STREAMLINED SALES TAX GOVERNING BOARD, INC.

RULES AND PROCEDURES

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RULES AND PROCEDURES

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Rule 309. Sourcing Transactions.

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.

Rule 309.2. Sourcing Prewritten Computer Software.

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

(1) 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.

(2) 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.

(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: 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.

(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.

Example: 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.

(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 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.

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.

(1) 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: 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.

(2) 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.

a. 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.

b. 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: 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).

c. 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: 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: 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.

Rule 309.4. Sourcing Software Post-Sale Support Agreements that Combine Both Prewritten Computer Software and Services (Software Post-Sale Support Agreements).

(1) The initial retail sale of a software post-sale support agreement 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 software post-sale support agreement sold after the retail sale of the underlying software, the renewal of a software post-sale support agreement, or the retail sale of a software post-sale support agreement 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 software post-sale support agreement 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.

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 dependant 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.

Rules 310—313. [Reserved]

Rule 314. Telecommunication and Related Services Sourcing.

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.

Rules 315 and 316. [Reserved.]

Rule 317. Administration of Exemptions.

Rule 317.1. Simplified Administration Process.

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.

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 and governing board states shall adopt the following exemption reason coding system 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 or educational organization
g. Resale
h. Agricultural production
i. Industrial production/manufacturing
j. Direct pay permit
k. Direct mail
l. Other _____

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.

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

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, it shall require purchasers claiming exemption from tax to use only:

(i) A state-issued business number;
(ii) A state-issued exemption number;
(iii) A state-issued driver's license number; or
(iv) A United States federal ID number.

c. Use of an ID number issued by a foreign government shall only be acceptable when claiming a resale exemption for purchases of services, other than services to real or tangible personal property.

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.

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. The Standard Data Elements will be specifically identified by the Governing Board at the time the uniform paper exemption certificate is adopted. 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 Supplemental Form. Purchasers may complete the Multistate Supplemental Form as an attachment to a single exemption certificate when they regularly make exempt purchasers 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 and Multistate Supplemental Form except for the exemption reason identification numbers requested in Section 5 of the paper 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 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.

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.C. effective 1/1/08.]

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. When seller is required 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 has waived the requirement for an exemption certificate on the sale (e.g., a state may choose to waive the exemption certificate requirement on sales made to tax-exempt organizations).

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.

3. Verification of exemption numbers not required. A member state shall not require a seller or a certified service provider to verify exemption numbers.

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 shall 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.

4. Joint state auditing of exempt transactions. The Governing Board shall develop standard rules and administrative practices for joint auditing of exempt transactions by member states.

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.

Rules 318---326. [Reserved]

Rule 327. Library of Definitions

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."

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. The attached chart, (Appendix A) 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.

Rule 327.4 Delivery Charges.

"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 exclude them. A member state may choose to exclude from "delivery charges" any of the following, if the charges are separately stated on an invoice or similar billing document given to the purchaser:

A. 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;

B. 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, or;

C. the "delivery charges" for "direct mail."

A. Direct mail.

A state that does not choose to exclude "delivery charges" in their entirety from the definitions of "sales price" and "purchase price" may opt to exclude from "delivery charges" all "delivery charges" for "direct mail," as that term is defined in Part I of the Library of Definitions, if such charges are separately stated on an invoice or similar billing document given to the purchaser. If elected, this option would establish the treatment of "delivery charges," excluding those properly separately stated "delivery charges" for "direct mail."

A state that, prior to adoption of the definitions of "sales price" and "purchase price" in Part I of the Library of Definitions, excluded elements of delivery charges (including postage) from the sales/purchase price of printed material, such as advertising material, while including delivery charges in the sales price or purchase price of other products, may exclude delivery charges for direct mail by adopting the definitions for "delivery charges" and "direct mail" and excluding from "delivery charges" the "delivery charges" for "direct mail."

Illustration 1: State A's definition of "delivery charges" excludes the "delivery charges" for "direct mail" from the definition of "delivery charges." All components of "delivery charges" are included in sales/purchase price, except that all "delivery charges" for "direct mail" are excluded from sales/purchase price.

B. Handling, crating, packing, preparation for mailing or delivery, and similar charges.

A state may opt to exclude from "delivery charges" 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, if such charges are 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 2: State B 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 3: State C 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.

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

A state may opt to exclude from "delivery charges" 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 such charges are 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 4: State D 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 5: State E 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."

D. 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.

E. 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.

Rule 328. Taxability Matrix.

Rule 329. Effective Date for Rate Changes. [Reserved.]

Rule 330. Bundled Transactions.

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.

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.

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. Section 332C addresses 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 332C 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: 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.

a. Example: 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.

b. Example: 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: 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: 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.

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.

ARTICLE IV
Seller Registration.

Rule 401. Seller Participation.

Rule 401.1. Registration. Time allowed a Model 1 or 2 seller to integrate with a CSP or CAS before losing amnesty.

(a) For a volunteer seller registering as a Model 1 Seller, the seller's obligation under SSUTA to collect and remit will commence no later than the first day of the calendar month 60 days after registration on the central registration system.
(b) For a volunteer seller registering as a Model 2 Seller, the seller's obligation to collect and remit under SSUTA will commence no later than on the first day of the calendar month 60 days after registration on the central registration system.
(c) A volunteer seller registered as a Model 1 or Model 2 that has contracted with a CSP for service, or for implementation of a CAS, may request and receive an extension of time from the Executive Director, if the implementation is unable to be completed within 60 days of registration. The Executive Director shall notify all states that an extension of time has been granted.
(d) Model 1 sellers, regardless of volunteer status, that fail to register with a CSP and begin collecting within the time allowed will lose the amnesty granted under Section 402 of the Agreement. A seller may cancel its registration pursuant to the terms of the Agreement. Otherwise, a seller must change the business model status selected at the time of the original registration, and must immediately begin collecting tax for the Member States. Failure to do so will result in termination of registration.
(e) Model 2 sellers, regardless of volunteer status, that fail to implement a CAS and begin collection within the time allowed will lose the amnesty granted under Section 402 of the Agreement. A seller may cancel its registration pursuant to the terms of the Agreement. Otherwise, a seller must change the business model status selected at the time of the original registration, and must immediately begin collecting tax for the Member States. Failure to do so will result in termination of registration.
(f) The obligation to collect and remit sales and use taxes for 36 months as provided in Section 402 of the Agreement will begin on the date the collection obligation begins.
(g) States will hold registrations of Model 1 and Model 2 volunteer sellers not already registered in that state in suspense and will not take enforcement action for failure to file a return until after the obligation to collect begins.
(h) The Central Registration System will contain notice allowing registrants selecting Model 1 or Model 2 status to authorize disclosure of registration information to CSP or CAS providers.
(i) For the purposes of this rule, a volunteer is a seller that does not have a legal obligation to collect.

Rule 401.2. Cancellation of registration. [Reserved.]

Rule 402. Amnesty for Registration. [Reserved.]

Rule 403. Method of Remittance. [Reserved.]

Rule 404. Registration by an Agent. [Reserved.]

ARTICLE V
Provider and System Certification

Rule 501. Certification process.

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.

Rule 501.2 Certification of service providers.

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 – The Governing Board 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 – 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) 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 – The Certification Committee shall review documentation submitted by candidates screen and identify candidates for further evaluation and testing. 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 – The Certification Committee shall conduct evaluation and site review. (For the initial process, the reviews were completed by October 1, 2005.)

November 1, Odd Years to May 1, Even Years – 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. (For the initial process, the system tests will be completed by June 30, 2006.)

May 1 to May 12, Even Years – The Certification Committee shall submit the recommended candidate(s) to the Executive Director. 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 – The Executive Director shall submit the recommended candidate(s) to the Executive Committee for certification.

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

June 1 to July 1, Even Years – 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.

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.

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; *Process flow*; Appendix I, *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. For renewal of contracts which began in 2006, CSP's will be required to 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.

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 respond to the next request (April 1, odd years).

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.

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 J.

1. Applicant shall obtain a self-evaluation test deck and guidelines. Reference - *SST Testing Process for Certification of Model 2 Automated Systems* paper, Appendix K.

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. Reference - *SST Testing Process for Certification of Model 2 Automated Systems*, Appendix K.

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.

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.

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.
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.

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.

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

Rule 601. [Reserved.]

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 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 and Associate Member States in which the Model 2 Seller is a Volunteer Seller. All 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 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 or Associate Member State. Individual 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, 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 SSUTA, Section 704, Subsections B and C.

(b) Member State means a state or other governmental authority that has petitioned for membership in the SSUTA and has been found to be in compliance with the requirements of the SSUTA pursuant to Section 805.

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

(1) 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 or Associate Member State at the time of registration, regardless of any previous registration the Seller may have made in the Member State or Associate Member State; or

(2) For Sellers who registered with the 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 or Associate Member State;
b. less than $50,000 of Property, as defined below, in the Member State or Associate Member State;
c. less than $50,000 of Payroll, as defined below, in the Member State or Associate Member State; and
d. less than twenty-five percent (25%) of its total Property or total Payroll, as defined below, in the Member State or Associate Member State.

Notwithstanding subsection (c)(2) above, any Seller that registered in a Member State or Associate Member State after November 12, 2002 and prior to October 1, 2005, is not considered a Volunteer Seller for that 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.

(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 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 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 or Associate Member State if (1) the individual's service is performed entirely within the Member State or Associate Member State, (2) the individual's service is performed both within and outside the Member State or Associate Member State, but the service performed outside the Member State or Associate Member State is incidental to the individual's service within the Member State or Associate Member State, or (3) some of the service is performed in the 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 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 or Associate Member State.

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

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

(b) as a result of activities the Seller conducts in a Member State or Associate Member State after the date of the Seller's registration in the 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 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 or Associate Member State.

Rule 602.2. Monetary Allowance for Model 2 Sellers Procedural Rule.

1. Effect of a State Becoming a New Member State or Associate Member State. If any state or other governmental authority that is not a Member State or Associate Member State on the Effective Date of this Rule becomes a 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 or new Associate Member State, under the same conditions as apply to existing Member States and Associate Member States, from the effective date of the state or other governmental authority becoming a new Member State or Associate Member State.

[A Model 2 Seller shall be entitled to retain the allowance from a new Member State or 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 or Associate Member State for a period not to exceed twenty-four months after the Effective Date.]

[A Model 2 Seller shall be entitled to retain the allowance from a new Member State or Associate Member State for a period not to exceed twenty-four months after the effective date of the state or other governmental authority becoming a new Member State or Associate Member State.]

2. Effect of Withdrawal or Expulsion of a Member State or Associate Member State from the SSUTA. If a 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 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 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 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.

ARTICLE VII
Agreement Organization

[Reserved.]

ARTICLE VIII
State Entry and Withdrawal

Rule 801. Entry Into Agreement. [Reserved.]
Rule 802. Certificate of Compliance. [Reserved.]
Rule 803. Annual Recertification of Member States. [Reserved.]
Rule 804. Requirements for Membership Approval. [Reserved.]
Rule 805. Compliance. [Reserved.]

Rule 806. Agreement Administration.

Rule 806.1 Administration of Governing Board

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 Washington, DC. 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.

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. Monthly reports shall be made to the Finance Committee 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 Committee 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

- Signature authority for checks must be vested in someone other than the employee responsible for maintaining the financial records of the organization on a daily basis.
- Bank statements are reconciled by someone other than the person authorized to sign checks.
- Deposit documentation and reconciliations are prepared by a person other than the one making the deposit or signing checks.

6. The Executive Director may authorize expenses for budgeted items up to 10 percent above the budgeted levels if funds necessary to cover the expense exist elsewhere within the authorized budget. 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 mid-year (December) and as otherwise necessary by the Finance Committee as well as the Executive Committee and may be adjusted by the 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 30 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 30 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:

- Balance sheet; and
- 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 daily 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. The payroll service

generates the payroll register, payroll checks and tax deposit checks, and sends them to the organization. The payroll register is reviewed for proper processing of amounts.

3. The payroll and tax deposit checks are sent directly to the Executive Director, who is responsible for comparing the checks to the payroll register. Semi-annually, copies of the checks, check statements and appropriate payroll records are then presented to the Finance Committee for inspection.

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 $2,000 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. 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. The Executive Director approves check requests after comparing to supporting documentation. All disbursements paid by 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.

4. Two signatures by persons authorized in Paragraph 13 of this section are required on all organizational checks over $2,000. The Executive Director shall not sign his or her own personal expense checks.

5. All disbursements, except petty cash, are made by check or electronically and are accompanied by substantiating documentation.

6. All checks are pre-numbered and accounted for monthly.

7. All voided checks must be defaced and retained either on the check stub or with the canceled checks (or their images) returned with the bank statement.

8. No checks may be written to "cash" or "bearer".

9. Blank checks are stored in a locked drawer.

10. All invoices and check requests will be marked "PAID" once they have been paid.

11. An "imprest" petty cash account is used. The initial amount of the petty cash account is $100. The account may be replenished from time to time at the direction of the Executive

Director, but at no time should the account exceed $200 unless approved by the Secretary/Treasurer.

12. Vouchers are required for all petty cash disbursements. The petty cash fund is reconciled (beginning amount less voucher amounts) before the fund is replenished. Checks are written only after an approved check request has been presented.

13. 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.

14. 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, and copies will be forwarded to either the President or the Secretary/Treasurer for inspection. 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.

K. Cash Receipt Procedures

1. All checks and other payments received are restrictively endorsed immediately and recorded in the cash receipts register, listing the date received, payor, check number, and amount received.

2. Two copies of each cash receipt will be made. 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. A deposit summary sheet is then prepared, attaching one copy of each cash receipt, the deposit slip copy, and the bank deposit confirmation slip. The second copy of the cash receipt is filed by type of revenue/support.

4. The cash receipts journal shall be prepared on a timely basis, using the cash receipts summary sheet.

L. Cash Disbursement Procedures

1. All invoices received are stamped with the date received.

2. Approval from the Executive Director of all invoices and expenditures is required before payment can be made.

3. The checks, with support documentation (approved invoices, check requests), are forwarded to the Executive Director. The Executive Director reviews all checks and supporting documentation prior to signing checks. Any check for amounts over $2,000 needs a second signature.

4. After the checks are signed, the check request and all supporting documentation shall be stamped “PAID”, noting check number and date. Two copies of each check and check request will then be made. One copy of the check, with supporting documentation attached, will be filed in numerical order. The second copy of the check and check request is filed by vendor, in alphabetical order.

5. The cash disbursements journal will be prepared and maintained on a timely basis, using the check file.

6. The cash disbursements journal will be posted to the general ledger on a timely basis, using the cash disbursements journal.

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 Executive Director may appoint the payroll employee to prepare the payroll, using the approved time records and salary/wage rates for each employee, using pre-numbered checks. All payroll checks are recorded in the payroll register by the payroll employee.

6. The payroll checks and payroll register are submitted to the Executive Director. The Executive Director reviews the payroll register and compares the payroll checks to the register, prior to signing the checks. Once the payroll checks are signed, the payroll employee distributes the payroll to all employees.

7. All payroll tax liabilities are calculated are prepared at the time payroll is prepared. In the case of electronic tax payments to the IRS or to states for payment of withholding or unemployment taxes, the check signer will instead approve the request for authorization to pay payroll taxes. The payroll taxes are paid when due.

8. Payroll checks will be prepared and paid to employees twice monthly: 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.

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, listing all checks disbursed and all receipts deposited on a daily basis. This "Bank Book" shall show the current bank balance for all bank accounts.

2. On a monthly basis, the bank statements will be reconciled to the Bank Book, and the Executive Director shall be notified of any discrepancies.

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 Bank Book will be adjusted as needed. The Bank Book will be reconciled to the general ledger cash accounts on a monthly basis.

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, two copies of them shall be made. One copy is recorded in the accounts receivable ledger on a timely basis, and the other copy is placed in the open invoice file/receivables records.

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 a monthly basis.

5. A status report on all outstanding receivables shall be prepared, on a monthly basis, and submitted to the Executive Director.

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. All approved invoices are recorded in the accounts payable ledger immediately upon receipt, and placed in the unpaid open invoice file.

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 accounts payable ledger.

4. The accounts payable ledger is reconciled with the general ledger on a monthly basis.

R. Petty Cash Fund

1. The Petty Cash Fund is maintained on an imprest basis.

2. The Executive Director will appoint a custodian of the petty cash fund.

3. Any employee receiving petty cash must sign a petty cash voucher. The petty cash voucher must list the amount received, the purpose for which the cash is needed, and the date of the purchase. In addition, receipts for goods/services purchased must be attached to the petty cash voucher.

4. The petty cash fund shall be reimbursed as needed by requesting a check payable to the custodian of the petty cash fund. All petty cash vouchers used must be attached to the check request as supporting documentation.

5. Periodically, the Executive Director, and/or the Secretary/Treasurer will make surprise counts of the petty cash funds.

6. The petty cash fund will be kept in a fire-resistant box, located in a locked file cabinet.

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

806.1.3 Personnel Policies [reserved]
806.1.4 Communications Policies [reserved]

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.

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 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.	MAINTAIN original record PERMANENTLY. May be removed from immediate access five (5) years after the end of the calendar year of 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 _____.

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.

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.

Scott Peterson
Executive Director
Streamlined Sales Tax Governing Board, Inc.
4205 Hillsboro Pike, Suite 305
Nashville, TN 37215

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 **[URL]**, under the section identified for public notice. Until the Website is established, public notice may be accomplished by publishing the notice on the Streamlined Sales Tax website at www.streamlinedsalestax.org. 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.

Rule 806.3 Administration of Compliance Audit Process

Rule 806.3.1 Authority

A. 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.

B. The Streamlined Sales Tax Governing Board or its designee has the authority to perform CSP contract compliance audits and 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 sellers as authorized by the Governing Board.

Rule 806.3.2 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 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 systems, and Model 1, 2 and 3 sellers. The Audit Committee will develop procedures to be used in performing compliance audits for member states.

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 Process
The Compliance Audit Process includes the contract compliance audit process and the tax compliance audit process.

F. Contract Compliance Audit Process
The Contract Compliance Audit Process determines if the CSP performed according to the provisions of the contract with the member states.

G. Tax Compliance Audit Process
The Tax Compliance Audit Process determines if transactions were properly taxed, tax reported and remitted to the correct jurisdiction when due.

H. Member States
Member states are states that are full or associate member states of the Streamlined Sales Tax Governing Board.

I. Simplified Electronic Return (SER)

J. Audit Site

K. Testing Central
As defined in Article V.

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)

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:

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) Verify that compensation was calculated properly for all volunteer sellers.
c) Verify that 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 that the appropriate entity use exemption data elements are captured by the CSP system.
e) Verify that all tax collected was remitted timely to the appropriate tax authority.
f) Verify that 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 a download of all sales processed by the CSP for each seller, which will be available through access to a FTP site maintained by the SSTGB, Inc. to receive electronic records.
i) Create a uniform audit plan with a timeline to establish the projected dates that various audit steps should be completed;

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.

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 sellers' 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 sellers will be performed by member states under the coordination of the Audit Core Team.

Rule 806.3.5.1 Communication with Model 1 sellers during Audit

A. There should be no direct communication with Model 1 sellers by member states, except in response to questions from Model 1 sellers, in case of suspected fraud or to obtain information that the CSP cannot provide.

Rule 806.3.5.2 Timeline for Compliance Audit Process

The timeline for conducting the compliance audit will vary from year to year. 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 audit 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 days to amend their findings if necessary before 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.

Rule 806.3.5.3 Report on Audit Findings

A. The Audit Core Team will provide each member state with its findings of the contract compliance audit.

B. Member states will 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 will be combined with the assessments, if any, for underreporting by the CSP's Model 1 sellers.)

C. The report on the audit findings that goes 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.

Rule 806.3.5.4 Contract Compliance Audit of CSP

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. (This is required by Article V - Appendix F after 7/1/2008)

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 downloads of 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 must include
    a. Order and billing dates for each seller's customer.
    b. Sales records with a unique transaction number assigned to each sale.
    c. Billing address and shipping location for each transaction for each seller's customer according to the appropriate sourcing rules.
    d. Sales price, taxable amount and tax by jurisdiction for each transaction.

e. For any discounts applied, the taxable base should be easily discernable.
f. 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 Simplified Exemption Administration Paper.
2. Exemption Information Report as stipulated in Section 501.6.B.2.b of Article V.
3. Detailed information providing a distinction between exempt transactions by product or entity/use based exemptions.
4. Exempted sales transactions must include the customer's name in addition to all other information required for each sales transaction.
5. 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.

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 process.

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. The state auditors will have access to a FTP site maintained by the SSTGB, Inc. to receive electronic records. Each member state has the option to comprehensively review the electronic records or choose sampling methodology to perform the review of the transactions processed.

D. Member state auditors would be 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.) Noncompliance 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 CORE Team);
5.) Seller overrides of the CSP system;
6.) Exemption information and/or certificates 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 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 and statute of limitations would apply to the audit adjustments.

Rule 806.3.6 Compliance Audit of a Model 2 Seller (Reserved)

Rule 806.3.7 Compliance Audit of Model 3 Seller (Reserved)

Rule 807. Meetings

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 shall be by roll call;

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.

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 recontinuance 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.

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 those present and voting at the meeting. A motion to add the item to the agenda must be considered 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.

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 those 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.

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.

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.

Rule 807.6 Conditions for taking action on items not appearing on posted agenda. 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 those present and voting of the Governing Board or a Governing Board committee that there exists a need to take immediate action and that the need for action came to the attention of the Governing Board or the Governing Board committee subsequent to the agenda being posted or that an emergency situation exists.

Rule 808. Withdrawal of Membership or Expulsion of a Member.

Rule 808.1. Withdrawal of Membership. [Reserved.]

Rule 808.2. Expulsion of a Member. [Reserved.]

Rule 809. Sanction of Member States. [Reserved.]

Section 810. State and Local Advisory Council.

Rule 810.1. 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.

Rule 810.2. Council 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 member 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.

B. Local Government Membership:

1. The Governing Board shall appoint three representatives 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.

Rule 810.3. Council Meetings

A. Composition; Quorum; Authority and Voting Procedures

1. Quorum. A majority of the voting membership constitutes a quorum for a meeting of the Council. 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.

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 member 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 member state and by each local government organization member.

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.

Rule 810.4. Council Resources

The Council will operate using staff and resources as provided by the Governing Board.

Section 811. Business Advisory Council. [Reserved.]

ARTICLE IX
Amendments and Interpretations

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 60 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 Governor and the presiding officer of each house of each Member State;

(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;

(e) the Chair of the Compliance Review and Interpretations Committee; and

(f) 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.

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 at least 30 days prior to the date of the meeting at which the proposed amendment will be considered.

2. **Response by Requesting State.** The requesting state has the option of responding to any written comments by submitting the response to the Executive Director in electronic form, at least 10 days prior to the hearing date, with a copy, either in electronic form or in paper form, to the party originating the comments.

3. **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.

4. **Request to Testify.** Any party submitting written comments may include in its comments a request to testify before the Governing Board. The Executive Director shall grant those requests to the extent practicable but may limit the time for any single presentation. The Executive Director may limit total public testimony to a reasonable time, not to be less than one hour.

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. The Executive Director may limit the time for each Council to testify to a reasonable time, not to be less than 15 minutes each.

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 Member States present

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 entire Governing Board.

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 shall request written comment within 10 days. The Compliance Review and Interpretations Committee may meet any time after that 10-day period has expired.

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. Intent. Section 902 of the Agreement provides that interpretations of the Agreement, including interpretive rules, can only be accomplished by action of the Governing Board. Article VIII A, Section 1 of the Bylaws of the Streamlined Sales Tax Governing Board, Inc. provides for

establishment of the State and Local Advisory Council ("SLAC") to advise the Governing Board on matters pertaining to the administration of the Agreement, including interpretations. Section 1 continues by stating that the Governing Board may work through its committees to solicit and consider SLAC positions on matters. SLAC is uniquely qualified and positioned to develop draft interpretive rules.

Article VII of the Bylaws of the Streamlined Sales Tax Governing Board, Inc. provides for establishment of Standing Committees of the Governing Board. Section 2 of Article VII establishes the Compliance Review and Interpretations Committee ("CRIC"). Among the responsibilities given to CRIC is "… making recommendations to the Governing Board on matters involving interpretations …". CRIC is uniquely qualified and positioned to provide commentary and recommendations to the Governing Board on interpretive rules developed and proposed by SLAC.

Article VIII B, Section 1 of the Bylaws of the Streamlined Sales Tax Governing Board, Inc. provides for establishment of a Business Advisory Council ("BAC") to advise the Governing Board on matters pertaining to the administration of the Agreement, including interpretations. Section 1 continues by stating that the Governing Board and its committees shall solicit and consider BAC positions. Section 6 provides that BAC shall seek the advice of and respond to SLAC prior to formulating a recommendation to the Governing Board or its committees.

C. 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.

D. 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 and CRIC at least 35 days prior to the Governing Board meeting in which it will be considered.

E. Compliance Review and Interpretations Committee.

1. CRIC will place the proposed interpretive rule on its next regularly scheduled public meeting agenda for discussion by CRIC members and for public comment by other interested parties. It is the intent of this rule that the time period for CRIC review be held to a minimum in light of the extensive review, discussion and comment previously provided through the SLAC process.

2. CRIC may prepare advisory written commentary and recommendations for submission to the Governing Board for its consideration.

F. Business Advisory Council.

1. BAC may participate in the review and comment process undertaken by SLAC concerning development and finalization of a draft interpretive rule to be forwarded to the Governing Board and CRIC.

2. BAC may provide comments on a draft interpretive rule to CRIC for consideration during its review.

3. BAC may provide written comments directly to the Governing Board on draft interpretive rules and comments forwarded to the Governing Board by CRIC.

G. 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.

Rule 903. Definition Requests.

Rule 903.1. Additional Definitions.

A. 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.

B. Compliance Review and Interpretations Committee.

1. **Initial Evaluation.** The Executive Director shall circulate the proposed definition to the Compliance and Interpretations Committee for an initial evaluation. The Compliance Review and Interpretations Committee shall review the proposed definition to determine if further action is warranted.

2. **Determination as Unnecessary.** If the Compliance Review and Interpretations Committee determines that the definition 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 adopt the proposed definition. 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 Definition.** If the Compliance Review and Interpretations Committee determines that additional consideration of the proposed definition is warranted, the Committee shall inform the Executive Director who shall publish the request for definition on the Website and solicit comment. 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.

C. Public Notice. If the Compliance Review and Interpretations Committee has notified the Executive Director that additional consideration of the proposed definition is warranted, the Executive Director shall provide a copy of the request for definition 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 806.1.

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 decision may be in the form of (1) a recommendation of a proposed definition or (2) a determination not to propose a new definition. The recommendation shall be in writing and shall provide the Committee's rationale for the decision. A copy of the decision shall be sent to the requesting party, the Executive Committee and the Governing Board.

E. Agenda. Actions on definitions 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 decision is not to propose a new definition and 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 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. Proposal of Amendment. If the Compliance Review and Interpretations Committee proposes a new definition, it shall propose an Amendment to the Agreement and the provisions of Section 901 shall be followed.

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.

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.

Rule 905. 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.

B. **Compliance Review And Interpretations Committee.**

1. Responsibility. Pursuant to Article 7, Section 2 of the by-laws, the Compliance Review and Interpretations Committee is responsible for reviewing compliance review reports to determine any needs for re-assessment and recommending findings of compliance and non-compliance to the Governing Board.

2. Recertification Documents.

a. By August 1 of each year, each member state shall submit to the Executive Director a statement certifying that the state is in compliance with the Agreement or submit a statement of noncompliance. The Executive Director shall forward all statements and any accompanying documents to the Chair of

the Compliance Review and Interpretations Committee. A member state shall indicate any known items of noncompliance that may occur at a date following its certification submission or action needed to be taken to comply with requirements of the Agreement with future effective dates.

b. With the statement in subsection (a), each member state shall submit a certificate of compliance that sets out the state's statutes, rules, regulations, or other authorities that have been adopted to come into compliance with the specific provisions of the Agreement.

c. Each member state shall post its statement of recertification or its statement of noncompliance and an updated certificate of compliance on the state's web site by August 1 of each year. The updated certificate of compliance shall reflect the state's compliance with the provisions of the Agreement through August 1 of the year of submission. The Executive Director shall post all recertification filings on the Governing Board's web site.

3. Evaluation

a. The Compliance Review and Interpretations Committee and any designees that the chair of the Committee appoints to provide assistance shall review all statements and accompanying documents.

b. The Compliance Review and Interpretations Committee shall submit to a member state any findings of noncompliance based on a review of a certificate of compliance or other documentation submitted with a member state's annual statement of recertification. Such member state shall have 30 days to respond to the findings in writing to the chair of the Compliance Review and Interpretations Committee. No sooner than 31 days after submission of the findings to the member state, the Compliance Review and Interpretations Committee shall determine if further action is warranted.

c. If the Compliance Review and Certification Committee finds that a member state is in compliance with the Agreement, the committee shall report such findings to the Governing Board. If the Compliance Review and Interpretations Committee determines that a member state is not in compliance with the Agreement, the committee shall submit such findings to the Governing Board.

C. **Public Notice.** The Executive Director shall provide a copy of a statement of noncompliance from the member state and any findings of noncompliance by the Compliance Review and Interpretations Committee 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 Committee:
3. the Chair of the Business Advisory Council:
4. the general public as provided in Rule 806.2.

D. **Agenda.** No sooner than 60 days after the solicitation of comment, the statement of noncompliance from the member state and any findings of noncompliance by the Compliance Review and Interpretations Committee, the issue as to whether the member state is in compliance with the Agreement shall be placed on the agenda of the Governing

Board for either a regular meeting or a special meeting. 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.

E. **Appeal.** If the subject state disagrees with the determination, the subject state may invoke the appeals process provided for in Section 1002 of the Agreement.

F. **Publication of the Decision.** 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.

ARTICLE X
Issue Resolution Process.

Rule 1001. Rules and Procedures for Appeals.

A. Petition for Reconsideration

1. **Request for Reconsideration.** Any party dissatisfied with a decision of the Governing Board may file an appeal with the Governing Board to request reconsideration of the decision.

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.

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 is 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 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 806.1.

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.

E. 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. 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 Issues Resolution Committee 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.

F. Governing Board Action. Within 60 days of receipt of a recommendation from the Issues Resolution Committee, the Governing Board shall meet to 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.

Rule 1002. Petition for Resolution. [See Rule 1001, above.]

Rule 1003. Final Decision of Governing Board. [Reserved.]

Rule 1004. Limited Scope of this Article. [Reserved.]

ARTICLE XI
Relationship of Agreement to Member States and Persons

[Reserved.]

ARTICLE XII
Review of Costs and Benefits Associated with the System

[Reserved.]