Section 309: APPLICATION OF GENERAL SOURCING RULES AND EXCLUSIONS FROM THE RULES

A. Each member state shall agree to require sellers to source the retail sale of a product in accordance with Section 310. The provisions of Section 310 apply regardless of the characterization of a product as tangible personal property, a digital good, or a service. The provisions of Section 310 only apply to determine a seller's obligation to pay or collect and remit a sales or use tax with respect to the seller's retail sale of a product. These provisions do not affect the obligation of a purchaser or lessee to remit tax on the use of the product to the taxing jurisdictions of that use.

B. Sections 310 and 312 do not apply to sales or use taxes levied on the following:

1. The retail sale or transfer of watercraft, modular homes, manufactured homes, or mobile homes. These items must be sourced according to the requirements of each member state.

2. The retail sale, excluding lease or rental, of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment, as defined in Section 310, subsection (D). The retail sale of these items shall be sourced according to the requirements of each member state, and the lease or rental of these items must be sourced according to Section 310, subsection (C).

3. Telecommunications services and ancillary services, as set out in Section 315, and Internet access service shall be sourced in accordance with Section 314.

4. Florist sales as defined by each member state. Such sales must be sourced according to the requirements of each member state.

Compiler's note: On October 1, 2005 Section 309 (B)(4) was amended by deleting 2005 and inserting 2007. The amendment to this section became effective upon adoption. Compiler’s note: On December 14, 2006 Section 309 (b) was amended as follows: “Sections 310 and 312 do,” and 309 (B) (3) was amended by adding “and ancillary services” following “services” and “and Internet access service” before “shall”.

Compiler’s note: On June 23, 2007 the date in subsection B 4 was changed from “December 31, 2007” to December 31, 2009.”

Compiler’s note: On September 5, 2008 Section 309 (B)(4) was amended to delete “Until December 31, 2009,” at the beginning of the first sentence and to replace “Prior to this date, these items” at the start of the second sentence with “Such sales.” The amendment became effect upon its adoption.