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Chair, Nevada Tax Commission

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July 31, 2013

Craig Johnson
Executive Director
Streamlined Sales Tax Governing Board, Inc.
4219 Hillsboro Pike, Suite 234
Nashville, TN 37215

Re: Nevada 2013 Recertification

Dear Mr. Johnson:

Pursuant to SSTGB Rule 803.A., this is our statement certifying that the state of Nevada is in substantial compliance with the SSUTA as it exists on August 1, 2013. The following are issues that appeared on the CI12001A05 Annual Review spreadsheet of 2012.

Issue No. 1: The State had not fully implemented ACH credit payments. SSUTA 319.C

Response: The State of Nevada has now fully implemented ACH credit payments.

Issue No. 2: Direct Mail Sourcing. SSUTA 313. The state adopted direct mail sourcing provisions legislatively in 20011. The new statute provides that if a purchaser gives a direct mail form or other written form or exemption certificate claiming direct mail, a seller who maintains a place of business in the state must collect tax to locations in the state where the direct mail is delivered. The agreement provides that all sellers are relived of any obligation to collect tax if they receive such documentation.

Response: Nevada's sales and use tax was ratified by public referendum. Consequently, substantive cannot be amended except by a direct vote of the people. Interpretive and procedural amendments have been periodically through ordinary legislative processes. S.B. 34, as originally proposed by the department, was rejected by legislative counsel because they deemed it to be substantive in nature, thus requiring approval by the voters. S.B. 34 as enacted was drafted and approved by legislative counsel for passage by the legislature. The bill authorized the use of direct pay permits in connection with the sale of advertising

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materials distributed by direct mail. However, it does not relieve liabilities for all sellers, but only for those without nexus. Under Nevada law a direct pay permit will rarely accomplish anything that could not be accomplished by a resale certificate. The sales and use tax is imposed upon the last transaction in a chain of commerce. In Nevada, this hold true for advertising materials, other than "primary advertising material, when distributed via direct mail. See NAC 372.130. In the context of direct mail, the tax is imposed upon the transaction between the in-state seller and the small business owner. The out-of state party may take a resale certificate from the in-state seller, thereby avoiding any collection obligation. A direct pay permit would serve no purposes in this context because the small business owner (i.e., the consumer) would rarely if ever be asked to pay the tax directly to the state. the Department considers the matter of S.B. 34 to be a minor issue which should not impact its ability to remain a full member under the agreement, non the less that Department commits to further clarify this issue through the legislature process in future sessions or through the regulatory process.

I hope that the responses are adequate to address any concerns. If not, my staff and I will be available at the Annual Recertification meeting.

The attached Certificate of Compliance and Taxability Matrix are posted on our Department Website.

Sincerely,

Dwaine E. Cortine, Deputy Executive Director for

Christopher G. Nielsen
Executive Director