shall be responsible for the payment of the petition fee and the annual cost allocation as determined by the governing board. Notwithstanding any provision of this Agreement to the contrary, a seller may, but is not required to collect sales or use tax on sales into a contingent member state unless the seller is otherwise required to collect such taxes under applicable law. Notwithstanding the provisions of Section 401 (B), a seller that volunteers to collect tax in a contingent member state is not required to collect tax in any other contingent member state. A contingent member shall be responsible for payment of costs as provided in Article VI for those sellers that volunteer to collect tax in a contingent member state. Neither the governing board nor a member state may share or grant access to a contingent member state any seller information from the seller's registration pursuant to Section 401. Neither the governing board nor a member state may share or grant access to a contingent member state any seller information from an audit conducted by the governing board or a member state on behalf of the governing board unless the contingent member state is a party to the audit.

C. A contingent member state shall provide amnesty pursuant to the provisions of Section 402, provided, the amnesty shall be in effect from the date the contingent member status is attained until 12 months after the contingent member state becomes a full member state.

D. Contingent member states shall be subject to the annual recertification requirement set forth in Section 803 of this Agreement for all issues other than the delayed effective date issues identified at the time the state becomes a contingent member.

Section 801.3: ASSOCIATE MEMBERSHIP

An associate state is a state that has achieved substantial compliance with the terms of the Agreement taken as a whole, but not necessarily each provision as required by Section 805, measured qualitatively. The petition for associate membership shall include such state's proposed date of entry. The petitioning state's proposed date of entry shall be on the first day of a calendar quarter. An associate member state shall become a full member when such state has been found in compliance pursuant to Sections 804 and 805 and the changes to their statutes, rules, regulations or other authorities necessary to bring them into compliance are in effect.

A. An associate member shall have all the rights and privileges of a member state except that:

1. An associate member may not vote on amendments to or interpretations of the Agreement;

2. An associate member may not vote to determine if a petitioning state is in compliance with the Agreement pursuant to Section 804 of the Agreement; and

3. A representative of an associate member state shall not be eligible to serve on the compliance review and interpretations committee.

B. Notwithstanding any other provision of the section or any lapse occurring after July 1, 2009, a state that was an associate member on January 1, 2007, shall be an associate state until or unless the governing board finds or has found such state to be in compliance pursuant to Section 805 or finds such state to no longer be eligible for associate member status.

C. Notwithstanding any provision of this Agreement to the contrary, a seller may, but is not required to collect sales or use tax on sales into an associate member state unless the seller is otherwise required to collect such taxes under applicable law. Notwithstanding the provisions of Section 401 (B), a seller that volunteers to collect tax in an associate member state is not required to collect tax in any other associate member state. An associate member shall be responsible for payment of costs as provided in Article VI for those sellers that volunteer to collect tax in an associate member state.

D. Neither the governing board nor a member state may share or grant access to an associate member state any seller information from the seller's registration pursuant to Section 401. Neither the governing board nor a member state may share or grant access to an associate member state any seller

information from an audit conducted by the governing board or a member state on behalf of the governing board unless the associate member state is a party to the audit.

E. An associate member shall be responsible for the payment of the petition fee and the annual cost allocation as determined by the governing board.

F. An associate member state shall provide amnesty pursuant to the provisions of Section 402, provided, the amnesty shall be in effect from the date the associate member status is attained until 12 months after the associate member state becomes a full member state.

G. An associate member state shall be subject to an annual recertification requirement set forth by the compliance review and interpretations committee.

Section 801.4: ADVISOR MEMBERSHIP

Any state that held Implementing State status before October 1, 2005 and has not become a full, contingent or associate state member shall become an advisor state to the governing board.

1. Advisor states shall serve in an *ex officio* capacity on the governing board, with non-voting status, but may speak to any matter presented to the governing board for consideration.
2. Each state's delegation to the former Streamlined Sales Tax Implementing States may serve as the state's delegation to the governing board as established herein or the state may appoint a new delegation, of up to four representatives, who shall be members of state or local government.
3. Representatives of advisor states may serve on standing committees of the governing board except they may not serve as officers or directors on the executive committee or as members on the finance committee or the compliance review and interpretations committee.
4. A state that was not previously an implementing state may become an advisor state by:
 - a. Enacting legislation authorizing the state's participation in interstate discussions to develop a simplified sales and use tax system; or

- b. Executing a memorandum of understanding or similar written document by the governor and legislative leaders expressing the intent of the state to participate in interstate discussions to develop a simplified sales and use tax system.
Any question over whether or not a state qualifies as an advisor state shall be resolved by a majority vote of the governing board.

Neither the governing board nor a member state may share or grant any advisor state access to any seller information from the seller's registration pursuant to Section 401. Neither the governing board nor a member state may share or grant any advisor state access to any seller information from an audit conducted by the governing board or a member state on behalf of the governing board.

An advisor state may not participate in a closed session of the governing board or a governing board committee.

Section 702: APPROVAL OF INITIAL STATES

~~Prior to the effective date of the Agreement, a state may seek membership by forwarding a petition for membership and certificate of compliance to the Co-Chairs of the Streamlined Sales Tax Implementing States. The certificate of compliance shall meet the requirements of Section 802. If some changes to a state's statutes, rules, regulations, or other authorities have been adopted, but are not yet in effect, the petition for membership shall include the date on which those changes will be effective. A petitioning state shall also provide a copy of its petition for membership and certificate of compliance to each of the Streamlined Sales Tax Implementing States. A petitioning state shall also post a copy of its petition for membership and certificate of compliance on that state's web site.~~

~~Upon receipt of the requisite number of petitions as provided in Section 701, the Co-Chairs shall convene and preside over a meeting of the petitioning states for the purpose of determining if the petitioning states are in compliance with the Agreement. The meeting shall be convened as soon as practicable after receipt of the requisite number of petitions provided in Section 701. An affirmative vote of three-fourths of the other petitioning states is necessary for a petitioning state to be found in compliance with the Agreement. A petitioning state shall not vote on its own petition for membership.~~

The Co-Chairs shall provide the public with an opportunity to comment prior to any vote on a state's petition for membership.

Section 703: STREAMLINED SALES TAX IMPLEMENTING STATES

A. From the time of ratification of this Agreement until the provisions of Section 701 have been met, the Streamlined Sales Tax Implementing States shall maintain responsibility for the Agreement, including the disposition of all proposed amendments to the Agreement. If the provisions of Section 701 have been met with the use of associate members as defined in Section 704, the Streamlined Sales Tax Implementing States shall be responsible for the disposition of all proposed amendments to and interpretations of the Agreement until such time as the provisions of Section 701 have been met without the use of associate members.

B. Amendments to the Agreement considered by the Streamlined Sales Tax Implementing States shall follow the provisions as set forth in Article IX, Section 901.

C. For a period of not less than six months nor longer than one year after the provisions of Section 701 are met without the use of associate members, the Streamlined Sales Tax Implementing States shall provide advice to the governing board of the Agreement and shall be consulted by the governing board before amending the Agreement.

D. Upon the expiration of the duties of the Streamlined Sales Tax Implementing States as set forth in subsection C, any state that previously held Implementing State status shall become an advisor state to the governing board.

1. ~~Advisor states shall serve in an *ex officio* capacity on the governing board, with non-voting status, but may speak to any matter presented to the governing board for consideration.~~
2. ~~Each state's delegation to the Streamlined Sales Tax Implementing States may serve as the state's delegation to the governing board as established herein or the state may appoint a new delegation, of up to four representatives, who shall be members of state or local government.~~
3. ~~Representatives of advisor states may serve on standing committees of the governing board except they may not serve as officers or directors on the executive committee or as~~

~~members on the finance committee or the compliance review and interpretations committee.~~

- ~~4. A state that was not previously an implementing state may become an advisor state by:~~
 - ~~a. Enacting legislation authorizing the state's participation in interstate discussions to develop a simplified sales and use tax system; or~~
 - ~~b. Executing a memorandum of understanding or similar written document by the governor and legislative leaders expressing the intent of the state to participate in interstate discussions to develop a simplified sales and use tax system.~~

~~Any question over whether or not a state qualifies as an advisor state shall be resolved by a majority vote of the governing board.~~

~~Neither the governing board nor a member state may share or grant any advisor state access to any seller information from the seller's registration pursuant to Section 401. Neither the governing board nor a member state may share or grant any advisor state access to any seller information from an audit conducted by the governing board or a member state on behalf of the governing board.~~

~~An advisor state may not participate in a closed session of the governing board or a governing board committee.~~

Section 704: CONSIDERATION OF PETITIONS

~~A. A petitioning state that is found to be in compliance pursuant to Section 805 of the Agreement and the changes to their statutes, rules, regulations or other authorities necessary to bring them into compliance are in effect shall be designated a member state.~~

~~B. A petitioning state that is found to be in compliance pursuant to Section 805 of the Agreement and the changes to their statutes, rules, regulations or other authorities necessary to bring them into compliance are not in effect, but are scheduled to take effect on or before January 1, 2008, shall be designated an associate member. Provided the statutes, rules, regulations or other authorities remain in effect, the state shall automatically become a member state upon the effective date of the conforming legislation.~~

~~C. A petitioning state that fails to receive an affirmative vote of three fourths of the petitioning states as required under Section 702 may request associate membership. If such a request is made, the petitioning states may grant such membership by majority vote upon a finding that the state has achieved substantial compliance with the terms of the Agreement taken as a whole, but not necessarily each provision as required by Section 805, measured qualitatively, and there is a reasonable expectation that the state will achieve compliance by January 1, 2008. A state that is granted associate membership by this section shall be required to re-petition for full membership under the requirements of the Agreement.~~

~~Section 705: ASSOCIATE MEMBERSHIP~~

~~A. An associate member shall have all the rights and privileges of a member state except that:~~

~~1. An associate member may not vote on amendments to or interpretations of the Agreement when the provisions of Section 701 have been met without the use of associate members; and~~

~~2. An associate member may not vote to determine if a petitioning state is in compliance with the Agreement pursuant to Section 804 of the Agreement.~~

~~3. A representative of an associate member state shall not be eligible to serve on the compliance review and interpretations committee.~~

~~B. A state which is an associate member on January 1, 2007, shall retain such status until the governing board finds such state to be in compliance pursuant to Section 805 or July 1, 2009, whichever is earlier. Any such associate member that has not been found in compliance by July 1, 2009 shall forfeit its status as an associate member. The president of the governing board shall provide an associate member state with the reasons why such state is not in compliance with the Agreement. Forfeiture of its status as an associate member does not preclude a state from re-petitioning for membership pursuant to Section 801.~~

~~C. Notwithstanding any provision of this Agreement to the contrary, a seller may, but is not required to collect sales or use tax on sales into an associate member state unless the seller is otherwise required to collect such taxes under applicable law. Notwithstanding the provisions of Section 401 (B), a seller that volunteers to collect tax in an associate member state is not required to collect tax in any other associate member state. An associate member shall be responsible for payment of costs as provided in Article VI for those sellers that volunteer to collect tax in an associate member state.~~

~~D.—— Neither the governing board nor a member state may share or grant access to an associate member state any seller information from the seller's registration pursuant to Section 401. Neither the governing board nor a member state may share or grant access to an associate member state any seller information from an audit conducted by the governing board or a member state on behalf of the governing board unless the associate member state is a party to the audit.~~

~~E.—— An associate member shall be responsible for the payment of the petition fee and the annual cost allocation as determined by the Streamlined Sales Tax Implementing States or governing board.~~

~~F.—— An associate member state shall provide amnesty pursuant to the provisions of Section 402, provided, the amnesty shall be in effect from the date the associate member status is attained until 12 months after the associate member state becomes a full member state.~~