



STATE OF NEW JERSEY  
DEPARTMENT OF THE TREASURY  
DIVISION OF TAXATION  
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September 3, 2010

Mr. Scott Peterson, Executive Director  
Streamlined Sales Tax Governing Board  
4250 Hillsboro Pike, Suite 305  
Nashville, TN 37215-3339

Dear Executive Director Peterson:

This letter is submitted pursuant to the requirements of Section 803 of the Streamlined Sales and Use Tax Agreement (SSUTA). I attach New Jersey's Certificate of Compliance and Taxability Matrix as of this date.

New Jersey is of the opinion that it is not in substantial compliance with the Streamlined Sales and Use Tax Agreement. However, all of the identified compliance issues are resolved in a bill that was introduced in the New Jersey legislature on June 24, 2010 (Assembly 3058/Senate 2136). We believe that once the New Jersey Legislature is back in session in the fall, there will be movement on this bill. The following are the issues that we have identified based on New Jersey's current statutes and regulations:

1. Regarding relief for sellers if the Division fails to provide for at least 30 days between the enactment of a rate change and the effective date of the rate change, the Division has included the required language in the proposed legislation (A3058/S2136, Section 12, amending N.J.S.A. 54:32B-14).
2. Regarding specified digital products, New Jersey law currently imposes tax on every sale of digital property which is defined as electronically delivered music, ringtones, movies, books, audio and video works and similar products, where the customer is granted a right or license to use, retain or make a copy of such item. Digital property includes only those products currently defined in the SSUTA as specified digital products, so the tax base is the same. The tax is currently applied to sales of digital property for less than permanent use and those that require continuing payments. The state is required to separately impose tax on sales of specified digital products for less than permanent use and those that require continuing payments. We have separately imposed tax in this manner in the proposed legislation (S3058/A2136, Section 2, amending N.J.S.A. 54:32B-3(a)). We have also replaced the term digital property with the term specified digital products in our law.

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3. Regarding remittances, the Division has a regulation that mirrors section 319 of the SSUTA. See N.J.A.C. 18:24B-1.4(a), adopted August 3, 2009. However, when N.J.A.C. 18:24B-1.4(a) was adopted, the Division neglected to repeal the prior regulatory provision concerning remittances, as set forth in N.J.A.C. 18:24-11.2. This regulation, which has been in effect since July 1, 1996, requires a monthly remittance in any month that a seller has a sales tax liability exceeding \$500. (New Jersey requires quarterly returns and monthly remittances if this threshold is met) The Division will propose a repeal of N.J.A.C. 18:24-11.2(b).

Our intention for the immediate future is to post a web notice which refers to the more recent regulatory provision reflecting the \$30,000 in annual sales threshold and to revise any publications which refer to the prior \$500/month threshold. Since the relevant provisions of Section 319 are in New Jersey's Administrative Code as of August 2009, we believe that these provisions should be deemed to supersede the outdated Code provision on the same subject matter. Therefore, we do not believe that this is a compliance issue but we are calling it to your attention in case you disagree.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



Denise Lambert-Harding  
Deputy Director  
Division of Taxation

DLH/pa  
c: Michael Bryan, Acting Director  
Chris Jeter, Asst. Treasurer

Enclosures