STREAMLINED SALES TAX GOVERNING BOARD, INC.

RULES AND PROCEDURES

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Rule 309.1 – Sourcing Certain Transactions

Sections 309, 310 and 311 of the Streamlined Sales and Use Tax Agreement (SSUTA) contain the general sourcing regime. Rules 309.1, 309.2, 309.3, 309.4, and 309.5 describe the application of Sections 309, 310 and 311 of the SSUTA to prewritten software transactions, to computer-related services, sourcing software post-sale support agreements, software term licenses, and software subscriptions. Retail sales of software, or services with respect to such software, other than computer pre-written software, are not covered by Rules 309.1, 309.2, 309.3, 309.4, and 309.5. For purposes of Rules 309.1, 309.2, 309.3, 309.4, and 309.5, "location" means a geographic situs within a particular jurisdiction. Under Section 309 of the SSUTA, the provisions of Rules 309.1, 309.2, 309.3, 309.4, and 309.5 do not affect the obligation of a purchaser or lessee to remit tax on the use of the product to the tax jurisdiction of that use.

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Rule 309.2 – Sourcing Prewritten Computer Software

Using the hierarchy outlined in section 310 of the SSUTA, prewritten computer software is sourced as follows:

When prewritten computer software is received by the purchaser at a business location of the seller, the retail sale is sourced to that business location.

When prewritten computer software is not received by the purchaser at a business location of the seller, the retail sale is sourced to the location(s) where receipt by the purchaser occurs. Receipt may occur at multiple locations if the seller delivers the software to multiple locations. The transaction is sourced to those locations if the seller receives delivery information from the purchaser by the time of the invoice.

> **Example 1:** Seller ships multiple hard copies of prewritten computer software to multiple locations of the Purchaser. The retail sale is sourced to those locations indicated by the instructions for delivery to each jurisdiction in which the Purchaser receives the prewritten computer software.
>
> **Example 2:** Seller electronically delivers copies of the prewritten computer software to multiple locations of the Purchaser. The Seller has the information identifying the multiple locations for the electronic delivery of the prewritten computer software. The Seller sources the retail sale to each jurisdiction where the Purchaser receives the prewritten computer software.
>
> **Example 3:** Seller electronically delivers prewritten computer software to the Purchaser's server in State A. The Seller has information identifying the location of the server in State A. Purchaser subsequently downloads copies of the prewritten computer software to its multiple locations. The Seller sources the retail sale to the jurisdiction

where the Purchaser receives the prewritten computer software, at the location of the server in State A. Seller has no responsibility to source the retail sale to any other state.

Example 4: Purchaser headquartered in State A also has locations in States B and C. The Seller electronically delivers prewritten computer software to the Purchaser's server located in State B. The Seller has information identifying all of these locations. The Purchaser's prewritten computer software will be accessed by its employees in all three states. The Seller sources the retail sale to the jurisdiction where the Purchaser receives the prewritten computer software, at the location of the server in State B. Seller has no responsibility to source the retail sale to any other state.

When subsections (1) and (2) of this rule do not apply, the retail sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of business when use of this address does not constitute bad faith.

Example 1: Seller electronically delivers prewritten computer software to an unknown location(s) of the Purchaser. The Seller has information identifying an address that is maintained in the Seller's files for business purposes. The Seller sources the retail sale to the jurisdiction for the address of the business location of the Purchaser available in the Seller's business records.

When subsections (1), (2), and (3) of this rule do not apply, the retail sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the retail sale, including the address of a purchaser's payment instrument if no other address is available when this address does not constitute bad faith.

Example 1: The Seller makes retail sales of prewritten computer software by allowing Purchasers to electronically download the prewritten computer software from Seller's website. In connection with the retail sale, the Purchaser discloses an address associated with the credit card used to pay for the prewritten computer software. This is the only location information the Seller receives from the Purchaser in connection with the retail sale. The Seller sources the retail sale to the jurisdiction of the address for the Purchaser associated with the credit card payment.

When neither subsections (1), (2), (3), or (4) of this rule apply, including circumstances in which the seller is without sufficient information to apply subsections (1), (2), (3), or (4) of this rule, then the retail sale is sourced to the jurisdiction for the address of the location from which the prewritten computer software was shipped or, if delivered electronically, was first available for transmission by the seller. "First available for transmission" means the location from which the software originated, irrespective of where it is routed, including intermediary servers.

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Rule 309.3 – Sourcing Computer-Related Services

A retail sale of a computer-related service (hereinafter a "service") is sourced where the purchaser receives the service. "Receipt" is defined in Section 311 of the SSUTA to mean where the purchaser makes first use of the service. The purchaser may make first use of a service in more than one location.

If the purchaser receives the service at a business location of the seller, the retail sale is sourced to that business location of the seller.

> **Example 1:** A Purchaser drops off two of its computers at a Seller's location for the purpose of having data recovered from one computer and transferred to the second computer. Upon the completion of the service, the Purchaser picks up the computers at the Seller's location. The retail sale of the service is sourced to the Seller's location.

When the service is not received by the purchaser at a business location of the seller, the retail sale is sourced to the location(s) where receipt by the purchaser occurs.

If the service is received by the purchaser exclusively at one or more locations of the purchaser and the amount of the service received by the purchaser at each location is known by the seller, the retail sale is sourced to those locations.

> **Example 1:** A Purchaser receives computer services at the Purchaser's location. The retail sale of computer services is sourced to the Purchaser's location.
>
> **Example 2:** Seller sends computer repair personnel to two of Purchaser's locations to perform data recovery services in States A and B. Seller bills Purchaser at an hourly rate for the work performed by its employee. The Seller's employee tracks its time based on the work performed at each location. The Seller shall source the retail sale to States A and B in accordance with the time spent at each location.
>
> **Example 3:** Purchaser, with a single location in State A, accesses, but does not license, software located on Seller's server located in State B, which is characterized in both States A and B as a computer-related service. The Seller knows that the Purchaser makes first use of this service at its location in State A. Seller sources the transaction to State A.

If receipt occurs in multiple locations and the purchaser and seller agree to allocate the retail sale to multiple locations based on a reasonable and consistent method, the seller shall source the retail sale to those locations using such method. **The locations and allocation must be provided by the purchaser by the time of the invoice.**

> **Example 1:** Purchaser, headquartered in State A, and Seller enter into a data processing services agreement. Under the agreement, Seller will conduct the data processing services from its facility located in State P. Purchaser has employees evenly distributed in States A, B, C, and D who will be accessing Seller's facility remotely using a communications network and making use of Seller's data processing services. Purchaser requests that Seller's invoice reflect the fact that it will be receiving the data processing services equally in States A, B, C, and D. Seller agrees to the Purchaser's request and

sources the transaction between the four states where the Purchaser will be receiving the services. Seller has satisfied its responsibility for sourcing the transaction under Section 310(A)(2).

If the seller does not receive information as to the location(s) where the service will be received by the purchaser or the purchaser and seller do not agree, the seller shall source the retail sale to a single location in accordance with subsection (3), below.

Example 1: Purchaser is located in States A, B, C, and D. Purchaser and Seller enter into a data processing services agreement. Under the agreement, Seller will conduct the data processing services from its facility located in State P. Purchaser's employees in States A, B, C, and D will be accessing Seller's facility remotely using a communications network and making use of Seller's data processing services, but this information is not provided to the Seller. Seller sends the invoice to Purchaser in State A. Seller sources the transaction to State A. Seller has no responsibility for sourcing the transaction to any other state.

(3) When subsections (1) and (2) of this rule do not apply, the retail sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of business when use of this address does not constitute bad faith.

Example 1: Purchaser accesses software located on the Seller's server from an unknown location. Seller's server is located in State A. The Seller has business records that identify the Purchaser's address as State B. The retail sale of access services is sourced to State B, where the Purchaser receives the service.

(4) When subsections (1), (2), and (3) of this rule do not apply, the retail sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the retail sale, including the address of a purchaser's payment instrument, if no other address is available, when this address does not constitute bad faith.

(5) When neither subsections (1), (2), (3), or (4) of this rule apply, including circumstances in which the seller is without sufficient information to apply subsections (1), (2), (3), or (4) of this rule, then the location is determined by the address from which the service was provided.

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Rule 309.4 – Sourcing Computer Software Maintenance Contracts

(1) The initial retail sale of a computer software maintenance contract sold by the seller of the software is sourced to the same address(es) as the retail sale of the underlying software.

(2) (a) The retail sale of a computer software maintenance contract sold after the retail sale of the underlying software, the renewal of a computer software maintenance contract, or the retail sale of a computer software maintenance contract by a seller other than the seller of the

software is treated separately from the retail sale of the underlying software and shall be sourced in accordance with Section 310(A) of the SSUTA.

(b) Where Section 310(A)(1) and (2) of the SSUTA do not apply, sourcing a retail sale of a renewal of a computer software maintenance contract to an address where the purchaser received the underlying software will not constitute bad faith so long as the seller has not received information from the purchaser indicating a change in the location of the underlying software.

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Rule 309.5 – Sourcing Software Term License and Subscriptions

(1) **Definitions**: As used in this section

(a) the term "software subscription" means a transaction requiring additional payments for updates to prewritten computer software and

(b) the term "software term license" means a transaction where the purchaser's right to continue to use prewritten software is dependent on periodic payment.

(2) **Initial Payments**: Initial payments made in connection with a software term license or subscription shall be sourced in accordance with Section 310A of the SSUTA.

Example 1: Seller electronically delivers to Purchaser a copy of prewritten computer software on a subscription basis. The software is a product designed to detect online threats. In order to remain effective, the software must be constantly updated with new threat definitions. The subscription provides the Purchaser with electronically delivered updates for a one year period. The Purchaser may renew the subscription annually. The Seller has no information as to the location where the software was electronically delivered. However, the Purchase Order discloses a "ship to" address. Seller sources the sale to the "ship to" address shown on the Purchase Order as such address constitutes a "location indicated by instructions for delivery to the purchaser" under Section 310A(2).

Example 2: Same facts as in Example 1 except the Purchaser is a consumer who downloads the software from the Internet and uses a credit card to pay for the software and the subscription to the updates. During the consummation of the sale, seller receives no information regarding the location to which the software and the subscription will be delivered, but does receive the Purchaser's credit card billing address. Seller sources the transaction to the Purchaser's credit card billing address because it is a location indicated by an address for the purchaser obtained during the consummation of the sale under Section 310A(4) and because the Seller has no delivery or other address in its business records that would permit sourcing under either Section 310A(2) or (3).

Example 3: Seller delivers to purchaser a copy of prewritten computer software. The license is for a 1-year period and requires the purchaser to make payments to renew the

license. If the purchaser does not make an annual payment, the purchaser must terminate use of the software and the software may cease to function. Seller ships the software on a disk to purchaser in State A. Seller sources the initial license payment to State A, the location to which it shipped the software, as determined under Section 310A (2).

(3) **Subsequent payments**: The following rules apply if the seller sourced the initial payment under Section 310A (2):

(a) If the seller receives information from the purchaser indicating that the location of the underlying software has changed, a subsequent payment made in connection with a software term license or renewal of a software subscription shall be sourced to such new location.

(b) If the seller has not received information from the purchaser indicating a change in the location of the underlying software, sourcing a subsequent license payment made in connection with a software term license or the renewal of a software subscription to the same location where the initial payment was sourced will not constitute bad faith.

Example 4: Same facts as in Example 1, above, except the Purchaser renews the software subscription for a second year. The Purchase Order for the renewal discloses a different "ship to" address than the Purchase Order for the initial sale of the subscription. The different "ship to" location on the renewal Purchase Order constitutes the receipt by the Seller of information indicating that the location of the underlying software has changed. Seller sources the renewal to the new address.

Example 5: Same facts as in Example 4 except that the Purchase Order for the renewal discloses a different "bill to" address than the Purchase Order for the initial sale of the subscription. The "ship to" address on the Purchase order remains the same. A change in the "bill to" address on the Purchase Order does not constitute the receipt of information from the purchaser indicating that the location of the underlying software has changed. The Seller sources the renewal payment to the same location as the initial payment.

Example 6: Same facts as in example 2 except that the Purchaser has moved and has a new credit card billing address. The Purchaser uses the credit card and the new address when renewing the software subscription for a second year. In the interim, Seller has received no information concerning the location of the software. Because the initial payment was not sourced under Section 310A(2), Seller's use of the new credit card address for sourcing the renewal payment would not constitute bad faith under Section 310A(4).

Example 7: Same facts as in Example 3, except that after the software copy was delivered to purchaser in State A, the purchaser installs the software on a computer located in State B. Seller never receives any information that the software is located in any state other than the one to which it originally shipped it. Purchaser renews the license at the end of the first year and seller sources the renewal payment to State A. Because seller has not received any information indicating that the location of the software has changed, Seller's sourcing of the license renewal payment to State A does not constitute bad faith.

Example 8: Seller sells to purchaser prewritten computer software under a perpetual license for $3 million. Seller agrees to finance the license fee over a 3-year period under which the purchaser will make three equal annual payments. Seller sends purchaser an invoice that includes the first annual payment plus 100 percent of the sales tax due on the transaction. Seller thus collects and remits all of the tax due with respect to the transaction at the time of the sale. The subsequent payments are not made in connection with a software term license or subscription within the meaning of Rule 309.5(2) and no sourcing is necessary.

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Rule 310 [Reserved]

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Rule 311.1 – Receipt of Services Generally

A. Except as otherwise provided in the Streamlined Sales and Use Tax Agreement, sellers of services are to source the sales of those services under the general destination sourcing regime of section 310.A of the Agreement. Section 310.A.1 provides that in cases where the service is received by the purchaser at a location of the seller, the seller is to source the service to that location under section 310.A.1 of the Agreement. If the purchaser receives the service at any other location, and that location is known to the seller, the sale of the service is sourced to that location. If the location of receipt by the purchaser is unknown to the seller of the service, the seller should source the sale of the service according to the provisions of section 310.A.3, 4 or 5 of the Agreement as appropriate.

B. In determining whether to apply the provisions of sections 310.A.1 and 310.A.2 to a sale of a service, it is necessary to determine the location where the service is "received" by the purchaser. Section 311.B of the Agreement defines "receive" and "receipt" with regard to sales of services as, making first use of services." For purposes of applying this definition, the location (or locations) where the purchaser (or the purchaser's donee) can potentially first make use of the result of the service is the location (or locations) of the "receipt" of the service. The location where the seller performs the service is not determinative of the location where the purchaser "receives" the service.

C. This rule and subsequent rules in the 311 series, clarify the application of the definition of "receive" or "receipt" to various categories of services to assist in applying the sourcing provisions of sections 310.A.1 and 310.A.2 to sales of services. The provisions of these rules do not affect the obligation of a purchaser or lessee to remit additional tax, if any, to another taxing jurisdiction based on the use of the service at another location.

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Rule 311.2 – Receipt of Services Performed On Tangible Personal Property

A. 1. A service performed on tangible personal property is a service that changes some aspect of the property, such as its appearance or function. Services with respect to tangible personal property, such as inspection and appraisal, are not addressed in this rule.

2. Examples of services performed on tangible personal property include, but are not limited to:
(a) Repair, calibration or maintenance of tangible personal property;
(b) Painting or refinishing tangible personal property, including motor vehicle painting or detailing;
(c) Washing or cleaning tangible personal property, including laundry or dry cleaning services, and motor vehicle washing services;
(d) Some veterinary services and animal grooming services.

B. Except as otherwise provided in the Streamlined Sales and Use Tax Agreement or the rules adopted by the Governing Board, a service performed on tangible personal property is received, within the meaning of section 311.B of the Agreement, at the location where the customer can potentially make first use of the tangible personal property on which the seller performed the service. In general, this is the location where the tangible personal property is returned to the purchaser (or the purchaser's donee).

C. The following examples illustrate the proper determination of the location of "receipt" for services performed on tangible personal property.

1. Repair or maintenance of tangible personal property.
(a) A resident of State A takes a lawnmower to a repair shop in State B to have the engine serviced and the blade sharpened. When the lawnmower is ready, the owner picks it up at the repair shop. The repair service is received at the repair shop location in State B since the owner first has possession of the repaired item at that location. The repair transaction is sourced to State B under the provisions of Section 310.A.1 of the Agreement.

(b) Same facts as in Example C.1.a above except that the repair shop delivers the repaired lawnmower to the owner's residence in State A. In this case, the owner receives the service at that residence in State A since that is the location where the lawnmower is returned to the owner of the lawnmower. This repair transaction is sourced to the owner's residence in State A according to the provisions of Section 310.A.2 of the Agreement.

(c) A homeowner in County Z contacts an appliance repair service provider located in County Y to have a clothes dryer repaired. The repair service provider dispatches a technician to the owner's home to make the needed repairs. The owner receives the repair service in County Z since the repaired dryer remains at that location. This transaction is sourced to County Z under the provisions of Section 310.A.2 of the Agreement.

(d) A manufacturer in State A uses gauges in its production process to assure its product meets specifications. Periodically, the manufacturer ships the gauges to a laboratory in State B to verify that they are producing proper measurements. The laboratory tests the gauges and adjusts the calibration on the gauges. The laboratory ships the gauges back to the manufacturer's location in State A. Therefore, the transaction is sourced to the location of the manufacturer in State A according to the provisions of Section 310.A.2 of the Agreement. If, on the other hand, the manufacturer picks up the calibrated gauges from the testing laboratory in State B, the transaction is sourced to its business location in State B according to the provisions of Section 310.A.1.

(e) Same facts as in Example C.1.d. above, except that the manufacturer hires a shipping company, such as a common or contract carrier, to pick up the tested and recalibrated gauges and deliver them to the manufacturer's location in State A. Since Section 311 of the Agreement provides that the terms "receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser, the transaction is sourced to the manufacturer's location in State A according to the provisions of Section 310.A.2 of the Agreement.

2. Painting or refinishing tangible personal property.

(a) A law office in County Y has some antique bookcases it wishes to have refinished. The bookcases are picked up by a refinisher and taken to the refinisher's shop in County Z. The refinished bookcases are then delivered by the refinisher to the law office. The transaction is sourced to the location of the law office in County Y according to the provisions of Section 310.A.2 of the Agreement. If, instead, the law office sends one of its employees to the refinisher to pick up the refinished bookcases, the transaction is sourced to the refinisher's location in County Z according to the provisions of Section 310.A.1 of the Agreement.

(b) A business hires a painter to paint several file cabinets. The painter does the painting on site at the purchaser's office location. Because the file cabinets remain at the same location, the transaction is sourced to the purchaser's office location according to the provisions of Section 310.A.2 of the Agreement.

3. Cleaning tangible personal property.

(a) An individual takes laundry to a dry cleaner's store. After the clothing is cleaned, the purchaser returns to the dry cleaner to pick up the clothing. The dry cleaner returns the clothes to the purchaser at the dry cleaner's store. The transaction is sourced to the location of the store according to the provisions of Section 310.A.1 of the Agreement.

(b) An automobile is delivered to a car wash. The car wash operator cleans the automobile while the owner waits at the facility. When the automobile is cleaned, it is returned to the owner. The purchaser makes first use of the car washing service at the car wash location since that is where the cleaned automobile is returned. The transaction is

sourced to the location of the car wash according to the provisions of Section 310.A.1 of the Agreement.

4. Certain veterinary services and animal grooming services.

(a) Drug company in State A is conducting a clinical trial of a livestock vaccine. The drug company hires a veterinarian in State B to inoculate cattle owned by a rancher in State C. The veterinarian goes to State C and inoculates the rancher's cattle with the drug company's vaccine. The veterinary services are received at the ranch in State C. The sale of the veterinary services is sourced to State C according to Section 310.A.2 of the Agreement.

(b) A pet owner in County Y takes a pet to a veterinarian in County Z for treatment. The treatment is performed at the veterinarian's office in County Z. The owner receives the treated pet at the veterinarian's office. The transaction is sourced to County Z according to the provisions of Section 310.A.1 of the Agreement.

(c) Same facts as in example C.4.b above except that the veterinarian has an employee deliver the treated pet to the owner's home. In this case, the owner receives the treated pet at the pet owner's home in County Y. The transaction is sourced to County Y according to the provisions of Section 310.A.2 of the Agreement.

(d) A pet owner hires a mobile pet washing service to come to County Y and bathe a dog. The dog never leaves the owner's home. The pet washing service transaction is sourced to the pet owner's home in County Y according to the provisions of Section 310.A.2 of the Agreement.

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Rule 311.3 – Receipt of Personal Care Services

A. 1. **Scope of rule.** This rule addresses receipt for sales of personal care services. In the context of this rule, "personal care services" refers to services that are performed on the physical human body.

2. **Personal care services covered by this rule.** This subsection provides a non-exclusive list of personal care services covered by this rule. The examples are not intended to describe any particular type of service activity as defined under state law. Personal care services include, but are not limited to:

a. Beautician/barber services, such as hair, skin, and nail care services,
b. Hair removal or replacement;
c. Massage services;
d. Tattoo and body piercing services;
e. Healthcare services, such as

- Physical, dental, or vision examinations
- Surgery
- Physical or occupational therapy
- Speech pathology and audiology services
- Hospice services
- Taking of tissue/blood for testing purposes

3. S**ervices outside the scope of this rule.** Examples of services that are not addressed in this rule include:

a. Medical services performed remotely;
b. Dating services;
c. Biopsy or other medical testing services on body tissue or fluids;
d. Preparing the dead for burial or interment;
e. Funeral services;
f. Dues and fees paid for a membership to a fitness club;
g. Instructions, lessons and physical fitness training; and
h. Personal care services available at multiple locations pursuant to a single payment

B. 1. **Sourcing of personal care services.** Except as otherwise provided in the Streamlined Sales and Use Tax Agreement or the rules adopted by the Governing Board, a purchaser "receives" a personal care service within the meaning of section 311.B of the Agreement at the location where the services are performed, which is the same location where the services are received by the purchaser (or the purchaser's donee). The services will be received by the purchaser (or the purchaser's donee) either at the seller's location, 310 (A)(1) or at the purchaser's (or the purchaser's donee) location, 310 (A)(2).

2. **Examples:** The following examples illustrate the location of "receipt" of personal care services.

a. **Sourcing to 310 (A)(1) – Seller's place of business.** Mark, a resident of State A, drops into a beautician's store location to have his hair cut and styled. The store location is in State B. The beautician is providing personal care services and the sale of these services must be sourced to the location where the services are received (place of first use). Mark makes first use of the services in State B where his hair is first cut and styled.

b. **Sourcing to 310 (A)(1) – Seller's place of business.** Janet has skin tissue samples removed at a medical clinic. The medical clinic is providing personal care services and the sale of these services must be sourced to the location of the medical clinic since this is where the services are received (place of first use).

Any further testing of the skin samples is not personal care services and is not within the scope of this rule.

c. **Sourcing to 310 (A)(2) – Other place of receipt known to the seller.** Sarah, a resident of State A, contacts a massage therapist located in State B for a therapeutic massage. Sarah requests that the therapist perform the massage at her residence in State A. The therapist travels to Sarah's residence and performs the massage. The therapist is providing personal care services and the sale of these services must be sourced to the location where the services are received (place of first use). Sarah makes first use of the services in State A where the massage is performed.

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Rule 312 [Reserved]

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Rule 313.1 – Sourcing Direct Mail

A. Sourcing of "Advertising and Promotional Direct Mail"

1. Retail sales that include both the printing and delivery or mailing of "advertising and promotional direct mail" as defined in Section 313.C.1 are sourced under Section 313 (or 313.1 for states adopting the origin-based direct mail sourcing provision). This includes sales characterized under state law as the sale of a service when that sale results in printed material that meets the definition of "advertising and promotional direct mail."

2. The purchaser may provide the seller with (a) a direct pay permit issued to the purchaser for the portion of the sale that is sourced to the state that issued the permit , (b) a fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption claiming "Direct Mail," or other exemption certificate or written statement approved, authorized or accepted by the state where the sale is sourced notifying the seller that the purchaser will remit tax directly to a state, or (c) information showing the jurisdictions to which the "advertising and promotional direct mail" is delivered to recipients, hereinafter referred to as "jurisdictional information."

   a. Sourcing – Direct Pay Permits and Certificates
   Purchasers providing a direct pay permit, certificate claiming "Direct Mail" or other approved, authorized or accepted statement for "advertising and promotional direct mail" delivered to recipients in a state must source the purchase of the "advertising and promotional direct mail" to the jurisdictions within the state to which the "advertising and promotional direct mail" is delivered to recipients or for states adopting Section 313.1 origin-based direct mail sourcing according to Section 310.A.5. Purchasers may use a reasonable summary or allocation of the distribution to the jurisdictions to which the "advertising and

promotional direct mail" is delivered as described in subsection A.3.b of this rule for purposes of self-assessing and directly paying sales or use tax. In the absence of bad faith, the seller is relieved of an obligation to collect, pay, or remit any tax for that state on any transaction involving "advertising and promotional direct mail" to which the permit, certificate or statement applies.

b. Sourcing – Jurisdictional Information
When the purchaser provides "jurisdictional information," for "advertising and promotional direct mail" delivered to a state, the seller is required to source the sale based on the "jurisdictional information," and collect and remit tax provided the transaction is subject to sales or use tax in the state. The seller is relieved of any further obligation to collect tax for that state on the retail sale when the seller has sourced and collected tax pursuant to the "jurisdictional information" provided by the purchaser.

Nothing in this rule requires the seller to collect or remit any applicable tax for states in which the seller is not registered to collect or remit tax, unless the seller is otherwise required to be registered in that state based on either state or federal law, or has registered through the Streamlined Sales Tax registration system. The purchaser remains obligated to remit any applicable tax on the "advertising and promotional direct mail" delivered to recipients in jurisdictions where the seller is not required to collect, or for any other reason, does not collect the tax for the appropriate jurisdictions.

c. Sourcing – Default
If the purchaser does not provide the seller with any of the items listed in Section 313.A.1 of the SSUTA, the seller shall source the retail sale to the address from which the direct mail was shipped in accordance with Section 310.A.5 of the SSUTA. The state to which "advertising and promotional direct mail" is delivered has the option of allowing or not allowing credit to the purchaser for tax paid to the seller when the "advertising and promotional direct mail" has been sourced according to Section 310.A.5.

3. **Sourcing with "Jurisdictional Information"**.
In order for the seller to properly source "advertising and promotional direct mail" the purchaser must provide the seller with information showing the jurisdictions where the "advertising and promotional direct mail" is to be delivered to recipients at the time of the sale.

The "jurisdictional information" provided by the purchaser must include sufficient information for the seller to source the retail sale of the "advertising and promotional direct mail" to the state and local jurisdiction(s), if applicable, in which the materials are delivered or distributed to recipients. The "jurisdictional information" must be in a form in which such information can be retained and retrieved by the seller for the purpose of sales or use tax reporting. The purchaser is not required to provide the seller with a list of the specific taxing jurisdictions which might exist with respect to any given address or group of addresses. The purchaser remains liable for the tax if incorrect or incomplete "jurisdictional information" is provided to the seller.

Example: A printer produces 5,000 advertising flyers and is responsible for delivering the flyers to addresses on a mailing list provided by the purchaser. 120 of the flyers are to be delivered to a specific zip code which is within a city and county imposing a local option sales tax. The purchaser may provide the seller with an allocation, by zip code, of where the 5,000 flyers are being delivered so that the seller can determine the appropriate jurisdictions for sourcing. The allocation would indicate that 120 flyers are to be delivered to a specific zip code. The seller will collect tax according to such allocation. The purchaser is not required to identify for the seller the name of the city, county, and state encompassing a specific zip code.

a. Access to Databases or Mailing Lists

Access to a database which contains address information or a mailing list provided by the purchaser or a third party that does not allow the seller to retain and retrieve the "jurisdictional information" identifying jurisdictions where the "advertising and promotional direct mail" was delivered to recipients does not constitute receiving "information showing the jurisdictions to which the "advertising and promotional direct mail" is delivered." In such transactions, the seller will source the sale under Section 310.A.5. Sellers are deemed to have sufficient information to source the retail sale to the proper jurisdictions when the seller utilizes an address database or mailing list owned by the seller.

b. Distribution Summaries and Allocation Methods

A summary of the distribution or a reasonable allocation of the distribution generated at the time of the sale is acceptable "jurisdictional information" documenting the "advertising and promotional direct mail" sourcing for the purpose of sales or use tax reporting. Any reasonable, but consistent and uniform, method of allocation that fairly represents the state and local jurisdictions where delivery or distribution was made to recipients is acceptable. Acceptable allocation methods include:

i. allocation based on population in a jurisdiction as a percentage of the total population of jurisdictions within the distribution area.

ii. allocation based on the sales volume of the direct mail purchaser's sales locations in a jurisdiction as a percentage of the total sales volume of sales locations within the distribution area.

iii. allocation based on a percentage of the direct mail purchaser's accounts in a jurisdiction to the total number of customer accounts within the distribution area.

iv. allocation among jurisdictions using a system-generated summary distribution report or a purchase order for a mailing list that includes a zip code summary.

v. allocation based on the sales volume of the direct mail purchaser in a jurisdiction as a percentage of the total sales volume within the distribution area.

The use of any of the above-listed methods of allocation will be presumed reasonable. The burden of proving that such an allocation method does not fairly represent the actual

distribution of the printed material in any particular case is upon the state. A purchaser may not use more than one method to allocate a transaction between jurisdictions. However, a purchaser may use one method to allocate a transaction between states and may use a different method to further allocate a portion of the transaction to jurisdictions within a state.

Example: A transaction involves the distribution of 50,000 pieces of "advertising and promotional direct mail" to recipients in states A and B. The purchaser uses an allocation based on the relative populations of states A and B to provide jurisdictional information to the seller indicating that 30,000 pieces will be delivered to recipients in state A and 20,000 pieces to recipients in state B. State B has local taxing jurisdictions and purchaser uses the relative sales volumes of its stores in state B to provide jurisdictional information to the seller indicating how many of the 20,000 pieces to be delivered to recipients in that state are to be delivered to each local jurisdiction. Using state population as a method of allocating the transaction between states A and B and store sales volume to allocate the transaction to the jurisdictions in state B is reasonable.

Other allocation methods may be used but the burden of showing to a state that the allocation fairly represents the actual distribution of the printed material in that case will be on the purchaser.

B. Sourcing of "Other Direct Mail"

1. "Other direct mail" which is defined in Section 313.C.2 of the SSUTA is sourced under Section 310.A.3 (or 313.1 in states adopting the origin-based direct mail sourcing). This includes sales characterized under state law as the sale of a service when the service is an integral part of the production and distribution of printed material that meets the definition of "other direct mail." Because transactions that include the development of billing information or the provision of data processing services that are more than incidental are not "other direct mail," they are sourced under 310.A.

2. Notwithstanding the provisions in B.1 above, the purchaser of "other direct mail" has the option to provide the seller with either (a) a direct pay permit issued to the purchaser for the portion of the sale that is sourced to the state that issued the permit , or (b) a fully completed Streamlined Sales and Use Tax Certificate of Exemption claiming "Direct Mail," or other exemption certificate or written statement approved, authorized or accepted by the state where the sale is sourced notifying the seller that the purchaser will remit tax directly to the state. In the absence of bad faith, the seller is relieved of an obligation to collect, pay, or remit any tax in that state on any transaction involving "other direct mail" to which the permit, certificate or statement applies.

   a. Sourcing – Direct Pay Permits and Certificates
   Purchasers providing a direct pay permit, certificate claiming "Direct Mail," or other approved, authorized or accepted statement described in B.2 above must source the transaction to the jurisdictions within the state to which the "other direct mail" is delivered to recipients or for states adopting Section 313.1 origin-based direct mail sourcing according to Section 310.A.5. Purchasers may use a reasonable summary or allocation of the distribution

to the jurisdictions to which the "other direct mail" is delivered as described in subsection A.3.b of this rule for purposes of self-assessing and directly paying sales or use tax. In the absence of bad faith, the seller is relieved of an obligation to collect, pay, or remit any tax in that state on any transaction involving "other direct mail" to which the permit, certificate or statement applies.

Example: A printer prints and places "other direct mail" on a common or contract carrier for delivery to the USPS, which in turn delivers the printed material to residents of various states. The purchaser of the printed material provides the printer with a direct pay permit or a fully completed Streamlined Sales and Use Tax Certificate of Exemption claiming "Direct Mail" as the reason for exemption from tax, or other written statement approved, authorized or accepted by the state. By doing so, the purchaser obligates itself to accrue and remit tax as required under the law of the state to which the printed material is delivered. The seller is relieved of the obligation to collect or remit any applicable tax on the retail sale of the product.

C. Definitions

Definitions of "advertising and promotional direct mail" and "other direct mail" are found in Section 313.C of the SSUTA.

1. When both "advertising and promotional direct mail" and "other direct mail" are combined in a single mailing, the sale is sourced as "other direct mail" under Section 313.B (or 313.1 in states that have adopted the origin-based direct mail sourcing).

   Example: A purchaser contracts with Company A to perform incidental data processing services, print billing invoices, prepare the invoices for mailing, and deliver them to the U. S. Postal Service or other delivery service for delivery to the address on each invoice. Each envelope is mailed to a residential address and contains an invoice and several advertising inserts. The transaction with Company A is sourced as "other direct mail" under 313.B, even though the mailings include "advertising and promotional direct mail."

2. For purposes of Section 313.C.2, "other direct mail" does not include printed materials that result from data processing services in which data is generated, acquired, compiled, developed, or summarized where the data processing services are more than incidental. "Other direct mail" and "advertising and promotional direct mail" that include incidental data processing are direct mail.

D. Special Provisions

1. a. Sales of products characterized by state law as a service where the result of the service meets the definition of direct mail as provided in Rule 327.6.A.1 are sourced under Section 313 (or 313.1 for states adopting the origin-based direct mail sourcing).

   For example, variable printing/imaging of information such as names, addresses, images and text may be characterized by a state as a service. However, because the performance of such

variable printing/imaging is an integral part of the production or distribution of printed materials and when such printed materials meet the definition of direct mail, the sale is sourced under Section 313 or (313.1 for states adopting the origin-based direct mail sourcing).

b. As provided in Section 313.D.1 of the SSUTA and Section C.2 of this rule, "other direct mail" and "advertising and promotional direct mail" that include incidental data processing are direct mail.

For example, variable printing/imaging is integral to performing or conducting printing of printed materials and such sales of printed materials that meet the definition of direct mail are sourced under Section 313 (or 313.1 for states adopting the origin-based direct mail souring). To the extent variable printing/imaging constitutes data processing, because it is not for purposes of generating, acquiring, compiling, developing or summarizing data, the data processing is incidental.

Example 1: A printer in state A has been contracted to produce airline frequent flyer promotional pieces which will be distributed to recipients via mail. These printed pieces incorporate the individual recipient's balance of frequent flyer miles, as well as customized promotional material and graphics based on data collected by the airline (e.g. the targeted individuals have earned enough points to travel to Europe). The electronic data supplied to the printer includes custom images and text promoting European vacations along with the recipient's name and balance of frequent flyer miles. The variable printing/imaging performed by the printer is a component of, and is an integral part of the production and distribution of printed material that meets the definition of "advertising and promotional direct mail." The data processing performed by the printer is incidental to performing or conducting printing of the printed material. The sale is sourced using Section 313 (or 313.1 for states adopting origin-based direct mail sourcing).

Example 2: A real estate agent in State A engages a printer to produce a direct mail campaign. The agent provides images of available homes as well as a database containing various demographic/economic data and mailing information. Using variable imaging technology the printer will produce printed pieces which contain images of homes which would be considered affordable by the recipient of the printed piece. Since the service performed by the printer is an integral part of the production and distribution of printed material that meets the definition of "advertising and promotional direct mail" and any data processing performed by the printer is only incidental, the sale would be sourced using Section 313 (or 313.1 for states adopting origin-based direct mail sourcing).

c. As provided in Section 313.D.1 of the SSUTA and Section C.2 of this rule, data processing that is incidental to the provision of mailing services provided by the printer is an integral part of the production and distribution of the printed material. Such sales of printed materials that meet the definition of direct mail are sourced using Section 313 (or 313.1 for states adopting the origin-based direct mail sourcing). Because the data processing is not for purposes of generating, acquiring, compiling, developing or summarizing the data, the data processing is incidental.

For example, data processing that is for purposes of meeting United States Postal Service (USPS) standards is incidental.

Example 3: A printer in State B has been contracted to prepare a "self-mailer" for mailing. The printer will fold and tab the printed piece for mailing, as well as address the printed piece with ink-jet imaging technology. The purchaser will provide mailing data. In order to meet USPS standards, the mailing data must be processed by the printer. This would include de-duping (eliminates duplicates), NCOA (national change of address) updates, as well as pre-sorting preparation and bar-coding to meet USPS rules for automated processing. The data processing performed by the printer to prepare the mailing list for USPS requirements is an integral part of the distribution of the "self-mailer" and therefore, the data processing is incidental. Such sales of printed materials that meet the definition of direct mail are sourced using Section 313 (or 313.1 for states adopting origin-based direct mail sourcing).

Example 4: A printer has been contracted to produce an advertising flyer for a client. The advertising flyer will be printed, folded, bound, tabbed, and addressed by the printer. The printer will be provided a mailing list by the end-user. This list will be prepared to meet USPS rules for advertising flyer circulation. This would include de-duping (eliminates duplicates), NCOA (national change of address) updates, as well as pre-sorting preparation and bar-coding to meet USPS guidelines for automated processing. The data processing performed to prepare the mailing list for USPS requirements is an integral part of the distribution of the advertising flyer and therefore, the data processing is incidental. Such sales of printed materials that meet the definition of "advertising and promotional direct mail" are sourced using Section 313 (or 313.1 for states adopting origin-based direct mail sourcing).

d. As provided in Section 313.D.1 of the SSUTA and Section C.2 of this rule, data processing that is for purposes of formatting information is an integral part of the production and distribution to complete the printing of the material. Such sales of printed materials that meet the definition of direct mail are sourced using Section 313 (or 313.1 for states adopting the origin-based direct mail sourcing). Because the data processing is not for purposes of generating, acquiring, compiling, developing or summarizing the data, the data processing is incidental.

Example 5: An investment company has contracted with a printer to produce their client's monthly investment statements. The printer is provided with account information that has been complied and summarized, as well as mailing information in electronic format. The printer using print production software will format the data to print individualized statements as well as imprinting mailing information meeting USPS automated process guidelines. Since data processing performed to format the information for printing and to prepare the mailing list for USPS requirements is an integral part of the production and distribution of the investment statement and is incidental, such sales of printed materials that meet the definition of "other direct mail" are sourced using Section 313 (or 313.1 for states adopting origin-based direct mail sourcing).

e. As provided in Section 313.D.1 of the SSUTA and Section C.2 of this rule, data processing that is for purposes of development of billing information is not integral to the production or distribution of printed material that meets the definition of direct mail. The data processing is for purposes of generating, acquiring, compiling, developing or summarizing data and is more than incidental. Such sales are sourced using Section 310.A of the SSUTA.

Example 6: A purchaser has contracted with a company to produce their client's monthly billing statements. The company is provided files of data containing the information necessary to determine opening balances, payment history, current charges and finance charges. The company must process this information to determine the monthly balance due and calculate any finance charges on the individual client accounts. After processing, the company uses print production software to format the data to print individualized statements as well as imprinting mailing information meeting USPS automated process guidelines. Since the company is processing purchaser's data to generate final billing information to be presented on individual client billing statements, the company is performing a data processing service that is more than incidental and the printed material is not considered "other direct mail." The sale is sourced using Section 310.A.

2. Nothing in this rule limits a purchaser's obligation for sales or use tax to any state to which the "direct mail" is delivered, nor limits a person's ability under law to claim a credit or refund for sales or use taxes legally due and paid to other jurisdictions.

3. The sourcing rules do not override or take precedence over exemptions provided by a state. Examples of state specific exemptions that may apply to "direct mail" include exemptions for advertising, promotional materials, shopper's guides, and printed material shipped out-of-state.

   Example 7: A purchaser does not provide any of the documentation according to Section A.2 of this rule, makes no claim of exemption and does not provide jurisdictional information for the purchase of advertising flyers that qualify as "advertising and promotional direct mail." The sale is sourced in accordance with Section 310.A.5 as provided in Section 313.A.4. The state to which the sale is sourced exempts advertising distributed out-of-state. While in this case the seller does not have the jurisdictional information to source the sale under Section 313, the seller does receive enough information to determine the portion of the advertising materials that are shipped out-of-state. The seller collects tax on the portion of the sale that is delivered within the state. Since the sale is sourced under Section 310.A.5, the seller is not required to collect tax on advertising flyers delivered to other states. However, the purchaser may be obligated to remit tax on the use of the advertising in the other states.

4. As provided in Rule 317.1.A.8, the "Direct Mail" reason code on the Streamlined Sales and Use Tax Certificate of Exemption may be used by purchasers of printed materials that meet the definition of direct mail to claim exemption at the time of purchase and self-assess and directly pay tax to the state in accordance with Section 313 (or 313.1 for states adopting the origin-based direct mail sourcing). A printer purchasing component materials such as ink or paper that is used to fabricate or produce printed materials shall not issue a Streamlined Sales

and Use Tax Agreement Certificate of Exemption or other form of exemption certificate claiming "Direct Mail" as the reason for exemption from sales or use tax. An exemption certificate claiming "Direct Mail" may not be used by a purchaser to purchase printed materials from third parties that are to be included in a later mailing or distribution when the printed materials are shipped or delivered to a single address. Other reason codes such as "manufacturing" or "sales for resale" may be appropriate. Nothing in this provision changes provisions in Section 317 of the SSUTA for sellers obtaining exemption certificates or other documentation from purchasers.

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Rule 314 – Telecommunication and Related Services Sourcing

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Rule 314.1 – Use of Uniform Telecommunication and Related Services Sourcing Rules

1. Who is required to use. Uniform sourcing rules pertaining to telecommunications services, ancillary services and Internet access service that are contained in section 314 of the Streamlined Sales and Use Tax Agreement shall be used by all member states that impose sales and use taxes on such services, Member states must utilize the sourcing definitions contained in section 315 in applying the sourcing rules in section 314.

2. Use of sourcing rules. Sourcing rules pertaining to telecommunications services, ancillary services and Internet access service that are provided in section 314 of the Streamlined Agreement shall be used by member states that impose sales or use taxes on such services. These sourcing rules do not apply to other services not included in the definition of "telecommunications service" or "ancillary service" or that are not Internet access service. Nothing in the Agreement shall be construed to require states with existing excise taxes on telecommunications and related services to modify their existing excise tax sourcing rules.

3. Use of sourcing definitions. The sourcing definitions provided in section 315 are only applicable for applying the sourcing rules. They do not apply for tax imposition or exemption, which requires the use of the definitions contained in the Library of Definitions.

4. Location of the customer is not known. If the location of the customer's service address, channel termination point or place of primary use is not known, the location where the seller receives or hands off the signal shall be deemed to be the customer's service address, channel termination point or place of primary use.

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Rule 315 – [Reserved]

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Rule 316 – [Reserved]

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Rule 317 – Administration of Exemptions

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Rule 317.1 – Simplified Administration Process

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A. Administrative Issues

1. Identifying Information of Purchasers Claiming Exemption from Tax. Unless waived by a state pursuant to Section B7, a seller shall obtain the following information from a purchaser who claims exemption from tax: its name, address, type of business (see A2 below), reason for exemption (see A4 below), ID number required by the state to which the sale is sourced, state and country issuing ID number and, if a paper form is used, a signature of the purchaser. The seller shall obtain a fully completed exemption certificate or capture the relevant data elements required under the Agreement at the time of sale or within 90 days subsequent to the date of sale.

2. Identification of business type. A purchaser claiming exemption from tax shall select one of the following business type--codes to identify its type of business:

a. Accommodation and food services
b. Agricultural, forestry, fishing and hunting
c. Construction
d. Finance and insurance
e. Information, publishing and communications
f. Manufacturing
g. Mining
h. Real Estate
i. Rental and leasing
j. Retail trade
k. Transportation and warehousing
l. Utilities
m. Wholesale trade
n. Business services
o. Professional services
p. Education and health-care services
q. Nonprofit organization
r. Government
s. Not a business
t. Other _____

3. Exemption Reason Coding System. All sellers, CSPs and Governing Board states shall adopt the exemption reason coding system in A.4 to assist member states in identifying purchasers whose eligibility to claim exemption should be verified.

4. Reason for exemption. A purchaser claiming exemption from tax shall select one or more of the following reason codes for claiming exemption from tax:

a. Federal government
b. State or local government
c. Tribal government
d. Foreign diplomat
e. Charitable organization
f. Religious organization
g. Resale (including drop shipments)
h. Agricultural production
i. Industrial production/manufacturing
j. Direct pay permit
k. Direct mail
l. Other _____
m. Educational organization

5. Uniform paper exemption certificate. Member states shall adopt the uniform paper exemption certificate developed for use by member states and adopted by the Governing Board. [See SSUTA § 317.A.3.]

a. A member state shall not customize the uniform exemption certificate except to gray out exemption reason types not authorized by a particular state's law.

b. A member state shall accept the uniform paper exemption certificate or the electronic form described in A7 below for all exemptions.

c. A member state shall allow purchasers and sellers to use substitute exemption certificates if they contain the same information as the uniform exemption certificate. A member state may request but shall not require more information on a substitute exemption certificate to have a valid certificate.

6. ID numbers. The following provisions shall apply to member states with regard to ID numbers required from purchasers claiming exemption from tax in the member state:

a. Each member state shall be permitted to choose whether to require an ID number. A state has the option to require a number for some exemptions, e.g., resale, but not for others, e.g., farmers.

b. If a member state requires the use of an ID number for resale transactions, it may require purchasers claiming resale to use:

(i) The state's state issued sales tax or resale number if the purchaser is required to be registered to collect sales tax in the state where the resale tax exemption is being claimed.

(ii) If the purchaser is not required to be registered to collect sales tax in the state where the resale tax exemption is being claimed, any other state-issued sales tax registration number;

(iii) If the purchaser is not required to be registered in the state where the resale tax exemption is being claimed and does not have a sales tax or other tax registration number from any state, a United States Federal Employer ID number (FEIN); or

(iv) If the purchaser is not required to be registered for sales tax in any state and does not have a FEIN, a different state issued business ID; or

(v) If the purchaser is not required to be registered in the state where the resale tax exemption is being claimed and does not have the ID number in (ii), (iii) or (iv) above, a state may, but is not required to, allow a purchaser to use a state-issued driver's license number.

c. Use of an ID number issued by a foreign government shall only be acceptable when claiming a resale exemption. A state is not required to accept a foreign government issued ID number. A state shall indicate if they accept a foreign government issued ID number in their Taxability Matrix, Tax Administration Practices.

d. A member state shall not request a purchaser's social security number.

e. A member state shall advise the Governing Board and the general public as to whether it requires a purchaser to provide an ID number to claim exemption from the tax.

f. If a member state requires a purchaser to provide an ID number to claim exemption from tax, such member state shall advise the Governing Board and the general public as to which of the ID numbers set forth in (6)(b) above is required or allowed for each type of exemption claimed.

g. A seller shall not be required to verify whether the purchaser has provided the correct ID number to claim exemption from the tax or to verify registration requirements.

7. Electronic forms. The standard form for claiming an exemption electronically shall be a standard set of data elements (Standard Data Elements) that correspond to the information that the purchaser would otherwise provide the seller in the uniform paper exemption certificate at

the time of purchase. Once such Standard Data Elements are captured, a seller shall be deemed to have received a proper electronic exemption form.

8. Direct pay authority and direct mail. Direct pay authority and direct mail are reasons for claiming exemption from tax at the time of purchase and self-assessing tax to the appropriate state or states (see A4 above). Reason codes shall be established for tax exemptions for these purposes and listed on the uniform exemption certificate form in the "reason for exemption" section of the form.

9. Multistate Transactions. Purchasers may indicate that the exemption certificate applies to more than one state when they regularly make exempt purchases from the same seller and the purchases from that seller will be sourced to different states. Purchasers shall identify the reason for exemption and the identification number (if required) for each state the purchaser wants to claim exemption from tax.

10. Fully Completed Exemption Certificate and Required Standard Data Elements to be captured. Member states shall relieve a seller of the tax otherwise applicable if the seller obtains a fully completed paper exemption certificate or captures the Standard Data Elements from an electronic form.

a. A fully completed paper exemption certificate includes all information fields requested on the Streamlined Sales and Use Tax Agreement's Certificate of Exemption.

b. The Standard Data Elements are the same as for a fully completed paper exemption certificate except the signature of the authorized purchaser is not required.

c. A faxed exemption certificate is considered a paper exemption certificate and requires a signature.

d. Sellers that enter the Standard Data Elements from a paper exemption certificate into electronic format are not required to retain the paper copy of the exemption certificate.

B. Policy and Operational Issues

1. Completion of Taxability Matrix. Member states shall complete the Taxability Matrix, Library of Definitions and Tax Administration Practices, approved by the Governing Board and shall show thereon their treatment of the definitions in the Streamlined Sales and Use Tax Agreement's Library of Definitions and whether they follow the tax administration practices established pursuant to Sec. 335 of the Agreement.

2. Completion of information forms. Member states may complete the following forms:

a. Member State Information on Product-Based Exemptions
b. Member State Information on Taxable Services

c. Member State Information on Other Exemptions

3. Blanket exemption certificates. All member states shall accept either the uniform paper exemption certificate form (see A5 above) or a substitute form containing the Standard Data Elements (see A5c and A7 above) filed for a particular reason and applicable to a current transaction and subsequent similar transactions. For example, a purchaser that has provided a seller with an exemption certificate for the purchase of items for resale shall not be required to provide the same seller with another exemption certificate when subsequently purchasing items for resale.

4. Blanket exemption certificates allowed for all purposes. Member states shall allow blanket exemption certificates for all exemption purposes.

5. Renewal of blanket exemption certificate information.

a. Member states may require purchasers to update exemption certificate information or to reapply with the member state to claim certain exemptions.

b. Member states may not request from sellers renewal of blanket certificates or updates of exemption certificate information or data elements when there is a recurring business relationship between the purchaser and seller. For purposes of this section, "a recurring business relationship" exists when a period of no more than twelve months elapses between sales transactions. [See SSUTA § 317.F.]

6. Nonresident purchasers. With respect to seller liability, a member state shall honor an exemption certificate filed by a purchaser even if the purchaser is not a resident, resident organization or registered business in the member state.

7. What type of transaction requires a seller to obtain an exemption certificate? A seller shall obtain an exemption certificate or data elements from the purchaser on all sales of taxable products and services sold without collecting the tax unless the state imposing the tax does not require an exemption certificate on the sale (e.g., a state may not require an exemption certificate on sales made to tax-exempt organizations).

8. **By what date must a seller obtain the exemption certificate from the purchaser?**

a. Subject to Section 317.B of the Agreement, each state shall relieve a seller of the tax otherwise applicable if the seller obtains a fully completed exemption certificate or captures the relevant data elements required under the Agreement within 90 days subsequent to the date of sale. A member state may allow a seller a period longer than 90 days to obtain the necessary information.

Example: A seller receives a fully completed exemption certificate from a purchaser 45 days after the date of the sale. The state shall accept the certificate and relieve the seller of any applicable tax that may be due.

b. Except as otherwise provided in Rule 317.1, B.8.c. and subject to the "good faith" standard imposed by Section 317.D of the Agreement, each state shall accept a fully completed exemption certificate or the captured relevant data elements required under the Agreement for exemption certificates or data elements received more than 90 days after the date of a sale.

Example: A seller receives a fully completed exemption certificate claiming resale from a purchaser 100 days after a sale. The state shall consider the certificate but may subject this sale to the Agreement's good faith requirement. A second sale was made to the purchaser 10 days after the exemption certificate was received. The second sale is not subject to the good faith standard because a fully completed exemption certificate was obtained by the seller before the second sale.

c. Pursuant to Section 317.D of the Agreement, each state shall also provide a seller with at least 120 days after a request for substantiation by a member state to:

(i) obtain a fully completed exemption certificate taken in good faith (*i.e.*, statutorily available, applicable to item purchased, and reasonable for purchaser's type of business) or
(ii) obtain other information establishing the transaction was not taxable.

Example: A member state reviews a seller's exemption certificates. The seller is missing several exemption certificates. The state requests substantiation of the exemptions claimed. The member state must allow the seller at least 120 days from the date of the request to obtain the fully completed exemption certificates. The state may impose a good faith standard on those exemption certificates obtained more than 90 days after the date of the sale.

C. Systems Related Issues

1. Default rules for coding the taxability of products.

a. Sellers, Certified Service Providers (CSP's), and Model 2 Automated Systems (CAS's) shall code all products that are tangible personal property as taxable unless a member state has specifically exempted or excluded the product from its tax base.

b. Sellers, CSP's, and CAS's shall code all services sourced to member states that enumerate taxable services as exempt unless a member state has specifically enumerated the service as a taxable service.

c. Sellers, CSP's, and CAS's shall code all services sourced to member states that tax services in the same manner as tangible personal property as taxable unless a member state has specifically exempted or excluded the service from its tax base.

2. Verification of exemption numbers or registration requirements not required. A member state shall not require a seller or a CSP to verify exemption numbers or whether a purchaser is required to be registered in the state.

D. Audit Issues

1. Multi-item invoices containing exempt and nonexempt items. If a purchaser only claims exemption from tax on some of the items purchased on a multiple-item invoice and a seller, who does not have a mechanism in place to accurately track exempt and non-exempt items on a multi-item invoice, allows an exemption on all items on the invoice, then a member state may hold the seller liable for the tax on the nonexempt items on the invoice.

2. Retention of records by a seller. A seller shall retain an exemption certificate submitted by a purchaser, or the Standard Data Elements, for as long as such seller is required to retain other sales and use tax business records under the law applicable in the state to which the sale is sourced.

3. Certified service providers ("CSP") and certified automated software ("CAS"). A CSP or a seller using a CAS shall collect and provide to member states on a periodic basis, sufficient aggregated information on each purchaser claiming exemption from the tax to enable member states to verify each purchaser's exemption eligibility status. Such aggregated information shall be provided to member states in the standardized format required by the Governing Board to facilitate data-extraction and data-mining so as to enable member states to identify purchasers as potential audit candidates and to verify the claimed tax exempt status of purchasers. Pursuant to SSUTA § 317A(6) of the Streamlined Sales and Use Tax Agreement, the Governing Board shall develop standard rules and requirements for collecting and providing aggregated information on purchasers claiming exemption from the tax.

Compiler's note: (a) Rule 3171.A.4 was amended on May 2, 2018 by RP18003 to remove "educational" from f. and make it a separate reason m. Educational organization. (b) Rule 317.1.A.6 and B.8 were amended on May 24, 2023 by RP23003 and became effective upon its adoption.

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Rule 317.2 – Drop shipments

A. Definitions

1. Drop shipment sales defined. "Drop shipment sale" means a sale of tangible personal property that occurs when a seller accepts an order from a customer and then places the order with a drop shipper, such as a manufacturer or wholesaler, and directs the drop shipper to deliver tangible personal property sold directly to the customer.

2. Drop shipper defined. A "drop shipper" is a third party, such as a manufacturer or wholesaler, with whom an out-of-state seller that has accepted an order for tangible personal property from a customer and who places the order and directs to deliver the tangible personal property sold directly to the customer. The drop shipper may deliver the tangible personal

property in its own truck, by common or contract carrier, or over-the counter at the drop shipper's location.

B. Tax liability for drop shipment sales

1. Drop shipper collects and remits tax unless resale exemption applies. A seller of tangible personal property may issue a resale exemption certificate or other acceptable information evidencing qualification for a resale exemption to the drop shipper, even though the seller is not registered to collect sales or use tax in the state where the sale occurs. Upon receipt of the certificate or other acceptable information, the drop shipper shall not be subject to sales or use tax on the sale of tangible personal property that the seller directs the drop shipper to deliver to the seller's customer.

2. Seller collects and remits sales tax if it has nexus or is a volunteer registrant in the state of delivery, unless an exemption applies. In a drop shipment sale transaction, the seller shall collect sales tax from its customer and remit such tax to the proper taxing authority, unless the customer has provided the seller with a resale certificate or other acceptable information evidencing qualification for exemption.

3. Customer is liable for use tax if seller does not collect tax. If the out-of-state seller or drop shipper does not collect and remit the appropriate sales tax due on a drop shipment sale, the seller's customer shall be subject to use tax unless such customer can claim a valid exemption.

Note: Refer to Rule 317.1 regarding resale exemption requirements for transactions other than drop shipments.

Note: This rule does not address drop shipments as they may apply to services and digital products. Whether a state allows an out-of-state seller to provide a drop shipper with a resale exemption or other acceptable information evidencing qualification for a resale exemption on the sale of services or digital products is determined by each state's law.

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Rules 318 – 321 [Reserved]

Rule 322 – Sales Tax Holidays

Rule 322.1 – Sales Tax Holiday – Subscriptions of Tangible Personal Property

Purpose: The purpose of this rule is to demonstrate how a sales tax holiday applies to subscriptions of tangible personal property.

The purchase of a subscription for a product that is tangible personal property qualifies for sales tax holiday treatment if the product is included and meets the qualifications required in the sales tax holiday and:

a. The product is delivered and paid for during the holiday period; or

b. The customer orders and pays for the product during the holiday and does not request delayed shipment of the product.

The following examples assume the state taxes the tangible personal property subscription described.

Example 1: A pet owner has a subscription for pet food from their favorite pet food supplier. Each month the supplier bills and ships pet food to the pet owner. The pet owner can cancel the order anytime up to the day of the scheduled shipment. The pet owner's state has an annual sales tax holiday on all tangible personal property, including pet food, during the month of July. The July subscription billing is exempt from sales tax under the sales tax holiday since the item purchased qualifies as exempt tangible personal property and the scheduled order and billing takes place during the sales tax holiday.

Example 2: A customer has a subscription for health and beauty products from a seller. Each month the seller bills and ships the products to the customer. The customer can cancel the order anytime up to the day of the scheduled shipment. The customer's state has an annual sales tax holiday on all tangible personal property, including health and beauty products, during the second week of August each year. The August subscription billing is the week prior to the August sales tax holiday week with scheduled shipment during the holiday week. Because the product is billed the week prior to the sales tax holiday, the subscription does not qualify for the sales tax holiday exemption.

Rule 322.2 - Sales Tax Holiday Periodic or Recurring Payments

Purpose: The purpose of this rule is to demonstrate when a periodic or recurring payment on a lease or rental qualifies for a sales tax holiday.

The lease or rental of tangible personal property that is subject to periodic or recurring payments is eligible for a sales tax holiday if:

a. The item is included in the state's sales tax holiday, and
b. The customer is in possession of the item, or the item is delivered, or the item is set aside during the sales tax holiday period for immediate delivery, and
c. The lease or rental billing is within the sales tax holiday period. If the state accelerates the tax payment for the lease or rental and the tax billing is during the sales tax holiday, any sales tax holiday threshold in place applies to the total accelerated tax payment amount.

The following examples assume:

1. The state's sales tax holiday applies to all tangible personal property;
2. The state's sales tax holiday includes leases and rentals; and
3. The state taxes the lease or rental described.

Example 1: A customer signs a 12-month lease and takes possession of a laptop computer during the state's sales tax holiday on computers. The lease agreement requires monthly payments of $75 plus sales tax. The first lease payment is billed at the time the customer

signs the lease agreement. The first lease billing meets the requirements to be an eligible recurring payment for the sales tax holiday and is not subject to the sales tax.

Example 2: A customer has a 12-month lease on a laptop computer that started 6 months ago. The lease agreement requires monthly payments of $100 plus sales tax. The lease billing for August falls during the state's sales tax holiday on computers. The August lease billing meets the requirements to be an eligible recurring payment for the sales tax holiday. No sales tax is due on this lease billing.

Example 3: A customer has a 12-month lease on a laptop computer that started 1 month ago. The lease agreement requires monthly payments of $50 plus sales tax. The lease billing for July falls the week after the state's three-day sales tax holiday on computers. Anticipating the July sales tax holiday the customer makes the July lease payment during the three-day sales tax holiday period which is a week prior to the July lease billing. The July payment does not meet the requirements to be an eligible recurring payment for the sales tax holiday because the billing does not occur during the three-day sales tax holiday period. Sales tax is due on this lease payment.

Example 4: A customer rents a table saw from the local hardware store. The rental costs $35 plus sales tax for 4 hours. The customer picks up the saw and returns it within a 4-hour period that is during the state's two-day all tangible personal property sales tax holiday. The customer pays for the rental when the saw is returned. The rental meets the requirements to be an eligible periodic payment for the sales tax holiday. No sales tax is due on the rental payment.

Example 5: A customer rents a scaffolding unit from an equipment rental dealer. The customer picks up the scaffolding unit during the state's one week all tangible personal property sales tax holiday. Billing for scaffolding rental will be done upon return of the unit. The customer returns the scaffolding a week later, after the state's sales tax holiday has ended. The customer is billed $80 for one week's rental. Sales tax is due on the rental because billing for the rental was outside of the sales tax holiday period.

Example 6: State Z has an annual four-day sales tax holiday every August that covers qualifying tangible personal property priced at $500 or less. State Z taxes leases upfront, meaning that all sales tax is due at the time of the first lease payment.

During the holiday, a customer enters into a six-month equipment lease totaling $350, with the first lease payment due during the holiday period. Because the lease amount is under the state threshold and all sales tax is applicable upfront, the sales tax on the $350 lease total qualifies for the holiday and no tax is owed on the subsequent lease payments.

Compiler's Notes: Rules 322, 322.1 and 322.2 related to sales tax holidays were adopted by the Governing Board on October 15, 2026 by RP26003-01.

Rules 323 – 326 [Reserved]

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Rule 327 – Library of Definitions

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Rule 327.2 – Telecommunication Definitions

A. Who is required to use. Uniform definitions pertaining to telecommunications that are contained in the Streamlined Sales and Use Tax Agreement shall be used by all member states in imposing sales and use taxes or in providing for exemptions.

B. Use of definitions. Definitions pertaining to telecommunications and related services that are provided in the Streamlined Sales and Use Tax Agreement shall be used by member states to impose sales or use taxes or in providing for exemptions. Nothing in the Agreement, its telecommunications definitions or in this rule shall be construed to require states with existing excise taxes on telecommunications and related services to modify their existing excise tax definitions.

C. Definitions not found in the Streamlined Sales and Use Tax Agreement. Definitions pertaining to telecommunications that are used for federal regulatory or tax purposes, for state or local regulatory purposes or for purposes of administering other state or local taxes do not apply for purposes of state sales and use taxation of telecommunication services, unless these definitions are specifically referenced in the Streamlined Sales and Use Tax Agreement.

D. Partial exclusion of a definition is prohibited. A member state choosing to tax telecommunication services shall use applicable definitions contained in the Streamlined Sales and Use Tax Agreement and shall not exclude from imposition a part of any definition or any item included in such a definition unless the Streamlined Sales and Use Tax Agreement specifically permits such a variation.

E. Telecommunications definitions are not limited to products sold by certain sellers. No definition pertaining to telecommunications services and related services in the Streamlined Sales and Use Tax Agreement shall be construed to limit such definition to products sold by a particular seller (i.e., “telecommunications services” sold by a telephone company may also be sold by other vendors).

F. Use-based and entity-based exemptions. A member state may choose to limit the imposition of sales taxes on telecommunications services by providing use-based or entity based exemptions. A state’s incorporation of the Streamlined Sales and Use Tax Agreement definitions applicable to telecommunication services and related services shall not prohibit such state from applying “use-based” or “entity-based” exemptions.

G. “Telecommunications services” does not include telephone answering services. The term “telecommunications services” does not include telephone answering services because the primary purpose of the transaction is the answering service rather than message transmission.

H. Definitions may be used for imposition and exemption purposes. The following provisions shall apply to member states that impose a tax on all telecommunications services and related services, on all such services with certain exclusions or exemptions, or only on certain telecommunications services:

1. A member state choosing to broadly impose a tax on telecommunications services shall use the definition of "telecommunications services" set forth in the Streamlined Sales and Use Tax Agreement. In so doing, the state will impose tax on all telecommunications services, including residential telecommunications service, telegraph service, value-added non-voice data service and voice over Internet Protocol, as well as 800 service, 900 service, fixed wireless service, local service, mobile wireless service, paging service, and private communications service, unless the state provides a specific exclusion or exemption for one or more of such services.

2. A member state shall define any telecommunications service that it wishes to exclude or exempt from taxation substantially as it is defined in the Streamlined Sales and Use Tax Agreement. It will be necessary for the state to define one of the subsets of "telecommunications services" only if an exclusion or exemption is desired (i.e., a state that wishes to tax all telecommunications services except 800 service, 900 service, paging service, and private communications service would impose a tax on "all telecommunications services except 800 service, 900 service, paging service, and private communications service" and specifically adopt the Streamlined Sales and Use Tax Agreement definitions of such excluded or exempted services).

3. A member state that imposes a tax on telecommunications services or components thereof shall not exclude or exempt from tax an item that is a telecommunications service if there is no definition of such an item in the Streamlined Sales and Use Tax Agreement, except as provided for local telecommunications service.

4. A member state that wishes to tax only limited types of telecommunication services, rather than the broad category with exceptions, shall impose the tax only on the specific types of telecommunication services that it wishes to tax and shall use the definitions set forth in the Streamlined Sales and Use Tax Agreement to define the telecommunication services taxed (e.g., a state could choose to tax only "900 services" because such services are specifically defined in the Streamlined Sales and Use Tax Agreement).

5. If a state imposes tax on a broad group of services that includes telecommunications services, it shall use the definition of "telecommunications services" in the Streamlined Sales and Use Tax Agreement to make it clear that such services are included in the broad group of services taxed. If a state wishes to tax Ancillary Services, it must explicitly impose its tax on Ancillary Services as defined in the Streamlined Sales and Use Tax Agreement (e.g., if "communication services" are taxed, the language imposing the tax must specifically state that such services include "telecommunication services" and any "ancillary" services included in the broad group of communication services taxed).

6. A state that imposes sales and use tax on telecommunications services only if they originate and terminate in the state and that wishes to retain such a tax result under the Streamlined Sales

and Use Tax Agreement shall amend its law to impose the tax on "intrastate" telecommunications services only and adopt the definition of "intrastate" services in the Streamlined Sales and Use Tax Agreement.

7. A state that imposes sales and use tax on telecommunications services that originate or terminate in the state and that wishes to retain such a tax result under the Streamlined Sales and Use Tax Agreement shall amend its law to impose the tax on "intrastate" and "interstate" telecommunications services (and "international," if applicable), and adopt the definitions of "intrastate" and "interstate" (and "international," if applicable) services in the Streamlined Sales and Use Tax Agreement.

8. A state may tax or exempt only a specific use of telecommunications services, such as residential use.

9. A state may tax, or exclude from tax, any one or all of the "ancillary services" that are not telecommunications services. For example, the tax may be imposed on "all ancillary services except detailed telecommunications billing service and directory assistance." Or, the tax may be imposed on any one or more of the specific ancillary services, such as "voice mail services," rather than on "ancillary services" in general.

10. A state imposing tax on telecommunications services but desiring to exempt pay telephone services shall specifically provide a statutory exemption using definitions provided in the Streamlined Sales and Use Tax Agreement for "pay telephone service" and/or "coin operated telephone service."

11. A state imposing tax on telecommunications services but desiring to exempt value-added non-voice data services, such as encryption, device management, security authentication or data monitoring services that otherwise meet the definition of telecommunications services, shall specifically provide a statutory exemption using the definition provided in the Streamlined Sales and Use Tax Agreement for "value-added nonvoice data service."

I. Construction of prepaid definitions. For purposes of the terms "prepaid calling service" and "prepaid wireless calling service," the term "predetermined unit" includes but is not limited to units measured by dollars, events, time, or combinations thereof.

Units of time include minutes, hours, days, weeks, or months. One or more units measured by time will be considered to decline with use in a known amount if such unit or units declines according to a predetermined basis. The predetermined basis may be a combination of different units measured by time.

> Example 1: A vendor offers a wireless calling service that must be paid for in advance. For a purchase price of $80, the purchaser can make and receive an unlimited number of voice calls during a one-month period. Under the terms of the service plan, the customer will not be entitled to use the service after the expiration of such one-month period unless the customer has paid in advance for additional service prior to the expiration of such

period. This is the sale of a prepaid wireless calling service and illustrates the use of a single unit of time that is expressed in months.

Example 2: A vendor offers a wireless calling service that must be paid for in advance. For a purchase price of $60, the purchaser can make or receive not more than 400 minutes of voice calls during a one-month period. Under the terms of the service plan, the customer will not be entitled to use the service after making or receiving 400 minutes of voice calls or the expiration of such one-month period, whichever occurs earlier, unless the customer has paid in advance for additional service prior to accumulating 400 minutes of voice usage or the expiration of such one-month period, whichever occurs earlier. This is the sale of a prepaid wireless calling service and illustrates the use of a combination of units of time, one expressed in minutes and one expressed in months.

Units may also be measured by events, such as sending or receiving a text message, and the terms of the prepaid service may include such event-based units in addition to units measured by time.

Example 1: A vendor offers a wireless calling service plan under which service must be paid for in advance. For a purchase price of $100, the purchaser can, during a one-month period, (1) make and receive unlimited voice calls on nights and weekends, (2) make and receive not more than 500 minutes of other voice calls, and (3) send or receive not more than 250 text messages. Under the terms of the service plan, the customer (1) will not be entitled to use the voice service beyond the time limitation on voice calls, (2) will not be entitled to use the messaging service beyond the specified text message limitation, and (3) will not be able to use the service after the expiration of such one-month period, unless the customer, prior to the expiration of the earlier of such time periods or the occurrence of such event, has paid in advance for additional service. This example is the sale of a prepaid wireless calling service and illustrates the use a combination of (1) units of time that are expressed in a combination of measures, and (2) event-based units.

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Rule 327.3 – Healthcare Definitions

Member states enacting product-based exemptions for defined healthcare products or utilizing the defined healthcare terms in entity or use based exemptions shall include all products within each defined term unless specific exceptions are provided for in the definition. Contained in Appendix L to these Rules, which is not an all inclusive list of all products within each defined term, is the placement of products within the correct defined healthcare term included in Part II of the Library of Definitions. Each member state shall utilize the defined terms and the placement of products within each of the defined terms if a member state adopted any of the healthcare definitions contained in Part II of the Library of Definitions. Where a product is not included in the list, member states shall use the list as guidance in placement of products within the defined terms.

Compiler's note: Rule 327.3 was updated to reflect the amendment to the Rules made by RP18002 on May 2, 2018 in which Appendix L and Appendix M were combined into a single Appendix L.

327.3.1 Appropriate for use either in a home or motor vehicle; For home use; For personal use

A. "Appropriate for use either in a home or motor vehicle"

As used within Part II of the Library of Definitions "appropriate for use in either a home or motor vehicle" means the product is appropriate for use at a residence or in a motor vehicle. This phrase is not intended to restrict the use to only within the four walls of a home or inside a motor vehicle.

B. "For home use" and "For personal use"

As used within Part II of the Library of Definitions "for home use" and "for personal use" both mean the product is intended for personal, non-business use, as opposed to commercial or business use. These phrases are not intended to restrict the use to only within a home.

Compiler's note: Rule 327.3.1 was adopted to reflect the amendment to the Rules made by RP26002 on May 13, 2026.

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Rule 327.4 – Delivery Charges

A. "Delivery charges" is defined in Part I of the Library of Definitions, conjunctively with the definitions of "sales price" and "purchase price." "Sales price" and "purchase price" include "delivery charges" unless a member state elects to (i) exclude all delivery charges from the computation of sales and purchase price of all personal property and services other than direct mail, (ii) exclude all delivery charges from the sales price of all personal property and services except for delivery charges involving or related to the sale of electricity, natural gas, or artificial gas by a utility, as "utility" is defined by the state; or (iii) exclude from the computation of "sales price" and "purchase price" of all personal property and services other than direct mail any of the following components of delivery charges, if the charges are separately stated on an invoice or similar billing document given to the purchaser:

1. handling, crating, packing, preparation for mailing or delivery, and similar charges for activities necessary for preparing personal property or a service for delivery to a location designated by the purchaser of the personal property or service; or
2. transportation, shipping, postage, and similar charges for movement of personal property or a service from possession by the seller to possession by the purchaser or the purchaser's designee.

B. A member state may choose to exclude from the computation of "sales price" and "purchase price" of direct mail all or any of the following components of delivery charges, if the charges are separately stated on an invoice or similar billing document given to the purchaser.

1. handling, crating, packing, preparation for mailing or delivery, and similar charges for activities necessary for preparing direct mail for delivery to a location designated by the purchaser of direct mail; or

2. transportation, shipping, and similar charges for movement of direct mail from possession by the seller to possession by the purchaser or the purchaser's designee; or
3. postage.

C. Direct mail. A state may treat the "delivery charges" for sales of personal property or services that meet the definition of "direct mail", including both "advertising and promotional direct mail" and "other direct mail" differently than with respect to sales of other personal property or services. Thus, a state may generally require that "sales price" include all "delivery charges" (or one or more components thereof) but exclude "delivery charges" (or one or more components thereof) from the computation of "sales price" of sales of products that meet the definition of "direct mail." In order for a seller to exclude "delivery charges for direct mail" (or component thereof) from the computation of "sales price" with respect to direct mail such charge must be separately stated on an invoice or similar billing document given to the purchaser.

The exclusion for "delivery charges for direct mail" applies only to sales of personal property and services that meet the definition of "direct mail." In addition, the exclusion includes separately stated "delivery charges" for:

1) retail sales that include both the printing and delivery of "direct mail,", including sales characterized under state law as the sale of a service when that sale results in printed material that meets the definition of "direct mail;"
2) retail sales of services for only mailing or delivering of "direct mail" not printed or sold by the delivery or mailing service provider, and
3) retail sales of services for the development of billing information or data processing services that results in printed materials delivered or mailed to a mass audience where the costs of the printed materials are not directly billed to the recipients.

Prior to its adoption of the definitions of "sales price" and "purchase price," a state may have excluded "delivery charges" (or one or more components thereof) from "sales price" with respect to sales of personal property or services that meet the definition of "direct mail" while at the same time including "delivery charges" (or one or more components thereof) with respect to sales of other personal property or services. Such a state may continue to exclude "delivery charges" (or one or more components thereof) with respect to sales of personal property or services that meet the definition of "direct mail" by (1) adopting the definitions of "delivery charges" and "direct mail" and (2) excluding from the definition of "delivery charges", "delivery charges" (or one or more components thereof) with respect to "direct mail".

Example 1: State A has adopted the definition of "direct mail" from Part I of the Library of Definition. Its definition of "delivery charges" reads as follows:

> "Delivery charges" means all of the charges (including but not limited to charges for transportation, shipping, postage, handling, crating and packing) by the seller of personal property or services for preparation and delivery thereof to a location designated by the purchaser. "Delivery charges" does not include any charge by the seller with respect to direct mail delivery charges.

State A's definition of "delivery charges" is sufficient to exclude all "delivery charges" from the computation of "sales price" with respect to sales of personal property or services that meet the definition of "direct mail" so long as such charges are separately stated on the invoice or bill given to the purchaser.

Example 2: State B has adopted the definition of "direct mail" found in Part I of the Library of Definition. State B's definition of "delivery charges" reads a follows:

> "Delivery charges" means all of the charges (including but not limited to charges for transportation, shipping, postage handling, crating and packing) by the seller of personal property or services for preparation and delivery thereof to a location designated by the purchaser. "Delivery charges" does not include postage for delivering personal property or a service that meets the definition of "direct mail."

State B's definition of "delivery charges" is sufficient to exclude from the computation of "sales price" charges for postage for delivery of personal property or a service that meets the definition of "direct mail" so long as such charges are separately stated on the invoice or other billing document given to the purchaser.

The following illustrations demonstrate the applicability of the direct mail delivery charge exclusion from sales price and purchase price in a state that has adopted that exclusion.

Illustration 1: ***State A excludes all components of direct mail delivery charges from the computation of sales price.*** A printer enters into a contract to print and mail advertising and promotional material to a mass audience. The material is printed, sorted, inserted into an envelope, addressed, and mailed via the United States Postal Service to a mass audience at the direction of the purchaser. The advertising and promotional direct mail sale qualifies for the direct mail delivery charge exclusion. Charges separately stated on the customer's bill or invoice for preparation for delivery, transportation and postage with respect to the direct mail is excluded from the computation of "sales price."

Illustration 2: ***State B excludes the handling and postage components of direct mail delivery charges from the computation of sales price.*** A purchaser contracts with a printer to perform data processing services, print billing invoices, prepare the invoices for mailing, and deliver them to the U. S. Postal Service for delivery to the address on each invoice. Each envelope is mailed to a residential address and contains an invoice and an advertising insert. The mailing qualifies for the direct mail delivery charge exclusion. Separately stated charge(s) on the customer's bill or invoice for preparing the mailing for delivery and postage for delivery to the residential addresses are excluded from the computation of "sales price."

Illustration 3: ***State C excludes the transportation and postage components of direct mail delivery charges from the computation of sales price.*** A mail service provider enters into a contract with a customer to perform mailing services for advertising flyers which have been printed by a third party. The flyers are to be distributed to a mass audience at the direction of the customer. The mail service provider folds and sorts the flyers according to the jurisdictions to which they will be delivered, applies the appropriate postage to each flyer and delivers the flyers

to the United States Postal Service. This mailing service sale qualifies for the direct mail delivery charge exclusion. Separately stated charge(s) for transporting the mailing to the United States Postal Service and postage are excluded from the computation of "sales price."

Illustration 4: ***State W excludes only the postage component of direct mail delivery charges from the computation of sales price.*** Company B is a hair products company that just released a new shampoo product. As part of a nationwide campaign to inform the public about its new shampoo, it acquires a mailing list of potential customers and hires a company that does printing and mailing to print and mail promotional materials to all of the people on the mailing list. Included with the promotional materials is a free sample of the shampoo. The promotional materials qualify as direct mail because the recipient is not charged for the sample of the shampoo or other materials in the mailing and therefore separately stated charge(s) for the postage paid with respect to mailing the promotional materials and free sample are excluded from the computation of sales price.

Illustration 5: ***State X excludes only the postage component of direct mail delivery charges from sale price.*** A purchaser contracts with a service provider to perform data processing services, print paychecks and pay stubs, prepare the checks and stubs for mailing, and deliver them to the U. S. Postal Service or other delivery service for delivery to the address on each. Each envelope containing a check and pay stub is mailed to each of the purchaser's employees' home addresses. This sale will qualify for the exclusion of the postage component of the direct mail delivery charge depending on whether the U.S. Post Office delivers the direct mail or whether some other delivery service is used. If the mailing is sent through the U.S. Postal Service, then the exclusion for postage will apply if the postage is separately stated on the invoice given to the purchaser. If some other delivery service is used to deliver the checks and pay stubs, then the exclusion for postage will not apply.

Illustration 6: ***Same facts as in Illustration 4 [above] except that State X, in addition to postage, also excludes the transportation, shipping and similar charges components of direct mail delivery charges from sales price.*** With this broader exclusion, whether the sale will qualify for the exclusion of direct mail delivery charges will not depend on whether the U.S. Post Office delivers the direct mail or whether some other delivery service is used; the delivery charge exclusion will apply regardless of which mode of delivery is used, as long as the charges are separately stated on the invoice."

Illustration 7: ***State Y excludes only the "transportation, shipping, and similar charges" component of direct mail delivery charges from the computation of sales price.*** Company A sells men's clothing and markets its products through catalogs and through an Internet website. Customer orders a sweater that will be shipped using a courier service. Company A includes with the package containing the sweater one of its catalogs and other promotional materials. The catalog and other promotional materials included in the package do not qualify as direct mail since it is not being mailed to a mass audience and since Customer is being billed for the sweater. Therefore, the fees charged by the courier service for delivering the package are not excluded from the computation of sales price.

Illustration 8: ***State A excludes all components of direct mail delivery charges from the computation of sales price.*** A printer produces 10,000 copies of an advertising brochure. Under the contract, the printer is required to shrink-wrap the pallet containing the brochures and deliver the pallet to the custody of a mailing service provider contracted by the purchaser. The sale of the brochures is not "direct mail" and does not qualify for the direct mail delivery charge exclusion, since the seller/printer is not delivering or distributing the printed material to a mass audience or to addressees on a mailing list at the direction of the purchaser.

Illustration 9: ***State A excludes all components of direct mail delivery charges from the computation of sales price.*** A printer produces 100,000 advertising flyers for a purchaser. For this print job, the purchaser requires the printer to ship 1,000 copies of the flyer to 100 stores located in various states that are owned by the purchaser. The flyers will be made available to customers as they enter the store. The sale of the flyers is not "direct mail," and does not qualify for the direct mail delivery charge exclusion, because multiple items of the same printed material are delivered or shipped to a single address and because the printed materials are delivered to and billed to the recipient (store owner).

D. Handling, crating, packing, preparation for mailing or delivery, and similar charges. A state may opt to exclude from "delivery charges" the component for handling, crating, packing, preparation for mailing or delivery, and similar charges for activities necessary for preparing personal property or a service for delivery to a location designated by the purchaser of the personal property or service. In order for a seller to exclude the component of delivery charges for activities necessary for preparing personal property or a service from the computation of "sales price" with respect to the sale of any product or service such charge must be separately stated on an invoice or similar billing document given to the purchaser. ***Election of this option would permit inclusion in sales/purchase price of charges for movement of personal property or a service from possession by the seller to possession by the purchaser or the purchaser's designee (including but not limited to transportation, shipping, and postage) while excluding from sales/purchase price charges for activities necessary for preparing personal property or a service for delivery to a location designated by the purchaser of personal property or a service (including but not limited to handling, crating, packing, and preparation for mailing or delivery).***

Illustration 1: ***State D adopts the definition of "delivery charges," but excludes handling, crating, packing, preparation for mailing or delivery, and similar charges.*** Charges for transportation, shipping, and postage are included as part of sales/purchase price. Charges for handling, packing, crating, preparation for mailing or delivery, and similar charges for activities necessary for preparing personal property or a service for delivery to a location designated by the purchaser of the personal property or service, if separately stated on an invoice or similar billing document given to the purchaser, are not part of the sales/purchase price of a product or service. A separate charge for storage or warehousing prior to shipment is not a charge for movement of personal property or a service from possession by the seller to possession by the purchaser or the purchaser's designee.

Illustration 2: ***State E adopts the definition of "delivery charges" and "direct mail," but excludes handling, crating, packing, preparation for mailing or delivery, and similar charges as well as the "delivery charges" for "direct mail."*** For items other than "direct mail," "delivery charges" (which do not include handling, crating, packing, preparation for mailing or delivery, and similar charges separately stated on an invoice or similar billing document given to the purchaser) are included as part of the sales/purchase price of a product or service. "Delivery charges" separately stated on an invoice or similar billing document given to the purchaser are not part of the sales/purchase price of a product or service that meets the definition of direct mail described in subsection C of this Rule.

E. Transportation, shipping, postage, and similar charges.

A state may opt to exclude from "delivery charges" the component for transportation, shipping, postage, and similar charges for movement of personal property or a service from possession by the seller to possession by the purchaser or the purchaser's designee. In order for a seller to exclude this component of delivery charges from the computation of "sales price" with respect to the sale of any product or service such charge must be separately stated on an invoice or similar billing document given to the purchaser. ***Election of this option would permit inclusion in sales/purchase price of charges for activities necessary for preparing personal property or a service for delivery to a location designated by the purchaser of the personal property or service (including but not limited to handling, crating, packing, and preparation for mailing or delivery), while excluding from sales/purchase price charges for movement of personal property or a service from possession by the seller to possession by the purchaser or the purchaser's designee (including but not limited to transportation, shipping, and postage).***

Illustration 1: ***State F adopts the definition of "delivery charges," but excludes transportation, shipping, postage, and similar charges.*** Charges for handling, crating, packing, and preparation for mailing or delivery are included as part of sales/purchase price. Charges for transportation, shipping, postage, and similar charges for movement of personal property or a service from possession by the seller to possession by the purchaser or the purchaser's designee, if separately stated on an invoice or similar billing document given to the purchaser, are not part of the sales/purchase price of a product or service.

Illustration 2: ***State G adopts the definition of "delivery charges" and "direct mail," but excludes transportation, shipping, postage, and similar charges as well as the "delivery charges" for "direct mail."*** For items other than "direct mail," "delivery charges" (which do not include transportation, shipping, postage, and similar charges separately stated on an invoice or similar billing document given to the purchaser) are included as part of the sales/purchase price of a product or service. "Delivery charges" separately stated on an invoice or similar billing document given to the purchaser are not part of the sales/purchase price of a product or service that meets the definition of "direct mail" described in subsection C of this Rule.

F. Reasonable and customary mark-up.

A state which excludes from the sales/purchase price of a product or service properly separately stated "delivery charges" for "direct mail," properly separately stated handling, crating, packing, preparation for mailing or delivery, and similar charges, or properly separately stated transportation, shipping, postage, and similar charges, shall allow as excluded from the

sales/purchase price of a product or service, in addition to the seller's actual cost for such charges, such mark-up as is reasonable and customary in the seller's industry.

G. Seller's billing practices.
Where the seller does not separately state on an invoice or similar billing document given to the purchaser the "delivery charges" for "direct mail," handling, crating, packing, preparation for mailing or delivery, and similar charges, or transportation, shipping, postage, and similar charges, such charges shall not be excluded from "delivery charges," and shall be included in or excluded from the sales/purchase price in the same manner as "delivery charges." A seller's decision not to separately state on an invoice or similar billing document given to a purchaser any such charge which, if so separately stated, could have been excluded from the sales/purchase price, shall be presumed to be a reasonable business practice.

Compiler's note: Rule 327.4 was amended on May 24, 2023 by RP23004 and became effective upon its adoption.

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Rule 327.5 – Computer Software Maintenance Contracts

The following related terms are defined in Part II of the Library of Definitions: "computer software maintenance contracts", "mandatory computer software maintenance contracts", "optional computer software maintenance contracts", and "prewritten computer software". In addition, Section 330 contains provisions addressing the treatment of bundled "optional computer software maintenance contracts" with respect to "prewritten computer software". Compliance with Section 330 (D)(3) requires the member state to select a uniform method of treatment for bundled "optional computer software maintenance contracts" when a state otherwise does not specifically impose tax on the sale of computer software maintenance contracts. Below are addition guidelines for the treatment of computer software maintenance contracts:

1. If the sales prices for a "mandatory computer software maintenance contract" and "prewritten computer software" are not separately itemized on the invoice or similar billing document, the price for the maintenance contract is treated as part of the sales price for the "prewritten computer software".
2. If the sales prices for the customer support services and the upgrades and updates components of an optional prewritten computer software maintenance contract are separately itemized on the invoice or similar billing document, the price for the maintenance contract is characterized as follows:
    i. The amount stated on the invoice or similar billing document for support services shall be characterized as a sale of services; and
    ii. The amount stated on the invoice or similar billing document as the amount for updates and upgrades shall be characterized as the sale of "prewritten computer software".
3. Renewal of a computer software maintenance contract where the customer is obligated to purchase the renewal as a condition to the continued use of "prewritten computer software" is a "mandatory computer software maintenance contract". All other renewals of computer software maintenance contracts are "optional computer software maintenance contracts.

4. Mandatory and "optional computer software maintenance contracts" relating to non-prewritten computer software are characterized the same as non-prewritten computer software.
5. Computer software maintenance provided by someone other than the vendor of the software that does not obligate the maintenance vendor to provide software updates or upgrades is characterized as a sale of services. Each state may select an appropriate percentage for allocating between taxable and nontaxable or exempt products under Section 330 (D)(3). Each member state shall indicate within its taxability matrix the adoption of software maintenance contract definitions and whether there has been a selection for uniform taxable and nontaxable or exempt percentages pursuant to Section 330 (D)(3).

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Rule 327.6 – Direct Mail

A. **"Direct mail"** is defined in Part I of the Library of Definitions. The definition of "direct mail" applies only for purposes of determining proper sourcing of "direct mail," and determining whether delivery charges or its components may be excluded from the sales price of "direct mail." The sourcing provisions for "direct mail" are in Sections 313 and 313.1, and additional information is found in Rule 313.1. The definition of "delivery charges for direct mail" is found in Part I of the Library of Definitions, and additional information is found in Rule 327.4. Definitions of the terms "advertising and promotional materials" and "other direct mail," used throughout the Agreement, are found in Section 313.C.

1. A product meets the definition of "direct mail" if:

    a) the product is printed materials or the service of printing materials;
    b) the printed material is delivered or distributed via United States mail or other delivery service by the seller to a mass audience or to addressees on a mailing list at the direction of the purchaser;
    c) the cost of the product is not billed to the recipients;
    d) multiple items of the same printed materials are not delivered or shipped to a single location. "Multiple items" means duplicate copies of the same printed materials; and
    e) the product does not include the development of billing information or the provision of any data processing services that is more than incidental.

2. A product that meets the definition of "direct mail" may include free product samples and other marketing materials supplied by the purchaser for inclusion with the printed materials in the packages or mailings, provided the recipients are not charged for the items in the packages or mailings.

Example 1. Company A sells men's clothing and markets its products through catalogs and an Internet website. Customer orders a sweater that will be shipped using a courier service. Company A includes with the package containing the sweater one of its catalogs and other promotional materials. The catalog and other promotional materials included in the package do

not qualify as direct mail since it is not being mailed to a mass audience and since Customer is being billed for the sweater.

Example 2. Company B is a hair products company that just released a new shampoo product. As part of a nationwide campaign to inform the public about its new shampoo, it acquires a mailing list of potential customers and hires a company that does printing and mailing to print and mail promotional materials to all of the people on the mailing list. Included with the promotional materials is a free sample of the shampoo. The promotional materials qualify as direct mail because the recipient is not billed for the sample of the shampoo or other materials in the mailing.

3. For purposes of this definition, "printed material or the service of printing materials" includes, but is not limited to, items such as catalogs, brochures, newsletters, stockholder reports, coupon booklets and other printed items for delivery or distribution by United States mail or other delivery service to a mass audience or to addresses on a mailing list provided by the purchaser or at the direction of the purchaser. This includes sales characterized under state law as the sale of a service only if the service is an integral part of printed material that otherwise meets the definition of "direct mail."

Example 1. A purchaser contracts with a service provider to perform data processing services that includes the retrieval, development and summarization of transaction data, print billing invoices, preparing the invoices for mailing, and delivering them to the U. S. Postal Service or other delivery service for delivery to the address on each invoice. Each envelope is mailed to a residential address and contains an invoice and an advertising insert. This does not constitute the sale of "direct mail."

B. "Direct mail" does not include multiple copies of the same printed materials that are intended for distribution to a mass audience when the retail sale of such product is delivered or shipped to a single address or to the purchaser's location(s). A pallet, box or other container of multiple copies of the same printed material delivered to a single address as required by the purchaser does not constitute "direct mail." Separate, non-duplicative pieces of printed materials that are bundled or combined in a single envelope, packet, wrap or mailing to an addressee are not considered "multiple items delivered to a single address" for purposes of the exclusion from the definition of "direct mail."

Example 1. A printer produces 1,000 copies of a form letter, each personalized with customer information. Under the contract, the printer is required to shrink-wrap the pallet and release the statements to the custody of a third party mailing service provider selected by the purchaser. The purchaser has contracted separately with the mailing service provider to fold, insert the form letters into envelopes, and mail them. This printed material is not "direct mail" because the seller/printer is not delivering or distributing the printed material to a mass audience or to addressees on a mailing list at the direction of the purchaser.

Example 2. A printer produces 100,000 advertising flyers for a purchaser. For this print job, the purchaser requires the printer to ship 1,000 copies of the flyer to each of the purchaser's 100 stores situated in various states. The purchaser will make these flyers available to their

customers as they enter the store. The flyers shipped to the purchaser's stores are not "direct mail," because multiple items of the same printed material are delivered or shipped to a single address and because the printed materials are delivered to and billed to the recipient (purchaser).

Example 3. A printer produces 100,000 copies of an advertising brochure for a purchaser. The printer ships the brochures to the purchaser's headquarters. The purchaser then repackages the brochures into 1,000 packages containing 100 brochures each and mails each of the packages to the individual members of its sales force. The flyers do not constitute "direct mail" when shipped from the printer to the purchaser or when shipped from the purchaser to its sales force, because they are multiple items of the same printed material delivered to a single address.

C. The definition of "direct mail" is not intended to be a product definition as evidenced by the fact that the definition is found in Part I, Administrative Definitions, rather than the Part II, Product Definitions, of the Library of Definitions in the Agreement. States are not prohibited from exempting from tax some products that meet the definition of "direct mail" while imposing tax on other products that meet the definition of "direct mail." For example, a state may impose sales and use tax on charges to print newsletters and at the same time exempt charges to print advertising materials. Both of these examples result in the creation of printed material that is included within the definition of "direct mail" provided the seller mails or distributes the printed materials via United States mail or other delivery service to a mass audience or to addressees on a mailing list as provided in the definition of "direct mail."

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Rule 327.7 – Sales Price – Employee Incentive Program Points

A. The purpose of this section of the sales price definition rule is to clarify the treatment of employee incentive program points in accordance with sales price as defined in Appendix C, Library of Definitions. Employee incentive program credit, whether measured in a dollar or point value that is allowed by the seller to its employees on a sale, is included in the total consideration for which personal property or services are sold, leased, or rented. Employee incentive program credit is not an employee discount.

Example 1: A retailer offers an employee points program that serves as an incentive for employees to reach specific sales goals established by management. Employees receive bonus points for every dollar of sales that the employees make in a given month that exceed the predetermined quota. The points accumulated by the employees can be redeemed on purchases of tangible personal property sold through the retailer's catalog or website. The allowance for the earned points on the sale to the employee is included in the consideration received by the retailer on the sale. An employee redeeming $50 in points towards the purchase of a $200 item must pay tax on the full selling price of $200.

B. The purpose of this section of the sales price definition rule is to clarify the treatment of employee discounts in accordance with sales price as defined in Appendix C, Library of

Definitions. Employee discounts that are not reimbursed by third parties that are allowed by the seller and taken by the employees on a sale are discounts that are not included in sales price.

Example 1: A retailer offers all its employees a 20% discount on regularly priced merchandise it sells and a 10% discount on sale merchandise. Due to the fact the employee discounts are available to all employees by virtue of their employment with the retailer, the value of the discounts allowed on sales to the employees is excludable from the sales price.

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Rule 327.8 – Food and Food Ingredients Definitions – Candy

A. "Food and food ingredients" is defined in Part II of the Library of Definitions. "Candy," "dietary supplements," "soft drinks," "bottled water," and "prepared food," are categories of products that a member state may choose to exclude from the definition of "food and food ingredients."
"Candy," "dietary supplements," "soft drinks," and "bottled water" are intended to be mutually exclusive of each other.

B. "Candy" is defined in Part II of the Library of Definitions to mean a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" shall not include any preparation containing flour and shall require no refrigeration.

This definition is intended to be used when a person is trying to determine if a product that is commonly thought of as "candy" is in fact "candy." For example, the definition would be applied in a situation where a person is trying to determine if a product is "candy" as opposed to a cookie. The definition is not intended to be applied to every type of food product sold. Many products, such as meat products, breakfast cereals, potato chips, and canned fruits and vegetables are not commonly thought of as "candy." The candy definition is not applicable to products such as these since they are not commonly thought of as "candy."

C. A member state may exclude from its definition of "candy" a preparation that has as its predominant ingredient dried or partially dried fruit along with one or more sweeteners, and which may also contain other additives including but not limited to oils, natural flavorings, fiber, or preservatives. This exclusion does not apply to a preparation that includes chocolate, nuts, yogurt, or a preparation that has a confectionary coating or glazing on the dried or partially dried fruit. Dried or partially dried fruit does not include fruit that has been ground, crushed, grated, flaked, pureed, or jellied.

1.) For purposes of this exclusion, dried or partially dried fruit is the predominant ingredient if it is the first ingredient listed on the product label in accordance with the Food and Drug Administration's labeling requirements.

2.) The term "preservatives" as used in this exclusion means one or more food additives used to protect against decay, discoloration, or spoilage. Preservatives may include natural or artificial substances, such as citric acid. See 21 CFR Ch 1, § 170.

D. Each member state shall follow the classification of products as indicated in Appendix N. If a specific product is not included in the list in Appendix N, member states shall use the list as guidance in classifying products.

E. For purposes of the definition of "candy", the following apply:

1) **Preparation.** Candy must be a "preparation" that contains certain ingredients, other than flour. A "preparation" is a product that is made by means of heating, coloring, molding, or otherwise processing any of the ingredients listed in the candy definition. For example, reducing maple syrup into pieces and adding coloring to make maple candy is a form of preparation.

2) **Bars, drops, or pieces.** Candy must be sold in the form of bars, drops, or pieces.

   a) A "bar" is a product that is sold in the form of a square, oblong, or similar form.

      Example – Company A sells one-pound square blocks of chocolate. The blocks of chocolate are "bars."

   b) A "drop" is a product that is sold in a round, oval, pear-shaped, or similar form.

      Example – Company B sells chocolate chips in a bag. Each individual chocolate chip contains all the ingredients indicated on the label. The chocolate chips are "drops."

   c) A "piece" is a portion that has the same make-up as the product as a whole. Individual ingredients and loose mixtures of items that make-up the product as a whole are not pieces. Exception: If a loose mixture of different items that make up the product as a whole are all individually considered candy and are sold as one product, that product is also candy.

      Example 1 – Company C sells jellybeans in a bag. Each jellybean is made up of the ingredients indicated on the label. Each jellybean is a "piece" or "drop."

      Example 2 – Company D sells trail mix in a bag. The product being sold (e.g., trail mix), is made up of a mixture of carob chips, peanuts, raisins, and sunflower seeds. The individual items that make-up the trail mix are not "pieces," but instead are the ingredients, which when combined, make up the trail mix. Therefore, the trail mix is not sold in the form of bars, drops, or pieces.

      Example 3 – Company E sells a product called "candy lover's mix." "Candy lovers mix" is a product that is made up of a loose mixture of jellybeans, toffee, and caramels. Individually, the jellybeans, toffee, and caramels are all candy. The sale of

the mixture is the sale of candy since all the individual items that make up the product are individually considered to be candy.

3) **Flour.** For a product to be treated as containing "flour," the product label must specifically list the word "flour" as one of the ingredients. There is no requirement that the "flour" be grain-based and it does not matter what the flour is made from.

Many products that are commonly thought of as "candy" contain flour, as indicated on the ingredient label, and therefore are specifically excluded from the definition of "candy." Ingredient labels must be examined to determine which products contain flour and which products do not contain flour. For example, a Twix® bar that contains flour is excluded from the definition of "candy." See Appendix N for a list of other products and whether they meet the definition of "candy."

Example 1 – The ingredient list for a breakfast bar lists "flour" as one of the ingredients. This breakfast bar is not "candy" since it contains flour.

Example 2 – The ingredient list for a breakfast bar lists "peanut flour" as one of the ingredients. This breakfast bar is not "candy" because it contains flour.

Example 3 - The ingredient list for a breakfast bar that otherwise meets the definition of "candy" lists "whole grain" as one of the ingredients but does not specifically list "flour" as one of the ingredients. This breakfast bar is "candy" because the word "flour" is not included in the ingredient list.

Example 4 – Company E sells a box of chocolates that are not individually wrapped. The ingredient list on the label for the box of chocolates identifies flour as one of the ingredients. The box of chocolates is not "candy" since flour is identified as one of the ingredients on the label.

Example 5 – Company F sells a box of chocolates that are not individually wrapped. The ingredient list on the label for the box of chocolates, which otherwise meets the definition of "candy," does not identify flour as one of the ingredients. The box of chocolates is "candy."

4) **Other ingredients or flavorings.** "Other ingredients or flavorings", as used in this definition, means other ingredients or flavorings that are similar to chocolate, fruits, or nuts. This phrase includes candy coatings such as carob, vanilla and yogurt, flavorings or extracts such as vanilla, maple, mint, and almond, and seeds and other items similar to the classes of ingredients or flavorings. This phrase does not include meats, spices, seasonings such as barbeque or cheddar flavor, or herbs which are not similar to the classes of ingredients or flavorings associated with chocolate, fruits, or nuts, unless the product otherwise meets the definition of "candy."

Example 1 – Retailer A sells barbeque flavored peanuts. The ingredient label for the barbeque flavored peanuts indicates that the product contains peanuts, sugar, and

various other ingredients, including barbeque flavoring. Since the barbecue flavored peanuts contain a combination of sweeteners and nuts, and flour is not listed on the label and the nuts do not require refrigeration, they are candy.

Example 2 – Retailer B sells barbeque potato chips. Potato chips are potatoes, a vegetable, and are not commonly thought of as candy. The barbeque potato chips are food and food ingredients and not candy. The fact that the ingredient label for the barbeque potato chips indicates that the product contains barbeque seasoning which contains a sweetener does not change the fact that the barbeque potato chips are not commonly thought of as candy.

5) **Sweeteners.** The term "natural or artificial sweeteners" means an ingredient of a food product that adds a sugary sweetness to the taste of the food product and includes, but is not limited to, corn syrup, dextrose, invert sugar, sucrose, fructose, sucralose, saccharin, aspartame, stevia, fruit juice concentrates, molasses, evaporated cane juice, rice syrup, barley malt, honey, maltitol, agave, and artificial sweeteners.

6) **Refrigeration.** A product that otherwise meets the definition of "candy" is not "candy" if it requires refrigeration. A product "requires refrigeration" if it must be refrigerated at the time of sale or after it has been opened. The product label must indicate that refrigeration is required. If the label on a product that contains multiple servings indicates that it "requires refrigeration," smaller size packages of the same product are also considered to "require refrigeration." A product that otherwise meets the definition of "candy" is "candy" if the product is not required to be refrigerated but is sold refrigerated for the convenience or preference of the customer, retailer, or manufacturer.

Example 1 – Company A sells sweetened fruit snacks in a bag that contain multiple servings. The label on the bag indicates that after opening, the sweetened fruit snacks must be refrigerated. The sweetened fruit snacks "require refrigeration."

Example 2 – Company A sells sweetened fruit snacks in single serving containers. Other than for packaging, the sweetened fruit snacks are identical to the sweetened fruit snacks in Example 1 above. However, since this container of sweetened fruit snacks only contains one serving, it is presumed that it will be used immediately, and the label does not indicate that after opening, the product must be refrigerated. Even though the label does not contain the statement that after opening the sweetened fruit snacks must be refrigerated, these sweetened fruit snacks are considered to "require refrigeration."

Example 3 – Company A sells chocolate truffles. The label on the truffles indicates to keep the product cool and dry but does not indicate that the product must be refrigerated. Since the chocolate truffles are not required to be refrigerated, even though the label indicates to keep them cool, the chocolate truffles do not "require refrigeration."

F. **Bundled transactions.** "Bundled transaction" is defined in Part I of the Library of Definitions as the retail sale of two or more products, except real property and services to real property, where (1) the products are otherwise distinct and identifiable and (2) the products are sold for one non-itemized price.

1) Products that are a combination of items that are defined as "candy" and items that are defined as "food and food ingredients" are "bundled transactions" when the items are distinct and identifiable and are sold for one non-itemized price. For example, a bag of multiple types of individually wrapped bars that is sold for one price is two or more distinct and identifiable products sold for one non-itemized price. For purposes of determining whether such a bag of individually wrapped bars is a "bundled transaction" the following rules apply:

a) 1. If a package contains individually wrapped bars, drops, or pieces and the product label on the package separately lists the ingredients for each type of bar, drop, or piece included in the package, those bars, drops, or pieces that have "flour" listed as an ingredient are "food and food ingredients" and those bars, drops, or pieces which do not have "flour" listed as an ingredient are "candy." The determination of whether the package as a whole meets the definition of a bundled transaction is based on the percentage of bars, drops, or pieces that meet the definition of "food and food ingredient" as compared to the percentage of bars, drops, or pieces that meet the definition of "candy."

2. For purposes of determining the percentage of the sales price or purchase price of the bars, drops, or pieces that meet the definition of "candy" as compared to all of the bars, drops, or pieces contained in the package, the retailer may presume that each bar, drop, or piece contained in the package has the same value.

3. A retailer may presume that there is an equal number of each type of product contained in the package, unless the package clearly indicates otherwise.

Example 1: Retailer A sells a package that contains 100 total pieces of food and food ingredients. There are 10 different types of foods and food ingredients in the package. Eight of the types of food and food ingredients included in the package meet the definition of "candy," while two of the types included do not meet the definition of "candy." It is a reasonable presumption that 20 (2/10 times 100) of the pieces are not "candy" and 80 (8/10 times 100) of the pieces are "candy." Therefore, since 80 percent of the product is "candy," the retailer shall treat the entire package as a bundled transaction containing primarily "candy."

Example 2: Retailer B sells bulk food and food ingredients by the pound. Each food and food ingredient is in a separate bin or container. Some of the food and food ingredients are "candy" and some of them are not because they contain flour. However, regardless of the items chosen, the retailer charges the customer $3.49/lb. Customer C selects some items that are candy and some that are not and

puts them in a bag. Since some of the items in the bag are "candy," the retailer shall treat the entire package as a bundled transaction containing primarily "candy," unless the retailer ascertains that 50 percent or less of the items in the bag are "candy."

b) If a package contains individually wrapped bars, drops, or pieces and all of the ingredients for each of the products included in the packages are listed together, as opposed to being listed separately by each product included as explained in a., above, and even if the ingredient lists "flour" as an ingredient, the product will be treated as "candy," unless the retailer is able to ascertain that 50 percent or less of the products are "candy."

1. The retailer may presume that each bar, drop, or piece contained in the package has the same value.

2. The retailer may presume that there is an equal number of each type of product contained in the package, unless the package clearly indicates otherwise.

2) Products whose ingredients are a combination of various unwrapped food ingredients that alone are not candy, along with unwrapped food ingredients that alone are "candy," such as breakfast cereal and trail mix with candy pieces, are considered "food and food ingredients," but not "candy." Sales of these products are not "bundled transactions" as that term is defined in Part I of the Library of Definitions, because there are not two or more distinct and identifiable products being sold. The combination of the ingredients results in a single product. Examples of combination products are included in the list in Appendix N.

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Rule 327.9 – Sales Price Definition – Excluded Taxes

A. The purpose of this section of the sales price definition rule is to clarify which taxes are included in or excluded from the sales price as defined in Appendix C, Part I, Library of Definitions.

1. Sales price is the measure that is subject to sales tax. Because purchase price, the measure that is subject to use tax, has the same meaning as sales price, this rule applies to use tax as well as to sales tax. The sales and use taxes covered by the Agreement that are applied to the sales price of the retail sale of a product are not included in the sales price of that product, regardless of who bears the legal incidence of tax.

2. A tax imposed on a product prior to the retail sale of that product is an element of the cost to the seller of the product and shall be included in the sales price (measure) for purposes of calculating the sales tax by member states.

Example 1: Federal excise tax imposed on the sale by a manufacturer, producer or importer of beer for sale or consumption in the United States. (26 U.S.C. § 5051) The federal excise tax is imposed on the manufacturer, producer or importer and constitutes an element of cost of beer that is passed down to the retailer and ultimately to the consumer in the selling price. This tax is included in the sales price of the beer.

3. The sales price definition states there is no deduction from the sales price for "The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller."

While provisions in the definition identifying the amounts that may not be deducted from the sales price are very broad, the exclusions from sales price are narrow and specific.

A state may elect to exclude from sales price, the following types of taxes, but only if that tax is separately stated on the invoice, bill of sale or similar document given to the purchaser:

a. Any or all state and local taxes on a retail sale that are imposed on the seller if the state statute authorizing or imposing the tax provides that the seller may, but is not required, to collect such tax from the consumer. If there is no state statute authorizing or imposing the local tax, the language in the local ordinance will determine if the local tax may, but is not required, to be collected from the consumer.

b. Tribal taxes on a retail sale that are imposed on the seller if the Tribal law authorizing or imposing the tax provides that the seller may, but is not required, to collect such tax from the consumer.

c. The federal excise taxes excluded from the definition of "sales price" contained in Appendix C (Library of Definitions), part I.

A state making an exclusion must apply the exclusion to each tax by state statute or state administrative regulation. No excluded tax may be based on the type of consumer, such as "residential" consumer. Except for federal excise taxes excluded from the definition of "sales price" contained in Appendix C (Library of Definitions) part 1, the exclusion may not be based on the type of product sold.

A state must list such tax exclusion from sales price on the state's taxability matrix.

4. The sales price definition also states that the sales price shall not include "Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale or similar document given to the purchaser." A tax imposed directly on the consumer that is not separately stated on the invoice, bill of sale or similar document given to the consumer is a cost or expense of the seller and is included in the sales price. There is no requirement for a seller to separately state such taxes.

A tax is legally imposed directly on the consumer if the imposition statute specifies the tax is:

a. imposed on the consumer;
b. the seller is required to collect from or bill the consumer for the tax; or
c. the tax is to be paid by or is due by the consumer.

Such tax shall be considered a tax imposed directly on the consumer regardless of whether the statute provides that the seller is liable for the tax if the consumer does not pay the tax to the seller.

A tax that does not meet the criteria as a tax imposed directly on the consumer as explained in this rule is a tax imposed on the seller or an expense of the seller.

Example 1: Federal Excise Tax on indoor tanning services. Chapter 49, Section 5000B, states the tax "imposed by this section shall be paid by the individual on whom the service is performed". This tax is imposed directly on the consumer and when itemized on the invoice the tax is not included in the sales price.

Example 2: A municipality in State A imposes a 3% tax based on the retail sale of lodging services. The statutes in State A provide that the seller may collect this tax from the consumer and if the seller collects this tax from the consumer, it must be separately stated on the invoice the seller provides to the consumer. This tax is imposed on the seller and is included in the sales price. Such tax is excluded from sales price only in states electing the option available under the sales price definition and subsection A.3 of this rule.

5. State law that allows the local jurisdictions to impose a tax will be used to determine if the tax is imposed directly on the consumer or imposed on the seller. The state law controls whether those taxes are included or excluded from the sales price, regardless of whether the local jurisdiction's law or ordinance adopted provides that:
a. The tax is imposed on the consumer;
b. The tax must be collected from or billed to the consumer; or
c. The tax may be collected from the consumer.

If the state law is silent as to the collection or imposition of tax, the tax is considered imposed on the seller and is included in the sales price.

If there is no state statute authorizing or imposing the tax, the language in the local ordinance will determine if the tax may, but is not required, to be collected from the consumer.

Example 1: State Law 1. Additional municipal non-ad valorem tax authorized--Rate. Any municipality may impose an additional municipal non-ad valorem tax at the rate of one percent upon the gross receipts of all leases or rentals of hotel, motel, campsites, or other lodging accommodations within the municipality for periods of less than twenty-eight consecutive days. Any person or retailer subject to taxation under this chapter may add the tax under this chapter, or the average equivalent thereof, to the price or charge.

Based on State Law 1, this tax is imposed on the seller and is included in the sales price. However, it is excluded from the sales price only in states electing the option available under the sales price definition and subsection A.3 of this rule, if the tax is separately stated on the invoice, bill of sale, or similar document given by the seller to the consumer, regardless of what the municipal ordinance says.

Example 2: State Law 2. The council shall have power to tax for revenue, license, and regulate pawnbrokers, peddlers, auctioneers, brokers, hawkers, commission merchants, showmen, jugglers, innkeepers, liquor dealers, toll bridges, ferries, insurance, telegraph and express companies and vendors of patents. Such tax may include both a tax for revenue and license. The city council shall have power to raise revenue by levying and collecting a tax on any occupation or business within the limits of the city and regulate the same by ordinance. All such taxes shall be uniform in respect to the class upon which they are imposed. It shall be the duty of the city clerk to deliver to the city treasurer the certified copy of the ordinance levying such tax, and the city clerk shall append thereto a warrant requiring the city treasurer to collect such tax.

Based on State Law 2, this tax is imposed on the seller and is included in the sales price since the state law is silent as to the collection or imposition of the tax.

Example 3: State Law 3 provides that municipalities may impose a local room tax. The state law indicates that these taxes may be passed on to or collected from the consumer, based on the ordinance passed by each municipality. Municipality A passes an ordinance to impose the local room tax and that the tax may be passed on to or collected from the consumer. Municipality B passes an ordinance to impose the local room tax and that the tax may not be passed on to the consumer.

Based on State Law 3, these taxes are imposed on the seller and included in the sales price in both Municipality A and Municipality B. However, these taxes will be excluded from the sales price in those states electing the option available under the sales price definition and subsection A.3. of this rule, if the taxes are separately stated on the invoice, bill of sale, or similar document given by the seller to the consumer, regardless of what the municipal ordinance says.

6. Contracts between a seller and consumer will not alter upon whom the legal incidence of the tax is statutorily imposed.

7. As of September 1, 2015, federal taxes that are legally imposed directly on the consumer based on the above rules are excluded from the “sales price” when separately stated on the invoice, bill of sale, or other similar document given by the seller to the consumer.

A. Telecommunications Excise Tax. (26 U.S.C. § 4251)
B. Transportation of Persons by Air. (26 U.S.C. § 4261)
C. Transportation of Property by Air. (26 U.S.C. § 4271)
D. Tanning Service. (H.R. 3590, § 10907 Chapter 49, § 5000B)

8. As of January 1, 2011, subject to a state excluding certain federal excise taxes under paragraph 3 of the sales price definition, the following are examples of federal taxes and fees that are included in the sales price, regardless of whether they are separately stated on the invoice, bill of sale, or other similar document given by the seller to the consumer. These are imposed on the seller or are a cost of expense of the seller.

A. Federal Universal Service Fund Fee
B. Federal Subscriber Line Charge
C. Federal Retail Tax on Heavy Trucks
D. Federal Alcohol Tax
E. Federal Tobacco Tax
F. Federal Firearms and Ammunition Excise Tax
G. Federal Gas Guzzler Tax
H. Federal Motor Fuel Tax

B. The purpose of this section is to explain that a partial exclusion of a definition is prohibited.

1. A member state that has adopted the Sales Price definition shall use the definition contained in the Agreement and shall not exclude from the sales price any amount or measure that is included in the sales price definition unless the Agreement specifically permits such a variation.

> Example 1: A state imposes an excise tax on the receipts from wireless telecommunication services. The law does not state the consumer is to pay the tax or that the seller is required to collect the tax from the consumer. The law is silent concerning an authorization to pass the tax on to or collect the tax from the consumer. A state passing a sales tax statute to exclude the excise tax on wireless telecommunication services from the sales price is not in compliance with the Agreement.
>
> Example 2: A state law allows municipalities to enact an ordinance or resolution imposing a tax on the privilege of furnishing, at retail, rooms or lodging to transients by hotelkeepers, motel operators and other persons furnishing accommodations that are available to the public. The state law provides the tax imposed under this law is not subject to the sales tax imposed by their state sales tax statutes. There is no language stating the tax must be collected from or paid by the consumer and no language stating the seller may pass the tax on or collect the tax from the RP1100801 consumer. Instead, each municipality's ordinance or resolution indicates whether the tax may or may not be collected from the consumer.

Because the law is silent concerning an authorization to pass the tax on to or collect the tax from the consumer, this tax is imposed on the seller. The state excluding this tax from the sales price is not in compliance with the Agreement.

Compiler's note: Rule 327.9 was amended on September 16, 2015 by RP15010.

Rule 327.10 – Food and Food Ingredients

Food and Food Products are defined in Appendix C, Part II of the Library of Definitions. For purposes of the definition of "food and food ingredients", a product that is inhaled, absorbed, or injected into the body is not considered "sold for ingestion". Food or food ingredients delivered directly into the gastrointestinal tract of the human body (i.e., tube feeding) because a person cannot eat or swallow is considered "sold for ingestion."

Compiler's note: Rule 327.10 was adopted to reflect the amendment to the Rules made by RP26001 on May 13, 2026.

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Rule 328 – Taxability Matrix [Reserved]

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Rule 329 – Effective Date for Rate Changes [Reserved]

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Rule 330 – Bundled Transactions

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Rule 330.1 – Definition of a Bundled Transaction

A. Application and Severability of the Definition. Member states shall adopt and use all parts of the definition of a "bundled transaction" set forth in Part I of the Library of Definitions to determine whether a transaction is a bundled transaction and none of the definition's parts shall be severable when making such a determination. Except as provided in this rule, a transaction that does not comply with any single part of the definition shall not be a bundled transaction.

B. Types of Products Included in a Bundled Transaction. For purposes of the "bundled transaction" definition found in Part I of the Library of Definitions, "products" shall include all types of products except real property and services to real property. Types of products include; tangible personal property, services, intangibles, digital goods, and products that a member state has directly imposed tax on the retail sale thereof but the imposition of tax on the retail sale of such products may not itself be considered tangible personal property, services, or digital goods. Member states may continue current sales and use tax treatment for transactions that include real property or services to real property. Services to real property include, for purposes of example only, such services as building framing, roofing, plumbing, electrical, painting, and janitorial, pest control and window cleaning.

1. Distinct and Identifiable Products. A "bundled transaction" is a retail sale of two or more products that are "distinct and identifiable." Packaging that accompanies the retail sale of a

product, products provided free of charge and items included in a member state's definition of "sales price" and "purchase price" are not distinct and identifiable products.

a. Packaging is not a separate and distinct product when such packaging is the wrapping or packing that accompanies the retail sale of a product(s) and such packaging is incidental or immaterial to the retail sale of the product(s). Member states may exempt from tax the purchase or use of packaging or subject to tax the purchase of packaging that will accompany retail sales of products by limiting the seller's authority to utilize a resale exemption.

b. A product provided free of charge is not a separate and distinct product. A product shall be considered to be provided free of charge in a retail sale if, in order to obtain the product, the purchaser is required to make a purchase of one or more other products and the price of the purchased products does not change based on the seller providing a product free of charge. Such products provided free of charge with the necessary purchase of another product (e.g. a free car wash with the purchase of gas or free dinnerware with the purchase of groceries) shall be considered "promotional products". Member states may exempt from the tax the purchase by a seller of products that will be provided free of charge to a purchaser of another product or subject to tax the purchase of products that will be provided free of charge to the purchaser of another product by limiting the seller's authority to utilize a resale exemption. Member states may have different tax treatments for different types of promotional products.

c. A retail sale is not considered to be for "two or more distinct and identifiable products" if the items are included in a member state's definition of "sales price" and "purchase price." For example, if a member state includes "delivery charges," whether separately itemized or not, in its definition of "sales price," the retail sale of a product and the delivery of that product for a single price shall not be considered a bundled transaction because the delivery charges are included in the sales price of the product under the definition of "sales price" adopted by the member state.

2. One Non-itemized Price. The sales price or purchase price of a bundled transaction is for one non-itemized price. If a retail sale of two or more products is not made for "one non-itemized price," then the retail sale is not a "bundled transaction." A transaction shall not be considered to be a bundled transaction if, by negotiation or otherwise, the sales price varies with the purchaser's selection of the distinct and identifiable products being sold. A retail sale shall not be considered made for "one non-itemized price" if the purchaser has the option of declining to purchase any of the products being sold and, as a result of the purchaser's selection of products, the sales price varies or a different price is negotiated.

a. A retail sale shall not be considered a bundled transaction if the price is separately identified by product on binding sales documents or other supporting sales-related documentation made available to the purchaser because the sale is not being made for "one non-itemized price." The sales-related documents made available to a purchaser in paper or electronic form shall provide enough information for the purchaser to determine the price(s) of taxable and exempt products.

b. A transaction shall not be considered a bundled transaction if a seller bills or invoices one price for the sale of distinct and separate products but the price invoiced is equal to the total of the individually priced or itemized products contained in supporting sales-related documentation, such as a catalog, price list, or service agreement.

c. If the seller bills or invoices one price for a transaction that includes a bundle of products and also includes one or more additional products that are individually priced or itemized in a catalog or price list, the additional products individually priced or itemized shall not be considered to be a part of the bundled products sold for one non-itemized price.

d. If a transaction does not qualify as a bundled transaction because of the provisions in this subsection (B.2.a-c), the transaction shall not be considered a bundled transaction as a result of the seller offering a subsequent discount of the total sales price without itemizing the amount of the discount for each product. In such a situation, if there is no sales-related documentation showing the allocation of the discount, the discount shall be considered to be allocated pro rata among the otherwise separately itemized products.

3. Records Required to be Maintained by the Seller. In order to show whether a retail sale was for one or more distinct and identifiable products and whether the products were sold for one non-itemized price, a seller shall maintain copies of invoices, service agreements, contracts, catalogs, price lists, rate cards and other sales-related documents given to, or made available to, the purchaser. A member state shall not be restricted in assessing tax because the seller or purchaser failed to provide documentary proof that the price varied based on the purchaser's selections of products.

4. Exclusions of Transactions that Otherwise Would Qualify as Bundled Transactions. Part C of the definition of a "bundled transaction" contains exclusions for transactions that would otherwise qualify as bundled transactions. For transactions that include tangible personal property and a service, or multiple services, sellers may utilize Part C-1 and C-2 of the definition or Part C-3 of the definition to determine if the transaction qualifies as a bundled transaction. Part C-1 does not apply to transactions that include only tangible personal property. Part C-3 may be applied to transactions that include all types of products to determine whether the transaction qualifies as a bundled transaction. Part C-4 does not apply to transactions that include products that are not tangible personal property.

5. True Object Part C-1 and C-2. "True object," as the term is used in Part C-1 or C-2 of the definition, shall mean the main product or item in the transaction. If as a result of applying Part C-1 or C-2 a transaction is not a bundled transaction, then the transaction shall be considered a retail sale of the service that is the object of the transaction.

a. Parts C-1 and C-2 of the definition of a bundled transaction are subjective in nature and shall be applied on a case-by-case basis to the particular facts involved in each situation. Examples, not intended to be all inclusive, of factors that might be considered are as follows:

- The business in which the seller is engaged.
- The purchaser's object in engaging in the transaction.

b. Member states are not prohibited from imposing tax or exempting from tax a seller's purchase of a tangible good or service that is essential to the use of a service that is the object of the transaction and that is provided exclusively in connection with such service. Member states are not prohibited from subjecting such tangible good or service to tax by limiting the seller's authority to utilize a resale exemption.

c. A member state shall not limit the application of the true object test under Part C-1 and C-2 of the definition by using any of the following methods:

i. Placing a cap on the price of the transactions to which the test would apply.

ii. Using thresholds for the purpose of taxing a portion of the sales price of a transaction in which taxable products are determined to not be the true object of the transaction.

iii. Taxing the total sales price or total purchase price of a transaction that includes both taxable products and non-taxable products and the taxable products are determined to not be the true object of the transaction.

iv. Requiring sellers to separately price or itemize on a purchaser's invoice the taxable products that are not the true object from the non-taxable products included in the transaction for purposes of subjecting the sales price of the taxable products to tax.

6. De minimis Test Part C-3. A seller may use the sales price or the purchase price of each product in the transaction to measure or quantify whether the taxable products are de minimis under Part C-3 of the definition. A seller shall not use the sales price for some products in the transaction and the purchase price for other products in the transaction to measure or quantify whether the taxable product(s) in the transaction are de minimis.

a. If services have been sold under a service contract, the full contract price for the services shall be used to determine whether products in the transaction are de minimis regardless of the time period covered by the service contract. For the purpose of determining whether services in the transaction are de minimis, the price of the services shall not be prorated based on the term of the service contract.

b. When the taxable products in a transaction are determined to be de minimis, the transaction is not a "bundled transaction."

c. A member state shall not limit the application of the de minimis test under Part C-3 of the definition by using any of the following methods:

i. Placing a cap on the price of the transactions to which the test would apply.

ii. Using thresholds for the purpose of taxing a portion of the sales price of a transaction in which taxable products are determined de minimis.

iii. Taxing the total sales price or total purchase price of a transaction that includes both taxable products and non-taxable products and the taxable products in the transaction are de minimis.

iv. Requiring sellers to separately price or itemize on a purchaser's invoice the taxable products that are otherwise de minimis from the non-taxable products included in the transaction for purposes of subjecting the sales price of the taxable products to tax.

7. Primary Test Part C-4. A seller may use the sales price or the purchase price of each product in the transaction to measure or quantify whether the taxable products in the transaction are the primary products (more than 50% of the total sales price or purchase price) under Part C-4 of the definition. A seller shall not use the sales price for some of the products in the transaction and the purchase price for other products in the transaction to measure or quantify whether the taxable product(s) in the transaction are the primary products.

a. Part C-4 may be applied only to transactions that contain multiple products that are only tangible personal property and at least one product is: food and food ingredients including soft drinks, candy, and dietary supplements; drugs including over-the-counter and grooming and hygiene products; durable medical equipment; mobility enhancing equipment; prosthetic devices, all of which are defined in the Agreement; and medical supplies. The term "medical supplies" is not a defined term under the Agreement. Member states may define "medical supplies" according to its state laws for purposes of applying Part C-4.

b. When the taxable products in the transaction are not the primary products (more than 50%) under Part C-4 of the definition, then the transaction is not a "bundled transaction."

c. A member state shall not limit the application of the primary products (more than 50%) test under Part C-4 of the definition by using any of the following methods:

i. Placing a cap on the price of the transactions to which the test would apply.

ii. Using thresholds for the purpose of taxing a portion of the sales price of a transaction in which exempt products are determined to be the primary products (more than 50%) of the transaction.

iii. Taxing the total sales price or total purchase price of a transaction that includes only tangible personal property and at least one of the products is a product specified in Part C-4(a) of the definition and the taxable products are not the primary products (more than 50%) in the transaction.

iv. Requiring sellers to separately price or itemize on a purchaser's invoice the taxable products that are not the primary products (more than 50%) of the retail sale under Part C-4 of the definition for purposes of subjecting the otherwise taxable products to tax.

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Rule 330.2 – How to use the bundled transaction definition

A. Member States' Requirements Under § 330 of the Streamlined Sales and Use Tax Agreement. Member states shall be required to adopt the definition of a bundled transaction and adopt provisions for the tax treatment of bundled transactions.

1**.** A member state may adopt provisions that would treat the taxation of some bundled transactions in one manner while treating the taxation of other bundled transactions differently. A member state may adopt provisions that provide for different tax treatment of bundled transactions based on the distinct and separately identifiable products included in the transaction.

2**.** A member state shall be prohibited from adopting provisions for the tax treatment of bundled transactions that are not in compliance with other provisions of the Streamlined Sales and Use Tax Agreement (i.e. imposing different tax rates or having caps or thresholds that apply to bundled transactions).

B. Telecommunication service, Ancillary service, Internet access and Audio Video Programming service. A member state shall be required to adopt the provisions of § 330(C) of the Streamlined Agreement that are applicable to bundled transactions that include all types of products except real property and services to real property when at least one product is a telecommunication service, ancillary service, internet access, or audio or video programming service.

1. A member state shall not be prohibited from imposing tax on the total non-itemized price of a bundled transaction unless the bundled transaction includes the distinct and separately identifiable products specified in Section 330(C) of the Streamlined Agreement and the seller has maintained books and records identifying through reasonable and verifiable standards that portion of the price attributable to the distinct products.

2. When the taxable portion of a bundled transaction's non-itemized price is subjected to taxation under § 330(C), a member state shall use only books and records maintained by the seller in the regular course of business. Books and records shall be considered to be maintained primarily for tax purposes when such books and records identify taxable and nontaxable portions of the price, but the seller maintains other books and records that identify different prices attributable to the distinct products included in the same bundled transaction. Generally, books and records kept in the regular course of business and that are acceptable for use by a member state for subjecting the taxable portion of a bundled transaction's non-itemized price to taxation under § 330(C)

include financial statements, general ledgers, invoicing and billing systems and reports, and reports for regulatory tariffs and other regulatory matters; provided, however, that the books and records named herein shall not be considered all inclusive.

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Rule 330.3 – Allocations with respect to Prewritten Computer Software Maintenance Contracts

Each state may elect one uniform percentage within the range allowed under Section 330 (D)(3)(d) for allocating between taxable and nontaxable or exempt products.

Rule 331 – Relief from Certain Liability [Reserved]

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Rule 332 – Specified Digital Products

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Rule 332.1 – Products Transferred Electronically

A. Section 332A provides that specified digital products and the subcategories thereof are not within the definition of ancillary services, computer software, telecommunication services or tangible personal property. With regard to tangible personal property, the purpose of Section 332A is to make it clear that specified digital products and the subcategories are a separate class of property outside of tangible personal property. States are not free to interpret the definition of tangible personal property as including any item within the definition of specified digital products.

B. 1. Section 332B provides that for purpose of Section 327(C) and the taxability matrix, the subcategories "Digital Audio Visual Works", "Digital Audio Works", and "Digital Books" are separate definitions. A member state may exclude "Digital Audio-Visual Works", "Digital Audio Works", or "Digital Books" from its definition of "Specified Digital Products".

2. If a state imposes its tax on "Specified Digital Products" then the tax applies to all three subcategories of digital products. However, the "specified digital products" definition does not require that a state tax or exempt all of its subcategories. A state may choose to impose its tax on one or more subcategories and exempt the remainder. For instance, a state may choose to impose its tax only on "digital audio-visual works" and exempt "digital audio works" and "digital books."

Example 1: State A's imposition statute provides that "Specified Digital Products" are subject to sales tax except for "digital books." This imposition statute is sufficient to impose a sales tax only on "digital audio works" and "digital audio-visual" works.

Example 2: State B's imposition statute provides "digital audio-visual works" and "digital audio works" are subject to sales tax. This imposition statute does not impose a tax on "digital books."

C. 1. Sections 332.C. and D. address how states may impose tax on or exempt specified digital products and the subcategories.

2. Examples of imposition statutes which conform to the requirements of 332C:

a. There is hereby imposed a tax of 5% on the sales price of sales of specified digital products to an end user with the right of permanent use granted by the seller which is not conditioned upon continued payment from the purchaser.

b. There is hereby imposed a tax of 5% on the sales price of all sales of products transferred electronically.

To be consistent with the Agreement both of these examples would have to be construed to only impose a tax on "specified digital products" sold to an end user with the right of permanent use for a transaction that is not conditioned upon continued payment by the purchaser. These requirements do not have to be contained in the imposition statutes. They may be in a separate statute or in an administrative rule.

3. Section 332.C. requires that if a state legislature chooses to impose its sales tax on specified digital products or the subcategories it may not rely upon a regulatory or judicial interpretation of the definition of tangible personal property.

Example 1: State X has a sales tax imposition statute that applies to "tangible personal property." It also has a court case holding that electronically delivered music is tangible personal property under the state's definition of tangible personal property. In order to comply with the requirements of the Agreement, State X's legislature must enact a tax imposition on "digital audio works" separate from its imposition of tax on tangible personal property to impose its tax on electronically delivered music.

Example 2: State Y has a definition of tangible personal property that provides that it applies regardless of the method of delivery. If State Y imposed a tax on specified digital products based on this definition of tangible personal property, it would not be in compliance with the Agreement.

D. States remain free to incorporate terms such as "digital audio visual works," "digital audio works" and "digital books" within their sales and use tax statutes and to tax or exempt those products when they do not otherwise meet the end user, permanent use or continued payment restrictions. For instance, a state may impose a tax on "digital books" purchased by someone who receives less than a right of permanent use. However, such imposition must be specifically imposed and separately enumerated.

1. Section 332D(1) provides a rule of construction such that the imposition of a sales or use tax on a transaction involving products transferred electronically only applies if the purchaser is an "end user" unless the imposition statute provides that the tax is specifically imposed on and separately enumerates another class or classes of purchasers. This section is designed to give states flexibility in how they limit their tax to end users. States may choose to implement the end user requirement through their sale-for-resale exemption regime. The application and imposition of the end user requirement must be consistent with 332D.

   Example of an imposition statute:

   "There is hereby imposed a tax of 5% on the sales price of sales of specified digital products with the right of permanent use granted by the seller which is not conditioned upon continued payment from the purchaser."

   In the above example, a state would be in compliance with the Agreement only if, through its sale for resale provisions or other exemptions, it administered its sales tax statutes in a manner that implemented the "sold to an end user" limitations imposed by 332D(1).

   Section 332D also defines "end user" broadly as encompassing any purchaser. However, the term excludes a person who receives by contract a product transferred electronically for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution or exhibition of the product, in whole or in part, to another person or persons (hereinafter collectively referred to as either "right to redistribute" or "redistribution"). Rights to redistribute that arise under some statutory or common law doctrine (such as "fair use") are not rights to redistribute that are transferred by contract and persons who receives such rights are not within the exclusion.

   The term "contract," as used in Section 332D, includes contracts formed by any means enforceable in a court of law. The term includes contracts and agreements formed electronically and "online" and includes "user agreements," "terms of service" or "end user license agreements." Unless such an agreement with the seller includes an explicit redistribution right, the purchaser will be an end user under this section.

   Example 1: Facts: The owner of a bar downloads a group of songs for a fixed fee. The owner is authorized to download the songs and store them on a hard drive and keep the songs permanently. The bar owner's contract with the music vendor does not convey any right to redistribute the songs or to play them in the bar. However, the bar owner also has a license from a third party society of music composers, authors, and publishers that collects fees from users of music created by its members. The license permits the bar owner to play the songs in the bar. The third party licensing society is unaffiliated with the seller of the songs. Under the license from the third-party society, the bar owner plays the songs in the bar for the bar patrons enjoyment.

Conclusion: The bar owner is an end user. Assuming that the playing of the songs in the bar constitutes "redistribution" within the meaning of Section 332D, the contract between the bar owner and the music seller does not convey any rights to redistribute the songs. The fact that the bar owner has separately acquired the rights from a third party to pay the songs in the bar has no impact on whether the bar owner is an end user of the songs. Even if the bar owner failed to obtain permission to play the songs in the bar but did so anyway, the bar owner would be an "end user" of the songs.

Example 2: Facts: A television program distribution company transfers electronically to a television station a copy of a television program in second run syndication. The station is granted the right to broadcast the program in its local market for a limited number of runs during the term of the agreement. The station agrees to broadcast the program in its entirety together with the advertising commercials sold by the television program distribution company to its advertising clients that are inserted by the program distribution company into the program provided to the television station.

Application: The transfer of the television program would not be subject to tax unless a state separately imposes a tax on products transferred electronically other than those sold to an end user or for permanent use. The television station is not an end user because it has been expressly granted the right by contract to broadcast the program. In addition, the television station has not been granted the right of permanent use because it may only broadcast the program for a limited number of runs during the term of the agreement with the distribution company.

2. a. Unless a statute specifically imposes and separately enumerates a tax on a sale of a product transferred electronically for less than permanent use, a statute which imposes a tax on such a product will not be construed as imposing tax on the sale unless the purchaser is granted by the seller the right to permanently use the product.

b. Even though the transaction might result in the ability of the purchaser to permanently retain a copy of the product, the transaction will not meet the permanent use requirement unless the seller grants the purchaser the right to view, listen to read or otherwise use the product in perpetuity. A right of permanent use has been granted unless the agreement between the seller and the purchaser specifies or the circumstances surrounding the transaction suggest or indicate that the right to use terminates on the occurrence of a condition subsequent. A state would be in compliance with the Agreement if, for example, through its sale for resale provisions or other exemptions, it administered its sales tax statutes in a manner that implemented the "sold to an end user" limitations imposed by Section 332D(1).

c. Further, placing time limits on the purchaser's continuing future use will result in not satisfying the "right of permanent use" and the transaction will not meet the permanent use requirements.

d. Even though a purchaser might obtain a right of permanent use under a statutory right or common law regime such as “fair use” or similar doctrine, such rights are not “granted by the seller”; the presence of such a permanent use right would not be sufficient to come within the definition of permanent use set forth in the Agreement.

Example 1: A cable company offers its customers basic and premium cable services which provide scheduled programming for a monthly fee. In addition to the scheduled programming, the premium level service provides an "on-demand" feature included in the monthly fee. This on-demand feature allows the customer to select the time when certain specified programs are delivered to the viewing screen. The cable company may also permit the customer to watch additional single programs such as movies, concerts and sporting events on a "pay-per-view" basis with viewing limited to a set time period. The time period limitation may be set forth on-screen, online or in the subscriber agreement. The company does not authorize the customer to permanently retain the programming. For these reasons, none of the cable company’s basic, premium and pay per view services meet the permanent use requirement. Further, because the cable company’s basic and premium services require monthly payments, these services require “continued payments” and do not satisfy the permanent use requirement (see below regarding discussion of the “continued payment” provision).

The fact that a customer uses a recording device, such as a VCR or DVR, does not result in the cable company’s programming services (i.e., basic, premium, on demand, or pay per view) being characterized as meeting the permanent use requirement since any rights granted to access the services offered by the cable company terminate upon discontinuation of payment to the cable company and no permanent right to keep the programming was ever allowed, granted or authorized by the cable company. Any right to maintain the programming on a DVR or any other recording device, if it exists at all, is provided by other law.

e. Example of an imposition statute that imposes a tax on “specified digital products” sold with the right of permanent use and on “specified digital products” sold with a right of use which is less than permanent but is more than 24 hours which conforms to 332D.

“There is hereby imposed a sales tax of 5% of the sales price of sales (i) of specified digital products to end users with the right of permanent use granted by the seller which is not conditioned upon continued payment from the purchaser; and (ii) of specified digital products to an end user with the right of more than 24 hours of access granted by the seller which is not conditioned upon continued payment from the purchaser.”

f. Example of an imposition statute that imposes a tax on “specified digital products” sold with the right of permanent use and on “specified digital products” sold with a right of use which is less than permanent but is more than 24 hours which does not conform to 332D:

"There is hereby imposed a tax of 5% on the sales price of sales of specified digital products with the right to use for more than 24 hours granted by the seller which is not conditioned upon continued payment from the purchaser."

3. Unless a state specifically imposes and separately enumerates a tax on the sale of products transferred electronically which is conditioned upon continued payment by the purchaser, a transaction is not taxable if the purchaser's right to use the product is conditioned on continued payment by the purchaser. If the purchaser's right to use the property ends upon the cessation of the purchaser's payment, the transaction is not a taxable transaction.

   Example 1: A purchaser makes a purchase that allows the purchaser to download music to a device owned and controlled by the purchaser. The purchaser is required to pay a monthly fee and connect the device monthly to a computer or the downloaded music becomes disabled. The transaction would not be taxable as the sale of "digital audio works" or "specified digital products" unless the statute imposing the taxes specifically imposed and separately enumerated a tax on "digital audio works", the use of which is conditioned on continued payment by the purchaser.

   Example 2: A purchaser makes a purchase that allows the purchaser to download music to a device owned and controlled by the purchaser. The purchaser is required to pay a monthly fee in order to have the right to continue to play the music for more than a month. The device is not disabled if the purchaser fails to make the continued payment. This transaction would not be taxable as the sale of "digital audio works" or "specified digital products" unless the statute imposing the taxes specifically imposed and separately enumerated a tax on "digital audio works", the use of which is conditioned on continued payment by the purchaser. It is the contractual right to continue to use the product which is legally significant and not the physical ability of the purchaser to use the product.

4. Section 332D(4) requires states which tax sales of products transferred electronically to other than end users or with less than the right of permanent use to so indicate in its taxability matrix.

   Example 1: State D imposes its sales and use tax on all "digital audio works." Its definition of "digital audio works" is consistent with the definition set forth in the SSUTA. However, State D has a separate imposition statute that specifically extends its tax to "digital audio works" sold regardless of the length of time the purchaser may use it. State D's use of the label "digital audio works" to impose tax on "digital audio works" with and without the right of permanent use is permissible. State D's "taxability matrix" would show that it taxes "digital audio works" that meet the "specified digital products" definition. Its "taxability matrix" would show the tax treatment of "digital audio works" that are sold with the right of permanent use and would also show the tax treatment of "digital audio works" that are sold with less than the right of permanent use.

E. Section 332E provides that "nothing in this section or the definition of "Specified Digital Products" limits a state's treatment of other products or services that are outside the definition of "specified digital products." The section recognizes that states have broad

freedom to determine those products that are within and without their tax bases. While the definition of "specified digital products" must be used consistently by the Member States, it does not limit a Member State's ability to otherwise impose tax on products that the Member State's legislature chooses.

Example 1: State A has a statute that imposes its sales tax on transactions involving digital mailing lists that are transferred electronically. Because digital mailing lists are not "digital audio-visual works," "digital audio works" or "digital books," they are not within the definition of "specified digital products." However, because State A has a special imposition statute separate from its imposition of sales tax on tangible personal property, State A's sales and use tax laws are compliant with the SSUTA.

Example 2: State B has a statute that imposes its sales and use tax on "specified digital products." However, its definition of "specified digital products" deviates from the SSUTA definition in that it includes electronically delivered "digital mailing lists" within the category of products within "specified digital products." State B's inclusion of digital mailing lists in its "specified digital products" definition does not comply with the SSUTA.

F. Section 332 F provides that a state may treat a subscription to products transferred electronically differently than a non-subscription purchase of such products. The purpose of this section is to give states a means to maintain neutrality with items within the subcategories that are not delivered electronically. A state may choose to tax (or exempt) a single, over the counter purchase of a product within one of the subcategories but exempt (or tax) a subscription of the same product. "Subscription" means an agreement with a seller that grants a consumer the right to obtain "specified digital products" having the same tax treatment in a fixed quantity or for a fixed period of time, or both.

Example 1: State A imposes its sales tax on books sold at retail in an over-the-counter transaction. However, State A exempts from sales tax a fee paid to join a club that provides the customer with one book per month by mail. In order to maintain parity with physical deliveries of books, State A imposes its sales tax on single electronic deliveries of books but exempts from tax a subscription that provides customers with electronic book deliveries on a monthly basis.

G. 1. Section 332 G provides that the tax treatment of a "digital code" shall be the same as the tax treatment of the "specified digital product" to which the "digital code" relates and that the retail sale of the "digital code" shall be considered the transaction for purposes of the Agreement. Under this section, whether or not the sale of a "digital code" is taxable will depend on whether the "specified digital product" which the "digital code" allows the purchaser to obtain is taxable. Additionally, the transfer of the "digital code" to the customer is the taxable event; no taxable event occurs when the purchaser later exercises the "digital code" and takes electronic delivery of the "digital product."

2. "Digital Code" means a code that provides a purchaser with a right to obtain one or more digital product(s) within one or more of the "specified digital product" subcategories having the same tax treatment.

3. A “digital code” may be transferred electronically or it may be transferred on a tangible medium such as piece of paper, plastic card, invoice or certificate or imprinted on another product.

4. If the code permits the purchaser to obtain a product from more than one subcategory of “specified digital products”, it is a “digital code” only if all of the subcategories have the same tax treatment. For instance, if the code allows the purchaser to obtain either a “digital audio visual work” or a “digital book” (each of which meets the definition of a “specified digital product”), it would be a “digital code” only if the taxing state either tax or exempts both “digital audio works” and “digital books”; if the state taxes one subcategory and exempts the other, then the code is not a “digital code.” Only if the taxable or nontaxable nature of the underlying “specified digital product” or products is ascertainable at the time the code is purchased does the code qualify as a “digital code.”

5. A code that represents a stored monetary value that is deducted from a total as it is used by the purchaser is not a “digital code.” Nor is a code that represents a redeemable card, gift card or gift certificate that entitles the holder to select “specified digital products” of an indicated cash value a “digital code.” Only if the code may be used to obtain one or more identifiable products within one or more subcategories of “specified digital products” having the same tax treatment does the code qualify as a “digital code.”

6. The placement of a time restriction on the redemption of a “digital code” in no way impacts whether the right to use the underlying digital product is temporary or permanent.

7. Examples:

Example 1: State A does not tax any of the subcategories of “specified digital products.” Customer in State A purchases a “digital code” that allows the electronic delivery of a single song. The sale of the “digital code” is not subject to tax and no taxable event occurs when the customer uses the “digital code” to download a song.

Example 2: State B imposes its sales tax on “digital audio works.” Customer in State B purchases a “digital code” that allows the electronic delivery of a single song (which constitutes a “digital audio work”). The purchase of the “digital code” is subject to tax because State B taxes “digital audio works.” However, when the customer takes electronic delivery of the “digital audio work”, no taxable event occurs; the customer has already paid the tax due with respect to the sale of the “digital audio work.”

8. Interaction between “end user” and “digital codes”: As noted in Rule 332.D, above, an “end user” is any purchaser except one who receives the contractual right to redistribute the product which is the subject of the transaction. When a “digital code” is used to distribute the “specified digital product”, the “end user” focus is on the whether the holder of the “digital code” receives a right to redistribute the underlying “specified digital product”, not whether the holder of the “digital code” receives the right to further redistribute the “digital code.” If the purchaser of the “digital code” does not receive any right to further distribute the “specified digital product” after the “digital code” is redeemed and the “specified digital product” is downloaded, then the purchaser of the “digital code” will be an “end user” of the

"specified digital product." If the purchaser of the "digital code" receives the right to redistribute the "specified digital product" after the "digital code" is redeemed and the "specified digital product" is downloaded, then the purchaser of the "digital code" will not be an "end user." The receipt of a right by contract to redistribute the "digital code" does not exclude the initial purchaser of the "digital code" from being an "end user" of the underlying "specified digital product" to which the "digital code" relates.

Example 1: Facts: SongCo operates a website that maintains a catalog of songs available for customers to download. SongCo uses digital codes to facilitate the download of songs by customers. ColaCo, a soft drink bottling company, purchases from SongCo 10,000 digital codes. The contract between SongCo and ColaCo does not give ColaCo the right to redistribute the songs once they have been downloaded. ColaCo, as part of a promotion, places the digital codes in the bottle caps of some of its soft drink products. Customers who buy ColaCo's products receive the digital codes when they purchase a bottle of one of its soft drinks. The customer uses the digital codes to download songs from SongCo's website.

Conclusion: Because ColaCo did not receive any right to redistribute the songs once they were downloaded, ColaCo is an end user of the songs represented by the digital codes. The transaction between SongCo and ColaCo is a sale to an end user for purposes of Section 332 C.

Example 2: Facts: Same facts as in example 1, above, except that ColaCo, instead of using the digital codes as part of a promotion intends to resell the digital codes in several states, some of which impose sales tax on electronically transferred digital audio works and some which do not. ColaCo provides SongCo with a sale for resale exemption certificate. ColaCo charges sales tax on the resale of the digital codes in those states that impose tax on digital audio works.

Conclusion: The codes purchased by ColaCo are digital codes because ColaCo did not receive any right to redistribute songs after they are downloaded. The fact that ColaCo resold the codes does not disqualify them from being digital codes.

H. Section 332 H provides that notwithstanding the provisions of Section 316 of the Agreement, a member state may provide a product based exemption for specific items within the definition of "specified digital products", provided such items which are not transferred electronically must also be granted a product based exemption by the member state. The purpose of this section is to afford states a means of maintaining a tax treatment for "specified digital products" that is consistent with the state's tax treatment of the tangible counterpart to such "specified digital products."

Example 1: State A generally imposes sales tax on over-the-counter sales of books but it exempts sales of Bibles. State A may also exempt electronic transfers of Bibles without exempting other types of digital books.

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Rule 332.2 – Digital Products Definitions

A. General Purpose — The general purpose of this rule is to describe the scope and operation of the provisions of the "digital products definitions" section of Appendix C, Part II of the Streamlined Sales and Use Tax Agreement.

B. Specified Digital Products

1. **Digital Audio Visual Works-**Products within the definition of the term "digital audio visual works" include movies, motion pictures, musical videos, news and entertainment programs and live events. "Digital Audio Visual Works" shall not include video greeting cards or video or electronic games.

2. **Digital Audio Works—**Products within the definition of the term "digital audio works" include recorded or live songs, music, readings of books or other written materials, speeches or ringtones or other sound recordings. A "ringtone" is a digitized sound files that is downloaded onto a device and that may be used to alert the customer with respect to a communication. A "ringtone" does not include "ringback tones" or other digital audio files that are not stored on the purchaser's communications device. "Digital Audio Works" shall not include audio greeting cards sent by electronic mail.

3. **Digital Books--**Products within the definition of the term "digital books" include any literary work other than "digital audio visual works" or "digital audio works," expressed in words, numbers, or other verbal or numerical symbols or indicia so long as the product is generally recognized in the ordinary and usual sense as a " book". The term includes works of fiction and nonfiction and short stories. The term does not include periodicals, magazines, newspapers or other news or information products, chat rooms or weblogs.

4. **Transferred electronically--**means obtained by the purchaser by means other than tangible storage media. It is not necessary that a copy of the product be physically transferred to the purchaser. So long as the purchaser may access the product, it will be considered to have been electronically transferred to the purchaser. The term "transferred electronically" has a broader meaning than the term "delivered electronically" used in the computer related definitions.

C. Examples — The following examples illustrate the application of these digital products definitions to certain fact patterns:

1. **Facts:** An internet-based business sells music online. For a fixed fee per song, purchasers are authorized to download a song and store it on a portable music playing device and to play the song as many times as they want. There is no time restriction with respect to how long the purchaser can keep the song.

Conclusion: The downloaded songs are specified digital products because music is specifically included within the definition of "digital audio works" and the transaction is one which has the right of permanent use granted by the seller.

2. **Facts:** A satellite television company offers a movie downloading product for all of its subscribers. For an additional fee per movie, paid in addition to the monthly subscription fee, a subscriber can download a movie to a recording device. Once downloaded, the purchaser is authorized to keep and use the movie permanently.

Conclusion: The movie is a specified digital product because a movie falls within the definition of a "digital audio visual work".

3. **Facts:** A cable television service company offers a movie downloading product for all of its subscribers. For an additional fee per movie, paid in addition to the monthly cable television subscription fee, a subscriber can download a movie and save it to a recording device. Once downloaded, the purchaser is only able to watch the movie for 24 hours. After the 24 hours period lapses, even though the copy of the movie remains on the purchaser's device, the purchaser is unable to view it.

Conclusion: Because the purchaser is unable to use the copy of the movie after the expiration of 24 hours the sale of the movie would not be subject to tax by a statute which imposed a tax on specified digital products unless the statute specifically imposed and separately enumerated a tax on the sale of a specified digital product with less than the right of permanent use. The fact that the copy remains on the purchaser's device is not relevant because the purchaser does not have the right to use the movie permanently.

4. **Facts:** A music download service vendor provides a subscriber the right to download a song for a set price and copy that song to a portable music playing device. The subscriber can continue to use that song as long as a monthly fee is paid. If the subscriber fails to pay the required fee, the purchaser is no longer authorized to use or play the song.

Application: The song is not subject to tax by a statute which imposes a tax on specified digital products unless the statute also specifically imposes and separately enumerates a tax on the sale of specified digital products or digital audio works with less than the right of permanent use or the use of which is conditioned upon the purchaser's continued payment.

5. **Facts:** Company F also sells music over the Internet for a fixed fee per song. Purchasers download the songs to their portable electronic recording device. The terms of use that govern the purchaser's use of the songs provide that the purchaser's right to use the song terminates in 99 years.

Conclusion: The songs are "specified digital products." The terms of use are part of the Agreement between the seller and the purchaser. Even though the Agreement expressly places a time limit on the purchaser's use of the songs, the circumstances surrounding the transaction indicate that a permanent right of use has been granted. A time limit of 99 years is effectively a permanent right of use.

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Rule 333 – Use of Specified Digital Products [Reserved]

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Rule 334 – Prohibition of Replacement Taxes

1. This rule provides guidance in applying the prohibition against replacement taxes in Section 334 of the Agreement. A "prohibited replacement tax" is a tax imposed outside a state's general sales and use tax, on or with respect to a product or products that are defined in Part II or Part III(B) of the Library of Definitions (except alcoholic beverages or tobacco), that has the effect of avoiding the intent of the Agreement. A Governing Board determination whether a particular replacement tax is a "prohibited replacement tax" shall be based upon an examination of all the facts and circumstances according to the procedure established herein.

2. To determine that a tax is a replacement tax, the following must be found by the Governing Board by affirmative vote of three-fourths of the full member states, excluding the member state that is the subject of the question which shall not vote on the question:

a. at the time of the adoption of the tax, the tax was specifically imposed on or with respect to a product that was defined in Part II or Part III(B) of the Library of Definitions, or on products subsumed within such definitions, except alcoholic beverages and tobacco, and;

b. either:

i. at the time the state initiated action to became a member state, a tax was imposed upon such product by statutes which are subject to the requirements of the Agreement as identified in the state's petition for membership filed with the Governing Board, or;

ii. after the state became a member state, a tax was imposed upon such product by statutes which are subject to the requirements of the Agreement as identified in the state's petition for membership filed with the Governing Board, and;

c. the tax imposes an additional administrative burden on sellers of the product which would not be imposed if such tax were subject to all of the requirements of the Agreement with regard to sales and use taxes.

3. To determine that a replacement tax, as provided in subsection 2, is a prohibited replacement tax, as provided in Section 334 of the Agreement, the Governing Board must find that the replacement tax has the effect of avoiding the intent of the Agreement, considering the following factors:

a. whether the tax contains both a sales and a use tax component;

b. any other factors related to the fundamental purpose expressed in Section 102 of the Agreement that the Board considers relevant.

Such finding shall be by affirmative vote of three-fourths of the full member states, excluding the member state that is the subject of the question which shall not vote on the question.

4. Taxes that are not prohibited replacement taxes include, but are not limited to:

a. taxes on alcoholic beverages or tobacco;

b. in general, taxes based on measures other than price, such as weight or volume;

c. lodging or hotel occupancy taxes;

d. in general, broad-based business activity or privilege taxes, and;

e. taxes existing prior to the state initiating action to become a member state.

5. Examples:

Example 1 – Prior to joining SST, a member state imposed its sales tax on formal wear, but exempted clothing generally. As part of its legislation to conform to the Agreement, the state made the decision to exempt all clothing. After being approved as a member state, the state imposes a tax specifically on the sale of formal wear at the same or a different rate than the state's general rate of sales and use taxation. "Formal wear" is included within the definition of "clothing" in Part II of the Library of Definitions. The new tax has a use tax component and requires sellers to file a separate return. This tax is a prohibited replacement tax.

Example 2 – A state authorizes local governments to impose a separate restaurant tax on "all prepared food or beverages sold by restaurants," as defined by ordinance. The restaurant tax has no use tax component. The local government also imposed its generally applicable sales tax on prepared food. Prior to the state's admission to the Governing Board, the sales tax definition of "prepared food" was modified to conform to the SST definition. The additional tax, however, continues to be imposed by local jurisdictions within the state just on sales by restaurants. Thus, restaurants still pay both the generally applicable sales tax and the restaurant tax on their meals. Grocery stores, however, and other non-restaurants, just pay the sales tax on any prepared food they sell. The restaurant tax is not a prohibited replacement tax.

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Rule 335 – Tax Administration Practices

A. **Purpose**. This procedural Rule prescribes the procedures applicable to the selection of a tax administration practice under Section 335 of the Agreement.

B. **Request for Selection of a Disclosed Practice.** This paragraph describes the procedures applicable to the development of a tax practice for disclosure.

1. **Request to the Governing Board:** A state or a person may request the Governing Board to select a tax practice for disclosure by completing the SLAC Request & Assignment Form and submitting the Form to the Executive Director for placement on the Governing Board agenda for either a regular or a special meeting.

2. **Referral to the State and Local Advisory Council.** The Governing Board may accept, modify or deny a request for the selection of a tax practice for disclosure. If the Governing Board accepts or modifies a request it will direct SLAC to develop and recommend a tax practice for disclosure. The referral to SLAC will generally be made using the SLAC Request & Assignment Form. The SLAC Chair, in consultation with the President of the Governing Board, may form an informal workgroup to develop a tax practice for disclosure prior to a formal Governing Board referral.

3. **State and Local Advisory Council**

a. Upon initiation of the process, the SLAC Chair will provide public notice of the formation of a workgroup and will invite participation from all interested parties. SLAC will establish a workgroup comprised of interested state, local government and business representatives who will, using expertise and assistance of the SLAC Steering Committee, prepare a draft tax practice for disclosure.

b. The SLAC Chair will provide the draft tax practice for disclosure to the SLAC delegates and the BAC with a reasonable opportunity for review, comment, and participation in continued development of the draft tax practice.

c. The SLAC Chair will have sole discretion to call for formal final comments on a draft tax practice for disclosure from states, the BAC and other interested parties. Notice of such call for final comment shall be in accordance with Rule 806.2. Final comments shall be submitted to the SLAC Chair and Vice Chair within the specified time but in no case shall the period for submitting final comments be less than 20 days from the date of the notice for final comments on the draft tax practice for disclosure. The SLAC Chair will conduct a vote on a tax practice for disclosure. If no quorum is present, the SLAC Chair will conduct an advisory vote, which will be reported to the Governing Board.

d. The draft tax practice for disclosure together with all written comments and voting results shall be presented to the Governing Board and placed on the agenda of the Governing Board for either a regular or a special meeting.

e. Notice is required consistent with Section 901.

C. **Requests for Selection of a Best Practice.** This paragraph describes the procedures applicable to the evaluation of a proposed best practice.

1. **Request to the Governing Board and Referral to the State and Local Advisory Council:** A state or a person may request the Governing Board to select a best practice from among the disclosed practices by completing the SLAC Request & Assignment Form and submitting the Form to the Executive Director for placement on the Governing Board agenda for either a regular or a special meeting. The Governing Board may accept, modify or deny such a request. If the Governing Board accepts or modifies a request it will direct SLAC to evaluate and vote on the request as provided within this Rule.

2. **Request Directly to the State and Local Advisory Council:** A state or person may also directly request that SLAC evaluate whether a tax practice under development for disclosure pursuant to paragraph B of this Rule, should be selected as a best practice, unless the same request has been denied by the Governing Board. The request will be made by completing the SLAC Request & Assignment Form and submitting the Form to the Executive Director. With respect to requests made directly to SLAC, the SLAC Chair in consultation with the SLAC Steering Committee may accept, modify or deny such a request. To the extent practicable, the SLAC Chair will seek to complete the procedures

under subparagraph C.3 of this Rule concurrent with the completion of the procedures set forth in subparagraph B.3 of this Rule.

3. **State and Local Advisory Council**

   a. The SLAC Chair will schedule a meeting or meetings of the full SLAC with at least 30 days notice to consider a request for a best practice and the SLAC Chair will include the request in the meeting notice. Notice shall be in accordance with Rule 806.2. At the meeting or meetings, the SLAC Chair will allow the requestor to present the request and will solicit comments from the member states and the public.

   b. Before concluding the full SLAC meeting or meetings in subparagraph C.3.a of this Rule, the SLAC Chair will conduct a vote identifying the number of SLAC members that support the selection of a draft tax practice or existing disclosed practice as a best practice. If no quorum is present, the SLAC Chair will conduct an advisory vote, which will be reported to the Governing Board.

   c. A proposed best practice together with comments and voting results shall be presented to the Governing Board and placed on the agenda of the Governing Board for either a regular or a special meeting.

   d. Notice is required consistent with Section 901 of the Agreement.

Compiler's note: Rule 335 was adopted on May 12, 2015 via RP14007A02. This section became effective upon its adoption.

Rule 336.1. Redemption Codes

A. Section 336.A. provides that the tax treatment of a "redemption code" shall be the same as the tax treatment of the "product or service" to which the "redemption code" relates.

B. Section 336.E. provides that the retail sale of the "redemption code" shall be considered the transaction for purposes of the Agreement. Additionally, the transfer of the "redemption code" to the purchaser is the taxable event; no taxable event occurs when the purchaser later exercises the "redemption code" and receives the product or service.

C. Sourcing.--
1. If the seller, at the time of the sale of the redemption code, **does not know** the location where the purchaser will receive any of the related products or services, the sale of the redemption code is sourced using the sourcing hierarchy of Section 310.A of the Agreement.
2. If the seller, at the time of the sale of the redemption code, **knows** the location where the purchaser will receive one or more of the related products or services, the sale is sourced to that location using the sourcing hierarchy of Section 310.A.1 or A.2 of the Agreement.

D. The term "voucher," as used in Section 336.D.2. shall be interpreted in a manner consistent with how that term is used in Disclosed Practice 1.

E. The following examples illustrate the application of Section 336.

Example 1A: Downloaded Prewritten Computer Software
SoftwareCo sells prewritten computer software on its website. When software is purchased on SoftwareCo's website customers receive a code to use to download and install the software purchased. Once the software is downloaded and installed, the code is no longer needed, and the customer retains a license granting perpetual rights of possession and use of the software.

Scenario: Customer Z selects and purchases prewritten computer software on SoftwareCo's website using a credit card. Customer Z receives a code for the software purchased. Customer Z enters the code on SoftwareCo's website to download and install the software at any time and location they choose. SoftwareCo does not know where or when Customer Z will download and install the software and no additional charge is made to Customer Z when the code is used.

Conclusion: The code for the prewritten computer software is a redemption code. Since SoftwareCo makes no additional charge nor obtains additional payment from the customer when the code is entered online and used to download and install the software, there is no opportunity for SoftwareCo to collect sales tax at that time. If sales of downloaded prewritten computer software are taxable at the location indicated by the customer credit card address, SoftwareCo must collect sales tax on the sale of the code.

Example 1B: Downloaded Prewritten Computer Software
SoftwareCo sells various products including prewritten computer software on its website. Customers can purchase codes for various monetary increments to be applied to the purchase of any product sold by SoftwareCo. The codes are sold on SoftwareCo's website and by third-party sellers.

Scenario 1: Customer G purchases a code valued at $100 that may be used towards the purchase of SoftwareCo products. Customer G applies the $100 code towards the purchase of SoftwareCo prewritten computer software costing $250.

Conclusion 1: There are two transactions taking place.

1. Customer G's purchase of the code for $100 is not a redemption code. This is a "gift card" because it represents a monetary value and is specifically excluded from the definition of redemption codes by Section 336.D.1. No tax is due at the time the gift card is purchased.

2. Customer G purchases $250 of SoftwareCo prewritten computer software using the $100 code and paying an additional $150 with her credit card. If sales of downloaded prewritten computer software are taxable at the location determined by application of the sourcing rules, SoftwareCo must collect tax on the full $250 sale of the software.

Scenario 2: Customer H purchases a code valued at $300 that may be used towards the purchase of SoftwareCo products. Customer H applies the $300 code towards the purchase of SoftwareCo prewritten computer software costing $175.

Conclusion 2: There are two transactions taking place.

1. Customer H's purchase of the code for $300 is not a redemption code. This is a "gift card" because it represents a monetary value and is specifically excluded from the definition of redemption codes by Section 336.D.1. No tax is due at the time the gift card is purchased.

2. Customer H purchases $175 of SoftwareCo prewritten computer software using the $300 code. The full cost of Customer H's purchase is covered by the $300 code and does not require any additional payment. If sales of downloaded prewritten computer software are taxable at the location determined by application of the sourcing rules, SoftwareCo must collect tax on the full $175 sale of the software. SoftwareCo deducts the sale price of $175 plus any applicable tax due from Customer H's gift card and the credit remaining can be used at a later date.

Example 2A: Game Tokens – Downloaded Prewritten Computer Software
GameCo develops computer games for downloading and playing on gamers' devices. Gamers can purchase codes from third-party sellers that entitle the purchaser to GameCoTokens. These tokens have no monetary value and can only be used within GameCo games. When used, the tokens unlock additional game enhancements. No additional charges are made at the time the tokens are used. The basic game and additional game enhancements are prewritten computer software included in the original download.

Scenario: Customer C purchases a card at a third-party retailer's business location with a code that gives Customer C 100 GameCoTokens. GameCo has no knowledge of the price the third-party retailer charged Customer C for the code. The retailer has no knowledge of where the customer will use the code and obtain the tokens. Customer C uses the code and adds the 100 GameCoTokens to his account for use within the GameCo game. The GameCoTokens are deducted from Customer C's account as Customer C uses the tokens to unlock enhancements to the game.

Conclusion: The GameCoTokens have no monetary value and therefore are not gift cards. The code for the 100 GameCoTokens is a redemption code because it provides the purchaser with a right to unlock additional game enhancements, which are prewritten computer software. If sales of downloaded prewritten computer software are taxable at the retailer's business location, the retailer must collect sales tax on the sale of the card containing the code.

Example 2B: Game Tokens – Downloaded Prewritten Computer Software
Same facts as in Example 2A except the GameCo prewritten computer software, in addition to allowing the gamers to play the game on the downloaded version, also allows them to interact online with other gamers remotely for no additional charge. In addition to using the codes to obtain higher levels of play and other enhancements to the downloaded version of the software, the gamers may also use the codes to obtain the same higher levels of pl
ay and other enhancements when interacting with other players in t
he interactive online version.

Scenario 1: In State 1, neither downloaded prewritten computer software nor interactive online game playing is subject to sales tax.

Conclusion 1: The code that allows gamers to obtain higher levels of play and other enhancements to both the downloaded and the online, interactive versions of the prewritten computer software is a redemption code because neither element of the code is subject to tax in the state such that all the elements have the same tax treatment. Because neither element is subject to sales tax, the retailer would not collect tax on the sale of the code to Customer C. The code is included in the definition of "redemption code" under Section 336.B.

Scenario 2: In State 2, both downloaded software and interactive online game playing are subject to sales tax.

Conclusion 2: The code that allows gamers to obtain higher levels of play and other enhancements to both the downloaded and the online, interactive versions of the software is a redemption code because both elements of the code are subject to tax in the state such that all the elements have the same tax treatment. Because both elements are subject to sales tax, the retailer would collect tax on the sale of the code to Customer C. The code is included in the definition of "redemption code" under Section 336.B.

Scenario 3: In State 3, downloaded software is subject to sales tax and interactive online game playing is not subject to sales tax.

Conclusion 3: The code that allows gamers to obtain higher levels of play and other enhancements to both the downloaded and the online, interactive versions of the software is not a redemption code because one element of the code is subject to tax in the state and the other element of the code is not subject to tax such that all the elements do not have the same tax treatment. The code is excluded from the definition of "redemption code" by Section 336.D.3.

Example 3: Symphony Performance Ticket
The local symphonic orchestra holds concerts during the concert season. Concert tickets can be purchased on a website. The concert tickets sold on the website are for concerts on a specific date and are for a specific seat in the concert hall. When a patron buys a ticket from the website, the patron receives a "QR" code that the patron can either print or have available for display on a smart phone. The patron receives the service when the QR code is used to enter the concert hall.

Scenario: Upon arrival at the concert hall, the patron displays the QR code and the ticket taker scans the code and lets the patron into the concert. The patron enters the concert hall and proceeds to his or her assigned seat. The patron is not obligated to make any additional payment.

Conclusion: The QR code is a redemption code. Since neither the seller of the QR code nor the ticket taker charges or obtains payment from the patron when the QR code is presented there is no opportunity for the seller or ticket taker to collect sales tax. If sales of concert tickets are taxable at the concert location, the seller must collect sales tax on the sale of the "QR" code.

Example 4: Haircut (services)
A barber charges $50 for a haircut. The barber, through a social media website, pre-sells haircuts at her barbershop. The social media website transmits money received from purchasers to the barbershop. The barber has only one location. Customers have the option of purchasing a redemption code entitling the customer to (1) a certain dollar amount towards the purchase of a haircut or (2) a $50 haircut without any further charge.

Scenario 1: Customer Y buys a code that allows Customer Y to receive $30 towards the cost of a haircut. Customer Y gets a $50 haircut. Customer Y uses the $30 code and pays the $20 difference.

Conclusion 1: The code is not a redemption code for at least two reasons. First, it is a "gift card" because it represents a monetary value and is specifically excluded from the definition of redemption codes by Section 336.D.1. Second, the barber charges Customer Y for the difference between the price of the code and the price of the haircut at the time the barber service is provided giving the barber an opportunity to collect sales tax at that time. The code is excluded from the definition of "redemption code" by Section 336.D.4.

The social media website that Customer Y bought the code through is not obligated to collect sales tax on the sale of the code because it is the sale of a gift card. The barber is obligated to collect the sales tax on the $50 price of the haircut at the time the customer receives the haircut if barber services are subject to tax in the barber's state.

Scenario 2: Customer Y buys a code through a social media website that allows Customer Y to receive a haircut from the barber for no additional charge. Customer Y gets the haircut, uses the code and pays nothing to the barber shop.

Conclusion 2: The code is a redemption code because the barber does not charge Customer Y when the haircut is provided. The barber is obligated to give the haircut for no additional charge and Customer Y is not obligated to make any additional payment upon receipt of the haircut. Customer Y receives the service at the barber's shop. The social media website that Customer Y purchased the code through is obligated to collect sales tax on the sale of the code based upon where the barber services will be received if barber services are subject to tax in the barber's state.

Example 5: Flat screen TV (TPP)
TV Shop, with a single location, maintains a website where customers can buy codes redeemable for a flat screen TV. Customers have the option of purchasing a code that entitles the holder to receive either (1) a specific dollar amount for the purchase of a flat screen TV; or (2) a specific model flat screen TV without any further payment. Customers must go to TV Shop's business location to redeem the code.

Scenario 1: Customer X buys a code for $300 towards the cost of any flat screen TV from TV Shop. Customer X gives the code to his son as a birthday present. Customer X's son takes the code to TV Shop and shops for a new flat screen TV. Customer X's son selects the model he wants which retails for $700, uses the $300 code and pays the $400 difference.

Conclusion 1: The code in Scenario 1 is not a redemption code. This is a "gift card" because it represents a monetary value and is specifically excluded from the definition of redemption codes by Section 336.D.1. No Tax is due at the time the gift card is purchased.

Because TV Shop charges Customer X for the difference between the price of the code and the price of the TV at the time the TV is delivered to Customer X such that there is an opportunity to collect sales tax at that time, the code is excluded from the definition of "redemption code" by Section 336.D.4.

TV Shop is not obligated to collect sales tax on the sale of the code at the time the code was sold. TV Shop is obligated to collect the sales tax from Customer X's son on the $700 sales price of the flat screen TV, if sales of flat screen TVs are subject to tax in the state of the TV Shop's business location.

Scenario 2: Customer Y buys a code that allows the holder of the code to receive a specific flat screen TV from TV Shop. Customer Y gives the code to his son as a birthday present. Customer Y's son takes the code to TV Shop, uses the code and receives the specific flat screen TV without making any additional payment.

Conclusions 2: The code in Scenario 2 is a redemption code because it is for a specific item and there is no opportunity for TV Shop to collect sales tax at the time of delivery of the flat screen TV. TV Shop is obligated to give Customer Y's son the flat screen TV for no additional charge to either Customer Y or his son.

The flat screen TV must be picked up at TV Shop's location. The TV Shop is obligated to collect sales tax on the sale of the code based on the location of the TV Shop and if sales of flat screen TVs are subject to tax in the state of TV Shop's business location.

Example 6: Preorder for Pickup
StoreCo is a retailer of general merchandise and grocery products with storefronts in various states. StoreCo maintains their own website where customers can purchase items for pick up. Customers place orders on the website, provide payment information, and selects an available day and time to pick up the order at a store location. Customers authorize the payment, but the customer is not charged by StoreCo until the order is picked up. At the time the order is placed, customers receive a barcode that must be presented at the time the order is picked up.

Scenario: Customer A places an order for products on StoreCo's website. Customer A selects location, date and time to pick up the products ordered. Customer A provides their payment information when they place the order. StoreCo sends Customer A a barcode for the order that is placed, acknowledging the location, date and time for pickup. Prior to Customer A's designated pickup day and time, StoreCo employees will select the items from the store shelves making any necessary adjustments for out-of-stock or weight-based products. Customer A arrives at the selected location, date and time and receives the products ordered. Once the order is picked up, Customer A's payment method is charged for the adjusted total.

Conclusion: The barcode is not a redemption code because StoreCo did not charge the customer at the time the barcode was issued. Customer A is charged when the order is picked up. StoreCo is obligated to collect sales tax on the products that are subject to tax in the state where the products are picked up by Customer A.

Compiler's note: Rule 336.1 was adopted to reflect the amendment to the Rules made by RP25001-05 on May 13, 2026.

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ARTICLE IV
Seller Registration

Rule 401 – Seller Participation

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Rule 401.1 – Registration. Time allowed a Model 1 or 2 seller to integrate with a CSP or CAS before losing amnesty (REPEALED 12/18/20)

Compiler's note: On December 18, 2020, the Governing Board adopted RP20006 to repeal this rule since it was outdated and no longer needed due to revisions to the central registration system.

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Rule 401.2 – Registration. Contacting Sellers Regarding Other Taxes

(a) The Streamlined Sales Tax Governing Board may assist in the education of sellers registered through the Streamlined Sales Tax Registration System (SSTRS) by providing information about other taxes sellers may be subject to in the member states.

(b) A member state may use the data a seller reported on the sales and use tax returns filed with that state as a basis for contacting and educating the seller about other possible taxes the seller may be subject to in that state.

(c) If a member state contacts a seller about other possible taxes it may be subject to based on the information reported on the sales and use tax returns filed with the state, the state must first work with the seller to determine if those taxes are due and owing prior to issuing a notice of amount due or similar type of notice. However, if the seller fails to timely respond to the state's inquiry, the state may make its determination (e.g., an assessment), based on the information it has available, which includes information reported on the sales and use tax returns filed with the state.

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Rule 402 – Amnesty for Registration

Rule 402.1 – Streamlined Sales Tax Voluntary Disclosure Program for Remote Sellers

A. The purpose of this rule is to set forth the procedures for qualified remote sellers, Streamlined Sales Tax Governing Board staff (SSTGB staff), and participating states to follow for administration of the Streamlined Sales Tax Voluntary Disclosure Program as provided in Section 402.1 of the Streamlined Sales and Use Tax Agreement (SSUTA).

B. For purposes of this rule, the Streamlined Sales Tax Voluntary Disclosure Program for Remote Sellers will be referred to as the **SSTVD**.

C. A **qualified remote seller** is a seller as provided in subsection C. of Section 402.1 of the SSUTA.

Example: On February 10, 2015, XYZ, LLC, filed a single combined return in State W. The single combined return in State W includes sales, use, and withholding taxes. At the time of filing, XYZ only reported withholding, but left the sales and use tax sections blank. Under State W's statute, which only allows non-filers to participate in that state's voluntary disclosure program, this constituted the filing of a return for purposes of sales and use tax, in addition to withholding. Because XYZ, LLC filed a return that includes sales and use tax, XYZ is not considered a qualified remote seller in State W.

D. Qualified remote seller SSTVD application requirements.

1. Remote sellers must meet the requirements in subsection C. of Section 402.1 to be a "qualified remote seller" eligible to apply for the SSTVD. Qualification is considered on a state-by-state basis by the participating states.
2. Remote sellers must submit a completed SSTVD application to the SSTGB staff certifying they are a qualified remote seller. The application must indicate all participating states the seller is requesting to participate with under the SSTVD. In those states the remote seller is not participating in, the seller is to indicate the reason for not participating.
3. Except as noted below, a remote seller that is registered in a participating state, prior to submitting the SSTVD application, is not a "qualified remote seller".

Exception: A remote seller, not already registered for sales and use tax collection in a state, that registers in the SST Registration System on or after the date the Governing Board approves the initial SSTVD and before the effective date of the initial SSTVD is still eligible to apply for the SSTVD. The remote seller must submit the SSTVD application no later than 10 business days after the later of the effective date of the initial SSTVD or the date the state begins participating in the initial SSTVD.

Example of the Exception: *The Governing Board approves the SSTVD during a meeting on October 14, 2026, with the initial SSTVD program starting on January 1, 2027. A remote seller registers in the SST Registration System on November 10, 2026. This remote seller meets all requirements to be a qualified remote seller except they registered after the Governing Board approved the*

initial SSTVD but prior to submitting the SSTVD application. This seller can qualify for the SSTVD as long as they submit the SSTVD application no later than January 15, 2027 (i.e., 10 business days after January 1, 2027).

4. SSTVD Application Deadlines

Application deadlines vary depending on the SSTVD program period, the status of the participating state, and when the seller created economic nexus. The following chart explains Section 402.1.D. of the SSUTA.

SSTVD Period	**Application deadline in states that are Full Member states prior to January 1, 2027**	**Application deadline in states that become a Full Member state on or after January 1, 2027**	**Application deadline in states that are Contingent or Associate Member states**
Initial SSTVD period	12/31/2027	12/31/2027	12/31/2027
After Initial SSTVD period if not extended or restarted	No longer offering the SSTVD	Within 72 months of seller creating economic nexus in that state until the end date of the required 12-month offering *Once the 12-month required offering is complete the SSTVD is no longer available in the state*	Within 72 months of seller creating economic nexus in that state
Extended or Restarted SSTVD	Within 36 months of seller creating economic nexus in that state	Within 72 months of seller creating economic nexus until the end date of the required 12-month offering *After the 12-month required offering is complete, within 36 months of creating economic nexus in that state*	Within 72 months of seller creating economic nexus in that state

***Example 1**: The initial SSTVD was set to end on December 31, 2027, but was extended with a new ending date of December 31, 2028. A remote seller did not participate in the initial SSTVD. In February of 2028, the remote seller decides to submit a SSTVD application. The seller met the economic nexus threshold in three full member participating states in August 2025. The seller is eligible to apply for the SSTVD in these three states no later than July 31, 2028.*

Example 2: *The initial SSTVD was set to end on December 31, 2027, but was extended with a new ending date of December 31, 2028. A remote seller did not participate in the initial SSTVD. In July of 2028, the remote seller decides to submit a SSTVD application to three full member states. States G, H, and J, were full member states prior to the initial SSTVD program.*
State G: The seller met the economic nexus threshold in March of 2024 for State G. The seller is ineligible to apply for the SSTVD in State G because the seller met that state's economic nexus threshold more than 36 months ago.
States H and J: The seller met the economic nexus threshold in October of 2025 for States H and J. The seller is eligible to apply for the SSTVD in States H and J no later than September 30, 2028.

E. A **participating state** is any contingent member, associate member, or full member state electing to participate in the SSTVD.

F. State participation requirements.
   1. Any state that joins SST as a full member state on or after the effective date of the initial SSTVD must offer the SSTVD program for a minimum of 12 consecutive months. The required 12-month offering includes the period of time the state offered the SSTVD as an associate or contingent member state.
   2. Every contingent member and associate member state is required to offer the SSTVD program. Contingent and associate member states are required to continue offering the SSTVD program even if the program is sunset.
   3. Every full member state must notify the SSTGB Executive Director no later than 30 days prior to the effective date of the initial SSTVD if the state will or will not participate in the SSTVD. Notification must be in writing (email is recognized as notification in writing).
      i. Any full member state that does not notify the SSTGB Executive Director about participating in the SSTVD will be assumed not to be participating.
   4. Full member state participation is allowed after the initial SSTVD program begins if the state:
      i. Notifies the Executive Director in writing no later than 30 days prior to the state's selected start date;
      ii. Has a start date that is the first day of a calendar month; and
      iii. Offers the SSTVD through the last day of the initial SSTVD program.

Example 1*: The Governing Board approves the initial SSTVD program to begin on January 1, 2027, and end on December 31, 2027. State X, a full member state prior to the initial SSTVD, did not participate in the SSTVD at the start of the initial SSTVD program. On March 23, 2027, State X notifies the Executive Director they wish to participate. State X can start to offer the SSTVD effective May 1, 2027, through December 31, 2027.*

***Example 2**: On January 25, 2027, Kay's Pretties, a remote seller, applies and is approved to participate in the SSTVD with 5 states. The SSTVD being offered is from January 1, 2027, through December 31, 2027. State C, a full member state prior to the initial SSTVD, did not participate in the initial SSTVD but starts participating as of July 1, 2027. Kay's Pretties wants to participate in the SSTVD with State C. Kay's Pretties can apply for the SSTVD a second time but only with State C. Kay's Pretties must apply for the SSTVD with State C no later than December 31, 2027, which is the last day of the initial SSTVD program.*

G. SSTGB staff responsibilities.

1. A webpage dedicated to the SSTVD program will be maintained on the SST website and will include:
   i. The SSTVD application.
   ii. Each participating state's SSTVD effective start date and any applicable end date.
   iii. Each participating state's SSTVD lookback period. The lookback period is 24 months unless a state is required by its laws to have a longer lookback period.
   iv. Tax types in addition to the state and local sales and use tax, that each participating state elects to allow in their SSTVD.
   v. The interest, penalties, and fees that will be imposed by the state.
   vi. State specific contractual requirements to participate with that state in the SSTVD.
   vii. Additional useful information for remote sellers.
2. SSTVD application review.
   i. Within 1 business day of receiving the application, an acknowledgement of receipt will be sent to the original sender. Acknowledgement of receipt of the application is not approval for SSTVD participation.
   ii. SSTGB staff will review the application for completeness following Section 402.1 of the SSUTA and this rule. Within 10 business days of receipt of the application, SSTGB staff will:
      a. Notify the sender of any questions about the application, or
      b. Prepare and send the SSTVD contract(s) to the applicant, or
      c. Notify the applicant they do not qualify for the SSTVD, including the reason(s) they do not qualify.
3. SSTVD contract creation.
   i. SSTVD contracts will be prepared for each state in whose program the qualified remote seller requested to participate.
   ii. Except as noted in a. below, the lookback period is the 24-month period immediately prior to the date the seller registers in the SST Registration System. The registration date is included in the SSTVD application and is the same date for all states the seller requested to participate in.
      a. If a participating state's laws require a longer lookback period that period will apply for that state.

***Example**: A remote seller applies for the SSTVD in States A, B, and D. State B's statutes require voluntary disclosure agreements to be for a minimum of 36 months. State B's lookback period for each qualified remote seller will be for a 36-month period. The lookback period for States A and C will be for a 24-month period.*

iii. If the seller did not meet a participating state's economic nexus threshold for the entire 24-month lookback period, the lookback period will only include those months the seller met the requirements.

***Example:** The SSTVD being offered is from January 1, 2027, through December 31, 2027. A remote seller applies for the SSTVD in States D, E, and F on February 16, 2027, and registers in the SST Registration System with a registration start date of April 1, 2027.*
States D and F: The seller established economic nexus in States D and F in January 2023. The seller's 24-month lookback period is April 1, 2025, through March 31, 2027.
State E: The seller established economic nexus in State E in December of 2025. The lookback period for State E is December 1, 2025, through March 31, 2027, since the remote seller did not establish economic nexus until December 1, 2025.

a. Each state's requirement for remote seller registration, filing and remitting requirements will be applied to determine the lookback period.

***Example**: A seller created economic nexus in June 2025 in State A. The seller applied for the SSTVD June 13, 2027, and registered in the SST Registration System effective August 1, 2027. State A does not require a remote seller to become registered and begin collecting and remitting sales tax until January 1 of the year immediately following creating economic nexus. The SSTVD being offered is from January 1, 2027, through December 31, 2027. The seller's 24-month lookback period would be August 1, 2025, through July 31, 2027, but for State A the lookback period will be January 1, 2026, through July 31, 2027, because the seller was not obligated to begin collecting State A's taxes until January 1, 2026.*

H. SSTVD contract.

1. Qualified remote sellers must:

i. Sign and return all contracts for states they wish to participate in the SSTVD with, within 30 calendar days of SSTGB staff sending the contracts; and

ii. Register through the SST Registration System when they return the signed contracts. The effective registration date must be the first day of a calendar month that is the day after the end of the last reporting period covered by the contract.

2. SSTGB staff will send the signed contracts and the SSTVD application to each of the applicable participating states.
3. Participating states must:
    i. Sign and email a copy of the signed SSTVD contract back to the seller and copy the SSTGB staff within 30 calendar days; or
    ii. Notify the seller and SSTGB staff by email that the seller does not qualify for the SSTVD program, including the reason the seller does not qualify.

I. Returns and/or filing information.

1. Each participating state's required procedure for submitting returns and/or filing information will be provided on the SSTVD webpage.
2. Qualified remote sellers must submit the state required returns and/or filing information for each state within 12 months of receiving the signed SSTVD contracts from the state(s).
3. Returns and/or filing information are to be submitted directly to each state the qualified remote seller is participating.
4. Participating states have 30 calendar days after receiving a seller's returns and/or filing information to contact the seller and either:
    i. Notify the seller of the total amount due and arrange for payment directly to the state; or
    ii. Request additional information about the returns and filing information submitted to the state.

J. SSTVD payment.

1. All payments are made directly to the participating states within 30 days' notice from the state.
2. States are allowed, but not required, to enter into payment agreements for greater than 30 days. These agreements are between the qualified remote seller and the participating state.

K. SSTVD sunset or extension.

1. The initial SSTVD sunsets December 31, 2027, unless the Governing Board votes to extend the SSTVD.
2. If the Governing Board votes to extend the SSTVD:
    i. States that become a full member state on or after January 1, 2027, and that has offered the SSTVD for at least 12 continuous months can end their participation

during the extended SSTVD period, but the end date must be on the last day of a calendar month with at least 30 days' notice to the Executive Director.

***Example**: The initial SSTVD program is for the period of January 1, 2027, through December 31, 2027. State P becomes a full member state on April 1, 2027. State P was never a contingent or associate member state. As a new, full member state joining SST after the initial SSTVD program started, State P must provide the SSTVD for 12 consecutive months. State P's SSTVD start date will be April 1, 2027. State P can stop offering the program after March 31, 2028.*

ii. States that were a full member prior to January 1, 2027, and participated in the initial SSTVD must notify the Executive Director in writing if they intend to continue participating in the extended SSTVD within 30 days of the extension period. If the state fails to notify the Executive Director, it will be presumed that state is no longer participating in the extended SSTVD.

iii. A full member state that chose not to participate in the extended SSTVD may participate after the extended SSTVD effective date with at least 30 days' written notice to the Executive Director and offer the SSTVD for a minimum of 12 consecutive months.

L. SSTVD information sharing.

1. Participating states will only receive SSTVD contracts, returns and filing information specific to their state.
2. All participating states will be provided with application information of all sellers submitting applications. This information may not be shared with any states that are not participating in the SSTVD. The application information shared will only be from applications received during the period that a state is participating in the SSTVD.

M. Statistical data collection.

1. SSTGB staff will maintain statistics reflecting the success of the program.
2. All statistics maintained will be in aggregate form and will not include any seller specific or state specific information.
3. Participating states will periodically provide aggregated data information for this purpose.

Compiler's Notes: Rule 402.1 related to the Streamlined Sales Tax Voluntary Disclosure Program was adopted by the Governing Board on October 14, 2026 by RP26004-03.

ARTICLE V
Provider and System Certification

Rule 501 – Certification process

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Rule 501.1 – Definitions

A. **Certified Service Provider (CSP).** An agent certified under the agreement to perform all the seller's sales and use tax functions other than the seller's obligation to remit tax on its own purchases.
B. **Certified Automated System (CAS).** Software certified under the Agreement to perform part of the seller's sales and use tax functions; must include ability to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction. The seller is responsible for the maintenance of the seller's data, the security of the system, and remitting the taxes collected.
C. **TIGERS.** Tax Information Group for Ecommerce Requirements Standardization was formed in October 1994 by FTA, the states, the IRS, and business and service provider representatives, to provide an overall coordinative body for advice and counsel on government technical implementation of American National Standards Institute (ANSI)-based tax-related electronic data interchange applications.
D. **Certification Committee.** The Certification Committee advises the Governing Board on matters pertaining to the evaluation, testing, certification and recertification of service providers and automated systems. The Committee will consider and respond to those matters referred to it from the Governing Board or its committees regarding evaluation, testing, certification or recertification. The Committee may also recommend items to the Governing Board for consideration.
E. **Testing Central.** An administrative process to manage and document communication between member states, Certified Service Providers, Certified Service Provider candidates, Certified Automated System providers and/or Certified Automated System applicants regarding testing and changes.

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Rule 501.2 – Certification of service providers

The certification process for CSP applicants shall take place as described below and shown in Appendix A.

1. Applicants shall notify the Executive Director of their intentions of becoming a Certified Service Provider (CSP).

2. Within 10 calendar days the Executive Director shall notify the Certification Committee Chairperson of the CSP Applicant.

3. Within 10 calendar days the Certification Committee Chairperson provides a cover letter and the CSP Self-Assessment Questionnaire to the CSP Applicant. CSP Applicant has 30 calendar days to complete the Self-Assessment Questionnaire and return it to the SSTGB Executive Director.

4. SSTGB Executive Director receives the CSP Self-Assessment Questionnaire from the CSP Applicant. Within 10 calendar days the SSTGB Executive Director passes the Self-Assessment Questionnaire to the Certification Committee Chairperson for review.

5. Certification Committee Chairperson or Executive Director accepts or rejects the Self-Assessment Questionnaire within 10 calendar days. If accepted, the Certification Committee Chairperson or Executive Director responds to the CSP Applicant with a cover letter and a CSP Application. The Applicant is given 30 calendar days to file the completed application or request an extension.

6. The Certification Committee shall review documentation submitted by Applicant, screen and identify Applicant for further evaluation and testing, and conduct site reviews within 90 calendar days of submission of the CSP application.

7. The Certification Committee shall recommend an Applicant for system testing within 15 calendar days. Any Applicant not recommended for further evaluation may address issues and discrepancies found during the initial review process and re-apply for certification.

8. Testing Central shall manage the system testing between the CSP Applicant and the member states. The criteria to begin testing must be met prior to the initiation of testing. (Reference - *SST Testing Process for Certification of Service Providers*, Appendix E). Upon successful completion of testing, each member state shall recommend certification of the CSP Applicant to the Certification Committee. Testing must be completed within 5 months unless extensions are requested and granted.

9. Within 15 calendar days of conclusion of system testing, the Certification Committee recommends acceptance or rejection of the CSP Applicant to the Executive Director.

10. The Executive Director shall submit the recommended Applicant to the Executive Committee for certification within 15 calendar days.

11. The Executive Committee shall approve or reject the recommended CSP Applicant within 15 calendar days.

12. Contracts shall be negotiated and signed by officers designated by the Executive Committee. To remain compliant with the contract, Certified Service Providers shall be operational through the term of the contract.

Compiler's note: (a) On May 24, 2012 this section was amended as follows. The amendment (RP12001) became effective upon its adoption.
"The certification process for CSP candidates shall take place ~~on a two year cycle~~ as described below and shown in Appendix A. ~~(The initial process followed a different timeline as noted and shown in Appendix B.)~~

~~April 1, Odd Years –~~ 1. The ~~Governing Board~~ Executive Director shall issue a request for service providers interested in responding to the terms and conditions for participation as a certified service provider. ~~(For the initial process, a request for proposal was issued November 1, 2004.)~~

~~April 1 to June 1, Odd Years –~~ 2. Interested candidates shall respond to the request by submitting a completed self-evaluation assessment (see Minimum Standards, Appendix C~~. For the initial process Minimum Standards compared with the RFP were used, Appendix D~~) within 60 days of the request in subdivision 1 to the Executive Director. The Executive Director shall notify the Certification Committee regarding candidates for further evaluation. ~~(For the initial process, the responses were due February 1, 2005.)~~

~~June 1 to August 1, Odd Years –~~ 3. The Certification Committee shall review documentation submitted by candidates, screen and identify candidates for further evaluation and testing, and conduct site reviews within 90 days of submission of the self-evaluation assessment in subdivision 2. ~~Any candidates not recommended for further evaluation may respond to the next request (April 1, odd years). (For the initial process, the reviews were completed by May 1, 2005.)~~

~~August 1 to November 1, Odd Years –~~ 4. The Certification Committee shall ~~conduct evaluation and site review. (For the initial process, the reviews were completed by October 1, 2005.)~~ recommend a candidate for system testing within 15 days of completion of the requirements in subdivision 3. Any candidates not recommended for further evaluation may respond to the next request.

~~November 1, Odd Years to May 1, Even Years –~~ 5. Testing Central shall manage the system(s) testing between the CSP candidate and the member states. The criteria to begin testing must be met prior to the initiation of testing. Reference - SST Testing Process for Certification of Service Providers, Appendix E). Upon successful completion of testing, each member state shall recommend certification of the CSP candidate(s) to the Certification Committee. Testing must be completed within 5 months of the completion of subdivision 4. ~~(For the initial process, the system tests will be completed by June 30, 2006.)~~

~~May 1 to May 12, Even Years –~~ 6. The Certification Committee shall submit the recommended candidate(s) to the Executive Director within 15 days of the completion of subdivision 4. ~~For the initial process, the recommended candidate(s) shall be identified and placed under contract no later than July 1, 2006.~~

~~May 12 to May 15, Even Years –~~ 7. The Executive Director shall submit the recommended candidate(s) to the Executive Committee for certification within 15 days of completion of subdivision 6.

~~May 15 to June 1, Even Years –~~ 8. The Executive Committee shall act on the new certification recommendation(s) within 15 days of completion of subdivision 7. Any candidate(s) not recommended for certification may respond to the next request ~~(April 1, odd years)~~.

~~June 1 to July 1, Even Years –~~ 9. Contracts shall be negotiated and signed by officers designated by the Executive Committee. To remain compliant with the contract, Certified Service Providers shall be operational for two years subsequent to the signing of the contract."

Compiler's Note (b): On September 19, 2012, subdivisions 1, 2, 4 and 8 of this section were amended to clarify that the certification process is driven by those who want to be certified as long as the states are ready and able to conduct the certification and became effective upon their adoption via RP12010.
"1. Interested persons shall notify t~~T~~he Executive Director ~~shall issue a request for service providers~~ of their intentions ~~interested~~ in ~~application for~~ becoming ~~responding to the terms and conditions of participation as~~ a certified service provider.

2. ~~Interested e~~Candidates shall ~~respond to the request by~~ submit~~ting~~ a completed self-evaluation assessment~~(see Minimum Standards, Appendix C within 60 days of Item 1)~~ to the Executive Director. The Executive Director shall notify the Certification Committee regarding the candidate's status for further evaluation...

4. The Certification Committee shall recommend a candidate for system testing within 15 days of completion of the requirements in subdivision 3. Any candidates not recommended for further evaluation may address issues and discrepancies found during the initial review process and re-apply for certification. ~~respond to the next request.~~...

8. The Executive Committee shall act on the new certification recommendation(s) within 15 days of completion of subdivision 7. ~~Any candidate(s) not recommended for certification may respond to the next request.~~"

Compiler's Note (c): On May 15, 2014, this section was amended as follows. The amendment (RP14001) became effective upon its adoption.
"The certification process for CSP ~~candidates~~ applicants shall take place as described below and shown in Appendix A.

1. ~~Interested persons~~Applicants shall notify the Executive Director of their intentions ~~in~~ of becoming a Certified Service Provider (CSP).

2. Within 10 calendar days ~~Candidates shall submit a completed self-evaluation assessment to the Executive Director. T~~the Executive Director shall notify the Certification Committee Chairperson of the CSP Applicant.~~regarding the candidate's status for further evaluation.~~

3. Within 10 calendar days t~~T~~he Certification Committee Chairperson provides a cover letter and the CSP Self Assessment Questionnaire to the CSP Applicant. ~~shall review documentation submitted by candidates, screen and identify candidates for further evaluation and testing, and conduct site reviews within 90 days of submission of the self-evaluation assessment in subdivision 2.~~ CSP Applicant has 30 calendar days to complete the Self Assessment Questionnaire and return it to the SSTGB Executive Director.

4. SSTGB Executive Director receives the CSP Self Assessment Questionnaire from the CSP Applicant. Within 10 calendar days the SSTGB Executive Director passes the Self Assessment Questionnaire to the Certification Committee Chairperson for review.

5. Certification Committee Chairperson or Executive Director accepts or rejects the Self Assessment Questionnaire within 10 calendar days. If accepted, the Certification Committee Chairperson or Executive Director responds to the CSP Applicant with a cover letter and a CSP Application. The Applicant is given 30 calendar days to file the completed application or request an extension.

6. The Certification Committee shall review documentation submitted by Applicant, screen and identify Applicant for further evaluation and testing, and conduct site reviews within 90 calendar days of submission of the CSP application.

~~4~~7. The Certification Committee shall recommend an ~~candidate~~ Applicant for system testing within 15 calendar days ~~of completion of the requirements in subdivision 3.~~ Any ~~candidates~~ Applicant not recommended for further evaluation may address issues and discrepancies found during the initial review process and re-apply for certification.

~~5.~~ 8.Testing Central shall manage the system(s) testing between the CSP ~~candidate~~ Applicant and the member states. The criteria to begin testing must be met prior to the initiation of testing. (Reference - SST Testing Process for Certification of Service Providers, Appendix E). Upon successful completion of testing, each member state shall recommend certification of the CSP ~~candidate(s) to~~Applicant to the Certification Committee. Testing must be completed within 5 months unless extensions are requested and granted.~~of the completion of subdivision 4.~~

~~6~~9. Within 15 calendar days of conclusion of system testing, t~~T~~he Certification Committee ~~shall submit the~~ recommend~~ed~~ acceptance or rejection of the CSP Applicant to the Executive Director. ~~candidate(s) to the Executive Director within 15 days of the completion of subdivision~~

~~7~~10. The Executive Director shall submit the recommended ~~candidate(s)~~Applicant to the Executive Committee for certification within 15 calendar days~~ of completion of subdivision 6~~.

811. The Executive Committee shall ~~act~~ approve or reject ~~on~~ the ~~new certification~~ recommend~~ation(s)~~ed CSP Applicant within 15 calendar days. ~~of completion of subdivision 7.~~

~~9~~12. Contracts shall be negotiated and signed by officers designated by the Executive Committee. To remain compliant with the contract, Certified Service Providers shall be operational through the term of the contract.

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Rule 501.3 – Acceptance requirements for service providers

During testing, the member states, Certification Committee and the CSP candidates shall work cooperatively through Testing Central to identify and resolve issues in a timely manner.

Acceptance criteria. The criteria listed below, in addition to those listed in Section 501B of the Agreement are requirements for a recommendation for certification.

The CSP candidate shall execute test decks successfully* and provide results to the member states.

Member states shall successfully* test the single entry screen provided by the CSP candidate. Reference - *SST Testing Process for Certification of Service Providers*, Appendix E.

Member states and the CSP candidate shall successfully* complete end-to-end testing. Reference - *SST Testing Process for Certification of Service Providers*, Appendix E.

Member states shall review and approve the tax rules defined in the system of the CSP candidate.

The CSP candidate shall provide an administrative site that allows each state the capability of obtaining activity reporting and error logging. Reference - *SST CSP Site Administration* paper, Appendix F.

The CSP candidate shall provide all financial data necessary to perform an assessment of financial soundness.

The CSP candidate shall meet all other requirements of the Streamlined Sales and Use Tax Agreement (SSUTA) and *Certification Standards*, Appendix G.

*Successfully means the transactions are returned with the correct taxability, tax amount and sourcing at an acceptable accuracy level as determined by each individual member state.

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Rule 501.4 – Recertification process for Providers who have been Certified

The recertification process will verify that any provider that has been certified, as evidenced by a contract with the Governing Board, continues to be compliant with requirements set forth by the Governing Board, either in the contract, or by policy. Reference – *Recertification Process*, Appendix H; *Contract between Streamlined Sales Tax Governing Board, Inc. and Company ___*.

On-going Basis – Testing Central shall continuously review operational performance of the CSP(s) and provide that information regularly to the Executive Committee.

Seven months prior to expiration of Contract - The Executive committee shall review CSP(s) Compensation and Contract terms, including any material changes to the minimum standards which had been in effect, and begin negotiations with the CSP(s) on compensation and any changes required for recertification.

Six months prior to expiration of Contract – The Certification Committee shall review CSP(s) performance to date and recommend CSP(s) for renewal and continued participation.

Three months prior to expiration of Contract - The Certification Committee shall submit recommendation(s) for renewal to the Executive Committee. Any CSP(s) not recommended for continued participation or renewal may reapply for CSP certification.

One month prior to expiration of Contract – The Executive committee shall finalize CSP(s) Compensation and Contract terms and upon reaching agreement, the Executive Committee shall approve officers to sign the contract extensions, amendments or renewals.

On the Contract expiration date - The Officers so designated shall sign the contracts on behalf of the Executive Committee for whatever term has been negotiated.

Compiler's note: On October 15, 2020, the Governing Board adopted RP19001 to update the rule to make it consistent with the Agreement.

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Rule 501.5 – Certification of Model 2 automated systems

The certification process of a Model 2 automated system may begin at any time as described below and shown in Appendix E.

1. Applicant shall obtain a self-evaluation test deck and guidelines.

2. After successful self-evaluation, the applicant shall submit the results and apply to the Executive Director to begin the certification process.

3. The Executive Director shall submit the application to the Certification Committee for evaluation.

4. The Certification Committee shall screen and identify systems for further evaluation and testing. If a system is not recommended for further evaluation, the applicant may re-apply after three months.

5. Testing Central shall manage the system(s) testing between the Model 2 CAS applicant and the member states. The criteria to begin testing must be met prior to the initiation of testing.

6. Upon successful completion of testing, each member state shall recommend certification of the automated system to the Certification Committee.

7. The Certification Committee shall recommend the acceptable system to the Executive Committee.

8. The Executive Committee shall act on the certification recommendation. Any system not recommended for certification may re-apply after three months.

9. Contracts shall be negotiated and signed by the officer(s) designated by the Executive Committee. Once signed, the Model 2 CAS is considered to be operational.

Compiler's note: On October 15, 2020, the Governing Board adopted RP20002 to correct references and remove obsolete language.

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Rule 501.6 – Acceptance requirements for automated systems

During testing, the member states, Certification Committee and the model 2 CAS applicant shall work cooperatively through Testing Central to identify and resolve issues in a timely manner.

A. The CAS must meet the requirements in Section 501(C) of the Agreement:

1. The CAS determines the applicable state and local sales and use tax rate for a transaction;
2. The CAS determines whether or not an item is exempt from tax;
3. The CAS determines the amount of tax to be remitted for each taxpayer for a reporting period;
4. The CAS can generate reports and returns as required by the Governing Board; and
5. The CAS can meet any other requirement set by the Governing Board.

B. Acceptance criteria. In addition to the requirements listed in A, the criteria listed below are requirements for a recommendation for certification.

1. The software program shall be a discrete set of tools for sale or licensing to sellers that is capable of being operated by sellers, certified by the Governing Board, and functions as a system. The seller is responsible for the maintenance of the seller's data, the security of the system, and remitting the taxes collected.

2. The required reports shall include:

a) Simplified Electronic Return (SER) and Information Report (IR) compliant with the TIGERS standards;
b) Reports required in the Simplified Exemption Administration paper;
c) Software version control logs;

3. The results from the self-evaluation of the potential automated system have been verified.

4. The CAS applicant shall execute test decks successfully* and provide results to the member states.

5. Member states shall successfully* test the single entry screen provided by the CAS applicant.

6. Member states and the CAS applicant shall successfully* complete end-to-end testing.

7. The CAS applicant meets all requirements in *Certification Standards*, Appendix G.

*Successfully means that transactions must be returned with the correct taxability, tax amount, and sourcing at an acceptable accuracy level as determined by each member state.

C. Integration. Integration is not part of the certification process, but is a critical element of proper implementation of the automated system into the seller's business process. Without proper integration the system may not produce the correct results.

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Rule 501.7 – Certification Committee

A. State Membership

1. Each Member State or Associate Member State of the Streamlined Sales Tax Governing Board shall designate at least one representative who is a state employee to represent that state in evaluation, testing, certification or recertification of service providers and automated systems. States may have more than one state employee attend and participate in the Committee meetings.
2. Participating States may also designate one representative who is a state employee to represent that state in evaluation, testing, certification or recertification of service providers and automated systems. "Participating States" are those States that support the mission of the project and for which an elected official or body of elected officials has committed the State to participate in the Streamlined Sales Tax Project. Any question over whether or not a State qualifies as a Participating State shall be resolved by a majority vote of the Governing Board States qualified to vote.
3. The President of the Governing Board will appoint the chair of the committee, and may appoint other state officials to serve on the Committee as deemed appropriate or necessary.

B. Committee Meetings

1. The work of the Certification Committee may be conducted in closed meetings as provided in Section 807 (B), (C) and (D) of the Agreement when dealing with proprietary information from businesses, consideration of issues incident to competitive bidding, requests for information, or certification, the disclosure of which would defeat the public interest in a fair and competitive process.

2. The Committee shall meet as often as is necessary to fulfill its mission. The Officers shall determine the time and place for regular meetings and notice of the meetings shall be given in accordance with the Rules of the Governing Board.
3. The Certification Committee may meet electronically.

Compiler's note: On May 24, 2023 Rule 501.7 was amended by RP23002 to clarify the voting procedures and became effective upon its adoption.

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Rule 501.8 – Testing Central

Testing Central is created as an administrative process under Governing Board staff supervision to manage and document communication between member states, Certified Service Providers, Certified Service Provider candidates, Certified Automated System providers and/or Certified Automated System applicants regarding testing and changes. Each Member State will designate at least one person to work with Testing Central. A more complete description of this process is found in Appendices E and K.

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Rule 502 – Vendor Database Certification

1. Definitions
a. An a*ddress-based database* ("database") is a system by which a user of such system can determine whether an address is within the boundaries of a state and one or more local tax jurisdictions. A "system" can be one or more software applications and/or other electronic processes by which the provider (vendor) determines which state and local sales tax jurisdictions apply to a particular address. The vendor supports the address-based database.

b. A *tax jurisdiction* is any governmental entity or special tax district located within a state that levies a sales and/or use tax. "Special tax districts" include, but are not limited to, rural transportation authority districts, local marketing districts, mass transit districts, multi-jurisdictional housing authority districts, regional library districts, and local improvement districts. Tax jurisdictions can be classified into the following four categories: state, county, city, or special tax district.

2. Procedures for Database Certification
a. In accordance with Section 305, sub-section (H) of the Streamlined Sales and Use Tax Agreement (SSUTA), states may elect to certify vendor-provided address-based databases. A vendor requesting certification of its database shall give authorization for a certifying agency (state) to access its address-based database for the sole purpose of verifying the accuracy of the database in determining the proper tax jurisdiction.

b. A vendor application for certification may be made to each individual state in accordance with state procedures.

c. For purposes of certification, a state may require that the address database file structure be the same as described in the SST Rates and Boundary Database Instructional Paper. This document is available on the Streamlined Sales Tax web site.

d. A certifying state will notify the vendor of the schedule for recertification. A certification cycle shall not exceed two years.

3. Certification Criteria. The Database must satisfy the certification criteria set forth below.
a. *Accuracy*. The state will provide the vendor with its required minimum acceptable level of accuracy. A database will not be certified if it does not achieve the acceptable level of accuracy for all associated tax jurisdictions that are assigned to a particular address.

b. Relief of liability due to incorrect identification of tax jurisdiction(s) is at the discretion of the certifying state and not a condition of the SSUTA.

c. *Identifiably of Tax Jurisdictions*. The taxing jurisdiction categories include: state, county, city, or special tax district. A database will not be certified if it is not capable of identifying all tax jurisdictions within each of the categories.

d. *Response.* Each address lookup shall include a response for each assigned category: state, county, city, or special tax district. Failure to provide a response to any category shall be deemed an error with respect to that category. A response in a tax category is deemed incorrect if the response identifies incorrectly or fails to identify a tax jurisdiction in which a given address is located.

e. *Access to Database For Verification of Address Locations.* The state must have a way to conveniently and quickly determine whether a database correctly places a given address within the correct jurisdiction. Consequently, as a condition of certification, the vendor must make available a means by which representatives of the state can determine whether the database places a given address within the correct state and taxing jurisdictions. The vendor shall work cooperatively with the state to facilitate the validation of addresses against the database.

f. *Prompt Updating of Information.* Should the certifying state determine that a given address is incorrectly identified, there must be a convenient means to inform the vendor of the error. Furthermore, a vendor shall have in place a documented process for promptly and regularly updating and correcting its database, including those circumstances when information concerning errors and omissions is received from the state. Consequently, a condition of database certification is that:

1. The certifying state provides a reliable process for notifying the vendor that the database is in error with respect to one or more addresses, and
2. The vendor agrees to promptly update its database with the corrected information provided by the state. Updates can only occur at the beginning of each quarter.

g. *Version Designation – Record Retention.* A condition of database certification is that vendors provide a convenient means by which a certifying state can identify the version of the address database that was in effect on any given date while certified under these rules. The vendor must

maintain such records for no less than five years from the beginning of the initial certification period.

h. *Test Data.* A principal responsibility of the certifying state is to provide test data and verify the accuracy of the database in determining the proper tax jurisdiction. When creating the test data, each state should adhere to the formats in place and described in Appendix E of Article V, Rules and Procedures of the SSUTA.

4. Denial or Revocation of Certification. A certifying state may deny a request to certify or may revoke the certification of a vendor-provided address database for just cause. The certifying state may reassess at any time whether the database should continue to be certified. "Just cause" for denial or revocation of certification shall include, without limitation, that the database is not in compliance with the requirements and procedures established in this document.

a. The state shall give written notice to the vendor of intent to revoke or deny database certification.

b. The vendor shall have 30 days from the date of mailing of said notice in which to provide the state a written response explaining in detail why certification should be granted.

c. If certifying state statute allows and there are disputed issues of fact, the certifying state shall provide the vendor a hearing on said notice of denial or revocation.

d. Vendors shall provide users notice of revocation within an agreed upon period of time. The vendor shall immediately remove any advertising from its webpage and all other media that indicated it was certified by the state that has revoked its certification. Failure of a vendor to provide such notice and remove such advertising may be sole reason to deny future application for database certification.

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ARTICLE VI
Monetary Allowances for New Technological Models For Sales Tax Collection

Rule 601. [Reserved]

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Rule 602.1 – Monetary Allowance for Model 2 Sellers

1. Authority. The Governing Board has the authority to determine the monetary allowance, if any, to be withheld from the amount remitted to the Member States, Contingent Member States and Associate Member States by Model 2 Sellers. The Governing Board may, in its discretion, limit the monetary allowance to taxes remitted to Member States, Contingent Member States and Associate Member States in which the Model 2 Seller is a Volunteer Seller. All Member States,

Contingent Member States and Associate Member States must provide a monetary allowance to Model 2 Sellers in the amount and manner adopted by the Governing Board. Failure to provide any such monetary allowance may subject a Member State, Contingent Member State or Associate Member State to sanctions for noncompliance pursuant to Section 809 of the SSUTA.

2. Allowance Limitations. A Seller shall be entitled to the allowance only if the Seller has registered as a Model 2 Seller in compliance with the requirements of the registration system created under Article IV of SSUTA ("Central Registration System"), has filed and paid a timely return, and is otherwise in compliance with Governing Board requirements for receiving the allowance.

3. Additional Allowances. The allowance set forth in this Rule is in addition to any discount afforded by a Member State, Contingent Member States or Associate Member State. Individual Member States, Contingent Member States and Associate Member States may provide, in accordance with their own laws and procedures, allowances that supplement or extend the monetary allowance under this Rule. Nothing herein suggests or implies that any supplements or extensions will be forthcoming.

4. Definitions. Except as separately defined in this Rule, terms used herein shall have the same meaning as those terms are defined in the SSUTA. Definitions set forth in this Rule are included only for purposes of determining monetary allowances for Model 2 Sellers under this Rule. The definitions do not constitute a conclusion or an admission by the Governing Board, Member States, Contingent Member States or Associate Member States that a Seller has or does not have a legal obligation to collect sales or use taxes in any Member State or Associate Member State. Monetary allowances to Model 2 Sellers under this Rule are not payments to a Seller for the administration of any state or local sales tax.

(a) Associate Member State means a state or other governmental authority that has petitioned for membership in the SSUTA and has been designated as an associate member state pursuant to the Section 801.3 of the SSUTA.

(b) Member State means a state or other governmental authority that has been admitted into membership in the Governing Board and has not withdrawn from or been expelled by the Governing Board.

(c) Volunteer Seller in a Member State, Contingent Member State or Associate Member State means a Seller that has registered as a Model 2 Seller in the Central Registration System and:

(1) For Sellers who registered with the Member State, Contingent Member State or Associate Member State on or before November 12, 2002, represented in its registration that it did not have a legal requirement to register and in fact did not have a requirement to register in the Member State, Contingent Member State or Associate Member State at the time of registration, regardless of any previous registration the Seller may have made in the Member State, Contingent Member State or Associate Member State; or

(2) For Sellers who registered with the Member State, Contingent Member State or Associate Member State after November 12, 2002, the Seller meets all of the following criteria during the twelve (12) month period immediately preceding the date of registration with the Member State or Associate Member State:

a. no fixed place of business for more than thirty (30) days in the Member State, Contingent Member State or Associate Member State;
b. less than $50,000 of Property, as defined below, in the Member State, Contingent Member State or Associate Member State;
c. less than $50,000 of Payroll, as defined below, in the Member State, Contingent Member State or Associate Member State;
d. less than twenty-five percent (25%) of its total Property or total Payroll, as defined below, in the Member State, Contingent Member State or Associate Member State;
e. was not collecting sales or use tax in the Member State, Contingent Member State or Associate Member State as a condition for the seller or an affiliate of the seller to qualify as a supplier of goods or services to the Member State, Contingent Member State or Associate Member State; and
f. was not required to register and collect sales or use tax in the Member State, Contingent Member State or Associate Member State as a statutory requirement for the seller or an affiliate of the seller to be able to sell, ship or deliver a particular type of product into the Member State, Contingent Member State or Associate Member State.

Notwithstanding subsection (c)(2) above, any Seller that registered in a Member State, Contingent Member State or Associate Member State in the three years prior to the effective date of such State's membership, is not considered a Volunteer Seller for that Member State, Contingent Member State or Associate Member State, if the Seller had a legal requirement to register as a result of administrative, legislative, or judicial action in the state occurring prior to the date of the Seller's registration that was specific to that Seller.

(d) Property is the "Average Value" of the Seller's real property and tangible personal property owned or rented by the Seller. Property owned by the Seller is valued at its original cost basis. Property rented by the Seller is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the Seller less any annual rental rate received by the Seller from sub-rentals. The "Average Value" of Property shall be determined by averaging the values at the beginning and end of the twelve (12) month period immediately preceding the date of registration with the Member State, Contingent Member State or Associate Member State.

(e) Payroll is the total amount paid by the Seller for "Compensation" during the twelve (12) month period immediately preceding the date of registration with the Member State, Contingent Member State or Associate Member State. "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees and defined as gross income under Internal Revenue Code §61. "Compensation" is paid in a Member State, Contingent Member State or Associate Member State if (1) the individual's service is performed entirely

within the Member State, Contingent Member State or Associate Member State, (2) the individual's service is performed both within and outside the Member State, Contingent Member State or Associate Member State, but the service performed outside the Member State, Contingent Member State or Associate Member State is incidental to the individual's service within the Member State, Contingent Member State or Associate Member State, or (3) some of the service is performed in the Member State, Contingent Member State or Associate Member State and (a) the base of operations, or if there is no base of operations, the place from which the service is directed or controlled, is in the Member State, Contingent Member State or Associate Member State, or (b) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in the Member State, Contingent Member State or Associate Member State.

5. Losing Volunteer Status. A Volunteer Seller shall lose its status as a Volunteer Seller in a Member State, Contingent Member State or Associate Member State if:

(a) as a result of activities the Seller conducts in a Member State, Contingent Member State or Associate Member State after the date of the Seller's registration in the Member State, Contingent Member State or Associate Member State, the Seller becomes legally obligated to register in that Member State, Contingent Member State or Associate Member State; and

(b) as a result of activities the Seller conducts in a Member State, Contingent Member State or Associate Member State after the date of the Seller's registration in the Member State, Contingent Member State or Associate Member State, the Seller fails to meet one or more of the criteria under subsection 4(c)(2) above in that Member State, Contingent Member State or Associate Member State. For purposes of determining whether the Seller meets the criteria, the "Average Value" of Property shall be determined by averaging the values at the beginning and end of the last fiscal year of the Seller that terminates at least thirty (30) days before the date the determination is made; and Payroll shall be the total amount paid by the Seller for "Compensation" during the last fiscal year of the Seller that terminates at least thirty (30) days before the date the determination is made.

6. Disclaimer. Nothing in this Rule shall be construed to modify federal or state law regarding a Seller's responsibility to collect or remit sales or use tax to a Member State, Contingent Member State or Associate Member State.

Compiler's note: Rule 602.1 was amended on May 3, 2018 by RP18004 to update the definition of "volunteer seller" so that it matched the CSP contract and add references to "Contingent Member States" as needed.

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Rule 602.2 – Monetary Allowance for Model 2 Sellers Procedural Rule

1. Effect of a State Becoming a New Member State, Contingent Member State or Associate Member State. If any state or other governmental authority that is not a Member State, Contingent Member State or Associate Member State on the Effective Date of this Rule becomes a Member State, Contingent Member State or Associate Member State, a Model 2 Seller shall be entitled to retain an allowance on sales and use taxes due to the new Member State, new

Contingent Member State or new Associate Member State, under the same conditions as apply to existing Member States, Contingent Member States and Associate Member States, from the effective date of the state or other governmental authority becoming a new Member State, new Contingent Member State or new Associate Member State.

A Model 2 Seller shall be entitled to retain the allowance from a new Member State, new Contingent Member State or new Associate Member State for a period not to exceed twenty-four months after the Seller's first CAS was installed. If the CAS was installed before the Effective Date of this Rule, the Seller shall be entitled to retain the allowance from a new Member State, new Contingent Member State or new Associate Member State for a period not to exceed twenty-four months after the Effective Date.

2. Effect of Withdrawal or Expulsion of a Member State, Contingent Member State or Associate Member State from the SSUTA. If a Member State, Contingent Member State or Associate Member State withdraws or is expelled from the SSUTA, a Model 2 Seller shall be entitled to retain the monetary allowance on sales and use taxes due to that Member State, Contingent Member State or Associate Member State from transactions made by the Model 2 Seller prior to the effective date of the withdrawal or expulsion.

3. Effect of Losing Volunteer Seller Status. If a Model 2 Seller loses its status as a Volunteer Seller in a Member State, Contingent Member State or Associate Member State during any part of a calendar month, the Model 2 Seller shall be deemed to have lost its status as a Volunteer Seller in that state for the entire month.

4. Effect of Determining Taxes Without Using an Updated CAS. A Model 2 Seller shall not be allowed to retain a monetary allowance for a Member State, Contingent Member State or Associate Member State that is based on taxes that were determined or calculated (1) without the use of a CAS or (2) with a CAS that the Seller has failed to update or modify in accordance with the Seller's agreement with its CAS provider.

Compiler's note: Rule 602.2 was amended on May 3, 2018 by RP18004 to add references to "Contingent Member States" as needed.

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Rule 603 – Small Seller Exception (Repealed October 11, 2017)

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Rule 603.1 – Initial Threshold for Small Seller Exception (Repealed October 11, 2017)
Compiler's note: (a) On November 8, 2010 this rule was adopted. (b) On October 11, 2017 this rule was repealed by RP17002.

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Rule 603.2 – Process for Determination of Exception Threshold by Governing Board (Repealed on October 11, 2017)

Compiler's note: (a) On November 8, 2010 this rule was adopted. (b) On October 11, 2017 this rule was repealed by RP17002.

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Rule 603.3 – Method for Determining Exemption Qualifications for Remote Sellers (Repealed October 11, 2017)
Compiler's note: (a) On November 8, 2010 this rule was adopted. (b) On October 11, 2017 this rule was repealed by RP17002.

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Rule 603.4 – Other Conditions that may Qualify a Seller for a Small Seller Exception (Repealed October 11, 2017)
Compiler's note: (a) On November 8, 2010 this rule was adopted. (b) On October 11, 2017 this rule was repealed by RP17002.

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Rule 603.5 – Notification of Change in Small Seller Exception Threshold (Repealed October 11, 2017)
Compiler's note: (a) On November 8, 2010 this rule was adopted. (b) On October 11, 2017 this rule was repealed by RP17002.

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ARTICLE VII
AGREEMENT ORGANIZATION

Rule 701 – Effective Date [Reserved]

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ARTICLE VIII
STATE ENTRY AND WITHDRAWAL

Rule 801 – Entry Into Agreement

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Rule 801.1 – Associate State Membership Requirements

The Governing Board may not approve a state as an associate member pursuant to Section 801.3 of the Agreement unless such state has at a minimum the following in effect on the day they become an associate state:

1. Provide amnesty pursuant to Section 402 of the Agreement;

2. Pay certified service providers pursuant to the Governing Board's contract;
3. Have certified the service providers and automated systems;
4. Have adopted a majority of the definitions in the Agreement to the extent such definitions are relevant for such state's sales and use tax administration;
5. Have provided liability relief to sellers and purchasers as required by the Agreement;
6. Be able to accept registrations from the central registration system;
7. Have completed the Governing Board's taxability matrix;
8. Have completed the Governing Board's certificate of compliance;
9. Be able to accept the simplified electronic return as required by the Agreement;
10. Have complied with the exemption administration provisions as required by the Agreement; and
11. Have adopted a majority of the sourcing requirements as required by the Agreement.

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Rule 802 – Certificate of Compliance [Reserved]

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Rule 803 – Annual Recertification

A. **Recertification Requirement.** Pursuant to Section 803 of the Agreement, each member state shall annually recertify to the Governing Board by August 1 of each year that the state is in compliance with the Agreement based on the state's laws as of July 1. A 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.

1. **Recertification Documents**

a. On or before August 1 of each year, each member state shall submit to the Executive Director either a statement certifying that the state is in compliance with the Agreement as it exists on July 1 of the year or a statement of noncompliance.

b. In addition to the statement, each member state shall:

(1) Have completed and approved for publishing the current online certificate of compliance that sets out the state's statutes, rules, regulations, and other authorities adopted to comply with the specific provisions of the Agreement as of July 1 of the year;

(2) Submit a list and the effective date of any of the state's statutes, regulations, or written policies that impacts the state's compliance that have changed on or after July 1 of the prior year or the date the state became a member, whichever is later;

(3) Have complete and approved for publishing the current online taxability matrix;

(4) Submit a statement disclosing any known items of noncompliance with a description of the action the state intends to take to remedy the noncompliance; and

(5) Submit a list of any significant administrative or judicial decisions (regardless of outcome) that impact the state's compliance on or after July 1 of the prior year or the date the state became a member, whichever is later.

2. **Posting documents.** Each member state shall post its statement of recertification or its statement of noncompliance and all supporting recertification documents on the state's web site on or before August 1 of each year. The Executive Director shall post all recertification filings on the Governing Board's web site.

B. **Review Responsibility.** Pursuant to Article 7, Section 2 of the bylaws, the Compliance Review and Interpretations Committee (CRIC) is responsible for reviewing each state's annual recertification filings, determining any needs for re-assessment and recommending to the Governing Board findings of non-compliance.

C. **CRIC Evaluation and Report**

1. On or before September 15 of the recertification year, the Executive Director shall:
   a. Review all statements and accompanying documents;
   b. Conduct a state-by-state review of each state's compliance with the Agreement; and
   c. Issue an initial written report to CRIC listing potential compliance issues for each member state or stating there are no compliance issues. The Executive Director shall publish the initial written report on the Governing Board's web site and CRIC shall hold at least one meeting to discuss the report and schedule dates for states and the public to submit comments.
2. Providing at least fifteen days notice, CRIC shall give states and the public the opportunity to submit written comments to CRIC. Such responses and comments shall be delivered to the Executive Director who shall notice the public of their filing and publish those documents on the Governing Board's website.
3. Providing at least ten days notice or until CRIC completes its review of a subject state's compliance, whichever is later, CRIC shall give the states and the public the opportunity to submit written comment to CRIC solely to address any issues previously raised in CRIC's report or to address comments received from the state or the public. Such responses and comments shall be delivered to the Executive Director who shall notify the public of their filing and publish those documents on the Governing Board's web site.
4. To the extent possible, CRIC shall issue its final report to the Governing Board by October 31. Such report shall:
   a. Summarize, as practical, the comments received from the member states and the public;
   b. Describe how CRIC addressed those comments; and
   c. State how each CRIC member voted.
5. The CRIC final report to the Governing Board may identify any known future compliance issues a member state may have if the effect of the state's laws, rules, regulation, and policies does not substantially comply with any amendment, interpretation, or interpretive rule.
6. If any date provided in this rule falls on a weekend day, federal holiday or a banking holiday in a member state, such date shall be the next day that is not a weekend day, federal holiday or banking holiday in a member state.
7. The CRIC chair, for due cause shown, may extend the deadlines established in this section.

D. **Review Standards**

1. **Scope of Review.** The member states' annual recertification of compliance covers all aspects of the Agreement, including any applicable rules and interpretations, and is not limited to changes made in the prior year.

2. **Determination of Compliance**

a. A member state is presumed to be in compliance. Except as provided in paragraph b of this subsection, if documentation is provided to CRIC indicating a state is not in compliance, such state has an affirmative duty to explain how it is in compliance.

b. If an issue of a state's compliance has previously been raised against a state for which it was found in compliance that was the subject of a prior unsuccessful challenge under this paragraph, such state need only respond that it previously was held in compliance on that same issue. CRIC and the Governing Board, however, must take into consideration any documentation that supports such state is not in compliance.

3. **Reliance.** The determination of a member state being in compliance shall be based only on a review of the state's laws, regulations and written policies; such provisions listed in order of preference and reliance. Legislation shall be relied upon only if it has passed both legislative chambers (or the legislative chamber for a unicameral state) and there is no known threat of a Governor's veto. A regulation shall be relied upon only if it has been fully adopted. A written policy shall be relied upon only if it is publically accessible through the state revenue agency's web site.

E. **Public Notice.** The Executive Director shall provide notice and copies of any statements of noncompliance received by a member state and any findings of noncompliance by the CRIC to and shall solicit comments from the following parties:

1. the authorized representative of each member state;
2. the Chair of the State and Local Advisory Council;
3. the Chair of the Business Advisory Council; and
4. the general public as provided in Rule 806.2.

F. **Agenda.** If possible, by December 31 of the recertification year any statements of noncompliance from a member state and any findings of noncompliance by the CRIC shall be placed on the agenda of the Governing Board for either a regular meeting or a special meeting. In addition, upon a motion at that same meeting, the Governing Board shall determine if a state is out of compliance that did not have a finding of noncompliance by CRIC based on documentation reviewed by CRIC or submitted to the Governing Board. If a member state is found to be out of compliance by the Governing Board, the member state shall be subject to sanctions as authorized under Section 809 of the Agreement.

G. **Appeal.** If any person disagrees with the Governing Board's determination, that person may invoke the issue resolution process provided for in Article X of the Agreement.

H. **Publication of the Decisions.** Once the decision of the Governing Board becomes final, either because no appeal is filed or the appeal procedures have been exhausted, the decision

shall be sent to the subject state and a copy of the decision shall be posted on the Web. The Governing Board's web site shall list the following for each state found not in compliance:

1. The date a state was found not in compliance;
2. The noncompliance issue(s);
3. The sanction(s) imposed with any timeframes; and
4. When known, the date the state will return to compliance.

Compiler's Note: (a) On September 16, 2015, Rule 803 was amended by RP15008. (b) On May 3, 2018, Rule 803 was amended by RP18001A01.

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Rule 803.2 – Annual Notice of Adopted Amendments

A. The Executive Director shall, no later than July 10 of each year, prepare a document containing all amendments to the Agreement which were adopted by the Governing Board on or after July 1 of the prior year to June 30 of the current year. The Executive Director shall provide such document to every delegate of every member state, notify the State and Local Advisory Council and the Business Advisory Council and shall post such document on the Governing Board website. The document shall identify the date by which states shall be required to comply with the provisions of each such amendment.

B. As part of the recertification of member states required by Section 803, member states shall document compliance with every provision identified in the document described in subsection A of this rule that is in effect at the time of the recertification and shall cite applicable statutes, rules, regulations, or other authorities evidencing such compliance or shall certify that a provision is not relevant.

Compiler's Note: On May 3, 2018, Rule 803.2 was amended by RP18001A01.

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Rule 804 – Requirements for Membership Approval [Reserved]

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Rule 805 – Compliance [Reserved]

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Rule 805.1 – Determination of Sanctions (Repealed September 16, 2015 because it was duplicative with Rule 809)

Rule 806 – Agreement Administration

Rule 806.1.1 – Bylaws and Articles of Incorporation
The Streamlined Sales Tax Governing Board, Inc, was incorporated on October 1, 2005 under the laws of Indiana. The Bylaws and Articles of Incorporation are on file at the headquarters in

Westby, WI. The corporation is organized under Section 501(c)(6) of the Internal Revenue Code. The Bylaws set forth the operation and administration of the Governing Board, its committees and advisory councils in accordance with the Agreement.

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Rule 806.1.2 – Finance Administration Policies

A. Basic Policy Statement

The Streamlined Sales Tax Governing Board, Inc. (Governing Board) is committed to responsible financial management. The entire organization including the Governing Board, Executive Committee, Standing Committees and staff will work together to make certain that all financial matters of the organization are addressed with care, integrity, and in the best interest of the Governing Board.

The rules and procedures contained in this section are designed to:

1. Protect the assets of the Governing Board;

2. Ensure the maintenance of accurate records of the Governing Board's financial activities;

3. Provide a framework of operating standards and behavioral expectations;

4. Ensure compliance with federal, state, and local legal and reporting requirements. The Executive Director has the responsibility for ensuring compliance with policies and procedures that have been approved by the Governing Board. The Executive Director shall have primary responsibility for ensuring that proper Financial Management procedures are performed and that the policies of the Board are carried out; and

5. Exceptions to written policies may only be made with the prior approval of the Finance Committee. Changes or amendments to these policies may be approved by the Governing Board at any time. A complete review of the financial policies shall be conducted initially one year after adoption of these policies and every two years hence.

B. Line of Authority

1. The Governing Board has the authority to execute any policies it deems to be in the best interest of the organization within the parameters of the Streamlined Sales and Use Tax Agreement, bylaws, and federal, state, and local law.

2. The Finance Committee has the authority to perform regular, in-depth reviews of the organization's financial activity; oversee the development of the annual budget; determine the allocation of investment deposits; and assure that adequate internal controls are in place.

3. The Executive Director has the authority to make spending decisions within the parameters of the approved budget, enter into contractual agreements within board designated parameters, make decisions regarding the disposition of investments within the parameters of the investment policy; make fixed asset purchase decisions and make decisions regarding the allocation of expenses. Unless otherwise specified in this document, principal responsibility for complying with the directives enumerated herein shall be vested in the Executive Director.

4. The Chair of each Standing Committee has the authority to recommend spending requests within the parameters of the approved budget to the Executive Director.

C. Indemnity Policy

1. The Executive Committee may indemnify any Employee or Agent against all costs, expenses and liabilities, including attorneys' fees, actually and necessarily incurred by or imposed upon them in connection with or resulting from their involvement with the Board.

2. No such reimbursement or indemnity shall relate to any expense incurred or settlement made in connection with any matter arising out of their gross negligence and/or intentional misconduct as determined either by a court of competent jurisdiction or, in the absence of such a determination, by the Governing Board acting on the advice of counsel.

3. The Executive Director is responsible for purchasing and maintaining indemnity insurance on behalf of any employee or agent as directed by the Executive Committee.

D. Investment Policy

1. The investment objectives of the Governing Board, in order of importance, shall be the **safety** of principal, **liquidity**, and a competitive **rate of return**.

2. General Investment Guidelines

- The Finance Committee shall have **primary responsibility** for the administration of the investment policy and for establishing any specific guidelines as to the mix and quality of the investment account(s).

- The Finance Committee may recommend the use of external groups such as investment managers, bank custodians and investment consultants to maximize the return on investments.
- Investments should be adequately diversified to reduce overall risk. In order to reduce the overall risk, investments should primarily include fixed-income investments (low risk).

E. Financial Controls and Operating Procedures

1. The Executive Director will direct the design and operation of the accounting system. Bookkeeping support may be provided by other staff as designated or by a qualified outside person or entity under contract with the Governing Board. Quarterly reports shall be made to the Finance and Executive Committees covering, at a minimum, receipts, disbursements, receivables, and payables.

2. The **Executive Director** will be required to include budget comparisons in periodic financial reports to the Finance and Executive Committees and the Board.

3. The **Finance Committee** will be required to provide semi-annual budget reviews and annual reviews of the adequacy of insurance coverage.

4. The **Executive Committee** will be required to secure an independent audit annually.

5. Segregation of Duties
   a. Signature authority for checks is vested in the Executive Director, Secretary-Treasurer and President of the Governing Board. The Executive Assistant or other staff member appointed by the Executive Director is responsible for recording the entries in the financial records of the organization on a regular basis.
   b. Bank statements are reconciled by the Executive Director and provided to the Secretary-Treasurer for review and approval.
   c. Deposit documentation and reconciliations are prepared by the Executive Director and copies made for recordkeeping purposes. Bank deposit slips are attached to copies of the corresponding check(s)..
   d. See document titled SSTGB In-House Accounting Procedures (FC21006) for additional information.

6. The Executive Director may authorize expenses for budgeted items and may exceed the budgeted levels by the lesser of 10 percent or $5,000 for specific line items if

funds necessary to cover the expenses exist elsewhere within the authorized budget. This action shall be reported to the Finance Committee. If the additional expenses will exceed the budgeted levels by more than the lesser of 10 percent or $5,000 but less than $25,000 for specific line items and if funds necessary to cover the expenses exist elsewhere within the authorized budget, these expenses may be authorized by the Finance Committee. This action shall be reported to the Executive Committee and Governing Board. If the amount by which the expense exceeds the budgeted amount is greater than $25,000 and funds necessary to cover the expenses exist elsewhere within the authorized budget, both the Finance and Executive Committees shall approve the expense. This action shall be reported to the Governing Board. If necessary funds are not available within the budget, the Governing Board must amend the budget to allow an increase in overall expenditures.

F. Financial Reporting

1. Annual budgets are prepared by the Finance Committee, referred to the Executive Committee, and approved by the Governing Board.

2. Budgets are reviewed at least mid-year and as otherwise necessary by the Finance Committee as well as the Executive Committee and may be adjusted by the Finance and Executive Committee to reflect changing conditions. If changes are required to overall spending they must be approved by the Governing Board.

3. A Chart of Accounts is available and used to code receipts and disbursements to the proper accounts.

4. Annual Financial Reports are provided to the Secretary/Treasurer and the Finance Committee with 60 days of the close of the fiscal year, and must be prepared in accordance with generally accepted accounting principles. At a minimum, the reports should include:

a. Balance sheet;

b. Income/expense and year-to-date statement, including comparisons to budget;

c. Detailed schedule of cash and investments as of the balance sheet date with an attached acknowledgement that the bank statements have been reconciled; and

d. Detailed breakdown of receivables (e.g. dues, other amounts receivable) and payables (e.g. accounts payable, taxes payable, other amounts payable) as of the balance sheet date.

5. Quarterly Financial Reports are provided to the Secretary/Treasurer and the Finance Committee within 60 days of the close of the period, and must be prepared in accordance with generally accepted accounting principles. At a minimum, the reports should include:

a. Balance sheet; and

b. Income/expense and year to date statement, including comparisons to budget.

6. Detailed Financial Reports are provided to the Governing Board at each Board meeting, except for meetings held via teleconference unless requested in advance by the President.

7. Reference explanations for any and all budget variances of 10 percent or more are contained for the above referenced reports.

8. Annual audits will be conducted by an independent CPA at the close of each fiscal year. Copies of these reports will be made available to the public.

9. The Fiscal Period for the organization shall be July 1 to June 30.

G. Safeguarding Assets

1. The Finance Committee shall provide fiscal oversight in the safeguarding of the Assets of the Organization and shall have primary responsibilities for ensuring that all internal and external financial reports fairly present its financial condition.

2. A proper filing system will be maintained for all financial records.

3. Actual income and expenditures will be compared to the budget on a quarterly basis.

4. All excess cash will be kept in an interest bearing account.

5. Bank statements are promptly reconciled on a monthly basis.

6. Documents on all securities and fixed assets will be kept in a locked fire-proof file. Inventory records will contain description, serial numbers, date of purchase or receipt, valuation, and date of valuation.

7. Appropriate insurance for all assets will be maintained.

8. Copies of all critical hard-copy documents must be maintained off site, either imaged or in hard-copy format.

9. Back-ups of all critical computer files must be performed on a monthly basis and files sent off site on a frequent basis in order to minimize the loss of data in the event of damage to the organization's hardware or software components.

H. Payroll Controls

1. Personnel files are to be maintained at the business office site for all employees. Changes in payroll data (i.e., pay changes) are approved by the Executive Committee before files are updated.

2. An outside payroll processing firm will be used to process the payroll. The Executive Director notifies the payroll service of any changes to the payroll master file upon approval of the Executive Committee or Governing Board.

3. The payroll service, at the direction of the Executive Director, generates the payroll journal for review.

4. If the payroll journal is correct, the Executive Director sends the payroll journal to the Secretary-Treasurer for review and written approval.

5. The Secretary-Treasurer notifies the Executive Director in writing if the payroll journal is approved.

6. Upon approval, the Executive Director sets up the payroll checks/direct deposits and tax deposit checks (all through electronic funds transfer) with the payroll service.

7. The payroll service makes the direct deposits and tax deposits and files the necessary payroll related forms with the appropriate taxing authorities.

I. Policies on Disbursements

1. The Executive Director has (a) expenditure approval up to the parameters set by the annual operating budget as approved by the Board, and (b) single signature authority up to and including $5,000 with the exception of the Executive Director's personal expense reimbursement items and salary which must be approved by either the President or Secretary/Treasurer. For contracts entered into and for which each payment remains the same and exceeds $5,000, the Executive Director shall have the initial payment due each fiscal year reviewed and approved by either the President or Secretary/Treasurer but subsequent payments due under the contract are not required to be individually approved.

The deliberate splitting of vouchers or invoices which have the sole purpose or effect of meeting the parameters of this authority is expressly prohibited.

2. Pre-numbered check requests should be used and sequences accounted for monthly.

3. At the Executive Director's discretion, payments may be made through electronic funds transfer and the bank's electronic bill pay system.

4. The Executive Director reviews and approves bills for payment after comparing to supporting documentation.

a. If the payment is for more than $5,000, the bill and an explanation are provided to the President or Secretary-Treasurer for review and written approval. The written approval may be in the form of an e-mail sent directly to the Executive Director from the President or Secretary-Treasurer's e-mail address approving such payment. The e-mails shall be maintained as evidence of approval for payment of the related invoice by the President or Secretary-Treasurer.

5. Once the proper approvals are obtained, the Executive Director sets up the payment and provides the bill, approvals and account(s) to charge the expense to the staff member appointed by the Executive Director who is responsible for entry into the accounting system.

6. All disbursements paid by paper check will be printed on pre-numbered checks only with approved requests. The unsigned check, support and request are presented to authorized check signers for their signatures (information on checks is compared to support for accuracy). Blank or unprepared checks shall not be submitted for signature.

7. Two signatures by duly authorized persons are required on all organizational paper checks over $5,000. The Executive Director shall not sign his or her own personal expense checks.

8. All disbursements are made by paper check or electronically and are accompanied by substantiating documentation. If the payment is made electronically, the written approval of such payment from the President or Secretary-Treasurer shall be maintained along with an electronic copy of the invoice.

9. All paper checks are pre-numbered and accounted for monthly.

10. All voided paper checks must be defaced and retained either on the check stub or with the canceled checks (or their images) returned with the bank statement.

11. No paper checks may be written to "cash" or "bearer".

12. Blank paper checks are stored in a locked drawer.

13. All invoices and check requests shall be scanned and maintained electronically by the staff member appointed by the Executive Director who is responsible for entry into the accounting system once they have been paid and entered into the accounting system.

14. No petty cash fund shall be used.

15. The President, Secretary/Treasurer, and the Executive Director shall have check-signing authority. The President shall appoint at least one other individual with check-signing authority. This individual must meet the requirements of Rule 806.1.2.E.5, Segregation of Duties. The President may revoke check-signing authority for any person at any time, but at no time shall fewer than the requisite number of check signers be authorized.

16. Blank checks may never be signed in advance.

J. Travel Guidelines and Reimbursements

1. The Finance Committee shall establish a travel request form that will include estimated costs of proposed travel as well as a travel reimbursement form on which claims for reimbursement are made.

2. Reimbursement for travel by Governing Board representatives may be authorized under the following conditions. No reimbursement from the Governing Board will be authorized unless the travel has been pre-approved.

The President or First Vice President may approve Governing Board representative travel in the following circumstances.

a. The representative is representing the Governing Board, rather than his or her respective state, at a meeting or event that is not a meeting of the Governing Board or a Governing Board committee.

b. The representative is representing the Governing Board, rather than his or her respective state, at a meeting of a Governing Board Committee for which the representative is not a member of the Committee.

c. Such reimbursement shall only be allowed in instances where the meeting or event is not being held in conjunction with another Governing Board meeting or event at which the representative may attend and represent his or her state.

d. Notwithstanding the foregoing, the President or First Vice President may approve representative travel in the interest of justice in exceptional circumstances.

Neither the President nor First Vice President may approve a request for his or her own travel. In approving a request for reimbursement, consideration shall be given to funds available and budgeted for this purpose.

3. Travel reimbursements will be based on the Federal mileage and per diem rates as published by the U.S. General Services Administration in effect during the period of travel. If anticipated expenses exceed the federal rate, the traveler may request in writing pre-authorization for reimbursement based on actual expenses. The request must include a justification for exceeding the Federal per diem lodging allowance such as:

a. Lodging and/or meals are procured at a prearranged place such as a hotel where a meeting, conference or training session is held;

b. Costs have escalated because of special events (e.g. missile launching periods, sporting events, World's Fair, conventions, natural disasters); lodging and meal expenses within prescribed allowances cannot be obtained nearby; and costs to commute to/from the nearby location consume most or all of the savings achieved from occupying less expensive lodging;

c. Because of mission requirements; or

d. Any other reason approved by the proper authority.

4. Reimbursement of Actual Expenses

a. The approved request will be attached to the traveler's reimbursement voucher. In the case of emergency circumstances in which advance approval could not be obtained, the traveler must attach a signed statement to the voucher detailing the justification and circumstances prohibiting advance approval.

b. The traveler must itemize all expenses, including meals, (each meal must be itemized separately) for which he or she will be reimbursed under actual expense. However, expenses that do not accrue daily (e.g. laundry, dry cleaning, etc.) may be averaged over the number of days for which the traveler is approved reimbursement for actual expenses. Receipts are required for lodging, regardless of amount and any individual meal when the cost exceeds $25.00. The approver may require receipts for other allowable per diem expenses, but must inform the traveler of this requirement in advance of travel. The approval for reimbursement based on actual expense may limit meal and incidental expenses (M&IE) reimbursement to either the prescribed maximum M&IE rate for the locality concerned or a reduced M&IE rate, and it may or may not require M&IE itemization at the approver's discretion.

5. All travel reimbursement requests will be submitted to the Executive Director for approval. The President or Secretary/Treasurer shall approve travel reimbursement for the Executive Director.

6. The Executive Director is authorized to travel to all Governing Board meetings (including committee meetings) without pre-approval. Whenever the Executive Director is representing the Governing Board at other meetings, he or she shall first receive approval from the President or First Vice-President. The Executive Director shall approve necessary travel for employees of the Governing Board.

7. Requests for travel approvals and signed authorizations may be submitted and returned via facsimile or via email, if the approver uses his or her own email account to establish authenticity of the approval.

8. In addition to the travel reimbursements authorized by J 2, the Governing Board may reimburse the travel and meeting expenses up to the total annual budgeted amount per member state specifically contained in the annual budget, if any, for:

a. one legislative delegate(s) from each state to attend one Governing Board meetings a year.;

b. Non-legislative delegates or their designees to attend Governing Board meetings;

c. Committee chairs to lead and participate in Committee and Governing Board meetings;

d. Member state employees to conduct certification and contract compliance audits and related meetings; and

e. Member state employees to attend Governing Board Committee meetings and trainings.

Compiler's note: On May 24, 2012 the last clause in subdivision 8 was amend by RP12006 as follows: "attend <u>one</u> Governing Board <u>meeting a year</u> ~~annual meetings~~" and was effective upon its adoption.

K. Cash Receipt Procedures

1. All checks and other payments received are restrictively endorsed immediately and recorded in the accounting records.

2. An electronic copy of each cash receipt will be maintained. All cash received shall be deposited in the bank on the day it is received or as soon as feasible. If it is not feasible to deposit receipts in the bank on the day received, then receipts should be safeguarded by placing them in an approved, fire-proof strong-box or safe in a secured

location, or by entrusting them to a reputable third party that can safeguard them in an equivalent manner, if such third party provides indemnification for any loss of funds entrusted to its care. A written receipt acknowledging funds entrusted to a third party must be obtained.

3. The office shall prepare the bank deposit daily or at the time of the deposit. The deposit receipt and copies of the cash receipts should be attached to the copy of the deposit slip. All cash receipts shall be coded according to the chart of accounts, and comparison of the cash deposit receipt with the listing of cash receipts for that day will be performed, to ensure that all cash receipts are deposited in the bank account. An electronic copy of each cash receipt, the deposit slip copy, and the bank deposit confirmation slip shall be maintained.

L. Cash Disbursement Procedures

1. All invoices received are electronically scanned and maintained.

2. Approval from the Executive Director of all invoices and expenditures is required before payment can be made.

3. The support documentation (invoices), are forwarded to the Executive Director. The Executive Director reviews supporting documentation. Any payment for over $5,000 needs a second approval. If a payment in excess of $5,000 is made electronically, rather than by paper check, prior to the electronic payment being authorized, the Executive Director shall receive written approval from the President or Secretary-Treasurer authorizing the electronic payment. The written approval may be in the form of an e-mail sent directly to the Executive Director from the President or Secretary-Treasurer's e-mail address approving such payment. The written approval shall be maintained as evidence of approval for payment of the related invoice by the President or Secretary-Treasurer.

4. After the payment is made all supporting documentation shall be maintained electronically. If the payment is made electronically, the written approval of such payment from the President or Secretary-Treasurer shall be maintained along with the copy of the invoice and electronic payment confirmation.

5. The cash disbursements will be prepared and recorded in the accounting records (e.g., general ledger) in a timely manner.

M. Payroll Procedures

1. All personnel salaries/wage rates are authorized by the Executive Committee. All changes in employment levels are likewise authorized by the Executive Committee.

2. The Executive Director maintains all personnel records and assures that all payroll-related laws are complied with, including workers compensation requirements.

3. The Executive Director may appoint a "payroll" employee to maintain the attendance records and monitor the usage of vacation and sick time, including requests for leave forms.

4. The Executive Director approves all time and attendance records for the employees.

5. The payroll is handled by a third party payroll processor under a contract with the Governing Board

6. The payroll service generates a payroll journal for each pay period.

7. All payroll tax liabilities are calculated and prepared at the time payroll is prepared. The applicable tax liabilities to the IRS and to states for payment of withholding or unemployment taxes are calculated as part of the payroll journal and withdrawn from the bank account at the same time as the payroll is paid to the employees. The payroll taxes are paid by the payroll service when due and the corresponding returns are filed by the payroll service when due.

8. Payroll is prepared and paid to employees twice monthly through electronic funds transfer on the 15th and the 30th day of each month or the nearest working day before these dates.

N. Credit Card and Electronic Payment/Receipt Procedures

1. The Governing Board encourages the use of electronic record-keeping and electronic payments wherever such procedures can improve efficiency and reduce administrative costs of the organization.

2. The Executive Director may contract with an outside vendor for payroll services, collection of credit card receipts, automated clearing house (ACH) operations, and other electronic fund transfers. Electronic fund transfers will comply with ACH rules.

3. The Governing Board may authorize use of a credit card to be issued in the name of the Governing Board to facilitate purchases for official business of the Governing Board. Authorization for such purchases shall proceed according to procedures outlined in Section L above. Debit cards should not be issued to any employee or other representative of the Governing Board due to their lack of a proper audit trail. ATM withdrawals and cash advances should also be prohibited in the case of credit cards.

4. Wherever feasible, electronic receipts and payments will be recorded in a manner similar to other transactions as described in these rules. Exceptions to this must be justified by the Executive Director, and an alternative method must be approved by the Finance Committee. For electronic payments of $5,000 or less, the Executive Director may authorize these payments and will maintain the electronic payment confirmation along with a copy of the invoice that was paid electronically. If a payment in excess of $5,000 is made electronically, prior to the electronic payment being authorized, the Executive Director shall receive written approval from the President or Secretary-Treasurer authorizing the electronic payment. The written approval may be in the form of an e-mail sent directly to the Executive Director from the President or Secretary-Treasurer's e-mail address approving such payment. The written approval shall be maintained as evidence of approval for payment of the related invoice by the President or Secretary-Treasurer. In addition to the written approval of such payment from the President or Secretary-Treasurer the Executive Director shall also maintain a copy of the invoice and electronic payment confirmation.

5. Access to computer and other electronic systems which are used to perform electronic record keeping and fund transfers must be safeguarded in a manner consistent with Rule 806.1.4 (communications policies).

O. Bank Reconciliations

1. A record of all bank transactions shall be maintained through the general ledger, listing all electronic payments and checks disbursed and all receipts deposited on a regular basis. The general ledger shall show the current bank balance for all bank accounts.

2. On a monthly basis, the bank statements will be reconciled to the general ledger account balance by the Executive Director and reviewed and approved by the Secretary-Treasurer.

3. The Executive Director will resolve all discrepancies with the assistance of the bank, if necessary. The Executive Director will report the resolution of the discrepancies to the Finance Committee.

4. The general ledger will be adjusted as needed.

P. Billings and Receivables

1. All dues for the organization are established and approved by the Governing Board.

2. All billings for services or goods are approved in advance by authorized personnel.

3. All billings and invoices shall be prepared on a timely basis. Prior to mailing the billing/invoices, electronic copies of them shall be made.

4. The accounts receivable ledger shall be posted to the general ledger on a timely basis, utilizing the billing/invoice copies. The accounts receivable ledger shall be posted to the general ledger on at least a quarterly basis.

5. A status report on all outstanding receivables shall be prepared, on a quarterly basis, and provided to the Finance Committee.

6. Collection procedures shall be initiated on all invoices older than 30 days.

7. All receivables records are maintained in a locked file cabinet and/or in secured computer files.

Q. Accounts Payable

1. When possible, approved invoices are paid immediately upon receipt.

2. All invoices from unfamiliar or unusual vendors must be reviewed by the Executive Director for approval.

3. All payments are immediately recorded in the general ledger or accounts payable ledger as appropriate.

4. The accounts payable ledger is reconciled on a quarterly basis.

R. Petty Cash Fund

1. No petty cash fund shall be used.

Compiler's Note: (a) Rule 806.1.2.I.4. and 5., L.3. and 4. and N.4. were amended October 7, 2014 to add information relating to the authorization requirements for payments over $2,000 that will be made electronically. (b) Rule 806.1.2 was amended October 5, 2021 as provided in RP21005A01 to revise the requirements as a result of moving the daily accounting in-house.

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Rule 806.1.3 – Record Retention Schedule

ACCOUNTING AND FISCAL		***ORGANIZATIONAL***	
Accounts Payable Records	5	Annual Reports	P
Accounts Receivables Records	5	Bonds	P
Audit Reports	P	Budgets	3
Audit Reports (Internal)	3	Contracts(After Expiration)	7
Bank Statements & Reconciliations	3	Copyrights	P
Canceled Checks	7	Correspondence (General)	3
Check Registers	P	Correspondence (Legal)	P
Deposit Slip Duplicates	2	Insurance Policies (After Expiration)	5
Expense Analysis & Distribution Schedules	7	Inventories	7
Financial Statements	P	Leases (After Expiration)	6
Fixed Assets Records	P	Legal Briefs	P
General Ledgers	P	Licenses	P
Invoices	7	Profit & Loss Statements	P
Journals/Cash Books	7	Minutes	P
Payroll Records	5	Office Equipment Records	6
		Property Records	P
PERSONNEL			
Contracts (After Termination)	5		
Earnings Records	6		
Employee Personnel Files	6	**TAXATION**	
Employment Applications	3	Annuity or Deferred Payment Plan	P
Insurance Records	5	Depreciation Schedules	P
Retirement & Pension Plan	P	Employee Withholding Statements	7
Time Cards	2	Tax Bills & Statements	P
Training Manuals	P	Tax Returns & Work Papers	P
Travel Records	1		

Numerals indicate number of years records should be stored, P = Permanent

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Rule 806.1.4 – Communications Policies

A. **Governing Board Filing Dates.** The due date for filing any documents with the Governing Board, the executive director, any committee of the Governing Board, or the State and Local Advisory Council pursuant to this Agreement, or the rules or by-laws of the Governing Board shall be on the next succeeding day if the date falls on a Saturday, or Sunday or a legal public holiday. Legal public holiday has the same meaning as used in 5 U.S.C. 6013(a) with the application of 5 U.S.C. 6103(b)(1) and (2) for holidays falling on a weekend day.

B. **State Holidays.** For purposes of Sections 318 and 319 of the Agreement, each member state shall notify the Governing Board of its legal holidays. The Governing Board shall post such dates on its website. A state's legal holidays are those provided by state law and need not conform to the definition of "legal public holiday" in paragraph A of this rule.

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Rule 806.1.5 – Cost Allocation Formula for Member States

A. The operational costs of the Governing Board shall be divided among the Member States based on an equally weighted two factor formula. Fifty percent shall be an equal amount for each Member State and fifty percent shall be based on each state's proportionate share of total general retail state and local sales tax revenues collected by all Member States as reported by the U.S. Bureau of the Census for the most recent fiscal year available as of the date the dues are established. The factor based on sales tax collections shall be adjusted annually.

B. Dues will be assessed annually on all Full and Associate Member states at the annual meeting of the Governing Board according to the formula described in Rule 806.1.5.A. Each Member State shall submit its dues no later than August 31 of each year to the Executive Director.

C. Each state submitting a petition for membership shall include a petition fee along with its petition in the amount of $20,000 to the Executive Director. This amount shall be held in escrow pending the date upon which the state's petition is approved by the Governing Board. If the state is admitted as either a Full or Associate Member, the fee will be retained by the Governing Board. If the petition is rejected and the state is not admitted as either a Full or an Associate Member, the fee will be returned to the petitioning state.

D. States admitted to the Governing Board as either Full or Associate Members shall have their petition fees described in Rule 806.1.5.C applied as a credit against their dues. If assessed dues are less than the petition fee, no refund will be made.

E. To determine dues of newly-admitted states, the calculation described in Rule 806.1.5.A will be recalculated with the new Member State(s) included in the calculation. For budgetary purposes, the recalculation will not result in a decrease of any existing Member

State's dues. Dues for newly-admitted Member States will be pro-rated by their effective date of membership for the fiscal year in which they are admitted.

F. Dues owed by a newly-admitted Member State will be payable no later than 60 days following the effective date of its admission to the Governing Board.

G. A Member State that ceases to be member after July first of any year shall not receive a refund for the dues paid for such year. When such state again becomes a member its dues in that year shall be reduced by the prorated amount of dues not refunded in the year it ceased to be a member.

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Rule 806.1.6 – Preservation and Destruction of Records

1. Policy

The Streamlined Sales Tax (SST) Governing Board is charged with the duty to preserve, keep, maintain, or file all the official records of the organization. Unless otherwise provided in this rule, decisions as to the destruction or disposition of such records rest with the Governing Board, its designee, or the Executive Director.

2. Definition of SST Record

A SST official record is defined as those documents and materials that are listed in Section 4 of this rule, including, but not limited to, books, papers, photographs, microfilms, data files created by or used with computer software, computer tapes, disks, records, sound recordings, film recordings, video records or other materials regardless of physical form or characteristic. An SST official record shall not include working papers, drafts or planning outlines of finished documents or materials.

3. Application of Rule

A. This rule applies to Governing Board, the Executive Committee, Standing Committees, other committees established pursuant to Article Seven, Section 5 of the Bylaws, and the State and Local Advisory Council.

B. Prior to the mass disposal of records, an inventory of the office and the storerooms shall be taken. The inventory shall list the type of record and the year such record was made. After the inventory is completed and a decision is made as to the records to be destroyed, a request and approval for destruction of records should be submitted to the Governing Board.

C. As used in this rule, "original records" includes the optical and electronic image document when it is recorded, copied, or reproduced by an optical imaging process.

D. SST records in paper form may be destroyed only after the record has been recorded, copied or reproduced by an optical imaging process. Duplicate records may be destroyed at the discretion of the Governing Board, its designee, or the Executive Director.

E. No financial records or records relating thereto shall be destroyed until the earlier of the completion of the audit of the records by a certified accounting firm or the retention rules have been met.

F. Each SST official's acts are a matter of record. An SST official is not responsible for the acts of his successor and a successor is not responsible for the acts of his predecessor. Regardless of the capacity served by an official, upon completion of his service, all records and forms are to be surrendered to his successor.

4. Retention Guidelines

A. Notice, agendas and minutes of all meetings or hearings of the Governing Board, the Executive Committee, Standing Committees, other committees established pursuant to Article Seven, Section 5 of the Bylaws, and the State and Local Advisory Council.	MAINTAIN original record PERMANENTLY. May be removed from immediate access five (5) years after the end of the calendar year of the meeting.
B. Proposed amendments to the Agreement, versions of proposed amendments (which shall be dated) that qualify as a public record pursuant to Rule 807.1 D (1), notice of proposed amendments, and written comments and requesting state responses pursuant to Rule 901.	MAINTAIN original record PERMANENTLY. May be removed from immediate access five (5) years after the end of the calendar year of creation.
C. Requests for an Interpretation of the Agreement, the written recommendation of the Compliance Review and Interpretations Committee, documents concerning the Interpretation that qualify as a public record pursuant to Rule 807.1 D (1), and the published decision of the Governing Board pursuant to Rule 902.	MAINTAIN original record PERMANENTLY. May be removed from immediate access five (5) years after the end of the calendar year of creation.
D. Requests for additional definitions, the written recommendation of the Compliance Review and Interpretations Committee, versions of any definitions that qualify as a public record pursuant to Rule 807.1 D (1), and the published decision of the Governing Board pursuant to Rule 903.1.	MAINTAIN original record PERMANENTLY. May be removed from immediate access five (5) years after the end of the calendar year of creation.
E. Requests for interpretation of a definition, the written recommendation of the Compliance Review and Interpretations Committee, documents concerning interpretation requests that qualify as a public record pursuant to Rule 807.1 D (1), and the published decision of the Governing Board pursuant to Rule 903.2.	MAINTAIN original record PERMANENTLY. May be removed from immediate access five (5) years after the end of the calendar year of creation.
F. Petitions for Reconsideration, the written recommendation of the Issue Resolution Committee, documents concerning the petition	MAINTAIN original record PERMANENTLY. May be removed from immediate access five (5) years after the end of the calendar year of

that qualify as a public record pursuant to Rule 807.1 D (1), and the published decision of the Governing Board pursuant to Rule 1001.	creation.
G. Proposed amendments to the Bylaws and versions of the amendments (which shall be dated) that qualify as a public record pursuant to Rule 807.1 D (1)	MAINTAIN original record PERMANENTLY. May be removed from immediate access five (5) years after the end of the calendar year of creation.
H. Proposed amendments to the Rules and Procedures and versions of the amendments that qualify as a public record pursuant to Rule 807.1 D (1).	MAINTAIN original record PERMANENTLY. May be removed from immediate access five (5) years after the end of the calendar year of creation.
I. Petitions for Membership and Certificates of Compliance submitted by a State pursuant to Section 801 of the Agreement and documents concerning the determination of compliance that qualify as a public record pursuant to Rule 807.1 D (1).	MAINTAIN original record PERMANENTLY. May be removed from immediate access five (5) years after the end of the calendar year of creation.
J. Statements of re-certification or statements of non-compliance submitted by a State pursuant to Section 803 of the Agreement and documents concerning the determination of compliance that qualify as a public record pursuant to Rule 807.1 D (1).	MAINTAIN original record PERMANENTLY. May be removed from immediate access five (5) years after the end of the calendar year of creation.
K. Notices of intent to withdraw from the Agreement submitted by a State pursuant to Section 808 of the Agreement.	MAINTAIN original record PERMANENTLY. May be removed from immediate access five (5) years after the end of the calendar year of creation.
L. Resolutions sanctioning a State pursuant to Section 809 of the Agreement.	MAINTAIN original record PERMANENTLY. May be removed from immediate access five (5) years after the end of the calendar year of creation.
M. CONTRACTS AND LEASES All documents directly related to the formation and execution of contracts entered into by the Governing Board	MAINTAIN original record and provide immediate access until after expiration of the contract or agreement and receipt of final audit report and satisfaction of unsettled charges. DESTROY ten (10) years after removed from immediate access.
N. Financial, budget and tax records of the Governing Board pursuant to Rule 806.1.2.	MAINTAIN pursuant to the provisions of Rule 806.1.2.
Personnel records pursuant to Rule _____.	MAINTAIN pursuant to the provisions of Rule _____.

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Rule 806.1.7 – Publishing of Official Documents

A. Official version of Streamlined Sales Tax Documents

(1) The official version of the Streamlined Sales and Use Tax Agreement (SSUTA) shall contain all Articles, Definitions, and Appendices of the SSUTA adopted by the Governing Board.
(2) The Executive Director shall maintain the official version of the SSUTA, bylaws, and rules in an electronic database that shall be used in drafting amendments and made available to the public as provided by Section 806 of the SSUTA and Article Six, Section 1.5 of the Bylaws. The official version shall be the most current version of the SSUTA, bylaws, and rules and shall contain a footnote for each amendment made. A footnote shall contain the date when the Governing Board adopted the amendment and an identifier that directs the reader to the specific Governing Board action which added or deleted language.
(3) The Executive Director, in maintaining the official version of the SSUTA documents, shall not alter the sense, meaning, or effect of any act of the Governing Board, but may:
(a) Renumber sections and parts of sections of the SSUTA;
(b) Change the wording of headnotes;
(c) Divide or rearrange sections and parts of sections;
(d) Change reference numbers to agree with renumbered articles or sections, or make corrections in reference numbers when sections referred to are repealed or amended and the correction can be made without change in the agreement;
(e) Substitute the proper section or chapter numbers for the terms "this agreement," "the preceding section," and the like;
(f) Change capitalization, spelling, and punctuation for the purpose of uniformity and consistency; and
(g) Correct manifest clerical or typographical errors.
(4) If any section or part of a section of the SSUTA, bylaws, or rules, is amended by more than one (1) act at the same meeting of the Governing Board, the Executive Director may incorporate in the agreement the section as amended or altered by the several acts, if each of the amendments, changes, or alterations can be given effect and incorporated in the section in a manner which will make the section intelligible.
(a) If a conflict appears between any section amended in a motion to revise and amend the SSUTA and the same section in any other amendment adopted at the same meeting of the Governing Board, the Executive Director shall notify the President of the conflict. If the President determines that a conflict needing resolution exists due to actions of the Governing Board, the Executive Committee of the Governing Board shall recommend a resolution.
(b) The Executive Committee's recommendation will be presented as an amendment to the Agreement for approval by the full Governing Board. Until such time that the conflict is resolved, the language in the section prior to the passage of conflicting amendments shall continue to be effective.
(5) The Governing Board may furnish to each full and associate member state, without cost, on request of the chief executive of its taxation or revenue agency, a number of copies of the SSUTA that the Governing Board deems sufficient to enable the state to carry out duties imposed on it by the Agreement and its own law.

B. Certified Versions of the Streamlined Sales and Use Tax Agreement

(1) In response to a written request from a publisher, the Governing Board may designate a version of the SSUTA, bylaws, or rules, as a certified version if:
(a) The version meets the requirements of Section (2) of this rule; and

(b) The publisher of the version enters into a written agreement with the Governing Board.

(2) Certified versions of the SSUTA shall contain:

(a) The SSUTA updated for amendments, along with any annotations, historical notes, and other information that the Governing Board deems appropriate to include;

(b) The Index and List of Definitions, and;

(c) The complete library of interpretations.

(3) A certified version of the SSUTA may be in a printed or electronic format and shall be updated in a manner and frequency acceptable to the Governing Board to provide prompt notice to its users of the texts of newly-created and newly-amended articles and sections, the repeals of existing articles and sections, and any technical corrections, renumberings, or notes issued by the Governing Board. If a publisher produces more than one (1) version of the Agreement, a separate certification may be required for each version.

(4) Each new complete certified version of the Agreement and each new volume, unit, supplement, supplemental pocket part, or electronic release of a certified version shall include a certificate issued by the executive director of the Governing Board attesting that the particular material being certified has been prepared in a manner acceptable to the Governing Board so as to ensure the identity of its text with the official version of the SSUTA.

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Rule 806.2 – Notice Requirements

A. Forms of Notice

1. Written Notice. All notices required or provided for in the Agreement shall be in writing. The writing may be incorporated in a paper document or it may be in electronic form posted on the Website or contained in electronic mail. Telephonic voice communications do not constitute written notice.

2. Paper Form. Written notice may be sent in paper form through first-class mail or any private mail delivery service accredited by the Internal Revenue Service for tax return filing purposes. Notices to the Governing Board are properly addressed to the Executive Director at the address indicated on the Website and as set forth below.

Craig Johnson
Executive Director
Streamlined Sales Tax Governing Board, Inc.
100 Majestic Drive, Suite 400
Westby, WI 54667

[This name and address may be changed from time-to-time without amending these Rules of Procedure.]

3. Electronic Form. Written notice may be sent in electronic form to parties who have supplied an e-mail address, or by sending an e-mail to the Executive Director at the e-mail address indicated on the Website.

4. Facsimile transmission. Written notice may be sent by facsimile transmission. The Governing Board may be contacted by sending a fax to the Executive Director at the fax number indicated on the Website.

B. Notice to the Public

1. Publication. Notice to the public may be accomplished by publishing the notice on the Governing Board website (the "Website") at www.streamlinedsalestax.org, under the section identified for public notice. Public notices shall also be sent to registrants on the electronic mailing list.

2. Electronic mailing list. Interested parties may register with the Governing Board to be placed on an electronic mailing list, by sending a written request. The registration will be effective as soon as practicable, but in no event later than thirty days after the request is received. Any such registration will automatically terminate on December 31 of the first full calendar year following the request for registration and at the end of each year thereafter if the party fails to respond to a request for renewal of the registration in writing.

C. Notice to a Member State and to Advisory Councils

1. Authorized Representative. Each Member State shall designate the name, mailing address and electronic mail address of the person(s) authorized to receive written notice for that State on matters governed by the Agreement, referred to herein as the "authorized representative." That name and address shall be published on the Governing Board Website.

2. Governing Board Members. Each Member State shall designate the name, mailing address and electronic mail address of the people (maximum of four) authorized to represent the Member State on the Governing Board. The name and address of such representatives shall be published on the Governing Board Website. Member States are responsible for updating their membership designations.

3. Advisory Councils. Each Member State shall designate the name, mailing address and electronic mail address of the person authorized to represent the Member State on the State and Local Advisory Council. That name and address shall be published on the Governing Board Website. Member States are responsible for updating their membership designations. Notice to the Business Advisory Council shall be accomplished by providing same to the Chair and Vice Chair of the Council. The name and address of the Chair and Vice Chair of the Business Advisory Council shall be published on the Governing Board Website. The Chair and Vice Chair of the Business Advisory Council are responsible for updating their names and addresses.

D. Written notice to a taxpayer, representative, or other non-governmental entity

1. Designation of address. A taxpayer, representative, or other nongovernmental party who initiates a proceeding before the Governing Board (collectively referred to as an "interested party") may designate in the document initiating the proceedings or communication whether it wishes to receive notices or other communications via regular mail, electronic mail, or facsimile transmission.

2. Default rule. If the interested party does not designate the manner of notice or a designated address, the Governing Board shall use the same form of written notice used by the party in initiating the proceeding and shall use the address or fax number used by the party in initiating its notice. If no address or fax number is included or can be determined from the party's initial communication, the Governing Board shall have no obligation to provide a written response.

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Rule 806.3 – Administration of Compliance Audit Process

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Rule 806.3.1 – Authority

A. The Streamlined Sales Tax Governing Board has the authority to execute any policies it deems to be in the best interest of the organization within the parameters of the Streamlined Sales and Use Tax Agreement, bylaws, and federal, state and local law.

B. The Streamlined Sales Tax Governing Board or its designee has the authority to perform CSP contract compliance audits and CAS provider contract compliance audits and to coordinate tax compliance audits for member states as authorized by the Governing Board; and to develop and use standardized operating audit procedures and policies for performing both contract compliance and tax compliance audits.

C. The Streamlined Sales Tax Governing Board designates the Audit Core Team to perform contract compliance audits for member states and to coordinate the tax compliance audits of Model 1 seller transactions processed by the CSP as authorized by the Governing Board.

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Rule 806.3.2 – Definitions

A. Certified Service Provider (CSP)
As defined in Section 203 of the Agreement, and any subsequent amendments, an agent certified under the Agreement to perform all the seller's sales and use tax functions other than the seller's obligation to remit tax on its own purchases.

B. Certified Automated System (CAS)
As defined in Section 202 of the Agreement, and any subsequent amendments, software certified under the Agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.

C. Audit Committee

The Audit Committee was created by the Governing Board to advise the Governing Board pertaining to procedures on the audit of CSPs, CAS providers, and Model 1, 2 and 3 sellers. The Audit Committee will develop procedures to be used in performing contract compliance audits. The Audit Committee will also recommend audit procedures to be used by member states in performing tax compliance audits of CSPs and Model 1, 2 and 3 sellers.

D. Audit Core Team
The Audit Core Team is a group of designated representatives from full member states who are responsible for coordinating compliance audits, performing contract compliance audits and compiling feedback reports for the Governing Board.

E. Compliance Audit
The Compliance Audit includes the contract compliance audit and the tax compliance audit.

F. Contract Compliance Audit
The Contract Compliance Audit determines if the CSP performed according to the provisions of the contract with the member states.

G. Tax Compliance Audit
The Tax Compliance Audit determines if transactions processed by the CSP were properly taxed, and that tax was reported and remitted to the correct jurisdiction when due.

H. Member States
As defined in Section 801 of the Agreement, and any subsequent amendments, member states are states that are full, contingent or associate member states of the Streamlined Sales Tax Governing Board.

I. Simplified Electronic Return (SER)
As defined in Section 318 (c)(1) of the Agreement

J. Audit Work File
See Appendix F.

K. Testing Central
As defined in Article V, Rule 501.1(E).

L. CAS provider
The vendor of CAS software

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Rule 806.3.3 – Audit Committee

A. Membership
Members of the Audit Committee are representatives of participating states and local government.

B. Committee Meetings – (open & closed meetings)

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Rule 806.3.4 – Audit Core Team

A. Membership
The Audit Core Team is made up of representatives from full member states.

B. Reporting relationship
The Audit Core Team will report to the Streamlined Sales Tax Governing Board Executive Director or its designee for audit assignments, guidance and support.

C. Team Meetings – (closed meetings)

D. Responsibilities for CSP audits:

1. The Audit Core Team is responsible for performing contract compliance audits and coordinating tax compliance audits with member states.

2. The Audit Core Team will:

a) Determine the CSP's level of compliance with the terms of the CSP contract. (Questionnaires and specific tests will be used to assess the CSP's contract compliance.)
b) Evaluate the CSP's system and processes to verify compensation is calculated in accordance with the contract.
c) Verify appropriate procedures for mapping exist, are in conformance with the mapping requirements, and are followed in the initial mapping setup, as well as during updates and corrections to mapping.
d) Verify appropriate entity use exemption data elements are captured by the CSP system.
e) Verify tax collected was remitted to the appropriate tax authority.
f) Verify sales were accurately reported by the CSP/Seller on simplified electronic returns (SERs).
g) Acquire a list of sellers represented by each CSP and provide this information to the Streamlined Sales Tax Governing Board member states.
h) Coordinate with state auditors to ensure they have received a download of the audit work files from the CSP.
i) Create a uniform audit plan with a timeline to establish the projected dates that various audit steps are to be completed by the state audit representatives and the Audit Core Team.
j) Compile the feedback reports from the member states, summarize the findings and report to the Executive Director of the Streamlined Sales Tax Governing Board. The summaries must comply with confidentiality restrictions that apply to the SST Governing Board regarding disclosure.

k) Obtain a response from the member states of their intentions to participate in the current audit cycle for each CSP.

E. Responsibilities for CAS provider contract compliance audits:

1. The Audit Core Team is responsible for performing contract compliance audits.

2. The Audit Core Team will:

a) Determine the CAS provider's level of compliance with the terms of the CAS contract. (Questionnaires and specific tests will be used to assess the CAS provider's contract compliance.)
b) Verify that the CAS is capable of capturing the appropriate entity use exemption data elements.
c) Acquire a list of known Model 2 sellers represented by each CAS provider and supply this information to the Streamlined Sales Tax Governing Board member states;
d) Compile the findings of the contract compliance audit of the CAS provider and submit them to the Executive Director of the Streamlined Sales Tax Governing Board. The summaries must comply with confidentiality restrictions that apply to the SST Governing Board regarding disclosure.

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Rule 806.3.5 Compliance Audit of a CSP

A. The Compliance Audit of a CSP and its Model 1 sellers will include a contract compliance audit of the CSP and tax compliance audits of Model 1 seller transactions processed through the CSP's system.

B. The contract compliance audit of the CSP will be performed by the Audit Core Team. The tax compliance audits of the Model 1 seller transactions will be performed by the member states under the coordination of the Audit Core Team.

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Rule 806.3.5.1 Communication with Model 1 sellers during the Tax Compliance Audit

A. There should be no direct communication with Model 1 sellers by member states concerning transactions processed by the CSP, except in response to questions from Model 1 sellers, in case of suspected fraud or to obtain information that the CSP cannot provide.

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Rule 806.3.5.2 Timeline for the Compliance Audit Process

The timeline for conducting the compliance audit may vary for each audit cycle. The Audit Core Team will establish a timeline for each audit.

The Audit Core Team will have 30 days after receiving each member state's preliminary feedback report to compile a report on the findings of the contract compliance audit and the member states' tax compliance audits and submit the report to the CSP.

The CSP will have 30 days to review and comment on the preliminary findings of the compliance audit. Comments will be sent to the Audit Core Team and member states.

The Audit Core Team and member states will have 10 business days to amend their findings, if necessary, before the final report is sent to the Executive Director of the Streamlined Sales Tax Governing Board.

The Audit Core Team may grant extensions as deemed appropriate to the above timelines.

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Rule 806.3.5.3 Report on Audit Findings

A. The Audit Core Team through the Executive Director will provide each member state with its findings of the contract compliance audit.

B. Member states may incorporate the findings of the contract compliance audit into their state's audit report for the tax compliance audit so the CSP receives only one audit report per state. (For example, if the Audit Core Team finds that a CSP has withheld more compensation than they should, the assessment for that additional tax may be combined with the assessments, if any, for underreporting by the CSP's Model 1 sellers.)

C. The report on the audit findings to the Executive Director will contain general information on the errors found and will not contain specific taxpayer information to ensure the confidentiality of taxpayer information.

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Rule 806.3.5.4 Contract Compliance Audit of CSP

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Rule 806.3.5.4.1 Transaction Documentation

The following documentation and records are required to be provided via an electronic download through an FTP site by Certified Service Providers to the Audit Core Team and SST member and associate member states.

A. The CSP's response to the Audit Core Team Questionnaire and a listing of each member state's Model 1 sellers and the date each seller began processing transactions through the CSP's system will be provided by electronic means to the Audit Core Team.

B. Sales Transaction Information

1. Electronic sales data may be provided at either the invoice level or the line item level of an invoice.
2. For invoices that include taxable and exempt components, each item or bundled transaction must be clearly identified so tax calculation can be verified.
3. Sales transaction data as required by Appendix F.
4. For any discounts applied, the taxable base should be easily discernable.
5. An audit trail to substantiate credits for transactions processed through the CSP's system.

C. Exemption Information

1. Exemption information on purchasers as required in the Streamlined Sales Tax Governing Board Rules and Procedures, Article III, Rule 317.1.
2. Detailed information providing a distinction between exempt transactions by product or entity/use based exemptions.
3. Exempted sales transactions must include the customer's name in addition to all other information required for each sales transaction.
4. Uniform exemption certificates and/or data, either in electronic or paper format, must be maintained by the CSP.

D. Tax Collection and Remittance Information

1. CSPs must provide documentation to verify that all tax collected was appropriately remitted, and the tax return information is accurate.
2. Tax reversals/credits must identify every tax jurisdiction credited.

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Rule 806.3.5.5 Tax Compliance Audit of Transactions Processed by the CSP

A. Each member state's designated auditor(s) will handle its state's portion of the audit and is responsible to ensure conformance to the audit plan and timeline, according to each state's audit policies and procedures.

B. The Audit Core Team will provide the CSP with a list of the member states' auditors who will be involved in the compliance audit.

C. Each CSP will provide a list of all sellers and the date each seller began processing transactions using its service to the Audit Core Team for distribution to the member states. Each member state will decide which Model I sellers' transactions to include in their tax compliance audit. Each member state has the option to comprehensively review the electronic records or choose sampling methodology to perform a review of these transactions.

D. Member state auditors are responsible for reviewing the seller's transactions to determine if they were taxed correctly. If errors exist, the auditors must determine if the errors were caused by any of the following reasons including but not limited to:

1.) Deviation from the state's rates and boundaries tables;
2.) Non-compliance with the state's taxability matrix;
3.) Non-compliance with state approved expanded matrix;
4.) Changes posted through Testing Central were not implemented in a timely manner (10 days); (This will be verified through the Audit Core Team);
5.) Seller overrides of the CSP system;
6.) Exemption information and/or certificates were not available or did not contain all of the required data elements;
7.) Calculations that were tested and approved during the certification process;
8.) Errors in computing tax were based on erroneous information from the states.

E. Prior to the issuance of an audit adjustment, the CSP will be given an opportunity to review the audit results with the auditor(s) from each state wherein a tax liability exists in accordance with its laws, rules and regulations.

F. Where audit findings indicate there is an outstanding tax liability owed by the CSP, any resulting deficiencies or demand for payment of additional taxes under the terms of the contract will be generated by each member state. Accordingly, the laws of each state regarding the appeal process would apply to the audit adjustments.

G. Upon completion of the tax compliance audit of the CSP, the member state shall provide either an audit report or close-out letter to the CSP finalizing the tax compliance audit.

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Rule 806.3.6 Compliance Audit of a CAS provider

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Rule 806.3.6.1 Audit Responsibilities

The contract compliance audit of the CAS provider will be performed by the Audit Core Team. Each state will be responsible for conducting its own tax compliance audit of Model 2 sellers. Tax compliance audits may be conducted at the state's discretion.

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Rule 806.3.6.2 Timeline for Contract Compliance Audit Process

The timeline for conducting the contract compliance audit may vary for each audit cycle. The CAS provider will have 30 days to review and comment on the preliminary findings of the contract compliance audit. Comments will be sent to the Audit Core Team. The Audit Core Team will have 10 business days to amend their findings, if necessary, before the final report is sent to the Executive Director of the Streamlined Sales Tax Governing Board. The Audit Core Team may grant extensions as deemed appropriate to the above timelines.

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Rule 806.3.6.3 Report on Audit Findings
A. The Audit Core Team through the Executive Director will provide each member state with its finding off the contract compliance audit.

B. The report on the audit findings that go to the Executive Director will contain general information on the errors found and will not contain state specific information to ensure the confidentiality of taxpayer information.

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Rule 806.3.6.4 Contract Compliance Audit of CAS provider

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Rule 806.3.6.4.1 Documentation
The following documentation and records shall be provided via an electronic download through an FTP site to the Audit Core Team.

A. The CAS provider's response to the Audit Core Team questionnaire and a listing of each member state's known Model 2 sellers and the date each seller purchased the CAS provider's software will be provided by electronic means to the Audit Core Team.

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Rule 806.3.7 Compliance Audit of Model 3 Seller (Reserved)

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Rule 807 – Meetings

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Rule 807.1 – Open Meetings

A. Definitions

1. Action taken. As used in this rule, "action taken" means a collective decision made by the members of the Governing Board or of a Governing Board committee, or an actual vote by the members of the Governing Board or of a Governing Board committee when sitting as a body or entity upon a motion, proposal, resolution, order or similar action.

2. Meeting. As used in this rule, "meeting" includes any congregation, whether in person or by electronic means, of a majority of the members of the Governing Board or Governing Board

committee at the same time to hear, discuss, deliberate or act upon any item that is within its subject matter jurisdiction except the following do not constitute a meeting:

a. social or ceremonial occasions whether sponsored in whole or in part by the Governing Board, a related body, or an unrelated body;

b. conferences or similar gatherings sponsored by an entity other than the Governing Board or a Governing Board committee that involves discussion of issues of general interest;

c. training or informational sessions sponsored by the Governing Board or a Governing Board committee at which there are no actions or deliberative discussions undertaken.

B. Required open and public meetings

1. General Rule. Pursuant to Section 807 of the Streamlined Sales and Use Tax Agreement and Articles Six and Seven of the Bylaws, all meetings of the Governing Board or a Governing Board committee shall be open and public, unless a closed meeting is specifically provided for in the Agreement, and all persons shall be permitted to attend any meeting of the Governing Board or a Governing Board committee except as otherwise provided in this rule.

2. Teleconference Meetings. Nothing in this rule shall be construed to prohibit the Governing Board or a Governing Board committee from holding an open or closed meeting by teleconference, subject to all of the following:

a. the teleconferencing meeting shall comply with all requirements of this rule applicable to other meetings;

b. the portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting;

c. each public teleconference location shall be identified in the notice of the meeting and shall be accessible to the public;

d. all votes taken during a teleconferenced meeting may be by voice vote. If a voice vote is not unanimous or if a delegate of the Governing Board requests a roll call vote, a roll call vote shall be taken;

e. at least one member of the Governing Board or Governing Board committee or of an employee of the Governing Board or a Member State shall be physically present at the location specified in the notice of the meeting; and

f. members of the public shall be allowed to participate in open meetings via teleconference.

3. Teleconference Definition. For the purposes of this section, “teleconference” means a conference of individuals in different locations, connected by electronic means, through either audio or video, or both.

Compiler's Notes: Section B.2.d. of Rule 807.1 was amended on May 10, 2017 by RP17001 to allow voice votes on teleconference meeting as long as the vote is unanimous and no Governing Board delegate requests a roll call vote.

C. Recording proceedings. Any person attending an open and public meeting of the Governing Board or a Governing Board committee may record the proceedings on a tape recorder in the absence of a reasonable finding of the Governing Board or the Governing Board committee that such recording constitutes, or would constitute, a disruption of the proceedings.

D. Agenda and other "writing" as public record; Inspection

1. Public records. Agendas of public meetings and other writings, when distributed to all, or a majority of all, of the members of the Governing Board or a Governing Board committee by a member, officer, employee, or agent of the Governing Board for discussion or consideration at a public meeting of the Governing Board or the Governing Board committee, are public records as soon as distributed, and shall be made available. However, this section shall not include any writing which are:

a. preliminary drafts, notes or memoranda which are not retained by the Governing Board or the Governing Board committee in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure;

b. records pertaining to pending litigation to which the Governing Board, Governing Board committee or Member State is a party until the pending litigation has been finally adjudicated or otherwise settled;

c. minutes made pursuant to Rule 807.1.F regarding closed meetings; and

d. personnel, medical or similar files the disclosure of which would constitute an unwarranted invasion of personal privacy.

2. Materials Distributed Prior to Meeting. Writings that are public records under subdivision (1) and that are distributed prior to commencement of a public meeting shall be made available for public inspection upon written request prior to commencement of such meeting.

3. Materials Distributed at Meeting. Writings that are public records under subdivision (1) and that are distributed during a public meeting, either prior to commencement of their discussion or during their discussion at such meeting shall be made available for public inspection upon request prior to commencement of, and immediately during their discussion at such meeting.

4. Charging of fees. Nothing in this section shall be construed to prevent the Governing Board from charging a fee or deposit for a copy of a public record to cover the direct costs of duplication. This section shall not be construed to be applicable to any writings solely because they are properly discussed in a closed session of the Governing Board or a Governing Board committee. Nothing in this rule shall be construed to require the Governing Board to place any paid advertisement or any other paid notice in any publication.

5. Definition of "Writing". "Writing" for purposes of this section means handwriting, typewriting, printing, photocopying, photographing, and every other means of recording upon any form or communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

6. Copies of writings. The Governing Board may comply with a request for copies of writings or inspections of writings, for purposes of this rule, by providing a downloaded document, transcript, or other documentary form of the writing, if the documentary form of the writing will accurately convey the content of the writing.

E. Minutes of closed session. The Governing Board or a Governing Board committee shall keep minutes of the topics discussed at a closed session and the reason for such a session. The minutes made pursuant to this section are not a public record and shall be kept confidential. Such minutes may, but need not, consist of a recording of the closed session.

F. Statement of reasons and authority for closed session

1. Reasons for Closed Meeting. Prior to holding any closed session, the Governing Board or a Governing Board committee shall state the general reason or reasons for the closed session, and cite the specific authority, including the particular subdivision of Section 807 of the Streamlined Sales and Use Tax Agreement under which the session is being held. If the session is closed pursuant to subdivision E of Section 807 the Governing Board or the Governing Board committee shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the Governing Board or the Governing Board committee states that to do so would jeopardize the Governing Board's or a member State's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage. *Ex officio* members of the Governing Board shall not be permitted to participate in closed meetings unless invited by the Governing Board.

2. Limits on Agenda of Closed Session. In the closed session, the Governing Board or the Governing Board committee may consider only those matters covered in its statement.

3. Notice of Closed Session. The notice of a closed session and the statement of reasons for a closed session shall be included as part of the notice provided for the meeting.

4. Additional Agenda Items. If, after the closed session agenda has been published in compliance with this section, any additional pending litigation (under paragraph E of Section 807) matters arise, the postponement of which will prevent the Governing Board or the Governing Board committee from complying with any statutory, court-ordered, or other legally imposed deadline, the Governing Board or Governing Board committee may proceed to discuss those matters in closed session and shall publicly announce in the open session of the meeting the title of, or otherwise specifically identify, the litigation to be discussed. Such an announcement shall be deemed to comply fully with the requirements of this section.

5. Privacy Concerns. Nothing in this section shall require or authorize the giving of names or other information that would constitute an invasion of privacy or otherwise unnecessarily divulge the particular facts concerning the closed session.

G. Continuance or re-continuance of hearing. Any hearing being held, or noticed or ordered to be held by the Governing Board or a Governing Board committee at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the Governing Board or the Governing Board committee which is noticed pursuant to Sections 807.2, 807.3, or 807.4. A copy of the order or notice of continuance shall be conspicuously posted on or near the door of the place where the hearing was held within 24 hours after the time of the continuance; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made. If a hearing is held in a hotel or other facility not under the control of the Governing Board or a member State, the posting requirement is waived, and the Governing Board or the Governing Board committee shall accomplish the purpose of this section through a reasonable alternative means.

H. Fees. No fees may be charged by the Governing Board for providing a notice required by Sections 807.2, 807.3, or 807.4 or for carrying out any provision of this rule, except as specifically authorized pursuant to this rule.

I. Complaints regarding public participation rule. Complaints involving alleged failures of the Governing Board or a Governing Board committee to adhere to the policies expressed herein shall be directed to the Executive Director of the Governing Board. Upon receipt of any complaint, the Executive Director shall immediately forward a copy of the complaint to each member of the Governing Board. Thereafter, the Executive Director shall conduct or have conducted an investigation of the complaint and prepare a report of findings and recommendations for any remedial steps which may be necessary to implement the letter and spirit of this rule. A copy of this report shall be forwarded to each member of the Governing Board within 45 days of receipt of the complaint and the matter shall be scheduled for discussion and possible action at the next meeting of the Governing Board or the Executive Committee, whichever occurs first.

J. Prohibition against use of certain facilities. The Governing Board or a Governing Board committee shall not conduct any meeting, conference, or other function in any facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, sexual orientation or sex.

K. Prohibition against closed sessions except as expressly authorized. Except as expressly authorized by the Agreement or this rule, no closed session may be held by the Governing Board or a Governing Board committee.

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Rule 807.2 – Regular Meetings

A. Governing Board

1. **Annual Meeting and Purpose Thereof.** An annual meeting of the members of Governing Board shall be held once each year for the purpose of electing Officers and Executive Committee Directors, for approving an annual budget, and for transacting such other business as may come before the meeting.

2. **Written Notice.** The Executive Committee of the Governing Board shall determine the time and place for the annual meeting and shall prepare an agenda for distribution to the Member States. Written notice of the meeting must be given at least 30 days in advance of the meeting and must include the agenda, budget, information about the proposed slate of officers and a description of other items on the agenda. Supplementary materials must be distributed in writing no later than 10 days prior to the meeting.

3. **Addition of Agenda Items.** Member States wishing to add action or discussion items to the agenda may do so, if circulated in writing in advance to the membership of the Governing Board not less than 10 days prior to the meeting and with the approval of a majority of the Governing Board States qualified to vote and present and voting at the meeting. A motion to add the item to the agenda must be approved by the Governing Board.

4. **Amendments to the Agreement.** Proposed amendments to the Agreement must conform to Rule 901. Requests for interpretation of the Agreement or additional definitions to be added to the Agreement must conform to Rules 902 and 903, respectively.

B. **Executive Committee.** The Executive Committee shall meet no less than once each calendar quarter or it may meet more frequently. The President shall post a schedule for regular meetings on the website scheduling as far in advance as practicable; however, in no case shall notice of less than 30 days be given.

C. **Other Committees.** Standing Committees shall post their meeting schedule on the website. Ten day advance written notice is sufficient, although regular meetings should be scheduled as far in advance as practicable.

Compiler's note: On May 24, 2023 Rule 807.2 was amended by RP23002 to clarify the voting procedures and became effective upon its adoption.

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Rule 807.3 – Special Meetings

A. Governing Board

1. **Call of Meeting.** Special meetings of the Governing Board may be called by the Officers, the Executive Committee, or by petition of forty percent of Member States.

2. **Written Notice.** The Executive Committee of the Governing Board shall determine the time and place for special meetings. The Executive Committee shall prepare an agenda for distribution to the Member States except when called by a petition of Member States. Written notice of the meeting must be given at least 30 days in advance of the meeting and must include the agenda, purpose of the meeting and all pertinent materials for discussion. Member States wishing to add action or discussion items to the agenda may do so, if circulated in writing in advance to the membership of the Governing Board not less than 10 days prior to the meeting. Those additional action or discussion items shall be considered by the Governing Board with the approval of a majority of the Governing Board States qualified to vote and present and voting at the meeting.

3. **Agenda for Meetings Called by Member States.** For meetings called by petition of Member States, the petition must contain the purpose of the meeting and the agenda, and no other business may be discussed.

4. **Amendments to the Agreement.** Proposed amendments to the Agreement must conform to Rule 901. Requests for interpretation of the Agreement or additional definitions to be added to the Agreement must conform to Rules 902 and 903, respectively.

B. Executive Committee. The President may call special meetings of the Executive Committee by giving 10 days written notice of the place, time and agenda for such a meeting.

Compiler's note: On May 24, 2023 Rule 807.3 was amended by RP23002 to clarify the voting procedures and became effective upon its adoption.

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Rule 807.4 – Emergency Meetings

A. Governing Board. Emergency meetings of the Governing Board may be called by the President, the Executive Committee or by petition of forty percent of Member States at a time and place determined by those who called the meeting. The purpose of the meeting and the agenda must be contained in the written notice and no other business may be transacted. The 30 day notice may be waived, but in no case shall less than 10 days notice be given. Electronic participation will be allowed.

B. **Executive Committee.** An emergency meeting of the Executive Committee may be called on as little as 24 hours written notice if the Executive Director and the President of the Governing Board determine that an emergency action is necessary to:

(a) prevent imminent damage to the public welfare;

(b) ensure the proper functioning of the Agreement or the Governing Board; or

(c) prevent the Governing Board or any Member State acting pursuant to the provisions of the Agreement or direction of the Governing Board from violating any federal or state law.

The Governing Board must be notified of the nature of the emergency, the proposed action and the time and place of the meeting. Executive Committee members wishing to participate and vote in the meeting of the Executive Committee may do so, either in person or electronically.

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Rule 807.5 – Electronic voting
Reasonable means shall be used to verify that all votes or actions cast or taken electronically are actually cast or taken by a committee member or member, officer or other representative of the Governing Board that is authorized to cast the vote or take the action.

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Rule 807.6 – Conditions for taking action on items not appearing on posted agenda

a. The President sets the Governing Board agenda prior to each meeting and gives proper notice according to Section 806 of the SSUTA and Article 4 of the Bylaws.
b. Immediately after the 30 day deadline has passed for submitting proposed amendments to the SSUTA, the bylaws, or rules, the President and Executive Director together shall review the submitted items and determine which of the following actions should be taken:
    i. Placed on the agenda for the next meeting;
    ii. Deferred to a subsequent meeting;
    iii. Referred to a committee or Advisory Council for consideration; or
    iv. Not considered at this time.

    Sponsors of these items shall be notified of the action taken.

    The printed Board agenda should list as an item of business which items were submitted and referred to a committee or advisory council, postponed to a subsequent meeting or not considered so the sponsors could utilize the provisions in Rule 807.6.f. to ask the Governing Board to add those items to the agenda.

c. Proposals may be deferred to a subsequent meeting if the proposal is incomplete, or there is insufficient time on the agenda for a full discussion of the item.
d. Any proposed amendment or rule that substantially duplicates the same subject matter upon which final action was taken at a prior meeting does not have to be considered. However, a motion to reconsider a vote on an item from the preceding meeting may be made at the beginning of the next meeting by a state that voted on the prevailing side.
e. A final Governing Board agenda shall be published no later than 10 days prior to the meeting and circulated to Governing Board delegates.
f. The Governing Board or a Governing Board committee may take action on items of business not appearing on the posted agenda upon a determination by

a majority of the Governing Board States qualified to vote and present and voting or by a majority of the Governing Board committee members qualified to vote and present and voting.

g. The President shall have such other powers that may be reasonably necessary to the performance of the office.

Compiler's note: On May 24, 2023 Rule 807.6 was amended by RP23002 to clarify the voting procedures and became effective upon their adoption.

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Rule 808 – Withdrawal or Expulsion of a Member [Reserved]

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Rule 808.1 – Withdrawal of a Member [Reserved]

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Rule 808.2 – Expulsion of a Member [Reserved]

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Rule 809 – Sanction of Member States

A. Executive Committee to Consider Sanctions

If the Governing Board finds a member state is out of compliance with the Agreement, the Executive Committee shall, using its discretion, consider what sanctions should be recommended to the Governing Board pursuant to the procedures set out in this rule.

B. Stay of Consideration of Sanctions

1. If a member state files a petition for reconsideration pursuant to Rule 1001, the Executive Committee shall stay consideration of sanctions for those findings of non-compliance for which the member state has filed the petition.

2. If the Governing board confirms a state is out of compliance under Rule 1001, the Executive Committee shall consider what sanctions, if any, should be recommended to the Governing Board pursuant to the procedures set out in this rule in light of any sanctions already imposed.

C. Notice and Comments

Within 30 days after the notice provided for in Section 805.1 is sent by the Executive Director, the Executive Committee shall provide a 30-day public comment period during which written comments may be submitted to the Executive Committee. All comments

received by the Executive Committee shall be posted on the Governing Board website.

D. Public Meeting

No sooner than 10 days after the close of the public comment period, the Executive Committee shall hold a public meeting, which may be by teleconference pursuant to Rule 807.1(B)(2), convened in accordance with Rule 807 to determine the recommendation regarding sanctions to be made to the Governing Board. If a member of the Executive Committee represents the member state that has been found by the Governing Board to be out of compliance, that committee member shall not vote on the recommendation. The meeting shall provide an opportunity for public comments. The subject state shall be afforded an opportunity to be heard by the Committee at such meeting.

E. Possible Recommendation

1. In arriving at a recommendation for sanction(s), the Executive Committee shall consider the following factors and may consider other factors:

   (a) the requirement(s) of the Agreement with which the state is out of compliance;
   (b) the resulting additional burden the noncompliance places on sellers and purchasers, as applicable;
   (c) whether the noncompliance is the result of a newly identified issue with a requirement of the Agreement;
   (d) whether the noncompliance is the result of an action by the state or its local jurisdictions;
   (e) the length of time the state has been out of compliance with a requirement of the Agreement;
   (f) any efforts taken by the subject state to address the noncompliance;
   (g) any increase in the number of noncompliance issues the subject state has with the Agreement; and
   (h) any actions which will be required to address the noncompliance.

2. Recommendations which may be made by the Executive Committee include, but are not limited to:

   (a) No sanction being imposed;
   (b) Suspension of the subject state's right to vote on amendments to the Agreement;
   (c) Suspension of the subject state's right to vote to determine if a petitioning state is in compliance with the Agreement;
   (d) Suspension of the subject state's right to have any delegates serve on the Governing Board;
   (e) Suspension of the subject state's right to vote on any matter which may come before the Governing Board;
   (f) Alteration of the state's membership to Associate Member status; or
   (g) Expulsion from membership in the Agreement.

3. If an issue of noncompliance remains from a prior year, the Executive Committee shall consider whether the sanction for that issue of noncompliance will increase.

Compiler's Notes: Sections E.2.f. and E.3. were added to Rule 809 on May 10, 2017 by RP16004.

F. Written Recommendation

1. When a recommendation is made by the Executive Committee, it shall issue a written report which shall provide the Committee's rationale for its recommendation. If there are multiple sanctions recommended, the Committee shall identify which sanction or sanctions, if any, would be removed if a particular instance of noncompliance is corrected.

2. The Executive Committee shall issue a written recommendation within 90 days after the public meeting provided for in subsection (D) of this rule.

3. A copy of the recommendation shall be sent to the subject state and the Governing Board delegates of each member state. The recommendation shall be posted on the Governing Board's website.

G. Agenda

Sanctions recommended by the Executive Committee shall be placed on the agenda of the Governing Board for the next regular or special meeting for which there is sufficient time for the required notice to be given.

H. Governing Board Action

1. At a meeting where a recommendation of the Executive Committee for a sanction is on the agenda, the Governing Board shall:

   (a) impose a sanction recommended by the Executive Committee;
   (b) impose a different sanction;
   (c) defer any action on imposition of a sanction until a date certain; or
   (d) decide not to impose a sanction.

2. If a sanction is imposed, the Governing Board shall specifically identify in writing:

   (a) the corrective action(s) the member state must take to have the sanction(s) removed; and
   (b) the person(s) who will verify and document that the member state has completed the corrective action(s).

3. When the member state has completed the required actions, which have been verified by the person(s) identified in subsection 2(b), the sanction imposed by the Governing Board with respect to that issue shall be lifted.

I. Effective Date of Sanction

The Governing Board shall determine the effective date of any sanction it imposes. The effective date may be conditional which would result in the sanction being imposed only if the subject state fails to come into compliance by a date certain.

J. Review of Sanctions for Continued Noncompliance

If a member state remains out of compliance with the same requirement of the Agreement after the next annual recertification process under section 803, the Executive Committee shall reconsider potential sanctions and make a recommendation to the Governing Board pursuant to the procedures set out in this rule.

K. Publication of Decision

The Executive Director shall notify the subject state and each member state's Governing Board delegates in writing when the Governing Board renders a decision to impose or lift a sanction. A copy of any such decision shall be posted on the subject state's and the Governing Board's website.

Compiler's Note: (a) On September 16, 2015, Rule 809 was adopted. (b) On May 10, 2017, Rule 809 was amended by RP16004.

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Rule 810 – State and Local Advisory Council

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Rule 810.1 – SLAC Statement of Purpose

The role of the State and Local Government Advisory Council (the "Council") is to advise the Governing Board on matters pertaining to the administration of the Agreement, including, but not limited to, admission of states into membership; noncompliance; and interpretations, revisions or additions to the Agreement. The Council will consider and respond to those matters referred to it from the Governing Board or its committees. The Council may also recommend items to the Governing Board for consideration. The Council will advise and assist the Business Advisory Council in its operations. The Council will provide a forum for state and local government officials not represented on the Governing Board to express their ideas and concerns and have a formal process to bring those concerns to the Governing Board.

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Rule 810.2 – SLAC Membership, Officers and Steering Committee Membership

A. State Membership

1. Each state that is a participating member of the Streamlined Sales Tax Project (SSTP) will be a member of the Council. Each participating state shall designate one representative who is a state employee to represent that state in decisions and votes. States may have more than one state employee attend and participate in the Council meetings and committees but will only have one vote as explained in Rule 810.3.A.2.

2. "Participating States" are those States that support the mission of the project and for which an elected official or body of elected officials has committed the State to participate in the Streamlined Sales Tax Project. A State may become a Participating State at any time. A commitment by a State to participate is evidenced by one or more of the following actions:

a. Enactment of legislation authorizing the State's participation in interstate discussions to develop a simplified sales and use tax system;

b. Passage of a legislative resolution expressing the intent of the State to participate in interstate discussions to develop a simplified sales and use tax system;

c. Issuance of an executive order, letter of intent or similar written document by a governor expressing the intent of the State to participate in interstate discussions to develop a simplified sales and use tax system;

d. Execution of a memorandum of understanding or similar written document by a governor and legislative leaders expressing the intent of the State to participate in interstate discussions to develop a simplified sales and use tax system;

e. Issuance of a resolution, executive order, letter of intent or similar written document by an elected official or body of elected officials charged under a State Constitution with the administration of the tax laws expressing the intent of the State to participate in interstate discussions to develop a simplified sales and use tax system;

f. Action by the Mayor or City Council of the District of Columbia comparable to any of the above actions.

3. Any question over whether or not a State qualifies as a Participating State shall be resolved by a majority vote of the Governing Board States qualified to vote.

B. Local Government Membership

1. The Governing Board shall appoint one representative from each of the following organizations to represent local government on the Council: U.S Conference of Mayors, National League of Cities, National Association of Counties, and the Government Finance Officers Association.

2. The representatives of these local government organizations will be local government employees, employees of the organizations, or employees of their state counterpart organizations.

3. Local governments or the local government organizations identified in this subsection may have additional employees attend and participate in the Council meetings and committees but will only have votes as identified in Rule 810.3.A.2.

C. Other Membership. The Governing Board may appoint other state and local officials to serve on the Council as the Governing Board deems appropriate or necessary.

D. Officers. The President of the Governing Board, with the consent of the Executive Committee of the Governing Board, shall appoint from among the membership described above a Chair and Vice Chair of the Council (the "Officers") to serve a one-year term. An individual may serve no more than two consecutive terms as Chair or Vice-Chair, except to fill an unexpired term. The Chair and Vice-Chair will serve as *ex officio* members of the Governing Board, without a vote. The Officers shall preside over all Steering Committee and Council meetings, shall ensure that public notice of meetings is provided in accordance with these rules, and shall fulfill such other responsibilities as delegated to them by the Governing Board.

E. Steering Committee.

1. The Council shall have a Steering Committee comprised of no more than nine (9) members. The Officers shall be members of and shall preside over the Steering Committee meetings. The Council shall annually elect from among the representatives of the membership the remaining members of the Steering Committee. At least two (2) and no more than three (3) of the nine Council Steering Committee members will be local government representatives.

2. Duties of Committee

    a. Planning agendas for meetings,

    b. Recommending to the Council the organization of work groups or project committees,

    c. Recommending to the Council such actions and procedures as are necessary for the Council to fulfill its mission, and

    d. Assisting and advising the Officers in fulfilling their responsibilities.

Compiler's note: On May 24, 2023 subsection A was amended by RP23002 to clarify the voting procedures and became effective upon their adoption.

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Rule 810.3 – SLAC Meetings

A. Composition; Quorum; Authority and Voting Procedures

1. Quorum. A quorum may be established by either:

(a) A majority of the voting membership of the Council; or
(b) A three-fourths (3/4) majority of the local government membership and the states that the Governing Board has admitted as either a full member state, contingent member state, or associate member state if at least one contingent member state, associate member state or nonmember state is present at the meeting.

2. Voting. All matters shall be decided by a majority vote of the members with representatives present and voting at a Council meeting. In voting, each participating state shall have one (1) vote and each representative of the local government organizations identified in Rule 810.2.B.1 shall have one (1) vote. In reporting votes to the Governing Board, the Council shall report votes by each participating state and by each local government organization member.

3. Any recommendations of Council work groups or committees are advisory to the Council and are not binding on the Council except as may be specifically delegated or approved by a vote of the Council.

Compiler's note: On October 15, 2020, the Governing Board adopted RP20005 to update the rule to provide an additional option to determine a quorum of the SLAC.

B. Meetings

1. Open Meetings: Rule 807.1 shall govern meetings of the Council. Meetings of a work group, committee, or the Steering Committee are not required to be open to the public unless a quorum of the Council is present at the meeting.

2. Regular Meetings: The Council shall meet as often as is necessary to fulfill its mission. The Officers shall determine the time and place for regular meetings. The Steering Committee shall prepare an agenda for distribution to the Council Members. Written notice of the meeting must be given at least 30 days in advance of the meeting and must include the agenda, purpose of the meeting and all pertinent materials for discussion. Council Members wishing to add action or discussion items to the agenda may do so if submitted 10 days in advance of the meeting to the Officers. Those additional action or discussion items shall be considered by the Council and with the approval of a majority of those present and voting at the meeting.

3. Emergency Meetings: Emergency meetings of the Council may be called by the Officers, the Steering Committee, or by petition of forty percent of Council Members at a time and place determined by those who called the meeting. The purpose of the meeting and the agenda must be contained in the written notice and no other business may be transacted. The 30 day notice may be waived, but in no case shall less than 10 days notice be given. Electronic participation will be allowed.

4. Rules of the Governing Board concerning Notice and Public Comment periods apply to the Council.

5. The Council may meet electronically.

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Rule 810.4 – SLAC Resources

The Council will operate using staff and resources as provided by the Governing Board.

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Rule 811 – Business Advisory Council [Reserved]

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Rule 812.1 – Local Advisory Council Statement of Purpose

The Local Advisory Council (LAC) will provide input to the State and Local Advisory Council Governing Board when there are issues of interest to local governments, and where the local government perspective is needed in order for decision makers to make an informed decision.

Compiler's note: Rule 812.1 was adopted on May 24, 2012 via RP12007. This section became effective upon its adoption.

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Rule 812.2 – LAC Membership, Officers and Steering Committee Membership

A. Membership

1. The local government associations recognized in Governing Board Rule 810.2 will each be a member of the LAC. Each participating association shall designate (3) representatives who are members and/or employees of those organizations (or state associations thereof) and will participate in decision making process of the LAC. While the LAC will work mostly through consensus when bringing forward their positions to the Governing Board and State and Local Advisory Council, if a vote is needed by the LAC, each organization will have one vote.

2. The local associations recognized in Governing Board rule 810.2 support the mission of the Streamlined Sales Tax Governing Board and have committed to participate in the Streamlined Sales Governing Board.

3. The LAC may allow associate members to be part of the council. Associate members can be those from or representing local governments.

B. Communicating with the Governing Board and SLAC

1. The LAC will, upon request, review and provide information to the Governing Board and SLAC regarding the impact on local governments related to any particular issue before those bodies.

2. If there is a specific issue that has arisen or is before the SLAC or Governing Board where local governments have a particular concern, they will provide these comments to the appropriate body in writing.

3. The purpose of the LAC is to provide input and comment only on issues where there is a unique impact on local governments.

C. Involvement with SLAC and Governing Board

According to the SSUTA and its rules, local government representation on the SLAC, and serving as an ex-officio member of the Governing Board, remains intact.

D. Meetings.

The LAC will hold periodic conference calls and physical meetings (in conjunction with otherwise set SLAC and Governing Board meetings), where LAC members and associate members can participate. The LAC will provide information about these calls and meetings to the Governing Board staff for posting on the Governing Board web site, including information about how to participate on the calls and meetings.

E. LAC Resource

The LAC will not impose on the Governing Board staff, except for posting meeting notices, other information, and asking for input regarding Governing Board technical issues.

Compiler's note: Rule 812.2 was adopted on May 24, 2112 via RP12007. This section became effective upon its adoption.

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ARTICLE IX

AMENDMENTS AND INTERPRETATIONS

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Rule 901 – Amendments to Agreement

A. Requests of Amendments to the Agreement. Pursuant to Section 901 of the Agreement, any Member State may propose an amendment to the Agreement by submitting the proposed amendment, in writing and in electronic form, to the Executive Director. The proposed amendment will be considered at the next annual meeting or special meeting occurring so that at

least 30 days notice of the proposed amendment has been provided in the manner provided herein.

B. Notice of Request. The Executive Director shall provide notice of the proposed amendment and the date of the meeting at which the proposed amendment will be considered to the following parties:

(a) the authorized representative of each Member State;

(b) the Chair of the State and Local Advisory Council;

(c) the Chair of the Business Advisory Council;

(d) the Chair of the Compliance Review and Interpretations Committee; and

(e) the general public as provided in Rule 806.1.

C. Revisions to noticed amendments. Any person intending to revise a proposed amendment to the Agreement shall submit such revisions to the Executive Director no later than ten days prior to the Governing Board meeting at which such amendment will be discussed. The Executive Director shall provide notice of such revisions in the same format as required for amendments to the Agreement. Failure to provide revisions to the Executive Director as provided in this section may be used by the President to refer such revisions to a committee or advisory council for their recommendation for action at a future Governing Board meeting. The Governing Board may override the President's decision by a two-thirds vote of the Governing Board States qualified to vote and present at the meeting.

D. Public Comment

1. **Written Comments.** Any party may comment on the proposed amendment by sending written comments to the Executive Director with a copy to the authorized representative of the requesting state. Any such comments must be submitted by the date of the meeting at which the proposed amendment will be considered.

2. **Posting of Comments.** The Executive Director shall post all written comments received in electronic form and any response submitted by the requesting state to the Governing Board website. The Executive Director may also post comments not received in electronic form to the extent resources are available.

3. **Request to Testify.** Any party submitting written comments may include in its comments a request to testify before the Governing Board.

E. Public Meeting

1. **Vote at Open Meeting.** The vote on the proposed amendment shall be held at an open meeting convened in accordance with Rule 807.

2. **Testimony by Advisory Councils.** The State and Local Advisory Council and the Business Advisory Council shall have the right to present oral testimony if they choose.

3. **Comments by Member States.** Any Member State has the right to make oral comments to the extent it deems appropriate, subject only to a motion by the Governing Board to cut off debate. Any Member State has the right to propose revisions to the proposed amendments to the extent those revisions are germane.

4. **Vote on Revisions to Proposed Amendments.** After discussion and receipt of testimony, the Governing Board shall vote on any revisions to the proposed amendment. Approval of the proposed revisions shall be by a simple majority vote of those Governing Board States qualified to vote and present at the meeting.

5. **Vote on Final Amendment.** After discussion and receipt of testimony, the Governing Board shall vote on adoption of the proposed amendment, whether or not revised. The proposed amendment will be adopted only if approved by a three-fourths vote of the Governing Board States qualified to vote. Amendments to the Agreement of a policy nature must be approved at two separate Governing Board meetings. However, the requirement for a second vote may be waived after the first vote with the unanimous consent of the Governing Board States qualified to vote and present at the meeting. For the purposes of this section, a "policy" amendment is one which imposes a requirement on a member state.

Compiler's note: (a) On December 13, 2010 subsection A was amended by deleting 60 and inserting 30. (b)On May 24, 2023 subsections C. and E. were amended by RP23002 to clarify the voting procedures and became effective upon their adoption.

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Rule 902 – Interpretive Opinions of Agreement

A. Request for Interpretive Opinions of the Agreement. Pursuant to Section 902 of the Agreement, any Member State or person may request an interpretive opinion of the Agreement by submitting the request, in writing, to the Executive Director.

B. Compliance Review and Interpretations Committee.

1. **Initial Evaluation.** The Executive Director shall forward the request to the Compliance Review and Interpretations Committee for an initial evaluation. The Compliance Review and Interpretations Committee shall review the request to determine if further action is warranted.

2. **Determination as Unnecessary.** If the Compliance Review and Interpretations Committee determines that the request is inappropriate, unwarranted, or unnecessary for any reason, it shall notify the Executive Director who shall notify the requestor that the Governing Board declines to act on the request. This action shall be reported

to the Executive Committee and the Governing Board. If the requestor disagrees with the initial evaluation, the requestor may invoke the dispute resolution process provided for in Article X of the Agreement.

3. **Formal Interpretive Opinions.** If the Compliance Review and Interpretations Committee determines that the request should be granted and an interpretive opinion should be issued, the Committee shall inform the Executive Director who shall publish the request for an interpretive opinion on the Website and solicit comments. The Compliance Review and Interpretations Committee shall consult with the State and Local Advisory Council and the Business Advisory Council and shall formulate a recommendation to the Governing Board.

4. **Recommendation.** The Compliance Review and Interpretations Committee may request that the State and Local Advisory Council provide input on the interpretive opinion request. If additional input from the State and Local Advisory Council is requested, the Compliance Review and Interpretations Committee shall formulate a recommendation to the Governing Board within 120 days following the date the request for input if forwarded to the State and Local Advisory Council. If a request for input from the State and Local Advisory Council is not made, the Compliance Review and Interpretations Committee shall formulate a recommendation to the Governing Board within 60 days following the expiration of the period after which the Compliance Review and Interpretations Committee can meet to consider an interpretive opinion request as provided under sections D and H of this rule. The committee members may, by majority vote, extend the period to formulate a recommendation upon finding of good cause. Good cause includes, but is not limited to, the complexity of an issue under review and the ability of the State and Local Advisory Council to act on a request for input that has been made to them.

C. Public Notice. The Executive Director shall provide a copy of the request for an interpretive opinion to and shall solicit comment from the following parties:

(a) the authorized representative of each Member State;

(b) the Chair of the State and Local Advisory Council;

(c) the Chair of the Business Advisory Council; and

(d) the general public as provided in Rule 806.2.

D. Public Meeting. No sooner than 60 days after solicitation of comment, the Compliance Review and Interpretations Committee shall meet in a public meeting convened in accordance with Rule 807 to consider the request and shall issue a written recommendation. The recommendation may be in the form of (1) an interpretive opinion of the agreement or (2) a determination that an interpretive opinion should not be issued. The recommendation shall be in writing and shall provide the Committee's rationale for its recommended action. A copy of the recommendation shall be sent to the requesting party, the Executive Committee and the

Governing Board. It shall be at the discretion of the committee members, by majority vote, whether the Compliance Review and Interpretations Committee shall consider written public comment received following the expiration of the period after which the Compliance Review and Interpretations Committee can meet to consider an interpretive opinion request as provided in this section and section H of this rule.

E. **Agenda**. Actions recommended by the Compliance Review and Interpretations Committee shall be placed on the agenda of the Governing Board for either a regular or a special meeting.

F. Appeal. If the requestor disagrees with the decision, the requestor may invoke the appeals process provided for in Article X of the Agreement.

G. Publication of Decision. Once the decision of the Governing Board becomes final, either because no appeal is filed or because the appeal procedures have been exhausted, the decision shall be sent to the requesting party and a copy of the decision shall be posted on the Website.

H. Expedited Process. The time limitations in this rule may be shortened if the requestor asks for expedited consideration in its request. In that case, the notice to interested parties may request written comments to be submitted within as few as 10 days. The Compliance Review and Interpretations Committee may meet any time after that minimum 10-day public comment period has expired.

Compiler's Note: Rule 902.H. was amended October 7, 2014 to allow the public comment period on expedited requests to be any period of time between 10 and 60 days.

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Rule 902.1 – Interpretive Rules

A. Purpose. Interpretive rules are distinguished from interpretive opinions in section 902 of the Streamlined Sales and Use Tax Agreement ("Agreement"). The intent of this procedural rule is to prescribe procedures applicable only to interpretive rules.

B. Requests for Interpretive Rules. Pursuant to Section 902 of the Agreement, the Governing Board shall act on requests for interpretation of the Agreement, including interpretive rules, brought by any member state or any other person within a reasonable period of time and in a manner prescribed in the Governing Board rules. The Governing Board may choose to not issue an interpretative rule or it may choose to not act on a request for an interpretative rule. Where the Governing Board chooses to act on a request for an interpretive rule it will initiate the interpretive rule process by making a request of SLAC to develop a draft interpretive rule.

C. State and Local Advisory Council.

1. Upon initiation of the interpretive rules process, the SLAC chair will provide public notice of the formation of an interpretive rule workgroup and will invite participation from all interested parties. SLAC will establish a workgroup comprised of interested state, local and business representative who will, using experts and assistance of the SLAC Steering Committee prepare a draft interpretive rule.

2. The SLAC Chair will provide the draft interpretive rule to SLAC delegates and the BAC with a reasonable opportunity for review, comment, and participation in continued development of the draft interpretive rule.

3. The SLAC Chair will have sole discretion to call for final comments on draft interpretive rules from states, BAC and other interested parties. Notice of such call for final comment shall be in accordance with Rule 806.2. Final comments shall be submitted to the SLAC Chair and Vice Chair within the specified time but in no case shall the period for submitting final comments be less than 20 days from the date of the notice for final comments on the draft interpretive rule. SLAC will finalize the draft interpretive rule and forward it to the Governing Board.

D. Agenda. A proposed interpretive rule together with all written comments shall be presented to the Governing Board and placed on the agenda of the Governing Board for either a regular or a special meeting. At least thirty days notice to the member states and the public is required by Section 902 of the Agreement.

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Rule 903.1 – Requests for Additional Definitions

Any Member State or person may request an additional definition in the Agreement by submitting the proposed definition, in writing, to the Executive Director.

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Rule 903.2 – Requests for Interpretation of a Definition

A request for interpretation of a definition shall be considered in the same manner as a request for interpretation of the Agreement and the provisions of Rule 902 shall apply.

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Rule 904 – Compliance Petitions

A. Requests for Determination of Compliance. Pursuant to Article 7, Section 2 of the SST Governing Board, Inc. Bylaws, any member state or person may petition the Governing Board to determine matters of a member state's compliance with the Agreement. The petition should be submitted in writing to the Executive Director.

B. Compliance Review and Interpretations Committee

1. **Initial Evaluation.** The Executive Director shall forward the petition to the Compliance Review and Interpretations Committee and to the subject state along with a request that the subject state acknowledge receipt of the petition to the Chair of the Compliance Review

and Interpretations Committee within 10 days. No sooner than 31 days after the acknowledged receipt of the petition by the subject state, the Compliance Review and Interpretations Committee shall review the petition and any response from the state to determine if further action is warranted.

2. **Determination as Unnecessary.** If the Compliance Review and Interpretations Committee determines that the petition is inappropriate, unwarranted, or unnecessary for any reason, it shall notify the Executive Director who shall notify the petitioner that the Governing Board declines to act on the petition. This determination shall be reported to the Executive Committee and the Governing Board. If the petitioner disagrees with the initial determination, the petitioner may invoke the issue resolution process provided for in Article X of the Agreement.

3. **Formal determination.** If the Compliance Review and Interpretations Committee determines that the petition should be accepted and a determination of compliance should be made, the Committee shall inform the Executive Director who shall give public notice by publishing the petition for determination and any response from the subject state on the Website and solicit comments. The Compliance Review and Interpretations Committee may consult with the State and Local Advisory Council and the Business Advisory Council.

C. Public Notice. The Executive Director shall provide a copy of the petition for determination of compliance and any response from the subject state to and shall solicit comments from the following parties:

(1) the authorized representative of each member state;
(2) the Chair of the State and Local Advisory Council;
(3) the Chair of the Business Advisory Council; and
(4) the general public as provided in Rule 806.1.

D. Public Meeting. No sooner than 60 days after the solicitation of comment, the Compliance Review and Interpretations Committee shall meet in a public meeting convened in accordance with Rule 807 to consider the petition. If a member of the Compliance Review and Interpretations Committee represents the state that is the subject of the petition, that member shall not participate in a committee vote on the recommendation. When a determination is made by the Compliance Review and Interpretations Committee, it shall issue a written recommendation. The recommendation shall be in the form of a determination as to whether the subject member state is in compliance with the Agreement. The recommendation shall provide the Committee's rationale for its recommendation. A copy of the recommendation shall be sent to the petitioner, the subject state, the Executive Committee, and the Governing Board.

E. Agenda. Actions recommended by the Compliance Review and Interpretations Committee shall be placed on the agenda of the Governing Board for either a regular meeting or a special meeting.

F. Appeal. If the petitioner or subject state disagrees with the determination, the petitioner or subject state may invoke the appeals process provided for in Article X, Section 1002 of the Agreement.

G. Publication of Decision. Once the decision of the Governing Board becomes final, either because no appeal is filed or because the appeal procedures have been exhausted, the decision shall be sent to the requesting party and a copy of the decision shall be posted on the Website.

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Rule 904.1 – Determination of Sanctions (Repealed September 16, 2015 because it was duplicative with Rule 809)

Rule 905 – Annual Recertification (Repealed September 16, 2015 because it was duplicative with Rule 803)

ARTICLE X
ISSUE RESOLUTION PROCESS

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Rule 1001 – Rules and Procedures for Petitions for Reconsideration

A. Petition for Reconsideration

1. **Request for Reconsideration.** Any party dissatisfied with a decision of the Governing Board may file a petition with the Governing Board to request reconsideration of the decision. A "decision of the Governing Board" is any formal action by the Governing Board (e.g., a vote) on any issue. The petition shall be addressed to the Streamlined Sales Tax Governing Board and sent to the Executive Director.

2. **Contents of the petition.** A petition shall set forth in reasonable detail the basis for the request being made, containing all facts, evidence and legal discussion necessary to allow for a disposition of the matter; a statement as to whether the petition relates to any matter pending in any state or local administrative or judicial process; a statement as to whether a hearing is requested; and an affidavit or affirmation that the facts contained therein are true and correct to the best of the petitioner's knowledge and belief. Any petitions for reconsideration related to matters of a state's compliance under Section 805 and 805.1 shall clearly identify the specific section(s) of the Agreement to which the petition relates and clearly describe the rationale for why the state is or is not in compliance with such section(s).

3. **Timing of the petition.** Unless otherwise stated in these rules, a petition for reconsideration shall be filed within sixty (60) days after the decision of the Governing Board was issued.

4. **Fee.** There shall be no fee or charge for the initial filing of any petition, although the Governing Board retains the discretion to allocate the costs incurred by the Governing Board and the Issues Resolution Committee in determining the petition to the petitioner in whole or in part, and/or to other persons who have participated in the issue resolution process.

B. Publication of the Petition. On receipt of the petition, the Executive Director shall publish the petition on the website, and provide a copy of the petition to and solicit comment from the following parties:

(a) The Executive Committee Members

(b) the authorized representative of each Member State;

(c) the Chair of the State and Local Advisory Council;

(d) the Chair of the Business Advisory Council; and

(e) the general public as provided in Rule 806.1.

C. No Hearing Requested. If the petitioner has not requested a hearing, the Issues Resolution Committee shall meet to consider the petition and any comment received, and shall issue a recommendation to the Governing Board, no sooner than 60 days, and no later than 120 days, after solicitation of comment. The recommendation shall be in writing and shall provide the Issues Resolution Committee's rationale for the recommendation.

D. Hearing Requested. If the petitioner has requested a hearing, the Issues Resolution Committee shall, no sooner than 60 days, and no later than 120 days, after solicitation of comment, schedule a hearing on the petition and mail notice of the hearing to

(a) the petitioner;

(b) any other person who has submitted a comment on the petition;

(c) the authorized representative of each Member State;

(d) the Chair of the State and Local Advisory Council;

(e) the Chair of the business advisory council; and

(f) the general public as provided in Rule 806.1.

The hearing shall take place at the office of the Governing Board, or another location designated by the Issues Resolution Committee, included by teleconference. At the hearing, the Issues Resolution Committee will designate the amount of time the petitioner will be allotted to speak, with a minimum of fifteen minutes to be allotted. Other persons whose written requests to speak at the hearing have been received by the Governing Board's Executive Director prior to the day of the hearing will be allotted time to speak at the discretion of the Issues Resolution Committee. Within 60 days of the hearing, the Issues Resolution Committee shall meet to consider the petition and any comment received and shall issue a recommendation to the Governing Board. The recommendation shall be in

writing and shall provide the Issues Resolution Committee's rationale for the recommendation.

E. Standard of Review. The Issues Resolution Committee shall review the issue(s) identified in the petition on a de novo basis.

F. Governing Board Action. The recommendation from the Issues Resolution Committee shall be placed on the agenda for the next Governing Board meeting for which the notice requirements of Section 806 can be met. The Governing Board shall consider the recommendation and issue a decision. The decision shall be in writing and shall provide the Governing Board's rationale for the decision. The decision shall be sent to the petitioner and a copy of the decision shall be posted on the website.

G. Expedited Appeal. The time limitations in this rule may be shortened if the petitioner asks for expedited consideration in its request. In that case, the notice to interested parties shall request written comment within 10 days. The Issues Resolution Committee may meet any time after that 10-day period has expired.

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Rule 1002 – Rules and Procedures for Petitions for Resolution [Reserved]

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Rule 1003 – Final Decision of Governing Board [Reserved]

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Rule 1004 – Limited Scope of this Article [Reserved]

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