

**A motion by Oklahoma and North Dakota to amend Sections 327, 805, 805.1, 303, 401, 601 and 602 of the Agreement to (1) require states to follow any specific lists of products or services relating to a term defined in the SSUTA as adopted by the Governing Board; (2) make the additional necessary changes to prevent conflicts within the Agreement related to these changes; and (3) provide that the contract with the CSPs may require a state that is not compliant with the SSUTA to pay higher CSP compensation.**

### **Section 327: LIBRARY OF DEFINITIONS**

Each member state shall utilize common definitions as provided in this section. The terms defined are set out in the Library of Definitions, in Appendix C of this Agreement. A member state shall adhere to the following principles:

- A. If a term defined in the Library of Definitions appears in a member state's sales and use tax statutes or administrative rules or regulations, the member state shall enact or adopt the Library definition of the term in its statutes or administrative rules or regulations in substantially the same language as the Library definition.
- B. A member state shall not use a Library definition in its sales or use tax statutes or administrative rules or regulations that is contrary to the meaning of the Library definition.
- C. Except as specifically provided in Sections 316 and 332 and the Library of Definitions, a member state shall impose a sales or use tax on all products or services included within each Part II or Part III\_(B) definition or exempt from sales or use tax all products or services within each such definition- including all products and services listed in the rules, appendices and interpretive opinions adopted by the governing board. Provided, the requirements of this subsection shall only apply to Part III\_(B) definitions to the extent that such definitions are used in the administration of a sales tax holiday. Pursuant to the procedures in Section 805.1, the Governing Board shall find a member state not in compliance with the Agreement if the member state excludes any product or service that is included within a product definition in violation of the provisions of the Agreement, rules, interpretive opinions or appendices adopted by the Governing Board.

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**Section 805: COMPLIANCE**

- A. A member state is in compliance with the Agreement if the effect of the state's laws, rules, regulations, and policies is substantially compliant with each of the requirements set forth in the Agreement. A state may use different words than those contained in the Agreement, but the effect of the state's laws, rules, regulations, policies and other authorities must comply with each requirement set forth in the Agreement. These requirements shall include the rules, interpretive opinions, and appendices adopted by the Governing Board.
- B. Unless the governing board specifies a different time period, no member state shall be found out of compliance under subsection A for failing to substantially comply with any amendment to the Agreement adopted under section 901 of the Agreement or an interpretation or interpretive rule adopted under section 902 of the Agreement, if substantial compliance with the amendment, interpretation or interpretive rule requires the state to make a statutory change, until the later of the first day of January at least two years after the adoption of the amendment, interpretation or interpretive rule or the first day of a calendar quarter following the end of one full session of the state's legislature.
- C. Unless the governing board specifies a different time period, no member state shall be found out of compliance under subsection A if its noncompliance is a result of a judicial ruling in that state that interprets that term of the Agreement in a manner inconsistent with an interpretation by, or interpretive rule of, the governing board adopted under section 902 of the Agreement and the member state comes into substantial compliance with the interpretation of the governing board by amending its statutes before the later of the first day of January at least two years after the issuance of the judicial decision or the first day of a calendar quarter following one full session of the state's legislature.

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**Section 805.1: FINDING A MEMBER STATE OUT OF COMPLIANCE WITH THE AGREEMENT**

- A. A motion to find a member state is out of compliance shall identify which requirement the member state is alleged not to have substantially complied with, including the applicable section of the Agreement.
- B. For the motion to pass it shall require the affirmative vote of three-fourths of the entire Governing Board, excluding the member state that is the subject of the motion. The member state that is the subject of the resolution shall not vote on such resolution.
- C. The Executive Director shall promptly notify the Governing Board delegates of each member state, the Chair of the Executive Committee, the Chair of the Compliance Review and Interpretation Committee, the Chair of the State and Local Advisory Council, the Chair of the Business Advisory Council and the general public as provided in Rule 806.2(B) when the Governing Board has found a member state out of compliance.
- D. A member state found out of compliance with the Agreement retains its status as a member state and retains all of its rights and responsibilities under the Agreement, subject to any sanctions imposed by the Governing Board under Section 809.
- E. Within 60 days of the Governing Board finding a member state out of compliance, the member state shall submit to the Executive Director a statement of non-compliance, or if applicable an amended statement of non-compliance, consistent with section 803. The Executive Director shall post the statement of non-compliance on the Streamlined Sales Tax Governing Board's website. If the member state intends to file a petition for reconsideration pursuant to Rule 1001, it shall note that fact on its amended statement of non-compliance. The statement shall be further amended if the petition is not filed or, if applicable, to address the outcome of the petition. The state shall also revise the state's taxability

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matrix, and certificate of compliance, as applicable, to clearly describe how the member state's nonconforming provision differs from the requirement of the Agreement.

*See Compiler's Notes for history.*

### **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 shall be registered in each of the member states described in Section 801.1: Full Membership.
- B. A model 2, model 3, or model 4 seller may elect to be registered in one or more states as a seller which anticipates making no sales into such state(s) if it has not had sales into such state(s) for the preceding 12 months. Such election does not relieve the seller of its agreement pursuant to Section 401 (B) to collect taxes on all sales into such states or its liability for remitting to the proper states any taxes collected.
- C. 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.
- D. A written signature from the seller is not required.
- E. An agent may register a seller under uniform procedures adopted by the member states.
- F. 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.
- 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

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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 as a full member as provided in Section 801.1: Full Membership, sellers registered under the Agreement shall be registered in the new state as follows:

1. Model 1 sellers will be automatically registered in such state.

2. Model 2, model 3 and model 4 sellers will be automatically registered in the new state but may elect to be registered as a seller which anticipates making no sales into the new 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. Member states may provide information to sellers concerning other tax return filing options in that 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.

~~K. The provisions of Subsections (B) and (H) of this section shall become effective on January 1, 2010.~~

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**Section 401: SELLER PARTICIPATION**

- A. The member states shall provide an online registration system that will allow sellers to register in all the member states.
- B. By registering, the seller agrees to collect and remit sales and use taxes for all taxable sales into the full member states described in Section 801.1, including member states joining after the seller's registration. Withdrawal or revocation of a member state shall not relieve a seller of its responsibility to remit taxes previously or subsequently collected on behalf of the state.
- C. In member states where the seller has a requirement to register prior to registering under the Agreement, the seller may be required to provide additional information to complete the registration process or the seller may choose to register directly with those states.
- D. A member state or a state that has withdrawn or been expelled shall not use registration with the central registration system and the collection of sales and use taxes in the member states as a factor in determining whether the seller has nexus with that state for any tax at any time.

**Section 601: MONETARY ALLOWANCE UNDER MODEL 1**

- A. Each member state shall provide a monetary allowance to a CSP in Model 1 in accordance with the terms of the contract between the governing board and the CSP. The details of the monetary allowance will be provided through the contract process. The governing board shall require that such allowance be funded entirely from money collected in Model 1.
- B. The contract between the governing board and a CSP may base the monetary allowance to a CSP on one or more of the following:
  - 1. A base rate that applies to taxable transactions processed by the CSP.

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2. 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.

C. The contract between the governing board and a CSP may require a higher compensation amount be paid by states that are not in compliance with the Agreement pursuant to Section 805.

#### **Section 602: MONETARY ALLOWANCE FOR MODEL 2 SELLERS**

The member states initially anticipate that they will provide a monetary allowance to sellers under Model 2 based on the following:

- A. All sellers shall receive a base rate for a period not to exceed twenty-four months following the commencement of participation by a seller. The base rate will be set after the base rate has been established for Model 1. This allowance will be in addition to any discount afforded by each member state at the time.
- B. The member states anticipate a monetary allowance to a Model 2 Seller based on the following:
  1. 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.
  2. Following the conclusion of the twenty-four month period, a seller will only be entitled to a vendor discount afforded under each member state's law at the time the base rate expires.

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C. The governing board may require a higher compensation amount be paid to Model 2 Sellers by states that are not in compliance with the Agreement pursuant to Section 805.

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