A motion by South Dakota to amend Sections 305 and 306 of the Agreement to approve software that would satisfy the rebuttable presumption contained in Section 305 and to allow states to require the use of address-based information developed in accordance with the Agreement.

Section 305: LOCAL RATE AND BOUNDARY CHANGES

Each member state that has local jurisdictions that levy a sales or use tax shall:

A. Provide that local rate changes will be effective only on the first day of a calendar quarter after a minimum of sixty days' notice to sellers.

B. Apply local sales tax rate changes to purchases from printed catalogs wherein the purchaser computed the tax based upon local tax rates published in the catalog only on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to sellers.

C. For sales and use tax purposes only, apply local jurisdiction boundary changes only on the first day of a calendar quarter after a minimum of sixty days' notice to sellers.

D. Provide and maintain a database that describes boundary changes for all taxing jurisdictions. This database shall include a description of the change and the effective date of the change for sales and use tax purposes.

E. Provide and maintain a database of all sales and use tax rates for all of the jurisdictions levying taxes within the state. For the identification of states, counties, cities, and parishes, codes corresponding to the rates must be provided according to Federal Information Processing Standards (FIPS) as developed by the National Institute of Standards and Technology. For the identification of all other jurisdictions, codes corresponding to the rates must be in the format determined by the Governing Board.

F. Provide and maintain a database that assigns the proper tax rates and jurisdictions to each five digit and nine digit zip code within a member state. The state must apply the lowest combined tax rate imposed in the zip code area if the area includes more than one tax rate in any level of taxing jurisdictions. If a nine digit zip code designation is not available for a street address or if a seller or CSP is unable to determine the nine digit zip code designation applicable to a transaction after exercising due diligence to determine the designation, the seller or CSP may apply the rate for the five digit zip code area. For the purposes of this section, there is a rebuttable presumption that a seller or CSP has exercised due diligence in determining the nine digit zip code designation if the seller or CSP has attempted to make this determineation by the tax rate and jurisdiction by

A motion by South Dakota to amend Sections 305 and 306 of the Agreement to approve software that would satisfy the rebuttable presumption contained in Section 305 and to allow states to require the use of address-based information developed in accordance with the Agreement.

utilizing ~~software approved by the Governing Board~~ <u>the look-up application available from the United States Postal Service or Coding Accuracy Support System (CASS^{TM}) certified software</u> that makes this ~~assignment~~ <u>designation</u> from the address and <u>five digit</u> zip code information applicable to the transaction.

G. Have the option of providing address-based boundary database records for assigning taxing jurisdictions and their associated rates which shall be in addition to the requirements of subsection (F) of this section. The database records must be in the same approved format as the database records pursuant to subsection (F) of this section and must meet the requirements developed pursuant to the federal Mobile Telecommunications Sourcing Act (4 U.S.C.A. Sec. 119(a)). ~~The Governing Board may allow a~~ <u>A</u> member state <u>may</u>~~to~~ require sellers that register under this Agreement <u>and CSPs</u> to use ~~an~~ <u>the</u> address-based database provided by that member state. ~~If any member state develops address-based assignment database records pursuant to the Agreement, a seller or CSP may use those database records in place of the five and nine-digit zip code database records provided for in subsection (F) of this section.~~ If a seller or CSP is unable to determine the applicable rate and jurisdiction using an address-based database record after exercising due diligence, the seller or CSP may apply the nine digit zip code designation applicable to a transaction. If a nine-digit zip code designation is not available for a street address or if a seller or CSP is unable to determine the nine digit zip code designation applicable to a transaction after exercising due diligence to determine the designation, the seller or CSP may apply the rate for the five digit zip code area. For the purposes of this section, there is a rebuttable presumption that a seller or CSP has exercised due diligence <u>in determining the address or nine digit zip code designation, as applicable,</u> if the seller or CSP has attempted to <u>make this</u> determin~~ation~~<u>e</u> ~~by~~ ~~the tax rate and jurisdiction by~~ utilizing <u>the look-up application available from the United States Postal Service or Coding Accuracy Support System (CASS^{TM}) certified software and</u> ~~software approved by the Governing Board~~ that makes this ~~assignment~~ <u>designation</u> from the address and <u>five digit</u> zip code information applicable to the transaction.

A motion by South Dakota to amend Sections 305 and 306 of the Agreement to approve software that would satisfy the rebuttable presumption contained in Section 305 and to allow states to require the use of address-based information developed in accordance with the Agreement.

H. States that have met the requirements of subsection (F) may also elect to certify vendor provided address-based databases for assigning tax rates and jurisdictions. The databases must be in the same approved format as the database records pursuant to (G) of this section and must meet the requirements developed pursuant to the federal Mobile Telecommunications Sourcing Act (4 U.S.C.A. Sec. 119 (a)). If a state certifies a vendor address-based database, a seller or CSP may use that database in place of the database provided for in subsection (F) or (G) of this section. Vendors providing address-based databases may request certification of their databases from the Governing Board. Certification by the Governing Board does not replace the requirement that the databases be certified by the states individually.

I. Make databases provided pursuant to subsections (E), (F), (G) and (H) available to a seller or CSP by the first day of the month prior to the first day of a calendar quarter. Databases must be in a format approved by the Governing Board and available on each state's website or other location determined by the Governing Board.

See Compiler's Notes for history.

Section 306: RELIEF FROM CERTAIN LIABILITY

Each member state shall relieve sellers and CSPs using databases pursuant to subsections (F), (G) and (H) of Section 305 from liability to the member state and local jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from the seller or CSP relying on erroneous data provided by a member state on tax rates, boundaries, or taxing jurisdiction assignments. ~~After providing adequate notice as determined by the Governing Board, a~~ A member state that provides an address-based database for assigning taxing jurisdictions pursuant to Section 305, subsection (G) or (H) may cease providing liability relief for errors resulting from the reliance on the database provided by the member state under the provisions of Section 305, subsection (F). If a seller demonstrates that requiring the use of the address-based database would create an undue hardship, a member state and the Governing Board may extend the relief from liability to such seller for a designated period of time.[CJ1]

See Compiler's Notes for history.

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Section 307: DATABASE REQUIREMENTS AND EXCEPTIONS

A.   The electronic databases provided for in Section 305, subsections (D), (E), (F), and (G) shall be in a downloadable format approved by the Governing Board. The databases may be directly provided by the state or provided by a vendor as designated by the state. A database provided by a vendor as designated by a state shall be applicable to and subject to all provisions of Sections 305, 306 and this section. These databases must be provided at no cost to the user of the database.

B.   The provisions of Section 305, subsections (F) and (G) do not apply when the purchased product is received by the purchaser at the business location of the seller.

C.   The databases provided by Section 305, subsections (D), (E), (F), and (G) are not a requirement of a state prior to entering into the Agreement. A seller that did not have a requirement to register in a state prior to registering pursuant to this Agreement or a CSP shall not be required to collect sales or use taxes for a state until the first day of the calendar quarter commencing more than sixty days after the state has provided the databases required by Section 305, subsections (D), (E), and (F). ~~Provided, for the initial implementation of the Agreement pursuant to Section 701, a CSP shall be required to collect sales or use taxes for each member state, subject to the provisions of Section 705, pursuant to the terms of the operating agreement entered into between the CSP and the Governing Board in order to provide adequate time for testing and loading of the databases.~~[CJ2]

See Compiler's Notes for history.