

2019 Annual Report of Amendments to the Streamlined Sales and Use Tax Agreement (SSUTA) and Streamlined Sales Tax Governing Board (SSTGB) Rules and Interpretive Opinions

Pursuant to SSTGB Rule 803.2, this document contains the amendments, and rules related thereto, and interpretive opinions adopted by the Streamlined Sales Tax Governing Board (SSTGB) from **July 1, 2018 through December 31, 2019**. While some amendments may include a specific future effective date, most are adopted without a specific effective date. Absent a specific effective date, the date by which a state must conform to an amendment is the date upon which a state may be sanctioned. Pursuant to Section of 805 of the SSUTA as amended through December 20, 2019, if a state is required to make a statutory change to comply with any amendment to the SSUTA, or interpretation or interpretive rule adopted by the SSTGB, the state may not be sanctioned for failure to comply with the amendments and rules “...until the later of the first day of January at least two years after the adoption of the amendment...or the first day of a calendar quarter following the end of one full session of the state’s legislature.”

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None

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Section I. Amendments to the SSUTA

A. (AM18008A02) This amendment was adopted by the SSTGB on December 14, 2018 and revises various sections of the SSUTA related to the requirements of sellers who register through the Streamlined Central Registration System. Some states were required to make a statutory change relating to this amendment and therefore a second vote was required. However, that section vote was waived unanimously by those states present and voting as provided by the SSTGB Rules.

Summary of amendment – This amendment allows sellers to select which states they want to register in when utilizing the central registration system provided under the SSUTA. Prior to this amendment, under Section 303 of the SSUTA, sellers were required to register in every member state whenever they registered through the central registration system. Since sellers are allowed to pick and choose the states they want to register in, various other sections of the SSUTA also needed to be amended to ensure they did not conflict with the revisions to the registration requirements. This included changes to the filing requirements contained in Section 318 and the seller participation requirements contained in Section 401. The changes to the affected sections of the SSUTA are shown using underlining and ~~strikeouts~~. In addition, other subsections, paragraphs, subparagraphs, etc. within this section that were not changed by this amendment have been omitted from this document.

Section 102: FUNDAMENTAL PURPOSE

It is the purpose of this Agreement to simplify and modernize sales and use tax administration in the member states in order to substantially reduce the burden of tax compliance. The Agreement focuses on improving sales and use tax administration systems for all sellers and for all types of commerce through all of the following:

- A. State level administration of sales and use tax collections.
- B. Uniformity in the state and local tax bases.
- C. Uniformity of major tax base definitions.
- D. Central, electronic registration system ~~for all member states~~.
- E. Simplification of state and local tax rates.
- F. Uniform sourcing rules for all taxable transactions.
- G. Simplified administration of exemptions.
- H. Simplified tax returns.
- I. Simplification of tax remittances.

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J. Protection of consumer privacy.

Section 203: CERTIFIED SERVICE PROVIDER (CSP)

An agent certified under the Agreement to perform ~~all~~ the seller's sales and use tax functions as outlined in the contract between the Streamlined Sales Tax Governing Board and the Certified Service Provider, other than the seller's obligation to remit tax on its own purchases.

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 as outlined in the contract between the Streamlined Sales Tax Governing Board and the Certified Service Provider, other than the seller's obligation to remit tax on its own purchases.

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 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 may register in one or more~~shall be registered in each~~ of the ~~member~~ states utilizing the central registration system provided in Article IV of this Agreement.

B. A certified service provider may require a seller registering under the Agreement, as a condition of receiving CSP services, to register in all of the full member states.

~~A.~~ ~~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~~

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~~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.~~

~~B.C.~~ The member states agree not to require the payment of any registration fees or other charges for a seller ~~to~~ registering through the central registration system in a state in which the seller has no legal requirement to register.

~~C.D.~~ A written signature from the seller is not required.

~~D.E.~~ An agent may register a seller under uniform procedures adopted by the member states.

~~E.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.

~~F.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

~~G.~~ Whenever a state joins the Agreement, sellers already registered under the Agreement shall be notified by the Governing Board and may elect to be registered in that state~~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.~~

~~H.~~ ~~I.~~

~~Upon registration, t~~The Governing Board shall provide~~make to the~~

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~~seller~~ information available regarding the requirements and options for filing a simplified electronic return and for filing remittances in any member state. A
~~m~~Member states may provide information to sellers concerning other tax return filing options in that state.

~~I.~~ 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-affected states utilizing the system. The Governing Board shall establish conditions and procedures to allow states which are not members of the Agreement to participate in the registration system.

~~J.~~ K. ~~The provisions of Subsections (B) and (H) of this section shall become effective on January 1, 2010.~~

See Compiler's Notes for history.

Section 318: UNIFORM TAX RETURNS

Each member state shall:

- A. Require that only a single tax return for each taxing period for each seller be filed for the member state to include all the taxing jurisdictions within the member state.
- B.
 1. Require that returns be due no sooner than the twentieth day of the month following the month in which the transaction occurred.
 2. When the due date for a return falls on a Saturday or Sunday or legal holiday in the subject member state, the return shall be due on the next succeeding business day. If the return is filed in conjunction with a remittance and the remittance cannot be made

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pursuant to Section 319.E.2, the return shall be accepted as timely filed on the same day as the remittance under that subsection.

C. 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 return that is filed electronically as follows:

1. The simplified electronic return (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 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.
3. Returns shall be required as follows;
 - a. Certified service providers must file a SER in all member states in which the model 1 seller is registered under the Agreement, on behalf of model 1 sellers. Certified service providers, on behalf of such sellers, shall file the audit reports provided for in Article V of the Governing Board's rules and procedures for such states, and in addition, shall be required to file part 1 of the SER each month for each member state in which the model 1 seller is registered under the Agreement. A state shall allow a model 1 seller to file both part 1 and the part 2 of the SER. A model 1 seller which chooses to file both part 1 and the part 2 of the SER shall still be required to file the audit reports provided for in Article V of the Governing Board's rules and procedures.
 - b. Model 2 and model 3 sellers must file a SER in all member states in

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~~which they are registered under the Agreement 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 are registered under the Agreement anticipate making sales. Such sellers ~~need not file part 2 information until January 1, 2012. After such date they~~ 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 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, e~~Every member state shall allow model 4 sellers to file a SER. 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 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 at the same time part 1 of the SER for the month of December is due. Part 2 information filed pursuant to this

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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~~ eEvery member state shall allow sellers not registered under the Agreement that are registered in the state to file a SER. 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 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 which requires the submission of part 2 information pursuant to

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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. Not after January 1, 2010 require the filing of a return from a seller that is 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 the 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. 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.D. Adopt web services as the standardized transmission process that allows 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 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 certified service provider, 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. States shall comply with this provision by January 1, 2019.

~~F.E. After January 1, 2010 g~~Give notice to a seller registered under this Agreement which has no legal requirement to register in the state, or a failure to file a required return and a minimum of thirty days to file thereafter prior to establishing a liability amount for taxes based solely on the seller's failure to timely file a return. Provided, a member state may

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establish a liability amount for 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.F. Nothing in this section shall prohibit a state from allowing additional return options or the filing of returns less frequently.

See Compiler's Notes for history.

ARTICLE IV **SELLER REGISTRATION**

Section 401: SELLER PARTICIPATION

- A. The member states shall provide an online registration system that will allow sellers to register in all the member states and other states electing to utilize the registration system.
- B. By registering, the seller agrees to collect and remit sales and use taxes for all taxable sales into the ~~member~~-states in which the seller elected to register, ~~including member states joining after the seller's registration.~~ Withdrawal or revocation of a ~~member~~-state shall not relieve a seller of its responsibility to remit taxes previously or subsequently collected on behalf of the state.
- C. In ~~member~~-states where the seller has a requirement to register prior to registering under the Agreement, the seller may be required to provide additional information to complete the registration process or the seller may choose to register directly with those states.
- D. A member state or a state that has withdrawn or been expelled shall not use registration with the central registration system and the collection of sales and use taxes in the member states as a factor in determining whether the seller has nexus with that state for any tax at any time.

Section 403: METHOD OF REMITTANCE

~~When registering, t~~The seller may select-use one of the following methods of remittances or other method allowed by state law to remit the taxes collected:

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- A. MODEL 1, wherein a seller ~~selects contracts with~~ a CSP as an agent to — perform **all** the seller's sales or use tax functions outlined in the contract between the Streamlined Sales Tax Governing Board and the Certified Service Provider.
- B. MODEL 2, wherein a seller ~~selects contracts to use~~ a CAS ~~to use~~ which calculates the amount of tax due on a transaction.
- C. MODEL 3, wherein a seller utilizes its own proprietary automated sales tax system that has been certified as a CAS

Section 404: REGISTRATION BY AN AGENT

A seller may be registered by an agent. Such appointment shall be in writing and submitted to a ~~member~~-state if requested by the ~~ate-member~~-state.

- B. (AM19001) This amendment revises Sections 302 and 308 of the SSUTA and was adopted by the SSTGB on October 2, 2019. States are not required to make a statutory change relating to this amendment and therefore a second vote was not needed.

Summary of amendment – The amendment to section 302 of the SSUTA facilitates the separate reporting of items with alternate tax rates and bases permitted under the SSUTA. The changes to the affected sections of the SSUTA are shown using underlining and ~~strikeouts~~. In addition, other subsections, paragraphs, subparagraphs, etc. within this section that were not changed by this amendment have been omitted from this document.

Section 302: STATE AND LOCAL TAX BASES

A. The tax base for local jurisdictions shall be identical to the state tax base unless otherwise prohibited by federal law.

- B. This section does not apply to sales or use taxes levied on:
 1. Fuel used to power motor vehicles, aircraft, locomotives, or watercraft;
 2. Electricity, piped natural or artificial gas or other fuels delivered by the seller;
 3. The retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes; and
 4. Energy. Solely for purposes of this section and section 308, “energy” means natural or artificial gas, oil, gasoline, electricity, solid fuel, wood, waste, ice, steam, water, and other materials necessary and integral for heat, light, power, refrigeration, climate control, processing, or any other use in any phase of the

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manufacture of tangible personal property.

C.

1. A state that allows a different local base as provided in this section may allow the reporting of these taxes on the Simplified Electronic Return using the format approved by the Governing Board.
2. A state that has a different local base as provided in this section may provide information on the different bases or different rates as provided in Section 308 in a separate boundary file using the format approved by the Governing Board.
3. The approved formats for reporting on the SER and the optional boundary file will be published in the Streamlined Sales Tax Technology Guide.
4. States that choose to require separate reporting of these taxes on the SER must notify the Governing Board of their intention to do so and would be effective no sooner than the first day of a calendar quarter beginning at least 6 months after notifying the Governing Board.

Section 308: STATE AND LOCAL TAX RATES

A. No member state shall have multiple state sales and use tax rates on items of personal property or services, except that a member state may impose a single additional rate, which may be zero, on food and food ingredients and drugs as defined by state law pursuant to the Agreement. In addition, if federal law prohibits the imposition of local tax on a product that is subject to state tax, the state may impose an additional rate on such product, provided such rate achieves tax parity for similar products.

B. A member state that has local jurisdictions that levy a sales or use tax shall not have more than one local sales tax rate or more than one local use tax rate per local jurisdiction. If the local jurisdiction levies both a sales tax and use tax, the local rates must be identical.

C. The provisions of this section do not apply to sales or use taxes levied on energy as defined in Section 302 of the Agreement, fuel used to power motor vehicles, aircraft, locomotives, or watercraft, or to electricity, piped natural or artificial gas, or other fuels delivered by the seller, or the retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.

D.

1. A state or local jurisdiction that allows a different rate on items of personal property or services as provided in this section may allow the reporting of these taxes on the Simplified Electronic Return using the format approved by the Governing Board.

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2. A state or local jurisdiction that has different rates as provided in this section may provide information on the different rates or different bases as provided in Section 302 in a separate boundary file using the format approved by the Governing Board.
3. The approved formats for reporting on the SER and the optional boundary file will be published in the Streamlined Sales Tax Technology Guide.
4. States that choose to require separate reporting of these taxes on the SER must notify the Governing Board of their intention to do so and would be effective no sooner than the first day of a calendar quarter beginning at least 6 months after notifying the Governing Board.

C. (AM19002) This amendment revises Section 401.D of the SSUTA and was adopted by the SSTGB on December 20, 2019. States are not required to make a statutory change relating to this amendment and therefore a second vote was not required.

Summary of amendment – The purpose of this amendment along with the corresponding Rule 401.2 that was also adopted is to clarify that sellers that register through the SSTRS may be provided information about other taxes in the member states and that once the seller actually files a return with a state, the state may use the data on the return as a basis for contacting the seller to make them aware of other possible taxes that may be owed in their state. States should not just automatically presume the seller owes the other taxes, but instead work with the seller to make that determination. The changes to the affected sections of the SSUTA are shown using underlining and ~~strikeouts~~. In addition, other subsections, paragraphs, subparagraphs, etc. within this section that were not changed by this amendment have been omitted from this document.

Section 401: SELLER PARTICIPATION

A. The member states shall provide an online registration system that will allow sellers to register in all the member states and other states electing to utilize the registration system.

B. By registering, the seller agrees to collect and remit sales and use taxes for all taxable sales into the states in which the seller elected to register. Withdrawal or revocation of a state shall not relieve a seller of its responsibility to remit taxes previously or subsequently collected on behalf of the state.

C. In states where the seller has a requirement to register prior to registering under the Agreement, the seller may be required to provide additional information to complete the registration process or the seller may choose to register directly with those states.

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D. A member state or a state that has withdrawn or been expelled shall not use registration with the central registration system and the collection of sales and use taxes in the member states as ~~a~~the sole factor in determining whether the seller has nexus with that state for any tax at any time.

D. (AM19003A01) This amendment revises the library of definitions of the SSUTA and was adopted by the SSTGB on December 20, 2019. States are not required to make a statutory change relating to this amendment and therefore a second vote was not required.

Summary of amendment – This amendment to the Appendix C - Library of Definitions adopts definitions of “breast pump,” “breast pump collection and storage supplies” and “breast pump kit”. It also identifies the various options states have when adopting these definitions to allow for as much flexibility as possible. The changes to the affected sections of the SSUTA are shown using underlining and ~~strikeouts~~. In addition, other subsections, paragraphs, subparagraphs, etc. within this section that were not changed by this amendment have been omitted from this document.

“Breast pump” means an electrically or manually controlled pump device designed or marketed to be used to express milk from a human breast during lactation. “Breast pump” includes the electrically or manually controlled pump device and any battery, AC adapter, or other power supply unit packaged and sold with the pump device at the time of sale to power the pump device.

“Breast pump collection and storage supplies” means items of tangible personal property designed or marketed to be used in conjunction with a breast pump to collect milk expressed from a human breast and to store collected milk until it is ready for consumption. “Breast pump collection and storage supplies” includes, but is not limited to: breast shields and breast shield connectors; breast pump tubes and tubing adapters; breast pump valves and membranes; backflow protectors and backflow protector adaptors; bottles and bottle caps specific to the operation of the breast pump; breast milk storage bags; and other items that may be useful to initiate, support, or sustain breast-feeding using a breast pump during lactation, that may be sold separately, but are generally sold as part of a breast pump kit.

“Breast pump collection and storage supplies” does not include: (i) bottles and bottle caps not specific to the operation of the breast pump, (ii) breast pump travel bags and other similar carrying accessories, including ice packs, labels and other similar products, (iii) breast pump cleaning supplies, (iv) nursing bras, bra pads, breast shells and other similar products and (v) creams, ointments, and other similar products that relieve breastfeeding-related symptoms or conditions of the breasts or nipples; unless

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sold as part of a breast pump kit pre-packaged by the breast pump manufacturer or distributor.

“Breast pump kit” means a kit that contains a breast pump and one or more of the following items: breast pump collection and storage supplies; and other taxable items of tangible personal property that may be useful to initiate, support, or sustain breast-feeding using a breast pump during lactation, so long as the other taxable items of tangible personal property sold with the breast pump kit at the time of sale are less than 50% of the total sales price of the breast pump kit if the state treats the breast pumps as durable medical equipment. If a state does not treat the breast pump as durable medical equipment, the other taxable items of tangible personal property sold with the breast pump kit at the time of the sale must be less than 10% of the total sales price of the breast pump kit.

A member state may limit its exemption to “breast pumps,” “breast pump kits” and/or “breast pump collection and storage supplies” and may further limit the exemption:

- A. By requiring a prescription
- B. Based on Medicare or Medicaid payments or reimbursement;
- C. For home use; and/or
- D. Approved by the Food and Drug Administration.

A member state may choose to include “breast pumps” and/or “breast pump kits” in its definition of “durable medical equipment” and treat these items in the same manner it treats other durable medical equipment.

A member state may limit the exemption using any combination of the above but in no case shall an exemption certificate be required.

A member state may choose to include or exclude repair and replacement parts for “breast pumps” and/or “breast pump kits” in its definition. Repair and replacement parts includes all components or attachments used in conjunction with the “breast pump” and/or “breast pump kit” and a member state may exclude from repair and replacement parts items which are for single patient use only.

Section II. SSTGB Rule Amendments

- A. (RP19001) This amendment adopts Rule 401.2 – Registration. Contacting Sellers Regarding Other Taxes and was approved on December 20, 2019. No state is required to make a statutory change relating to this amendment and therefore this change did not require a second vote.

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Summary of amendment - This amendment adopts Rule 401.2 of the SSUTA related to seller's registration and informing sellers of other possible taxes that may be due and owing. Since this is a new rule, all of the language below is new. The purpose of the rule is to clarify that sellers that register through the SSTRS may be provided information about other taxes in the member states and that once the seller actually files a return with a state, the state may use the data on the return as a basis for contacting the seller to make them aware of other possible taxes that may be owed in their state. States should not just automatically presume the seller owes the other taxes, but instead work with the seller to make that determination. The changes to the affected sections of the SSUTA are shown using underlining and ~~strikeouts~~. In addition, other subsections, paragraphs, subparagraphs, etc. within this section that were not changed by this amendment have been omitted from this document.

Rule 401.2. REGISTRATION. CONTACTING SELLERS REGARDING OTHER TAXES

- A. The Streamlined Sales Tax Governing Board may assist in the education of sellers registered through the Streamlined Sales Tax Registration System (SSTRS) by providing information about other taxes sellers may be subject to in the member states.
- B. A member state may use the data a seller reported on the sales and use tax returns filed with that state as a basis for contacting and educating the seller about other possible taxes the seller may be subject to in that state.
- C. If a member state contacts a seller about other possible taxes it may be subject to based on the information reported on the sales and use tax returns filed with the state, the state must first work with the seller to determine if those taxes are due and owing prior to issuing a notice of amount due or similar type of notice. However, if the seller fails to timely respond to the state's inquiry, the state may make its determination (e.g., an assessment), based on the information it has available, which includes information reported on the sales and use tax returns filed with the state.

Section III. SSTGB Bylaw Amendments

None

Section IV. CRIC Interpretive Opinions

None

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