

A motion by North Dakota on behalf of the National Diaper Bank Network to amend the Library of Definitions to allow a state to treat “diapers” differently than it treats “clothing.”

(Explanation/background relating to the proposed amendment: Under the current Streamlined Sales and Use Tax Agreement, a state may choose to tax or exempt “clothing.” “Diapers, children and adult, including disposable diapers” are included in the list of what constitutes “clothing.” A Washington legislator, as well as the National Diaper Bank Network (NDBN) contacted the Executive Director and/or certain members of the Business Advisory Council to request that the SSUTA be amended to allow states to tax or exempt diapers differently than other items included in the definition of “clothing.” Several states, including several member states (IA, MI, NV, OK, TN, UT, VT) have had legislative proposals brought forward that would treat diapers differently than clothing. However, due to the limitations contained in the SSUTA, these states were not able to consider these exemptions and remain in compliance with the SSUTA. Therefore, this amendment is being proposed to provide states flexibility in their treatment of diapers. If adopted, the options related to diapers (adult vs. children diapers) will be added to the taxability matrix and states would need to indicate the sales/use tax treatment of those products in their state.

CLOTHING

“Clothing” means all human wearing apparel suitable for general use. The following list contains examples and is not intended to be an all-inclusive list.

A. “Clothing” shall include:

1. Aprons, household and shop;
2. Athletic supporters;
3. Baby receiving blankets;
4. Bathing suits and caps;
5. Beach capes and coats;
6. Belts and suspenders;
7. Boots;
8. Coats and jackets;
9. Costumes;
10. Diapers, children and adult, including disposable diapers;
11. Ear muffs;
12. Footlets;
13. Formal wear;
14. Garters and garter belts;
15. Girdles;
16. Gloves and mittens for general use;

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17. Hats and caps;
18. Hosiery;
19. Insoles for shoes;
20. Lab coats;
21. Neckties;
22. Overshoes;
23. Pantyhose;
24. Rainwear;
25. Rubber pants;
26. Sandals;
27. Scarves;
28. Shoes and shoe laces;
29. Slippers;
30. Sneakers;
31. Socks and stockings;
32. Steel toed shoes;
33. Underwear;
34. Uniforms, athletic and non-athletic; and
35. Wedding apparel.

B. “Clothing” shall not include:

1. Belt buckles sold separately;
2. Costume masks sold separately;
3. Patches and emblems sold separately;
4. Sewing equipment and supplies including, but not limited to, knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, and thimbles; and
5. Sewing materials that become part of “clothing” including, but not limited to, buttons, fabric, lace, thread, yarn, and zippers.

C. A member state may exclude items under subsection A.10, “Diapers, children and adult, including disposable diapers,” from the definition of “clothing.” A state may limit the

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exclusion to children or adult diapers. “Diaper” means an absorbent garment worn by humans who are incapable of, or have difficulty, controlling their bladder or bowel movements.

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