

A motion by Nebraska to repeal the current amnesty requirement contained in Section 402 of the SSUTA and replace it with a limited lookback voluntary disclosure program for remote sellers

Section 402: AMNESTY FOR REGISTRATION

A. Subject to the limitations in this section:

1. A member state shall provide amnesty for uncollected or unpaid sales or use tax to a seller who registers through the Streamlined central registration system for the state in which the amnesty is sought if the seller pays or collects and remits the applicable sales or use tax in accordance with the terms of the Agreement on sales made to purchasers in all the full member states in which the seller makes sales.

Sellers that are only making wholesale sales in a state which does not require wholesalers to register and sellers who only make sales through a marketplace facilitator in a state which does not require those sellers to register, would not be required to register in those states to qualify for the amnesty. The amnesty does not apply if the seller was registered in that state in the twelve-month period preceding the effective date of the state's participation in the Agreement.

2. The amnesty will preclude assessment for uncollected or unpaid sales or use tax together with penalty or interest for sales made during the period the seller was not registered in the state, provided registration occurs within twelve months of the effective date of the state's participation in the Agreement.
 3. Amnesty similarly shall be provided by any additional state that joins the Agreement after the seller has registered.
- B. The amnesty is not available to a seller with respect to any matter or matters for which the seller received notice of the commencement of an audit and which audit is not yet finally resolved including any related administrative and judicial processes.
- C. The amnesty is not available for sales or use taxes already paid or remitted to the state or to taxes collected by the seller.
- D. The amnesty is fully effective, absent the seller's fraud or intentional misrepresentation of a material fact, as long as the seller continues registration and continues payment or collection and remittance of applicable sales or use taxes for a period of at least thirty-six

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months. Each member state shall toll its statute of limitations applicable to asserting a tax liability during this thirty-six month period.

E. The amnesty is applicable only to sales or use taxes due from a seller in its capacity as a seller and not to sales or use taxes due from a seller in its capacity as a buyer.

F. A member state may allow amnesty on terms and conditions more favorable to a seller than the terms required by this section.

G. 1. The amnesty program provided in Sections 402. A. through F. above, ends on December 31, 2025 or when the Streamlined Sales Tax Voluntary Disclosure Program for Remote Sellers provided in Section 402.1 begins, whichever occurs first.

~~F.~~ 2. The provisions of the amnesty program provided in Sections 402.A. through F. do not change for any sellers that participated in and qualified for the amnesty program prior to the date the Streamlined Sales Tax Voluntary Disclosure Program for Remote Sellers provided in Section 402.1 begins.

Section 402.1: STREAMLINED SALES TAX VOLUNTARY DISCLOSURE PROGRAM FOR REMOTE SELLERS

A. Each state joining the Streamlined Sales Tax Governing Board on or after [the effective date of this amendment] shall participate in the Streamlined Sales Tax Voluntary Disclosure Program for “qualified remote sellers.” A state that is a member state, contingent member state or associate member state of the Streamlined Sales Tax Governing Board as of [the effective date of this amendment] must notify the Executive Director in writing prior to the effective date of the program, if it chooses not to participate in the Streamlined Sales Tax Voluntary Disclosure Program for “qualified remote sellers.” This program only applies to sales and use taxes that are identified on the state’s petition for membership in the Streamlined Sales Tax Governing Board.

1. A “qualified remote seller” is a seller who:

a. Certifies to the Streamlined Sales Tax Governing Board (Governing Board) and applicable member states that it would not be required to register to collect and

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remit sales or use tax in the state if it did not meet or exceed the state’s economic nexus threshold, except for inventory held in a third party’s warehouse which the seller does not control;

- b. If not already registered in the state, agrees to register in each full member, contingent member, associate member and nonmember participating state that is participating in the Streamlined Sales Tax Voluntary Disclosure Program in which it meets or exceeds the state’s economic nexus threshold. The seller must register through the Streamlined Sales Tax Registration System no later than the date on which the seller submits the required information for the lookback period;
 - c. Agrees to prepare and file the returns or comparable spreadsheets for the lookback period, as required by each state;
 - d. Agrees to pay the balance due for the lookback period within 30 days or as otherwise required by each state;
 - e. Agrees to remain registered and collecting and remitting the taxes due for all periods after the lookback period until the qualified remote seller’s activities in the state no longer meet or exceed the state’s economic nexus thresholds and the qualified remote seller inactivates their registration;
 - f. Agrees to follow the procedures contained in the Streamlined Sales Tax Governing Board’s Rules and Procedures related to the Streamlined Sales Tax Voluntary Disclosure Program, including completing any and all forms required to be completed by the Governing Board or the member state(s) to participate in this program; and
 - g. Has not participated in this program previously.
2. A “qualified remote seller” for a state does not include a seller who:

 - a. Is already registered with that state for any tax purposes;
 - b. Received notice of audit prior to registering through the SSTRS;
 - c. Is under criminal investigation for sales tax purposes at the time of registering through the SSTRS;

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- d. On or after June 21, 2018, was registered with the state for sales or use tax purposes or contacted by the state about registering to collect and remit sales or use tax; or
- e. Who has collected and failed to remit sales tax for that state.

B. Under the Streamlined Sales Tax Voluntary Disclosure program, each participating member state shall, absent any fraud or intentional misrepresentation on the part of the “qualified remote seller”:

1. Limit the lookback period on each “qualified remote seller” who notifies the Streamlined Sales Tax Governing Board (Governing Board), to no more than the prior 24 months, unless a state is required under its laws to have a longer lookback period, from when the “qualified remote seller” notifies the Governing Board that it wants to participate in the program by submitting all forms required to be completed by the Governing Board or the member state(s).

- a. Sellers must notify the Governing Board no later than the later of:
 - i. one calendar year after the Governing Board has started the program;
 - or
 - ii. within 3 years after the remote seller has met the state’s economic nexus threshold if the program is extended under C.3.

b. The limited lookback period does not apply to any sales or use taxes that were previously paid or reported to the state or collected by the state.

c. The limited lookback period does not include any periods in which the seller did not meet or exceed the state’s economic nexus threshold.

2. Eliminate all penalties and late filing fees during the lookback period to the extent allowed by the member state’s laws;

A member state may allow terms and conditions more favorable to a seller than the terms required by this section.

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- C. 1. The Streamlined Sales Tax Governing Board shall promulgate rules that govern the process a “qualified remote seller” must follow to participate in the program and any required forms.
2. The program starts once the Streamlined Sales Tax Governing Board has approved the applicable rules.
3. The program sunsets one year after the program is started, unless the Streamlined Sales Tax Governing Board votes to extend the program beyond the sunset date. If the program is sunset, the provisions contained in Section 402 of the Agreement related to the amnesty shall remain repealed.