

A motion by Oklahoma relating to uniform tax returns.

ARTICLE II

DEFINITIONS

The following definitions apply in this Agreement:

Section 201: AGENT

A person appointed by a seller to represent the seller before the member states.

Section 202: 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.

Section 203: 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.

Section 204: ENTITY-BASED EXEMPTION

An exemption based on who purchases the product or who sells the product. An exemption that is available to all individuals shall not be considered an entity-based exemption.

Section 205: MODEL 1 SELLER

A seller, registered under the Agreement, that has selected a CSP as its agent to perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.

Section 206: MODEL 2 SELLER

A seller, registered under the Agreement, that has selected a CAS to perform part of its sales and use tax functions, but retains responsibility for remitting the tax.

Section 207: MODEL 3 SELLER

A seller, registered under the Agreement, that has sales in at least five member states, has total annual sales revenue of at least five hundred million dollars, has a proprietary system that calculates the amount of tax due each jurisdiction, and has entered into a performance agreement with the member states that establishes a tax performance standard for the seller. As used in this definition, a seller includes an affiliated group of sellers using the same proprietary system.

Section 207.1: MODEL 4 SELLER

A seller that is registered under the Agreement and is not a Model 1 Seller, a Model 2 Seller or a Model 3 seller.

Section 208: PERSON

An individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity.

Section 209: PRODUCT-BASED EXEMPTION

An exemption based on the description of the product and not based on who purchases the product or how the purchaser intends to use the product.

Section 210: PURCHASER

A person to whom a sale of personal property is made or to whom a service is furnished.

Section 211: REGISTERED UNDER THIS AGREEMENT

Registration by a seller with the member states under the central registration system provided in Article IV of this Agreement.

Section 212: SELLER

A person making sales, leases, or rentals of personal property or services.

Section 213: STATE

Any state of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

Section 214: USE-BASED EXEMPTION

An exemption based on a specified use of the product by the purchaser.

Section 303: SELLER REGISTRATION

Each member state shall participate in an online sales and use tax registration system in cooperation with the other member states. Under this system:

- A. A seller registering under the Agreement is shall be registered in each of the member states.
- B. A Model 2, Model 3 or Model 4 seller may elect to be registered in one or more states as a seller which anticipates making no sales into such state(s) if it has not had sales into such state(s) for the preceding 12 months. Such election does not relieve the seller of its agreement pursuant to Section 401(B) to collect taxes on all sales into such states or its liability for remitting to the proper states any taxes collected.
- C. The member states agree not to require the payment of any registration fees or other charges for a seller to register in a state in which the seller has no legal requirement to register.

- €. D. A written signature from the seller is not required.
- Đ. E. An agent may register a seller under uniform procedures adopted by the member states.
- £. F. A seller may cancel its registration under the system at any time under uniform procedures adopted by the governing board. Cancellation does not relieve the seller of its liability for remitting to the proper states any taxes collected.
- G. Nothing in this section shall be construed to relieve a seller of any legal obligation it may have under a state's laws to register in that state or its obligation to collect and remit taxes for at least thirty-six months in a state and meet all other requirements for amnesty set out in Section 402 of this Agreement in order to be eligible for amnesty in such state.
- H. Whenever a state joins the Agreement, sellers registered under the Agreement shall be registered in the new state as follows:
1. Model 1 sellers will be automatically registered in such state.
 2. Model 2, Model 3 and Model 4 sellers will be automatically registered in the new state but may elect to be registered as a seller which anticipates making no sales into the new state
- I. Upon registration, the governing board shall provide to the seller information regarding the requirements and options for filing a simplified electronic return and for filing remittances in any member state. Member states may provide information to sellers concerning other tax return filing options in that state.
- J. The governing board shall cause the system for registering under the Agreement to include a feature that allows sellers registered under the Agreement to update relevant registration data in the system and have such updated data provided to all member states. The governing board shall establish conditions and procedures to allow states which are not members of the Agreement to participate in the registration system.
- K. The provisions of Subsections B and H of this Section shall become effective on January 1, 2010.

Section 318: UNIFORM TAX RETURNS

Each member state shall:

- A. Require that only ~~one~~ a single tax return for each taxing period for each seller be filed for the member state ~~and~~ to include all taxing jurisdictions within the member state.
- B. Require that returns be due no sooner than the twentieth day of the month following the month in which the transaction occurred.
- C. ~~Allow any Model 1, Model 2, or Model 3 seller to submit its sales and use tax returns in a simplified format that does not include more data fields than permitted by the governing board. A member state may require additional informational returns to be submitted not more frequently than every six months under a staggered system developed by the governing board~~

Make available to all sellers, whether or not registered under the Agreement, except sellers of products qualifying for exclusion from the provisions of Section 308 of this Agreement, a simplified ~~electronic~~ return that is filed electronically as follows:

- 1. The simplified electronic return ~~that is filed electronically~~ (hereinafter SER) shall be in a form approved by the governing board and shall contain only those fields approved by the governing board. The SER shall contain two parts. Part 1 shall contain information relating to remittances and allocations and Part 2 shall contain information relating to ~~exemptions exempt sales~~.
- 2. Each member state must notify the governing board if it requires the submission of the Part 2 information. Provided, no state may require the submission of Part 2 information from a Model 4 seller which has no legal requirement to register in such state. ~~States which require the Part 2 information must submit a schedule for the submission of such information which must be approved by the governing board. Such schedule shall provide for the submission of the Part 2 information once every 12 months, shall indicate the date by which such information shall be filed and the 12 month period which shall be covered by such filing.~~
- 3. Returns shall be required as follows:

- a) CSP's must file a SER in all member states on behalf of Model 1 sellers. CSP's, on behalf of such sellers, shall file the audit reports provided for in Article V of the Rules and Procedures of this Agreement for such states, and in addition, shall be required to file Part 1 of the SER each month for each member state. A state shall allow a Model 1 seller to file both Part 1 and Part 2 of the SER. A Model 1 seller which chooses to file both Part 1 and the Part 2 of SER shall still be required to file the Audit reports provided for in Article V of the Rules and Procedures of this Agreement.
- b. Model 2 and Model 3 sellers must file a SER in all member states other than states for which they have indicated that they anticipate making no sales. Such sellers shall file Part 1 of the SER every month for all states in which they anticipate making sales. Such sellers need not file Part 2 information until January 1, 2012. After such date they ~~and~~ shall have the following options for meeting their obligation to furnish Part 2 information:
- i) File Part 2 of the SER together with Part 1 of the SER every month; or
 - ii) File Part 2 of the SER ~~according to the schedule submitted by the state and approved by the governing board pursuant to paragraph 2 of this subsection~~ at the same time Part 1 of the SER for the month of December is due. Part 2 information filed pursuant to this option **shall cover the month of December and all previous months of the same calendar year and shall only require annual and not monthly totals.**

Such sellers shall only be required to file Part 2 of the SER for any state which has notified the governing board that it will require the submission of the Part 2 information pursuant to paragraph 2 of this subsection.

c. No later than January 1, 2011, every member state shall allow Model 4 sellers may choose to file a SER in one or more member states. Such sellers shall file Part 1 of the SER every month unless a state allows less frequent filing. Model 4 sellers which have a legal requirement to register in such state and shall have the following options for meeting their obligation to furnish Part 2 information:

- i) File Part 2 of the SER together with Part 1 of the SER; or
- ii) File Part 2 of the SER according to the schedule submitted by the state and approved by the governing board pursuant to paragraph 2 of this subsection at the same time Part 1 of the SER for the month of December is due. Part 2 information filed pursuant to this option shall cover the months of December and all previous months of the same calendar year and shall only require annual and not monthly totals.

Such sellers shall only be required to file Part 2 of the SER for any state which has notified the governing board that it will require the submission of the Part 2 information pursuant to paragraph 2 of this subsection.

Model 4 sellers which elect not to file a SER shall file returns in the form and pursuant to schedules afforded to sellers not registered under the Agreement according to the requirements of each member state.

d. No later than January 1, 2013~~2~~, every member state shall allow sellers ~~Sellers~~ not registered under the Agreement that are registered in the state may choose to file a SER in one or more member states. Such sellers shall file Part 1 of the SER every month unless a state allows less frequent filing and shall have the following options for meeting their obligation to furnish Part 2 information:

- i) File Part 2 of the SER together with Part 1 of the SER; or
- ii) File Part 2 of the SER according to the schedule submitted by the state and approved by the governing board pursuant to paragraph 2 of this subsection. at the same time Part 1 of the SER for the month of December is due. Part 2 information filed pursuant to this option shall cover the month of December and all previous months of the same calendar year and shall only require annual and not monthly totals.

Such sellers shall only be required to file Part 2 of the SER for any state which has notified the governing board that it will require the submission of the Part 2 information pursuant to paragraph 2 of this subsection.

4. A state may allow Model 4 sellers and sellers not registered under the Agreement to file a SER less frequently than once per month. A state which requires the submission of Part 2 information pursuant to paragraph 2 of this subsection may provide an exemption from this requirement to a seller under terms and conditions set out by the state.

5. A state may require a seller which elects to file a SER to give at least three months notice of the seller's intent to discontinue filing a SER.

D. ~~Allow any seller that is registered under the Agreement, which does not have a legal requirement to register in the member state, and is not a Model 1, 2, or 3 seller, to submit its sales and use tax returns as follows:~~

- ~~1. Upon registration, a member state shall provide to the seller the returns required by that state.~~
- ~~2. A member state may require a seller to file a return anytime within one year of the month of initial registration, and future returns may be required on an annual basis in succeeding years~~

3. ~~In addition to the returns required in subsection (D)(2), a member state may require sellers to submit returns in the month following any month in which they have accumulated state and local tax funds for the state in the amount of one thousand dollars.~~

~~Not, after January 1, 2010, require the filing of a return from a seller registered under the Agreement which has indicated at the time of registration that it anticipates making no sales which would be sourced to the state under this Agreement. A seller shall lose such exemption upon making any taxable sales into such state and shall file a return in the month following such sale. The seller may regain such exemption following a period of 12 months or more in which it had no sales into such state by giving notice that it anticipates making no further sales into such state. A state may, but is not required to, allow a seller to regain such filing exemption upon such terms and condition as the state may impose.~~

- E. ~~Participate with other member states in developing a more uniform sales and use tax return that, when completed, would be available to all sellers.~~
- F. ~~Require, at each member state's discretion, Model 1, 2, and 3 sellers to file returns electronically. It is the intent of the member states that all member states have the capability of receiving electronically filed returns by January 1, 2004.~~

~~Adopt a standardized transmission process to allow for receipt of uniform tax returns and other formatted information as approved by the Governing Board. Such a process will provide for the filing of separate returns for multiple multiple affiliated legal entities in a single transmission for each state and will not include any requirement for manual entry or input by the seller of any of the aforementioned information. This process will allow a single person or entity, whether such person is a seller, a CSP, or a tax preparer, or any other person authorized to do so, to file returns for more than one seller in a single electronic transmission. However, sellers filing returns for multiple legal entities may only do so for affiliated legal entities.~~

- F. F. ~~After July 1, 2009 January 1, 2010, give Give notice to a seller registered under this Agreement which has no legal requirement to register in the state, of a failure to file a required return and a minimum of thirty days to file thereafter~~

prior to establishing a liability amount for ~~making an assessment of~~ taxes based solely on the seller's failure to timely file a return. Provided, a member state may ~~make~~ establish a liability amount for ~~an assessment of~~ taxes based solely on the seller's failure to timely file a return if such seller has a history of non-filing or late filing.

- G. Nothing in this section shall prohibit a state from allowing additional return options or the filing of returns less frequently

Section 319: UNIFORM RULES FOR REMITTANCES OF FUNDS

Each member state shall:

- A. Require only one remittance for each return except as provided in this subsection. If any additional remittance is required, it may only be required from sellers that collect more than thirty thousand dollars in sales and use taxes in the member state during the preceding calendar year as provided herein. The state shall allow the amount of any additional remittance to be determined through a calculation method rather than actual collections. Any additional remittances shall not require the filing of an additional return.
- B. Require, at each member state's discretion, all remittances ~~from sellers under Model 1, 2, and 3~~ accompanying in payment of taxes reported on the approved simplified return format to be remitted electronically.
- C. Allow for electronic payments by all remitters by both ACH Credit and ACH Debit.
- D. Allow CSP's and sellers to transmit funds for all accounts in a single transmission for each state in a format approved by the governing board.
- ~~E.~~ Provide an alternative method for making "same day" payments if an electronic funds transfer fails.
- ~~E.F.~~ Provide that if a due date falls on a legal banking holiday in a member state, the taxes are due to that state on the next succeeding business day.
- ~~F.G.~~ Require that any data that accompanies a remittance be formatted using uniform tax type and payment type codes approved by the governing board.

H. G. Adopt a standardized transmission process approved by the governing board for the filing of separate remittances for multiple legal entities in a single transmission for each state that allows for the remittance in a single electronic transmission of a single (bulk) payment for taxes reported on multiple SERs by affiliated entities, CSPs or preparers. Each state shall comply with this provision no later than two years after the governing board approves such a standardized transmission process.

EFFECTIVE DATE

The provisions of the amendments to the Agreement contained herein shall become effective on _____.