

CSP Audit Training

St. Paul, Minnesota

July 19, 2007

Tentative Agenda

- 8:30 - 8:45 Welcome
- 8:45 - 9:30 Background of SST - Scott Peterson, Executive Director
- 9:30 - 10:30 Overview of Certification Process for CSPs - Gary Centilvre and David Thompson
- 10:30 - 10:45 Break
- 10:45 - 12:00 Overview of CSP Operations - Taxware and Avalara
- 1:00 - 1:30 Overview of Compliance Audit Process
- 1:30 - 2:30 Audit Core Team's Responsibilities, Procedures & Deadlines
- 2:30 - 2:45 Break
- 2:45 - 4:00 Member State Auditor Responsibilities, Procedures & Deadlines
- 4:00 - 4:30 Questions
- 4:30 Closing

The following is the hotel information for St. Paul. The rates are as of May 30:

Embassy Suites Hotel, 175 E. 10th St., Saint Paul, 651-224-5400 or 800-362-2779
(No Government rate available) \$159 per night + tax

Crown Plaza Riverfront, 11 East Kellogg Boulevard, St. Paul, 651-292-1900 or 800-Holiday
(No Government rate available) \$199 per night + tax; ARRP \$156 per night + tax

Holiday Inn River Centre, 175 W. 7th St., St. Paul, 651-225-1515
Government rate: \$113 per night + tax

City Center Hotel- St Paul, 411 Minnesota St, St Paul, MN 55101, (651) 291-8800, (866) 781-8800
(No Government rate available) \$159 per night + tax

Country Inn & Suites by Carlson-Roseville, 2905 Snelling Ave N
St Paul, MN 55113, (651) 628-3500
Government rate: \$103.55 per night + tax

Country Inn By Carlson, 6003 Hudson Rd, Woodbury, MN 55125, (651) 739-7300; 800-456-4000
Government rate: \$60 per night + tax

Radisson Hotels & Resorts: Radisson Hotel Roseville, 2540 Cleveland Ave N, Roseville, MN 55113, (651) 636-4567

Government rate: \$133.00 per night + tax

Courtyard by Marriott, 1352 Northland Dr, Mendota Heights, MN 55120, (651) 452-2000

Government rate: \$80.00 per night + tax

Courtyard by Marriott: Roseville, 2905 Centre Pointe Dr, St Paul, MN 55113, (651) 746-8000;
800-321-2211

Government rate: \$113.00 per night + tax

Holiday Inn-ST. PAUL-I-94-EAST (3M AREA), 2201 BURNS AVE., ST. PAUL, 651-7312220; 800-Holiday

Government rate: \$95.00 per night + tax

**Certified Service Providers
Audit Training Workshop
July 19, 2007**

Scott Peterson
Executive Director
Streamline Sales Tax
Governing Board

**Certified Service Providers
Audit Training Workshop**

- Purpose of training:
 - Explain what is a CSP and CAS.
 - Introduce you to them.
 - Explain the CSP contract.
 - Explain the CSP certification process.
 - Have the CSP's explain their systems.

What is SST?

- A government/business effort to simplify sales and use tax administration.
- Two areas of emphasis:
 - Current collectors
 - Remote sellers
- Why
 - Business need to have simpler system.
 - States need to maintain a viable tax structure.
- How
 - 44 states, local governments and hundreds of businesses working together.

Why a Simplified Sales Tax System is Important to Government

- Simpler administration of tax.
- Improved compliance from existing taxpayers.
- Possible increase in available audit hours.
- Addresses the collection of remote sales.

Why a Simplified Sales Tax System is Important to Business

- Reduces cost of compliance.
- Improves compliance.
- Reduces audit burden.
- Addresses multistate issues.

New Technology To Simplify

- Central registration system.
- Database matching rate to local jurisdiction.
- Database of boundary information.
- Taxability matrix.
- Certified technology for sellers.

Certified Technology

- Two versions:
 - Certified service providers.
 - Certified automated systems.
- SST used RFP to seek software companies.
- States evaluated software that assists sellers in their sales tax administrative responsibility.

Certified Technology - Certified Service Providers

- A third party to whom a seller can out-source their sales tax administrative responsibility.
- The third party:
 - Knows what products and services are taxable.
 - Where they are taxable.
 - The rate at which they are taxed.
 - Populates the seller's accounting software.
 - Compiles the information into a complete tax return.
 - Files the tax return and remits the tax.
- The third party is liable for errors in the integration of the system.

Certified Technology - Certified Service Providers

- Under contract with the Governing Board.
- Contract expires June 2007.
- SCOPE OF SERVICES: “Except as otherwise provided in this section, the Contractor agrees to and shall perform all of the sales and use tax functions of each Seller with whom it contracts as a CSP, other than such Seller’s obligation to remit tax on its own purchases, for each Member State and Associate Member State in which the Seller is registered to collect sales and use tax.”

Certified Technology - Certified Service Providers

- Use an Automated System.
- Integrate the Automated System with the system of a Seller.
- File tax returns and informational returns as provided for in Section 318 of the SSUTA on behalf of each Seller.
- Protect the privacy of tax information it obtains.
- Maintain compliance with the provisions of the Minimum Standards for Certification document.

Certified Technology - Certified Service Providers

- State compensated when providing service to volunteers.
- Compensation rates are based upon the volume of Taxes Due from each Volunteer Seller with whom the Contractor agrees to provide services as a CSP.
- Compensation ranges from 8% of taxes due to 2% of taxes due.
- Rates of compensation shall reset annually for services performed on behalf of each Volunteer Seller.
- The Contractor shall provide electronic reports to the Executive Committee on a quarterly basis that explain how the Contractor's compensation was calculated.

Certified Technology - Certified Service Providers

- Each State shall, pursuant to the terms of SSUTA Sections 306 and 328, relieve the Contractor, and any Seller registered under the SSUTA with which the latter contracts, from liability to the states and their local jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from the Contractor or any of its SSUTA-registered contracting Sellers relying on erroneous data on tax rates, boundaries, or taxing jurisdiction assignments which have been listed in the state's rates and boundaries databases, and erroneous data provided in the taxability matrix provided by the Member State or Associate Member State pursuant to Section 328.
- In accordance with SSUTA, each State shall review and certify that the Automated System utilized by the Contractor determines accurately whether or not a category of items or transactions listed in the Automated System is exempt from tax in accordance with each state's law.

Certified Technology - Certified Service Providers

- The Contractor shall have ten (10) days from the date of notification by a State to revise the Automated System to conform with changes to: the tax rates, boundaries, or taxing jurisdiction assignments which have been listed in the state's rates and boundaries databases; the taxability matrix provided by the State pursuant to Section 328 of the SSUTA; and the classification of the taxability of a category of items or transactions pursuant to Section 502 of the SSUTA. In the event the Contractor fails to make such changes, beginning on the eleventh day after notification the Contractor shall be liable for failure to collect the correct amount of Seller Taxes owed to the State, plus any additional charges or amounts that the laws of the State impose for the nonpayment of sales and use taxes, and shall be in Breach of this Contract.

Certified Technology - Certified Service Providers

- The Governing Board, Member States and Associate Member States are not responsible for mapping, which is defined as classification of an item or transaction within a certified category. The Contractor is liable for mapping errors resulting in failure to collect the correct amount of Seller Taxes owed to the Member State or Associate Member State, plus any additional charges or amounts that the laws of the Member State or Associate Member State impose for the nonpayment of sales and use taxes. Nothing herein shall prohibit the Contractor from providing, in its contracts with Sellers, for indemnification from Sellers to reimburse the Contractor for liability resulting from mapping errors to the extent that such errors are due to the actions or inactions of a Seller.

Certified Technology - Certified Service Providers

- The Contractor shall not be liable for the failure to remit Seller Taxes when due, ... to the extent that (a) the laws of a State relieve the Contractor or the Seller from liability to the state and its local jurisdictions for having remitted the incorrect amount of sales or use tax and (b) the incorrect amount resulted from the Contractor's reasonable reliance on an issue made available for review but not discovered in the certification process. If both (a) and (b) are satisfied, the Contractor's sole obligation and liability for such unpaid taxes shall be to correct the issue within a reasonable amount of time (not to exceed ten (10) days unless an extension is granted by the Executive Committee) from receipt of the State's notice of the incorrect amounts. In the event the Contractor is unable to correct the issue causing the incorrect amounts to be charged and collected, beginning on the first day after the time allotted in the previous sentence the Contractor shall be liable for failure to collect the correct amount of Seller Taxes owed to the State, ... and shall be in Breach of this Contract.

Certified Technology - Certified Automated Systems

- A third party to whom a seller can out-source their sales tax determinations.
- The third party:
 - Knows what products and services are taxable.
 - Where they are taxable.
 - The rate at which they are taxed.
 - Populates the seller's accounting software.
- The seller remains liable for filing tax returns and payment of the tax.
- The seller is liable for errors that occur in the integration of the certified system into their own system.

Certified Technology - Certified Automated Systems

- Under contract with the Governing Board.
- Contract expires June 2007.

Certified Service Providers

QUESTIONS

Contact Information:
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Streamlined Sales Tax

Certification Committee
and
Testing Central

Overview

July 19, 2007

Streamlined Sales Tax

- CSP Evaluation Committee
- Evaluation and Certification
- Formalizing the Process
- Certification Committee
- Testing Central
- Change Control Administration
- FTP Site

CSP Evaluation Committee

- Formulate certification process
- Create documentation
- Determine minimum requirements
- Evaluate RFP responses
- Establish criteria for certification
- Conduct security assessments and site inspections of potential CSP's
- Establish test procedures
- Manage testing process
- Make recommendations to Governing Board

Certification Timeline

- RFP issued November '04
- CSP Eval Committee formed - February '05
- Review of RFP responses – March '05
- Seven companies selected for evaluation – April '05
- System testing begins with three service providers - October '05
- Tentative Awards/Contract/Cost negotiations – April/May '06
- Final Contract Award to Certified Service Providers – June 2006

Certified Service Provider

*“An agent certified under the Agreement to perform all of the seller’s sales and use tax functions, other than the seller’s obligation to remit tax on its own purchases.”
(sec.203, SSUTA)*

Certified Service Provider

- A third party that provides a sales tax administration system that is certified by the member States of the SSUTA.
 - Determines what is taxable and what is exempt
 - Sources the sale and calculates the correct tax
 - Reports and remits to the correct jurisdiction
 - Protects privacy of taxpayer information

CSP Requirements

(source: RFP11/01/04)

- Uniform Sourcing
- Exemption Processing
- Uniform Rounding
- Rate and Boundary Changes
- Tax Collection Procedures
- Liability Relief
- Tax Remittance Procedures
- Record Retention Procedures
- Audit Requirements
- Tax Privacy

Evaluation Criteria Categories

(Compiled from SSUTA, RFP and Certification Standards)

- Background and experience
- Financial soundness
- Project staffing and organization
- Technical Approach
- Certification Standards - General Controls
- Application Controls
- System Modification Accuracy
- Sufficiency of information
- Transaction Speed and Data Security
- Privacy Standards and Data Protection
- Electronic format capabilities and sampling procedures
- Cost proposal
- Execution of proposal

Acceptance Requirements

- Execute test decks successfully
- Successfully test single entry screen
- Successfully complete end-to-end testing
- Approval of tax rules
- Activity report capabilities
- Financial soundness assessment
- All other requirements of SSUTA (sec. 501B) and Certification Standards

Article V – Provider and System Certification

- Article V of the Rules and Procedures of the SST Governing Board, Inc. adopted in April '06
- Rule 501, Article V formalized the Certification process
- Rules 501.2-501.4 Certification and acceptance requirements for service providers, Recertification process
- Rules 501.5-501.6 Certification and acceptance requirements for automated systems

Appendices to Article V

'A' Timeline and Cert Process Flow	'F' FTP Site Administration
'B' Initial timeline and Cert Process Flow	'G' Certification Standards
'C' Criteria for CSP Eval (min. standards)	'H' Recertification Process
'D' RFP Criteria for Evaluation	'I' Recertification Timeline and Process Flow
'E' Testing Process for Certification of Service Providers	'J' Model 2 Automated System Certification Process Flow
	'K' Testing Process for Certification of Model 2 Automated Systems

Certification Committee

- Rule 501.7, Article V establishes SST Certification Committee

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.

Testing Central

- Rule 501.8, Article V establishes 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.

Streamlined Sales Tax Governing Board, Inc.

Testing Central

Presented by
David Thompson
IT Director, SSTGB Inc.
David.Thompson@SSTGB.org
931-387-2280

Streamlined Sales Tax Governing Board, Inc.

- Testing Central developed by the Certification Committee in 2006
- First maintained by Kansas and Tennessee
- Currently maintained by Streamlined Sales Tax Governing Board Inc.

Streamlined Sales Tax Governing Board, Inc.

Testing Central Responsibilities

- Maintain historical data regarding system changes
- Monitor necessary system changes and testing
- Notify states of completed changes and the date of production

Testing Central Responsibilities

- Monitor testing time of member states
- Provide reports upon request of outstanding and completed system changes
- Maintain system to capture complete change data

TESTING CENTRAL FORMS

- State Change Request – Form TC0001
 - Completed by States to indicate problems or a necessary change in a CSP system
- CSP/CAS Change Request – Form TC0005
 - Completed by CSP/CAS to notify state of system changes or problems

Streamlined Sales Tax Governing Board, Inc.

- State Notice of R&B Change – Form TC0006 (Optional)
 - Completed by States to allow Testing Central to notify CSP/CAS of changes in the Rates and/or Boundary files

- Allowance Indicator Form – F0004
 - Completed by CSP/CAS to allow Testing Central to indicate which states will pay CSP/CAS compensation

- Changes Log
 - Excel spreadsheet maintained to list all change requests, dates, actions and comments

Streamlined Sales Tax Governing Board, Inc.

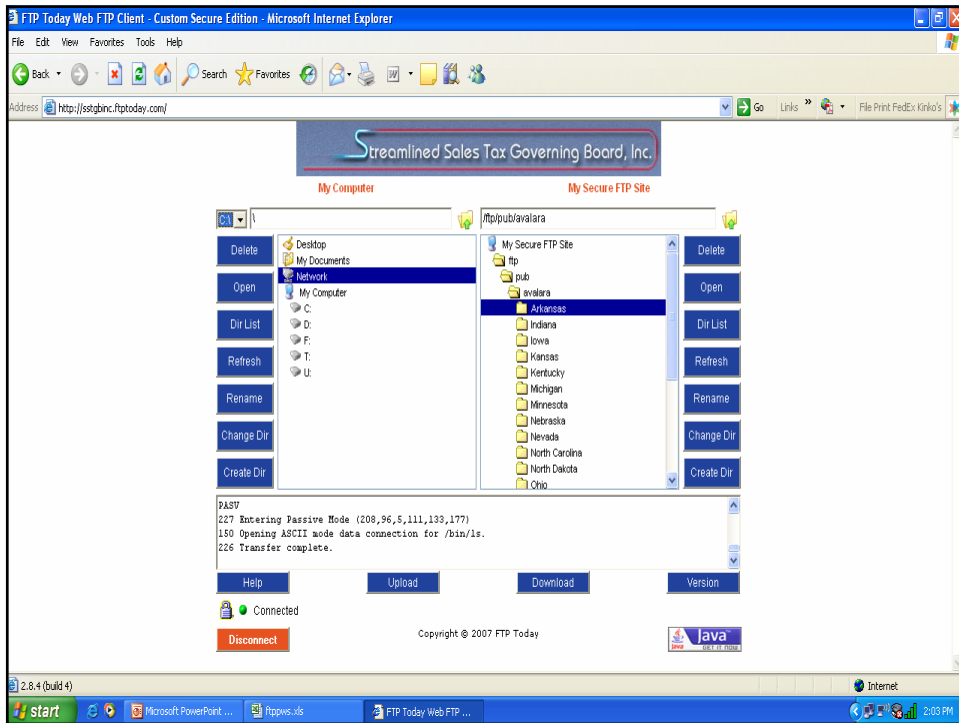
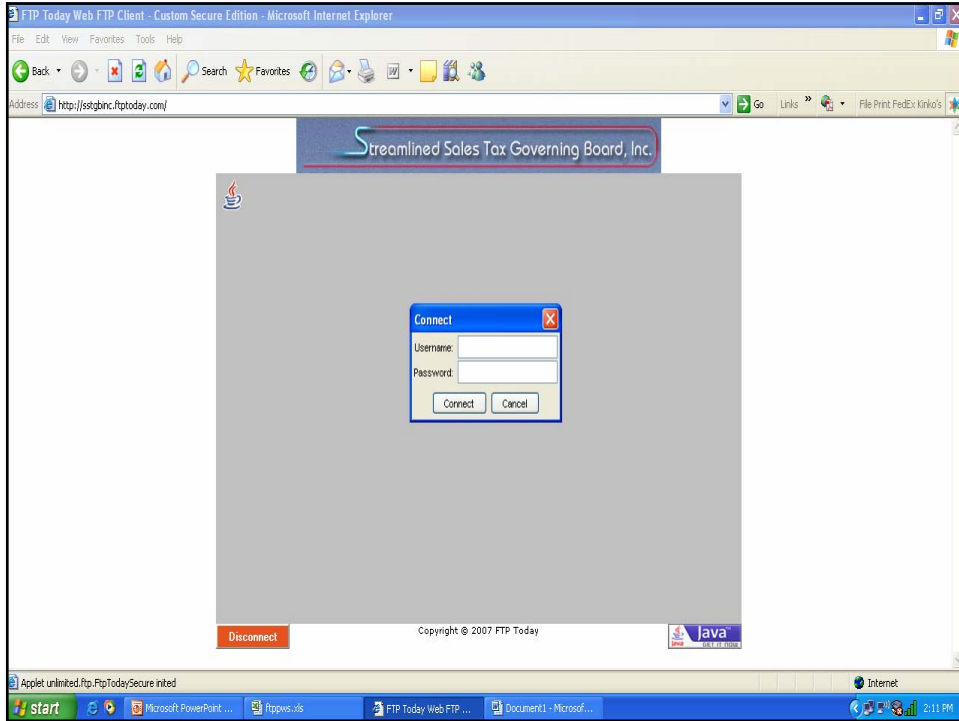
FTA Site

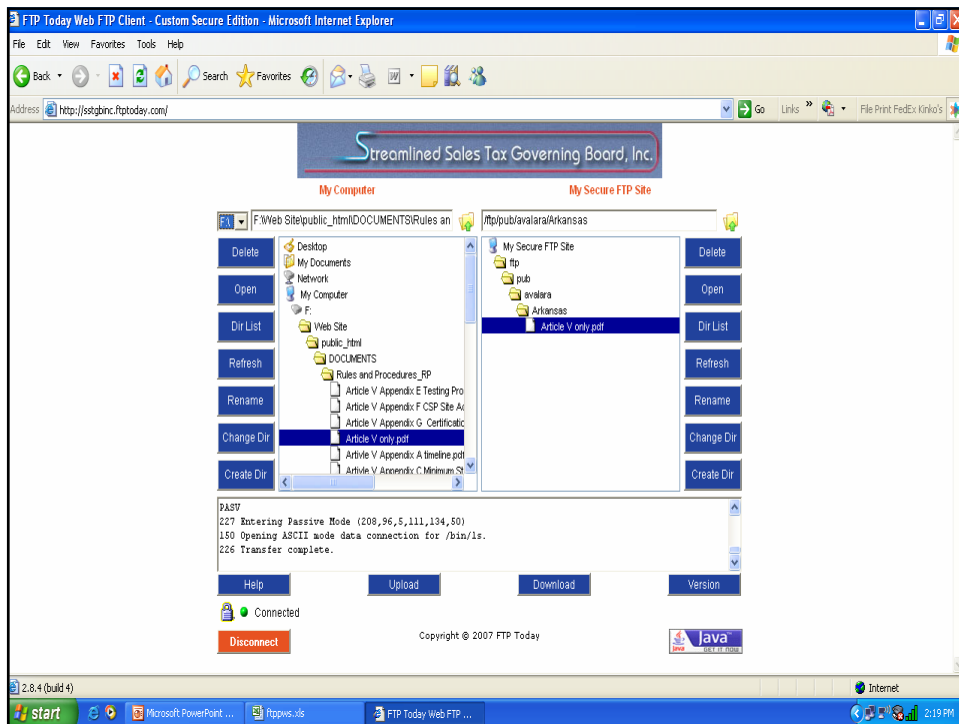
- FTP Site Structure

- FTP Site Access:
 - User ID and Password sent to each state, CSP and Core Team

- FTP Site Location

<http://sstgbinc.ftptoday.com>





Streamlined Sales Tax Governing Board, Inc.

Testing Central

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931-387-2280



Audit Core Team

Responsibilities

Procedures

Deadlines

Presented by Bob Muller, Steve Krovitz, Roger Wright, and Toni Webster

I (we) need two volunteers

Volunteer #1

- Why do we care? We don't understand!

Volunteer #2

- It's getting late, take a look at your watch!



Audit Core Team

What is this??

The Audit Core Team is defined within
**Rule 806.3 –Administration of
Compliance Audit Process** of
Streamlined Sales Tax Rules and
Procedures

Defined Per Rule

- Rule 806.3.1(C) – Authority
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.

Defined Per Rule

- Rule 806.3.2(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.

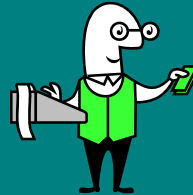
Defined Per Rule

- Rule 806.3.4(B) – Audit Core Team - 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.

Who is the Core Team

Steve Krovitz
Minnesota Department
Of Revenue



Toni Webster
Oklahoma Tax
Commission



Who is the Core Team

Roger Wright
West Virginia Dept.
Of Tax & Revenue



Bob Muller
Indiana Department
Of Revenue



Does everyone understand the Core Team concept?



Simply Stated -

What We Do:

- The Audit Core Team will complete a contract compliance audit of all active Certified Service Providers (CSPs).

What You Do:

- The Member and Associate Member State Auditors will complete the tax compliance audit on sales transactions processed by the active CSPs.

The SST Rules Defines the Compliance Audit Process

- 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.*

Clear as Day!
(Right!!!!)



The Audit Core Team:

- Will evaluate all pertinent elements of the current contract between the CSPs and the Streamlined Sales Tax Governing Board and assess each CSP's compliance with the terms of the contract.
- As part of this contract compliance audit, they will audit areas where they are in the unique position to review. Then advise the Member and Associate Member State Auditors if problems exist that would impact the tax compliance audits.

The Member and Associate Member State Auditors:

- Will perform tax compliance audits on sales transactions of Model 1 sellers processed by the CSPs.
- As part of the CSP compliance audit process, they will report audit exceptions to the Audit Core Team.

When the rubber hits the road, it may be a little bumpy from time to time. Why....?



Because

- This type of audit has never been done before.
- Theory does not always equal practice.
- Sometimes the road to knowledge can be full of potholes.

-Solution-

The Core Team will:

- work hard
- attempt to communicate effectively with everyone
- be flexible in our approaches
- keep the goal in focus

-Goal-

To complete a timely, accurate, and professional audit that meets the needs and expectations of the Streamlined Sales Tax Governing Board.

The Core Team will provide the State Auditors with two reports.

- A preliminary report of findings will be issued to the state auditors in later part of October 2007. This report will include any audit results discovered by the Core Team that could be relevant to the tax compliance audits.
- The final contract compliance audit will be given to each Member and Associate Member State in March of 2008.

Audit Core Team Responsibilities

Rule 806.3.4(D)(1)

The Audit Core Team is responsible for performing contract compliance audits and coordinating tax compliance audits with member states.

Rule 806.3.4(D)(2)

Outlines ten (10) specific tasks the Audit Core Team is responsible for completing.

Rule 806.3.4(D)(2)(i)

The Audit Core Team will:

Create a uniform audit plan with a timeline to establish the projected dates that various audit steps should be completed

The audit timeline has been established and will be reviewed in the following slides.

Timeline

- 07/15/07 through 08/27/07
- Between **July 15, 2007** and **August 1, 2007**, the Audit Core Team will request that the CSPs:
 - Supply a listing of Model 1 Sellers they have performed CSP services for during the audit period, along with the date they started performing services for each Model 1 seller. The CSPs will also be requested to supply a listing of the states that each Model 1 Seller holds volunteer status in.
 - Prepare downloads of sales transaction information, exemption information, and tax collection/remittance information on each model 1 seller split by member and/or associate member state. This information will be for the state auditors' use in their tax compliance audits.
 - Prepare downloads of data as specifically requested by the Audit Core Team for use in completing the audit responsibilities outline in rule 806.3.4(D)(2).

Timeline

- 07/15/07 through 08/27/07
(Continued)
- Between **July 15, 2007** and **August 1, 2007**, The Audit Core Team will submit questionnaires to the CSPs, member states, and the Office of Executive Director.
 - All questionnaires must be returned to the Audit Core Team by the end of business on **Friday, August 17, 2007**.
 - By the end of business on **Friday, August 24, 2007**, the CSPs must place on the Core Audit Team's FTP site the data downloads specifically requested by the Audit Core Team.

Timeline

- 08/28/07 • The Audit Core Team will meet in St. Paul, Minnesota to review the completed questionnaires, go over data and
08/31/07 downloads, and finalize the CSP field work plans. An all day meeting is scheduled for **Tuesday, August 28, 2007** and a half day meeting is planned for the morning of **Friday, August 31, 2007**.

Timeline

- 09/01/07 • The Audit Core Team will complete field work at the CSPs location (it is important that during this time through
10/15/07 frame the Audit Core Team complete all field work in areas that could lead to an audit adjustment by any member/ associate member state).
- By **October 1, 2007**, the CSPs must place on each member state's or associate member state's FTP site the state specific sales transaction information, exemption information, and tax collection/remittance information for each model 1 seller they performed CSP services for.
- By **October 15, 2007**, The Audit Core Team will prepare preliminary reports that will be forwarded to the member states and associate member states detailing work completed in potential audit adjustment areas.

Timeline

- 10/16/07 • During this period of time, the Audit Core Team can continue to work on and finalize the contract compliance portion of CSP audits.
- 12/15/07 • The member and associate member states will review the model 1 sellers' records and prepare reports that notify the Audit Core Team of their findings.
- The member and associate member states' preliminary feedback reports must be forwarded to the Audit Core Team by the end of business on **Friday, December 14, 2007**.

Timeline

- 12/16/07 • The Audit Core Team will compile a report on the initial findings of the contract compliance audit and the member/associate member states' tax compliance audits and submit the report to the CSP.
- through 01/15/08 • Each CSP compliance audit initial findings must be forwarded to the respective CSP by the end of business on **Tuesday, January 15, 2008**.

Timeline

- 01/16/08 through 02/15/08
- The CSP will review and comment on the preliminary findings of the compliance audit. Comments will be sent to the Audit Core Team and member/associate member states.
 - Conference calls and/or meetings to formally discuss the preliminary findings with the CSPs can be conducted on Wednesday, January 16, 2008 through Friday, January 18, 2008 or Monday, January 21, 2008 through Wednesday, January 23, 2008.
 - Conference calls and/or meetings to discuss the CSPs comments after final review will be scheduled during the week of February 11, 2008.
 - Final comments to the Audit Core Team from the CSPs must be forwarded to the Core Team by the end business on **Friday, February 15, 2008**. Preferred method of delivery is electronic.

Timeline

- 02/16/08 through 02/29/08
- The audit core team and member/ associate member states can amend their findings, if necessary. The audit core team will prepare the final contract compliance audit reports to be sent to the executive director.

03/01/08 The final contract compliance audit reports on each CSP will be forwarded to the Executive Director on **March 1, 2008**.

Rule 806.3.4(D)(2)(g)

The Audit Core Team will:

Acquire a list of sellers represented by each CSP and provide this information to the Streamlined Sales Tax Governing Board member states

This information will be requested and forwarded to the various states.

Rule 806.3.4(D)(2)(h)

The Audit Core Team will:

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

The Audit Core Team will request that the CSPs download each states model 1 sellers' transactions to the states FTP site. The Audit Core Team will follow-up to be assured the data is properly transferred.



ATTENTION !!!

- The next five areas to be discussed could result in audit findings relevant to the tax compliance audits.

Rule 806.3.4(D)(2)(e)

The Audit Core Team will:

Verify that all tax collected was remitted timely to the appropriate tax authority

Through sampling (statistical and/or random) and evaluation of the CSPs system, the Audit Core Team will verify that taxes collected are being remitted to the proper tax authority. As part of these procedures, sourcing will be evaluated.

Rule 806.3.4(D)(2)(f)

The Audit Core Team will:

Verify that sales were accurately reported by the CSP/Seller on simplified electronic returns (SERs)

Through statistical and/or random sampling the Audit Core Team will verify that both gross sales and net taxable sales are being properly reported on the simplified electronic returns.

Rule 806.3.4(D)(2)(b)

The Audit Core Team will:

Verify that compensation was calculated properly for all volunteer sellers

The Audit Core Team will evaluate the CSP's system to be assured it is calculating compensation as dictated in the contract. Quarterly Compensation reports will be audited. A sampling of filed simplified electronic returns will be reviewed.

Compensation:

- You may find the manner by which compensation is calculated interesting. Compensation is addressed in Section D of the current contract between the CSPs and SST Governing Board. The compensation formula can be reviewed in section “D.5”, the rate adjustment process is outlined in section “D.6”, and resetting rates annually is addressed in section “D.7”.

Rule 806.3.4(D)(2)(d)

The Audit Core Team will:

Verify that the appropriate entity use exemption data elements are captured by the CSP system

The Audit Core Team will sample to be confident the CSP is obtaining the proper exemption data elements. The Core Team may request exception reports indicating missing exemption data elements.

Rule 806.3.4(D)(2)(c)

The Audit Core Team will:

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

The Audit Core Team will review the CSP's mapping policies and procedures. They will also sample the CSPs' mapping of their model 1 seller's products to the generic taxability matrix categories.

Rule 806.3.4(D)(2)(a)

The Audit Core Team will:

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.)

The Audit Core Team will issue questionnaires to the CSPs, each Member/Associate Member State, and the Office of Executive Director addressing various elements of the contract. The completed questionnaires will be analyzed and used as the starting point of the contract compliance audit.

(continued)

Rule 806.3.4(D)(2)(a) - continued

Over a number of months, the SST Audit Committee isolated areas of definite audit interest in the CSP contract. The Audit Core Team will specifically look at these areas and complete various compliance audit procedures to assess the CSPs compliance with the contract.

Rule 806.3.4(D)(2)(j)

The Audit Core Team will:

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.

Continued – next slide

Rule 806.3.4(D)(2)(j) - continued

For each CSP, the Audit Core Team will incorporate its findings from the contract compliance audit with the feedback reports from the Member and Associate Member States into a final compliance audit package to be issued to the Executive Director of the Streamlined Sales Tax Governing Board.

The Executive Director and the Governing Board will use these audits to evaluate the CSPs for contract renewal.

Final Audit Report

- **Per rule 806.3.5.3(C)**

The feedback report on the audit findings that goes to the Executive Director will contain general information on errors found and will not contain specific taxpayer information to ensure the confidentiality of taxpayer information.

Important Dates for Member and Associate Member State Auditors

	Today	Audit Core team will submit questionnaire to member/associate member states.
Friday	August 17, 2007	All questionnaires must be returned to Audit Core Team by end of business today
Monday	October 1, 2007	The CSP's will place on each member/associate members state's FTP site the state specific sales transaction information, exemption information, and tax collection/remittance information for each model 1 seller they performed CSP services for.

Important Dates for Member and Associate Member State Auditors

Monday	October 15, 2007	The Audit Core team will forward to member/associate member states reports detailing work completed in potential audit adjustment areas.
	October 16, 2007 to December 13, 2007	Member/associate member states will review the model 1 sellers' records and prepare reports that notify the Audit Core Team of their findings.

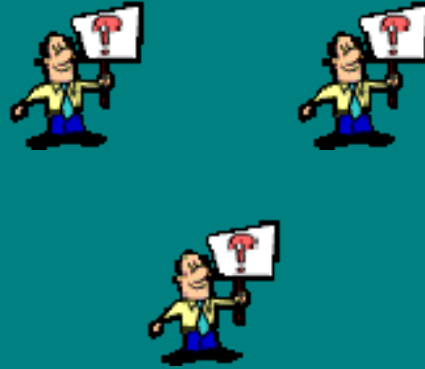
Important Dates for Member and Associate Member State Auditors

Friday	December 14, 2007	All member/associate member states' preliminary feedback reports must be forwarded to the Audit Core Team by the end of business today.
	December 15, 2007 to January 16, 2008	The CSP will review and comment on the preliminary findings of the compliance audit. Comments will be sent to the Audit Core Team and member/associate member states.

Important Dates for Member and Associate Member State Auditors

	February 16, 2008 to February 29, 2008	The Audit Core Team and member/associate member states can amend their findings, if necessary
Saturday	March 1, 2008	The final contract compliance audit report on each CSP will be forwarded to the Executive director

QUESTIONS???



Thank You.
&
Good Luck



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STREAMLINED SALES AND USE TAX AGREEMENT

Adopted November 12, 2002

**(Amended November 19, 2003, November 16, 2004, April 16, 2005,
October 1, 2005, January 13, 2006, April 18, 2006, August 30, 2006,
December 14, 2006, and June 23, 2007)**

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ARTICLE I
PURPOSE AND PRINCIPLE

Section 101: TITLE

This multistate Agreement shall be referred to, cited, and known as the Streamlined Sales and Use Tax Agreement.

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.
- J. Protection of consumer privacy.

Section 103: TAXING AUTHORITY PRESERVED

This Agreement shall not be construed as intending to influence a member state to impose a tax on or provide an exemption from tax for any item or service. However, if a member state chooses to tax an item or exempt an item from tax, that state shall adhere to the provisions concerning definitions as set out in Article III of this Agreement.

Section 104: DEFINED TERMS

This Agreement defines terms for use within the Agreement and for application in the sales and use tax laws of the member states. The definition of a term is not intended to influence the interpretation or application of that term with respect to other tax types.

An alphabetical list of all the terms defined in the Agreement and their location in the Agreement is found in Appendix B of this Agreement, the Index of Definitions. Terms defined for use within this Agreement are set out in Article II of the Agreement. Many of the uniform definitions for application in the sales and use tax laws of the member states are set out in Appendix C of this Agreement, the Library of Definitions. Definitions that are not set out in Appendix C are defined when applied in a particular section of the Agreement and are set out in that section of the Agreement. The appendices have the same effect as the Articles in the Agreement.

Section 105: TREATMENT OF VENDING MACHINES

The provisions of the Agreement do not apply to vending machines sales. The Agreement does not restrict how a member state taxes vending machine sales.

1 **ARTICLE II**
2 **DEFINITIONS**

3
4 The following definitions apply in this Agreement:

5 **Section 201: AGENT**

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

7 **Section 202: CERTIFIED AUTOMATED SYSTEM (CAS)**

8 Software certified under the Agreement to calculate the tax imposed by each jurisdiction on a
9 transaction, determine the amount of tax to remit to the appropriate state, and maintain a record
10 of the transaction.

11 **Section 203: CERTIFIED SERVICE PROVIDER (CSP)**

12 An agent certified under the Agreement to perform all the seller's sales and use tax functions,
13 other than the seller's obligation to remit tax on its own purchases.

14 **Section 204: ENTITY-BASED EXEMPTION**

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

17 *Compiler's note: On October 1, 2005 Section 204 was amended by adding the second sentence. Each member state
18 shall comply with the October 1, 2005 amendment to this section no later than January 1, 2008.*

19 **Section 205: MODEL 1 SELLER**

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

22 **Section 206: MODEL 2 SELLER**

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

25 **Section 207: MODEL 3 SELLER**

26 A seller that has sales in at least five member states, has total annual sales revenue of at least five
27 hundred million dollars, has a proprietary system that calculates the amount of tax due each
28 jurisdiction, and has entered into a performance agreement with the member states that
29 establishes a tax performance standard for the seller. As used in this definition, a seller includes
30 an affiliated group of sellers using the same proprietary system.
31

1 **Section 208: PERSON**

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

4 **Section 209: PRODUCT-BASED EXEMPTION**

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

7 **Section 210: PURCHASER**

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

9 **Section 211: REGISTERED UNDER THIS AGREEMENT**

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

12 **Section 212: SELLER**

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

14 **Section 213: STATE**

15 Any state of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.
16 *Compiler's note: On April 18, 2006 Section 213 was amended as follows: "Any state of the United States, ~~and~~ the
17 District of Columbia and the Commonwealth of Puerto Rico." The amendment to this section became effective upon
18 adoption.*

19 **Section 214: USE-BASED EXEMPTION**

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

21 *Compiler's note: On October 1, 2005 Section 214 was amended as follows: "An exemption based on a specified use
22 of the product by the purchaser's use of the product." Each member state shall comply with the October 1, 2005
23 amendment to this section no later than January 1, 2008.*

1 **ARTICLE III**

2 **REQUIREMENTS EACH STATE MUST ACCEPT TO PARTICIPATE**

3
4 **Section 301: STATE LEVEL ADMINISTRATION**

5 Each member state shall provide state level administration of sales and use taxes. The state level
6 administration may be performed by a member state's Tax Commission, Department of Revenue,
7 or any other single entity designated by state law. Sellers are only required to register with, file
8 returns with, and remit funds to the state level authority. Each member state shall provide for
9 collection of any local taxes and distribution of them to the appropriate taxing jurisdictions.

10 Each member state shall conduct, or authorize others to conduct on its behalf, all audits of the
11 sellers registered under the Agreement for that state's tax and the tax of its local jurisdictions,
12 and local jurisdictions shall not conduct independent sales or use tax audits of sellers registered
13 under the Agreement.

14
15 **Section 302: STATE AND LOCAL TAX BASES**

16 Through December 31, 2005, if a member state has local jurisdictions that levy a sales or use tax,
17 all local jurisdictions in the state shall have a common tax base. After December 31, 2005, the
18 tax base for local jurisdictions shall be identical to the state tax base unless otherwise prohibited
19 by federal law. This section does not apply to sales or use taxes levied on the retail sale or
20 transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile
21 homes.

22
23 **Section 303: SELLER REGISTRATION**

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

- 26 A. A seller registering under the Agreement is registered in each of the member states.
27 B. The member states agree not to require the payment of any registration fees or other
28 charges for a seller to register in a state in which the seller has no legal requirement to
29 register.
30 C. A written signature from the seller is not required.

- 1 D. An agent may register a seller under uniform procedures adopted by the member states.
2 E. A seller may cancel its registration under the system at any time under uniform
3 procedures adopted by the governing board. Cancellation does not relieve the seller of its
4 liability for remitting to the proper states any taxes collected.

5
6 **Section 304: NOTICE FOR STATE TAX CHANGES**

7 A. Each member state shall lessen the difficulties faced by sellers when there is a change in
8 a state sales or use tax rate or base by making a reasonable effort to do all of the
9 following:

- 10 1. Provide sellers with as much advance notice as practicable of a rate change.
11 2. Limit the effective date of a rate change to the first day of a calendar quarter.
12 3. Notify sellers of legislative changes in the tax base and amendments to sales and use
13 tax rules and regulations.

14 B. Failure of a seller to receive notice or failure of a member state to provide notice or limit
15 the effective date of a rate change shall not relieve the seller of its obligation to collect
16 sales or use taxes for that member state.

17
18 **Section 305: LOCAL RATE AND BOUNDARY CHANGES**

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

- 20 A. Provide that local rate changes will be effective only on the first day of a calendar
21 quarter after a minimum of sixty days' notice to sellers.
22 B. Apply local sales tax rate changes to purchases from printed catalogs wherein the
23 purchaser computed the tax based upon local tax rates published in the catalog only on
24 the first day of a calendar quarter after a minimum of one hundred twenty days' notice to
25 sellers.
26 C. For sales and use tax purposes only, apply local jurisdiction boundary changes only on
27 the first day of a calendar quarter after a minimum of sixty days' notice to sellers.
28 D. Provide and maintain a database that describes boundary changes for all taxing
29 jurisdictions. This database shall include a description of the change and the effective
30 date of the change for sales and use tax purposes.

- 1 E. Provide and maintain a database of all sales and use tax rates for all of the jurisdictions
2 levying taxes within the state. For the identification of states, counties, cities, and
3 parishes, codes corresponding to the rates must be provided according to Federal
4 Information Processing Standards (FIPS) as developed by the National Institute of
5 Standards and Technology. For the identification of all other jurisdictions, codes
6 corresponding to the rates must be in the format determined by the governing board.
- 7 F. Provide and maintain a database that assigns each five digit and nine digit zip code
8 within a member state to the proper tax rates and jurisdictions. The state must apply the
9 lowest combined tax rate imposed in the zip code area if the area includes more than one
10 tax rate in any level of taxing jurisdictions. If a nine digit zip code designation is not
11 available for a street address or if a seller or CSP is unable to determine the nine digit zip
12 code designation applicable to a purchase after exercising due diligence to determine the
13 designation, the seller or CSP may apply the rate for the five digit zip code area. For the
14 purposes of this section, there is a rebuttable presumption that a seller or CSP has
15 exercised due diligence if the seller has attempted to determine the nine digit zip code
16 designation by utilizing software approved by the governing board that makes this
17 designation from the street address and the five digit zip code applicable to a purchase.
- 18 G. Have the option of providing address-based boundary database records for assigning
19 taxing jurisdictions and their associated rates which shall be in addition to the
20 requirements of subsection (F) of this section. The database records must be in the same
21 approved format as the database records pursuant to subsection (F) of this section and
22 must meet the requirements developed pursuant to the federal Mobile
23 Telecommunications Sourcing Act (4 U.S.C.A. Sec. 119(a)). The governing board may
24 allow a member state to require sellers that register under this Agreement to use an
25 address-based database provided by that member state. If any member state develops
26 address-based assignment database records pursuant to the Agreement, a seller or CSP
27 may use those database records in place of the five and nine-digit zip code database
28 records provided for in subsection (F) of this section. If a seller or CSP is unable to
29 determine the applicable rate and jurisdiction using an address-based database record
30 after exercising due diligence, the seller or CSP may apply the nine digit zip code

- 1 designation applicable to a purchase. If a nine-digit zip code designation is not available
2 for a street address or if a seller or CSP is unable to determine the nine digit zip code
3 designation applicable to a purchase after exercising due diligence to determine the
4 designation, the seller or CSP may apply the rate for the five digit zip code area. For the
5 purposes of this section, there is a rebuttable presumption that a seller or CSP has
6 exercised due diligence if the seller or CSP has attempted to determine the tax rate and
7 jurisdiction by utilizing software approved by the governing board that makes this
8 assignment from the address and zip code information applicable to the purchase.
- 9 H. States that have met the requirements of subsection (F) may also elect to certify vendor
10 provided address-based databases for assigning tax rates and jurisdictions. The
11 databases must be in the same approved format as the database records pursuant to (G)
12 of this section and must meet the requirements developed pursuant to the federal Mobile
13 Telecommunications Sourcing Act (4 U.S.C.A. Sec. 119 (a)). If a state certifies a
14 vendor address-based database, a seller or CSP may use that database in place of the
15 database provided for in subsection (F) or (G) of this section. Vendors providing
16 address-based databases may request certification of their databases from the governing
17 board. Certification by the governing board does not replace the requirement that the
18 databases be certified by the states individually.
- 19 I. Make databases provided pursuant to subsections (E), (F), (G) and (H) available to a
20 seller or CSP by the first day of the month prior to the first day of a calendar quarter.
21 Databases must be in a format approved by the governing board and available on each
22 state's website or other location determined by the governing board.

23 *Compiler's note: On October 1, 2005 the following amendments were made to Section 305:*

- 24 1. In Section 305 (F) "~~or CSP~~" was added after each "seller." In addition, in two places "~~of a~~
25 ~~purchaser~~" was replaced with "applicable to a purchase."
- 26 2. Section 305 (G) was amended as follows: "~~Participate with other member states in the~~
27 ~~development of an~~ Have the option of providing address-based system database records for
28 assigning taxing jurisdictions and their associated rates which shall be in addition to the
29 requirements of subsection (F) of this section. The system database records must be in the same
30 approved format as the database records pursuant to subsection (F) of this section and must meet
31 the requirements developed pursuant to the federal Mobile Telecommunications Sourcing Act (4
32 U.S.C. Sec. 119) (4 U.S.C.A. Sec.119 (a)). The governing board may allow a member state to

1 require sellers that register under this Agreement to use an address-based ~~system database~~
2 provided by that member state. If any member state develops an address-based assignment ~~system~~
3 ~~database records~~ pursuant to the ~~Mobile Telecommunications Sourcing Act Agreement~~, a seller or
4 CSP may use ~~that system~~ those database records in place of the ~~system five and nine-digit zip code~~
5 ~~database records~~ provided for in subsection (F) of this section. If a seller or CSP is unable to
6 determine the applicable rate and jurisdiction using an address-based database record after
7 exercising due diligence, the seller or CSP may apply the nine digit zip code designation
8 applicable to a purchase. If a nine-digit zip code designation is not available for a street address
9 or if a seller or CSP is unable to determine the nine digit zip code designation applicable to a
10 purchase after exercising due diligence to determine the designation, the seller or CSP may apply
11 the rate for the five digit zip code area. For the purposes of this section, there is a rebuttable
12 presumption that a seller or CSP has exercised due diligence if the seller or CSP has attempted to
13 determine the tax rate and jurisdiction by utilizing software approved by the governing board that
14 makes this assignment from the address and zip code information applicable to the purchase”.

15 3. Section 305 (H) was added.

16 The amendment to this section became effective upon adoption.

17 Compiler's note: On June 23, 2007 subsection I was added.

18 Section 306: RELIEF FROM CERTAIN LIABILITY

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

30 Compiler's note: On October 1, 2005 Section 306 was amended as follows: "Each member state shall relieve sellers
31 and CSPs using databases pursuant to subsections (F), (G) and (H) from liability to the member state and local
32 jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from the seller or
33

1 CSP relying on erroneous data provided by a member state on tax rates, boundaries, or taxing jurisdiction
2 assignments. After providing adequate notice as determined by the governing board, a member state that provides
3 an address-based ~~system database~~ for assigning taxing jurisdictions pursuant to Section 305, subsection (G) or
4 pursuant to the federal Mobile Telecommunications Sourcing Act will not be required to provide or (H) may cease
5 providing liability relief for errors resulting from the reliance on the ~~information database~~ provided by the member
6 state under the provisions of Section 305, subsection (F). If a seller demonstrates that requiring the use of the
7 address-based database would create an undue hardship, a member state and the governing board may extend the
8 relief from liability to such seller for a designated period of time.”
9 The amendment to this section became effective upon adoption.

10 Section 307: DATABASE REQUIREMENTS AND EXCEPTIONS

- 11 A. The electronic databases provided for in Section 305, subsections (D), (E), (F), and (G)
12 shall be in a downloadable format approved by the governing board. The databases may
13 be directly provided by the state or provided by a vendor as designated by the state. A
14 database provided by a vendor as designated by a state shall be applicable to and subject
15 to all provisions of Sections 305, 306 and this section. These databases must be
16 provided at no cost to the user of the database.
- 17 B. The provisions of Section 305, subsections (F) and (G) do not apply when the purchased
18 product is received by the purchaser at the business location of the seller.
- 19 C. The databases provided by Section 305, subsections (D), (E), (F), and (G) are not a
20 requirement of a state prior to entering into the Agreement. A seller that did not have a
21 requirement to register in a state prior to registering pursuant to this Agreement or a CSP
22 shall not be required to collect sales or use taxes for a state until the first day of the
23 calendar quarter commencing more than sixty days after the state has provided the
24 databases required by Section 305, subsections (D), (E), and (F). Provided, for the initial
25 implementation of the Agreement pursuant to Section 701, a CSP shall be required to
26 collect sales or use taxes for each member state, subject to the provisions of Section 705,
27 pursuant to the terms of the operating agreement entered into between the CSP and the
28 governing board in order to provide adequate time for testing and loading of the
29 databases.

30 Compiler's note: On October 1, 2005 the following amendments were made to Section 307:

31 Section 307 (A) was amended by adding the last three sentences.
32

1 Section 307 (C) was amended by adding “and (G)” after “(F),” deleting the second sentence (~~The governing board~~
2 ~~shall establish the effective dates for availability and use of the databases.~~) and adding the last two sentences.
3 The amendment to this section became effective upon adoption.
4

5 Section 308: STATE AND LOCAL TAX RATES

- 6 A. No member state shall have multiple state sales and use tax rates on items of personal
7 property or services, except that a member state may impose a single additional rate,
8 which may be zero, on food and food ingredients and drugs as defined by state law
9 pursuant to the Agreement. In addition, if federal law prohibits the imposition of local
10 tax on a product that is subject to state tax, the state may impose an additional rate on
11 such product, provided such rate achieves tax parity for similar products.
- 12 B. A member state that has local jurisdictions that levy a sales or use tax shall not have
13 more than one local sales tax rate or more than one local use tax rate per local
14 jurisdiction. If the local jurisdiction levies both a sales tax and use tax, the local rates
15 must be identical.
- 16 C. The provisions of this section do not apply to sales or use taxes levied on electricity,
17 piped natural or artificial gas, or other heating fuels delivered by the seller, or the retail
18 sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured
19 homes, or mobile homes.

20 *Compiler’s note: On April 18, 2006 Section 308A was amended by deleting “after December 31, 2005” following*
21 *“or services” and by adding the second sentence. The amendment to this section became effective upon adoption.*
22

23 Section 309: APPLICATION OF GENERAL SOURCING RULES AND EXCLUSIONS 24 FROM THE RULES

- 25 A. Each member state shall agree to require sellers to source the retail sale of a product in
26 accordance with Section 310. The provisions of Section 310 apply regardless of the
27 characterization of a product as tangible personal property, a digital good, or a service.
28 The provisions of Section 310 only apply to determine a seller's obligation to pay or
29 collect and remit a sales or use tax with respect to the seller's retail sale of a product.
30 These provisions do not affect the obligation of a purchaser or lessee to remit tax on the
31 use of the product to the taxing jurisdictions of that use.

- 1 B. Sections 310 and 312 do not apply to sales or use taxes levied on the following:
2 1. The retail sale or transfer of watercraft, modular homes, manufactured homes, or
3 mobile homes. These items must be sourced according to the requirements of each
4 member state.
5 2. The retail sale, excluding lease or rental, of motor vehicles, trailers, semi-trailers, or
6 aircraft that do not qualify as transportation equipment, as defined in Section 310,
7 subsection (D). The retail sale of these items shall be sourced according to the
8 requirements of each member state, and the lease or rental of these items must be
9 sourced according to Section 310, subsection (C).
10 3. Telecommunications services and ancillary services, as set out in Section 315, and
11 Internet access service shall be sourced in accordance with Section 314.
12 4. Until December 31, 2009, florist sales as defined by each member state. Prior to this
13 date, these items must be sourced according to the requirements of each member
14 state.

15 *Compiler’s note: On October 1, 2005 Section 309 (B)(4) was amended by deleting 2005 and inserting 2007. The*
16 *amendment to this section became effective upon adoption. Compiler’s note: On December 14, 2006 Section 309*
17 *(b) was amended as follows: “Section Sections 310 and 312 does do”, and 309 (B) (3) was amended by adding*
18 *“and ancillary services” following “services” and “and Internet access service” before “shall”.*
19 *Compiler’s note: On June 23, 2007 the date in subsection B 4 was changed from “December 31, 2007” to*
20 *December 31, 2009.”*
21

22 Section 310: GENERAL SOURCING RULES

- 23 A. The retail sale, excluding lease or rental, of a product shall be sourced as follows:
24 1. When the product is received by the purchaser at a business location of the seller, the
25 sale is sourced to that business location.
26 2. When the product is not received by the purchaser at a business location of the seller,
27 the sale is sourced to the location where receipt by the purchaser (or the purchaser's
28 donee, designated as such by the purchaser) occurs, including the location indicated
29 by instructions for delivery to the purchaser (or donee), known to the seller.
30 3. When subsections (A)(1) and (A)(2) do not apply, the sale is sourced to the location
31 indicated by an address for the purchaser that is available from the business records of

1 the seller that are maintained in the ordinary course of the seller's business when use
2 of this address does not constitute bad faith.

3 4. When subsections (A)(1), (A)(2), and (A)(3) do not apply, the sale is sourced to the
4 location indicated by an address for the purchaser obtained during the consummation
5 of the sale, including the address of a purchaser's payment instrument, if no other
6 address is available, when use of this address does not constitute bad faith.

7 5. When none of the previous rules of subsections (A)(1), (A)(2), (A)(3), or (A)(4)
8 apply, including the circumstance in which the seller is without sufficient information
9 to apply the previous rules, then the location will be determined by the address from
10 which tangible personal property was shipped, from which the digital good or the
11 computer software delivered electronically was first available for transmission by the
12 seller, or from which the service was provided (disregarding for these purposes any
13 location that merely provided the digital transfer of the product sold).

14 B. The lease or rental of tangible personal property, other than property identified in
15 subsection (C) or subsection (D), shall be sourced as follows:

16 1. For a lease or rental that requires recurring periodic payments, the first periodic
17 payment is sourced the same as a retail sale in accordance with the provisions of
18 subsection (A). Periodic payments made subsequent to the first payment are sourced
19 to the primary property location for each period covered by the payment. The primary
20 property location shall be as indicated by an address for the property provided by the
21 lessee that is available to the lessor from its records maintained in the ordinary course
22 of business, when use of this address does not constitute bad faith. The property
23 location shall not be altered by intermittent use at different locations, such as use of
24 business property that accompanies employees on business trips and service calls.

25 2. For a lease or rental that does not require recurring periodic payments, the payment is
26 sourced the same as a retail sale in accordance with the provisions of subsection (A).

27 3. This subsection does not affect the imposition or computation of sales or use tax on
28 leases or rentals based on a lump sum or accelerated basis, or on the acquisition of
29 property for lease.

1 C. The lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify
2 as transportation equipment, as defined in subsection (D), shall be sourced as follows:

3 1. For a lease or rental that requires recurring periodic payments, each periodic payment
4 is sourced to the primary property location. The primary property location shall be as
5 indicated by an address for the property provided by the lessee that is available to the
6 lessor from its records maintained in the ordinary course of business, when use of this
7 address does not constitute bad faith. This location shall not be altered by intermittent
8 use at different locations.

9 2. For a lease or rental that does not require recurring periodic payments, the payment is
10 sourced the same as a retail sale in accordance with the provisions of subsection (A).

11 3. This subsection does not affect the imposition or computation of sales or use tax on
12 leases or rentals based on a lump sum or accelerated basis, or on the acquisition of
13 property for lease.

14 D. The retail sale, including lease or rental, of transportation equipment shall be sourced the
15 same as a retail sale in accordance with the provisions of subsection (A),
16 notwithstanding the exclusion of lease or rental in subsection (A). "Transportation
17 equipment" means any of the following:

18 1. Locomotives and railcars that are utilized for the carriage of persons or property in
19 interstate commerce.

20 2. Trucks and truck-tractors with a Gross Vehicle Weight Rating (GVWR) of 10,001
21 pounds or greater, trailers, semi-trailers, or passenger buses that are:

22 a. Registered through the International Registration Plan; and
23 b. Operated under authority of a carrier authorized and certificated by the U.S.
24 Department of Transportation or another federal authority to engage in the
25 carriage of persons or property in interstate commerce.

26 3. Aircraft that are operated by air carriers authorized and certificated by the U.S.
27 Department of Transportation or another federal or a foreign authority to engage in
28 the carriage of persons or property in interstate or foreign commerce.

29 4. Containers designed for use on and component parts attached or secured on the items
30 set forth in subsections (D)(1) through (D)(3).

1 *Compiler's note: The Governing Board issued an interpretation of Section 310C on April 18, 2006. That*
2 *interpretation can be found in the Library of Interpretations.*

3
4 **Section 311: GENERAL SOURCING DEFINITIONS**

5 For the purposes of Section 310, subsection (A), the terms "receive" and "receipt" mean:

- 6 A. Taking possession of tangible personal property,
- 7 B. Making first use of services, or
- 8 C. Taking possession or making first use of digital goods, whichever comes first.

9 The terms "receive" and "receipt" do not include possession by a shipping company on behalf of
10 the purchaser.

11
12 **Section 312: MULTIPLE POINTS OF USE (Effective through December 31, 2007)**

13 **Repealed on December 14, 2006**

14 *Compiler's note: This section was repealed on December 14, 2006 effective upon adoption. The following is the*
15 *section prior to its repeal:*

16
17 *Notwithstanding the provisions of Section 310, a business purchaser that is not a holder of a direct pay permit that*
18 *knows at the time of its purchase of a digital good, computer software delivered electronically, or a service that the*
19 *digital good, computer software delivered electronically, or service will be concurrently available for use in more*
20 *than one jurisdiction shall deliver to the seller in conjunction with its purchase a form disclosing this fact ("Multiple*
21 *Points of Use or MPU" Exemption Form).*

- 22 A. *Upon receipt of the MPU Exemption Form, the seller is relieved of all obligation to collect, pay, or remit*
23 *the applicable tax and the purchaser shall be obligated to collect, pay, or remit the applicable tax on a*
24 *direct pay basis.*
- 25 B. *A purchaser delivering the MPU Exemption Form may use any reasonable, but consistent and uniform,*
26 *method of apportionment that is supported by the purchaser's business records as they exist at the time of*
27 *the consummation of the sale.*
- 28 C. *The MPU Exemption Form will remain in effect for all future sales by the seller to the purchaser (except*
29 *as to the subsequent sale's specific apportionment that is governed by the principle of subsection (B) and*
30 *the facts existing at the time of the sale) until it is revoked in writing.*
- 31 D. *A holder of a direct pay permit shall not be required to deliver a MPU Exemption Form to the seller. A*
32 *direct pay permit holder shall follow the provisions of subsection (B) in apportioning the tax due on a*
33 *digital good or a service that will be concurrently available for use in more than one jurisdiction.*
34

1 **Section 312: MULTIPLE POINTS OF USE (Effective on and after January 1, 2008)**

2 **Repealed on December 14, 2006**

3 *Compiler's note: This section was repealed on December 14, 2006 effective upon adoption. The following is the*
4 *section prior to its repeal:*

- 5
6 A. *Notwithstanding the provisions of Section 310, a business purchaser that is not a holder of a direct pay*
7 *permit that knows at the time of its purchase of a digital good, computer software, or a service that the*
8 *digital good, computer software, or service will be concurrently available for use in more than one*
9 *jurisdiction shall deliver to the seller in conjunction with its purchase an exemption certificate claiming*
10 *multiple points of use or meet the requirements of Section 312, subsections (B) or (C). Computer software,*
11 *for purposes of this section includes, but is not limited to computer software delivered electronically, by*
12 *load and leave, or in tangible form. Computer software received in-person by a business purchaser at a*
13 *business location of the seller is not included.*
 - 14 1. *Upon receipt of an exemption certificate claiming multiple points of use, the seller is relieved of*
15 *all obligation to collect, pay, or remit the applicable tax and the purchaser shall be obligated to*
16 *collect, pay, or remit the applicable tax on a direct pay basis.*
 - 17 2. *A purchaser delivering an exemption certificate claiming multiple points of use may use any*
18 *reasonable, but consistent and uniform, method of apportionment that is supported by the*
19 *purchaser's books and records as they exist at the time the transaction is reported for sales or use*
20 *tax purposes.*
 - 21 3. *A purchaser delivering an exemption certificate claiming multiple points of use shall report and*
22 *pay the appropriate tax to each jurisdiction where concurrent use occurs. The tax due will be*
23 *calculated as if the apportioned amount of the digital good, computer software or service had*
24 *been delivered to each jurisdiction to which the sale is apportioned pursuant to Section 312,*
25 *subdivision (A)(2).*
 - 26 4. *The exemption certificate claiming multiple points of use will remain in effect for all future sales*
27 *by the seller to the purchaser (except as to the subsequent sale's specific apportionment that is*
28 *governed by the principles of Section 312, subdivisions (A)(2) and (A)(3)) until it is revoked in*
29 *writing.*
- 30 B. *Notwithstanding Section 312, subsection (A), when the seller knows that the product will be concurrently*
31 *available for use in more than one jurisdiction, but the purchaser does not provide an exemption certificate*
32 *claiming multiple points of use as required in subsection (A), the seller may work with the purchaser to*
33 *produce the correct apportionment. The purchaser and seller may use any reasonable, but consistent and*
34 *uniform, method of apportionment that is supported by the seller's and purchaser's business records as*
35 *they exist at the time the transaction is reported for sales or use tax purposes. If the purchaser certifies to*

1 *the accuracy of the apportionment and the seller accepts the certification, the seller shall collect and remit*
2 *the tax pursuant to Section 312, subdivision (A)(3). In the absence of bad faith, the seller is relieved of any*
3 *further obligation to collect tax on any transaction where the seller has collected tax pursuant to the*
4 *information certified by the purchaser.*

- 5 C. *When the seller knows that the product will be concurrently available for use in more than one jurisdiction*
6 *and the purchaser does not have a direct pay permit and does not provide the seller with an exemption*
7 *certificate claiming multiple points of use exemption as required in Section 312, subsection (A), or*
8 *certification pursuant to Section 312, subsection (B), the seller shall collect and remit the tax based on the*
9 *provisions of Section 310.*
- 10 D. *A holder of a direct pay permit shall not be required to deliver an exemption certificate claiming multiple*
11 *points of use to the seller. A direct pay permit holder shall follow the provisions of Section 312 subdivisions*
12 *(A)(2) and (A)(3) of this section in apportioning the tax due on a digital good, computer software, or a*
13 *service that will be concurrently available for use in more than one jurisdiction.*
- 14 E. *Nothing in this section shall limit a person's obligation for sales or use tax to any state in which the*
15 *qualifying purchases are concurrently available for use, nor limit a person's ability under local, state,*
16 *federal, or constitutional law, to claim a credit for sales or use taxes legally due and paid to other*
17 *jurisdictions.*

18
19 **Section 313: DIRECT MAIL SOURCING**

- 20 A. Notwithstanding Section 310, a purchaser of direct mail that is not a holder of a direct
21 pay permit shall provide to the seller in conjunction with the purchase either a Direct
22 Mail Form or information to show the jurisdictions to which the direct mail is delivered
23 to recipients.
- 24 1. Upon receipt of the Direct Mail Form, the seller is relieved of all obligations to
25 collect, pay, or remit the applicable tax and the purchaser is obligated to pay or remit
26 the applicable tax on a direct pay basis. A Direct Mail Form shall remain in effect for
27 all future sales of direct mail by the seller to the purchaser until it is revoked in
28 writing.
- 29 2. Upon receipt of information from the purchaser showing the jurisdictions to which
30 the direct mail is delivered to recipients, the seller shall collect the tax according to
31 the delivery information provided by the purchaser. In the absence of bad faith, the
32 seller is relieved of any further obligation to collect tax on any transaction where the

1 seller has collected tax pursuant to the delivery information provided by the
2 purchaser.

- 3 B. If the purchaser of direct mail does not have a direct pay permit and does not provide the
4 seller with either a Direct Mail Form or delivery information, as required by subsection
5 (A) of this section, the seller shall collect the tax according to Section 310, subsection
6 (A)(5). Nothing in this paragraph shall limit a purchaser's obligation for sales or use tax
7 to any state to which the direct mail is delivered.
- 8 C. If a purchaser of direct mail provides the seller with documentation of direct pay
9 authority, the purchaser shall not be required to provide a Direct Mail Form or delivery
10 information to the seller.

11
12 **Section 314: TELECOMMUNICATION AND RELATED SERVICES SOURCING RULE**

- 13 A. Except for the defined telecommunication services in subsection (C), the sale of
14 telecommunication service sold on a call-by-call basis shall be sourced to (i) each level
15 of taxing jurisdiction where the call originates and terminates in that jurisdiction or (ii)
16 each level of taxing jurisdiction where the call either originates or terminates and in
17 which the service address is also located.
- 18 B. Except for the defined telecommunication services in subsection (C), a sale of
19 telecommunications services sold on a basis other than a call-by-call basis, is sourced to
20 the customer's place of primary use.
- 21 C. The sale of the following telecommunication services shall be sourced to each level of
22 taxing jurisdiction as follows:
- 23 1. A sale of mobile telecommunications services other than air-to-ground radiotelephone
24 service and prepaid calling service, is sourced to the customer's place of primary use
25 as required by the Mobile Telecommunications Sourcing Act.
- 26 2. A sale of post-paid calling service is sourced to the origination point of the
27 telecommunications signal as first identified by either (i) the seller's
28 telecommunications system, or (ii) information received by the seller from its service
29 provider, where the system used to transport such signals is not that of the seller.

1 3. **(Effective through December 31, 2007)** A sale of prepaid calling service is sourced
2 in accordance with Section 310. Provided however, in the case of a sale of mobile
3 telecommunications service that is a prepaid telecommunications service, the rule
4 provided in Section 310, subsection (A)(5) shall include as an option the location
5 associated with the mobile telephone number.

6 3. **(Effective on and after January 1, 2008)** A sale of prepaid calling service or a sale
7 of a prepaid wireless calling service is sourced in accordance with Section 310.
8 Provided however, in the case of a sale of prepaid wireless calling service, the rule
9 provided in Section 310, subsection (A)(5) shall include as an option the location
10 associated with the mobile telephone number.

11 4. A sale of a private communication service is sourced as follows:
12 a. Service for a separate charge related to a customer channel termination point is
13 sourced to each level of jurisdiction in which such customer channel termination
14 point is located.
15 b. Service where all customer termination points are located entirely within one
16 jurisdiction or levels of jurisdiction is sourced in such jurisdiction in which the
17 customer channel termination points are located.
18 c. Service for segments of a channel between two customer channel termination points
19 located in different jurisdictions and which segment of channel are separately charged
20 is sourced fifty percent in each level of jurisdiction in which the customer channel
21 termination points are located.
22 d. Service for segments of a channel located in more than one jurisdiction or levels of
23 jurisdiction and which segments are not separately billed is sourced in each
24 jurisdiction based on the percentage determined by dividing the number of customer
25 channel termination points in such jurisdiction by the total number of customer
26 channel termination points.

27 D. The sale of Internet access service is sourced to the customer's place of primary use.

28 E. The sale of an ancillary service is sourced to the customer's place of primary use.

29 *Compiler's note: On April 16, 2005 Section 314, subdivision (C)(3) was amended by inserting "or a sale of a*
30 *prepaid wireless calling service" after "service" in the first line; and by deleting "mobile telecommunications*

1 *service that is a prepaid telecommunications" and inserting "prepaid wireless calling" in its place. Member states*
2 *shall comply with this amendment no later than January 1, 2008. Compiler's note: On December 14, 2006 Section*
3 *314 was amended by the addition of D and E.*
4

5 **Section 315: TELECOMMUNICATION SOURCING DEFINITIONS (Effective through**
6 **December 31, 2007)**

7 For the purpose of Section 314, the following definitions apply:

- 8 A. "Air-to-Ground Radiotelephone service" means a radio service, as that term is defined
9 in 47 CFR 22.99, in which common carriers are authorized to offer and provide radio
10 telecommunications service for hire to subscribers in aircraft.
11 B. "Call-by-call Basis" means any method of charging for telecommunications services
12 where the price is measured by individual calls.
13 C. "Communications Channel" means a physical or virtual path of communications over
14 which signals are transmitted between or among customer channel termination points.
15 D. "Customer" means the person or entity that contracts with the seller of
16 telecommunications services. If the end user of telecommunications services is not
17 the contracting party, the end user of the telecommunications service is the customer
18 of the telecommunication service, but this sentence only applies for the purpose of
19 sourcing sales of telecommunications services under Section 314. "Customer" does
20 not include a reseller of telecommunications service or for mobile
21 telecommunications service of a serving carrier under an agreement to serve the
22 customer outside the home service provider's licensed service area.
23 E. "Customer Channel Termination Point" means the location where the customer either
24 inputs or receives the communications.
25 F. "End user" means the person who utilizes the telecommunication service. In the case
26 of an entity, "end user" means the individual who utilizes the service on behalf of the
27 entity.
28 G. "Home service provider" means the same as that term is defined in Section 124(5) of
29 Public Law 106-252 (Mobile Telecommunications Sourcing Act).
30 H. "Mobile telecommunications service" means the same as that term is defined in
31 Section 124(7) of Public Law 106-252 (Mobile Telecommunications Sourcing Act).

- 1 I. "Place of primary use" means the street address representative of where the
2 customer's use of the telecommunications service primarily occurs, which must be the
3 residential street address or the primary business street address of the customer. In
4 the case of mobile telecommunications services, "place of primary use" must be
5 within the licensed service area of the home service provider.
- 6 J. "Post-paid calling service" means the telecommunications service obtained by
7 making a payment on a call-by-call basis either through the use of a credit card or
8 payment mechanism such as a bank card, travel card, credit card, or debit card, or by
9 charge made to a telephone number which is not associated with the origination or
10 termination of the telecommunications service. A post-paid calling service includes a
11 telecommunications service that would be a prepaid calling service except it is not
12 exclusively a telecommunication service.
- 13 K. "Prepaid calling service" means the right to access exclusively telecommunications
14 services, which must be paid for in advance and which enables the origination of calls
15 using an access number or authorization code, whether manually or electronically
16 dialed, and that is sold in predetermined units or dollars of which the number declines
17 with use in a known amount.
- 18 L. "Private communication service" means a telecommunication service that entitles the
19 customer to exclusive or priority use of a communications channel or group of
20 channels between or among termination points, regardless of the manner in which
21 such channel or channels are connected, and includes switching capacity, extension
22 lines, stations, and any other associated services that are provided in connection with
23 the use of such channel or channels.
- 24 M. "Service address" means:
- 25 1. The location of the telecommunications equipment to which a customer's call is
26 charged and from which the call originates or terminates, regardless of where the
27 call is billed or paid.
 - 28 2. If the location in subsection (M)(1) is not known, service address means the
29 origination point of the signal of the telecommunications services first identified
30 by either the seller's telecommunications system or in information received by the

- 1 seller from its service provider, where the system used to transport such signals is
2 not that of the seller.
- 3 3. If the location in subsection (M)(1) and subsection (M)(2) are not known, the
4 service address means the location of the customer's place of primary use.

6 **Section 315: TELECOMMUNICATION SOURCING DEFINITIONS (Effective on and**
7 **after January 1, 2008)**

8 For the purpose of Section 314, the following definitions apply:

- 9 "Air-to-Ground Radiotelephone service" means a radio service, as that term is defined in 47
10 CFR 22.99, in which common carriers are authorized to offer and provide radio
11 telecommunications service for hire to subscribers in aircraft.
- 12 "Ancillary services" means services that are associated with or incidental to the provision of
13 "telecommunications services", including but not limited to "detailed
14 telecommunications billing", "directory assistance", "vertical service", and "voice
15 mail services".
- 16 "Call-by-call Basis" means any method of charging for telecommunications services where
17 the price is measured by individual calls.
- 18 "Communications Channel" means a physical or virtual path of communications over which
19 signals are transmitted between or among customer channel termination points.
- 20 "Customer" means the person or entity that contracts with the seller of telecommunications
21 services. If the end user of telecommunications services is not the contracting party,
22 the end user of the telecommunications service is the customer of the
23 telecommunication service, but this sentence only applies for the purpose of sourcing
24 sales of telecommunications services under Section 314. "Customer" does not
25 include a reseller of telecommunications service or for mobile telecommunications
26 service of a serving carrier under an agreement to serve the customer outside the
27 home service provider's licensed service area.
- 28 "Customer Channel Termination Point" means the location where the customer either inputs
29 or receives the communications.

1 "End user" means the person who utilizes the telecommunication service. In the case of an
2 entity, "end user" means the individual who utilizes the service on behalf of the
3 entity.
4 "Home service provider" means the same as that term is defined in Section 124(5) of Public
5 Law 106-252 (Mobile Telecommunications Sourcing Act).
6 "Mobile telecommunications service" means the same as that term is defined in Section
7 124(7) of Public Law 106-252 (Mobile Telecommunications Sourcing Act).
8 "Place of primary use" means the street address representative of where the customer's use of
9 the telecommunications service primarily occurs, which must be the residential street
10 address or the primary business street address of the customer. In the case of mobile
11 telecommunications services, "place of primary use" must be within the licensed
12 service area of the home service provider.
13 "Post-paid calling service" means the telecommunications service obtained by making a
14 payment on a call-by-call basis either through the use of a credit card or payment
15 mechanism such as a bank card, travel card, credit card, or debit card, or by charge
16 made to a telephone number which is not associated with the origination or
17 termination of the telecommunications service. A post-paid calling service includes a
18 telecommunications service, except a prepaid wireless calling service, that would be a
19 prepaid calling service except it is not exclusively a telecommunication service.
20 "Prepaid calling service" means the right to access exclusively telecommunications services,
21 which must be paid for in advance and which enables the origination of calls using an
22 access number or authorization code, whether manually or electronically dialed, and
23 that is sold in predetermined units or dollars of which the number declines with use in
24 a known amount.
25 "Prepaid wireless calling service" means a telecommunications service that provides the right
26 to utilize mobile wireless service as well as other non-telecommunications services,
27 including the download of digital products delivered electronically, content and
28 ancillary services, which must be paid for in advance that is sold in predetermined
29 units or dollars of which the number declines with use in a known amount.

1 "Private communication service" means a telecommunication service that entitles the
2 customer to exclusive or priority use of a communications channel or group of
3 channels between or among termination points, regardless of the manner in which
4 such channel or channels are connected, and includes switching capacity, extension
5 lines, stations, and any other associated services that are provided in connection with
6 the use of such channel or channels.
7 "Service address" means:
8 1. The location of the telecommunications equipment to which a customer's call is
9 charged and from which the call originates or terminates, regardless of where the
10 call is billed or paid.
11 2. If the location in subsection (O)(1) is not known, service address means the
12 origination point of the signal of the telecommunications services first identified
13 by either the seller's telecommunications system or in information received by the
14 seller from its service provider, where the system used to transport such signals is
15 not that of the seller.
16 3. If the location in subsection (O)(1) and subsection (O)(2) are not known, the
17 service address means the location of the customer's place of primary use.
18 *Compiler's note: On April 16, 2005 Section 315 (J) was amended by inserting " except a prepaid wireless calling*
19 *service," after "telecommunications service in the second sentence. The former 315 (L) and (M) were renumbered*
20 *315 (M) and (N) and a new Section 315 (L) was inserted. The cross references in 315 (N) were changed to account*
21 *for the renumbering. Member states shall comply with amendments to this section no later than January 1, 2008.*
22 *Compiler's note: On December 14, 2006 Section 315 was amended to add a new subsection B "ancillary services"*
23 *and a renumbering of the remaining subsections and cross references.*
24
25 **Section 316: ENACTMENT OF EXEMPTIONS (Effective through December 31, 2007)**
26 A. A member state may enact a product-based exemption without restriction if the
27 Agreement does not have a definition for the product or for a term that includes the
28 product. If the Agreement has a definition for the product or for a term that includes the
29 product, a member state may exempt all items included within the definition but shall
30 not exempt only part of the items included within the definition unless the Agreement
31 sets out the exemption for part of the items as an acceptable variation.

- 1 B. A member state may enact an entity-based or a use-based exemption without restriction
2 if the Agreement does not have a definition for the product whose use or purchase by a
3 specific entity is exempt or for a term that includes the product. If the Agreement has a
4 definition for the product whose use or specific purchase is exempt, a member state may
5 enact an entity-based or a use-based exemption that applies to that product as long as the
6 exemption utilizes the Agreement definition of the product. If the Agreement does not
7 have a definition for the product whose use or specific purchase is exempt but has a
8 definition for a term that includes the product, a member state may enact an entity-based
9 or a use-based exemption for the product without restriction.
- 10 C. For purposes of complying with the requirements in this section, the inclusion of a
11 product within the definition of tangible personal property is disregarded.

12
13 **Section 316: ENACTMENT OF EXEMPTIONS (Effective on and after January 1, 2008)**

- 14 A. A member state shall enact entity-based, use-based and product-based exemptions in
15 accordance with the provisions of this section and shall utilize common definitions in
16 accordance with the provisions of Section 327 and Library of Definitions in Appendix C
17 of this Agreement.
- 18 B. (1) A member state may enact a product-based exemption without restriction if Part II of
19 the Library of Definitions does not have a definition for such product.
20 (2) A member state may enact a product-based exemption for a product if Part II of the
21 Library of Definitions has a definition for such product and the member state utilizes in
22 the exemption the product definition in a manner consistent with Part II of the Library of
23 Definitions and Section 327 of this Agreement.
24 (3) A member state may enact a product-based exemption exempting all items included
25 within a definition in Part II of the Library of Definitions but shall not exempt specific
26 items included within the product definition unless the product definition sets out an
27 exclusion for such item.
- 28 C. (1) A member state may enact an entity-based or a use-based exemption for a product
29 without restriction if Part II of the Library of Definitions does not have a definition for
30 such product.

- 1 (2) A member state may enact an entity-based or a use-based exemption for a product if
2 Part II of the Library of Definitions has a definition for such product and the member
3 state utilizes in the exemption the product definition in a manner consistent with Part II of
4 the Library of Definitions and Section 327 of this Agreement.
5 (3) A member state may enact an entity-based exemption for an item if Part II of the
6 Library of Definitions does not have a definition for such item but has a definition for a
7 product that includes such item.
8 (4) A member state may not enact a use-based exemption for an item which effectively
9 constitutes a product-based exemption if Part II of the Library of Definitions has a
10 definition for a product that includes such item.
11 (5) A member state may enact a use-based exemption for an item if Part II of the Library
12 of Definitions has a definition for a product that includes such item, if not prohibited in
13 Subsection (C) (4) of this section and if consistent with the definition in Part II of the
14 Library of Definitions.

15 For purposes of complying with the requirements in this section, the inclusion of a product
16 within the definition of tangible personal property is disregarded.

17 *Compiler's note: On October 1, 2005 all of Section 316 was repealed and replaced with the current language. The*
18 *following language was repealed:*

19 *A member state may enact a product-based exemption without restriction if the Agreement does not have a definition*
20 *for the product or for a term that includes the product. If the Agreement has a definition for the product or for a*
21 *term that includes the product, a member state may exempt all items included within the definition but shall not*
22 *exempt only part of the items included within the definition unless the Agreement sets out the exemption for part of*
23 *the items as an acceptable variation.*

24 *A member state may enact an entity-based or a use-based exemption without restriction if the Agreement does not*
25 *have a definition for the product whose use or purchase by a specific entity is exempt or for a term that includes the*
26 *product. If the Agreement has a definition for the product whose use or specific purchase is exempt, a member state*
27 *may enact an entity-based or a use-based exemption that applies to that product as long as the exemption utilizes the*
28 *Agreement definition of the product. If the Agreement does not have a definition for the product whose use or*
29 *specific purchase is exempt but has a definition for a term that includes the product, a member state may enact an*
30 *entity-based or a use-based exemption for the product without restriction.*

31 *For purposes of complying with the requirements in this section, the inclusion of a product within the definition of*
32 *tangible personal property is disregarded.*

33 *Each member state shall comply with the October 1, 2005 amendments to this section no later than January 1, 2008.*

1
2 **Section 317: ADMINISTRATION OF EXEMPTIONS**

- 3 A. Each member state shall observe the following provisions when a purchaser claims an
4 exemption:
- 5 1. The seller shall obtain identifying information of the purchaser and the reason for
6 claiming a tax exemption at the time of the purchase as determined by the governing
7 board.
 - 8 2. A purchaser is not required to provide a signature to claim an exemption from tax
9 unless a paper exemption certificate is used.
 - 10 3. The seller shall use the standard form for claiming an exemption electronically as
11 adopted by the governing board.
 - 12 4. The seller shall obtain the same information for proof of a claimed exemption
13 regardless of the medium in which the transaction occurred.
 - 14 5. A member state may utilize a system wherein the purchaser exempt from the payment
15 of the tax is issued an identification number that shall be presented to the seller at the
16 time of the sale.
 - 17 6. The seller shall maintain proper records of exempt transactions and provide them to a
18 member state when requested.
 - 19 7. A member state shall administer use-based and entity-based exemptions when
20 practicable through a direct pay permit, an exemption certificate, or another means
21 that does not burden sellers.
 - 22 8. After December 31, 2007, in the case of drop shipment sales, member states must
23 allow a third party vendor (e.g., drop shipper) to claim a resale exemption based on an
24 exemption certificate provided by its customer/re-seller or any other acceptable
25 information available to the third party vendor evidencing qualification for a resale
26 exemption, regardless of whether the customer/re-seller is registered to collect and
27 remit sales and use tax in the state where the sale is sourced.
- 28
29 B. **(Effective through December 31, 2007)** Each member state shall relieve sellers that
30 follow the requirements of this section from any tax otherwise applicable if it is

1 determined that the purchaser improperly claimed an exemption and to hold the
2 purchaser liable for the nonpayment of tax. This relief from liability does not apply to a
3 seller who fraudulently fails to collect the tax or solicits purchasers to participate in the
4 unlawful claim of an exemption.
5

- 6 B. **(Effective on and after January 1, 2008)** Each member state shall relieve sellers that
7 follow the requirements of this section from the tax otherwise applicable if it is
8 determined that the purchaser improperly claimed an exemption and to hold the
9 purchaser liable for the nonpayment of tax. This relief from liability does not apply to a
10 seller who fraudulently fails to collect tax; to a seller who solicits purchasers to
11 participate in the unlawful claim of an exemption; to a seller who accepts an exemption
12 certificate when the purchaser claims an entity-based exemption when (1) the subject of
13 the transaction sought to be covered by the exemption certificate is actually received by
14 the purchaser at a location operated by the seller and (2) the state in which that location
15 resides provides an exemption certificate that clearly and affirmatively indicates
16 (graying out exemption reason types on the uniform form and posting it on a state's web
17 site is an indicator) that the claimed exemption is not available in that state; or to a seller
18 who accepts an exemption certificate claiming multiple points of use for tangible
19 personal property other than computer software for which an exemption claiming
20 multiple points of use is acceptable under Section 312.
- 21 C. **(Effective on and after January 1, 2008)** Each state shall relieve a seller of the tax
22 otherwise applicable if the seller obtains a fully completed exemption certificate or
23 captures the relevant data elements required under the Agreement within 90 days
24 subsequent to the date of sale.
- 25 1. If the seller has not obtained an exemption certificate or all relevant data elements as
26 provided in Section 317, subsection (C) the seller may, within 120 days subsequent to
27 a request for substantiation by a member state, either prove that the transaction was
28 not subject to tax by other means or obtain a fully completed exemption certificate
29 from the purchaser, taken in good faith. For purposes of this section, member states

- 1 may continue to apply their own standards of good faith until such time as a uniform
2 standard for good faith is defined in the Agreement.
- 3 2. Nothing in this section shall affect the ability of member states to require purchasers
4 to update exemption certificate information or to reapply with the state to claim
5 certain exemptions.
- 6 3. Notwithstanding the aforementioned, each member state shall relieve a seller of the
7 tax otherwise applicable if it obtains a blanket exemption certificate for a purchaser
8 with which the seller has a recurring business relationship. States may not request
9 from the seller renewal of blanket certificates or updates of exemption certificate
10 information or data elements when there is a recurring business relationship between
11 the buyer and seller. For purposes of this section a recurring business relationship
12 exists when a period of no more than twelve months elapses between sales
13 transactions.

14 *Compiler's note: On April 16, 2005 Subsection (A)(8) was added. Subsection (B) was amended to delete "any" and*
15 *insert "the" after "from" in the first sentence and by inserting all the material after "claim an exemption" in the*
16 *second sentence. Subsection (C) was inserted. Each member state shall comply with the April 16, 2005*
17 *amendments to this section no later than January 1, 2008.*

18 *Compiler's note: On December 14, 2006 Section 312 was repealed making the last clause in the January 1, 2008*
19 *version of Section 317 B obsolete.*

20 **Section 318: UNIFORM TAX RETURNS**

21 Each member state shall:

- 22 A. Require that only one tax return for each taxing period for each seller be filed for the
23 member state and all the taxing jurisdictions within the member state.
- 24 B. Require that returns be due no sooner than the twentieth day of the month following the
25 month in which the transaction occurred.
- 26 C. Allow any Model 1, Model 2, or Model 3 seller to submit its sales and use tax returns in
27 a simplified format that does not include more data fields than permitted by the
28 governing board. A member state may require additional informational returns to be
29 submitted not more frequently than every six months under a staggered system
30 developed by the governing board.
31

- 1 D. Allow any seller that is registered under the Agreement, which does not have a legal
2 requirement to register in the member state, and is not a Model 1, 2, or 3 seller, to submit
3 its sales and use tax returns as follows:
- 4 1. Upon registration, a member state shall provide to the seller the returns required by
5 that state.
- 6 2. A member state may require a seller to file a return anytime within one year of the
7 month of initial registration, and future returns may be required on an annual basis in
8 succeeding years.
- 9 3. In addition to the returns required in subsection (D)(2), a member state may require
10 sellers to submit returns in the month following any month in which they have
11 accumulated state and local tax funds for the state in the amount of one thousand
12 dollars or more.
- 13 E. Participate with other member states in developing a more uniform sales and use tax
14 return that, when completed, would be available to all sellers.
- 15 F. Require, at each member state's discretion, all Model 1, 2, and 3 sellers to file returns
16 electronically. It is the intent of the member states that all member states have the
17 capability of receiving electronically filed returns by January 1, 2004.

18 **Section 319: UNIFORM RULES FOR REMITTANCES OF FUNDS**

19 Each member state shall:

- 20 A. Require only one remittance for each return except as provided in this subsection. If any
21 additional remittance is required, it may only be required from sellers that collect more
22 than thirty thousand dollars in sales and use taxes in the member state during the
23 preceding calendar year as provided herein. The state shall allow the amount of any
24 additional remittance to be determined through a calculation method rather than actual
25 collections. Any additional remittances shall not require the filing of an additional
26 return.
- 27 B. Require, at each member state's discretion, all remittances from sellers under Models 1,
28 2, and 3 to be remitted electronically.
- 29 C. Allow for electronic payments by both ACH Credit and ACH Debit.
30

- 1 D. Provide an alternative method for making "same day" payments if an electronic funds
2 transfer fails.
- 3 E. Provide that if a due date falls on a legal banking holiday in a member state, the taxes are
4 due to that state on the next succeeding business day.
- 5 F. Require that any data that accompanies a remittance be formatted using uniform tax type
6 and payment type codes approved by the governing board.
- 7 *Compiler's note: On October 1, 2005 the second sentence in Section 319(A) was amended as follows: "The state*
8 *shall allow the amount of the any additional remittance shall to be determined through a calculation method rather*
9 *than actual collections. Any additional remittances and shall not require the filing of an additional return." The*
10 *amendment to this section became effective upon adoption.*

11

12 **Section 320: UNIFORM RULES FOR RECOVERY OF BAD DEBTS**

- 13 Each member state shall use the following to provide a deduction for bad debts to a seller. To
14 the extent a member state provides a bad debt deduction to any other party, the same procedures
15 will apply. Each member state shall:
- 16 A. Allow a deduction from taxable sales for bad debts. Any deduction taken that is
17 attributed to bad debts shall not include interest.
- 18 B. Utilize the federal definition of "bad debt" in 26 U.S.C. Sec. 166 as the basis for
19 calculating bad debt recovery. However, the amount calculated pursuant to 26 U.S.C.
20 Sec. 166 shall be adjusted to exclude: financing charges or interest; sales or use taxes
21 charged on the purchase price; uncollectable amounts on property that remain in the
22 possession of the seller until the full purchase price is paid; expenses incurred in
23 attempting to collect any debt, and repossessed property.
- 24 C. Allow bad debts to be deducted on the return for the period during which the bad debt is
25 written off as uncollectable in the claimant's books and records and is eligible to be
26 deducted for federal income tax purposes. For purposes of this subsection, a claimant
27 who is not required to file federal income tax returns may deduct a bad debt on a return
28 filed for the period in which the bad debt is written off as uncollectable in the claimant's
29 books and records and would be eligible for a bad debt deduction for federal income tax
30 purposes if the claimant was required to file a federal income tax return.

- 1 D. Require that, if a deduction is taken for a bad debt and the debt is subsequently collected
2 in whole or in part, the tax on the amount so collected must be paid and reported on the
3 return filed for the period in which the collection is made.
- 4 E. Provide that, when the amount of bad debt exceeds the amount of taxable sales for the
5 period during which the bad debt is written off, a refund claim may be filed within the
6 member state's otherwise applicable statute of limitations for refund claims; however,
7 the statute of limitations shall be measured from the due date of the return on which the
8 bad debt could first be claimed.
- 9 F. Where filing responsibilities have been assumed by a CSP, allow the service provider to
10 claim, on behalf of the seller, any bad debt allowance provided by this section. The CSP
11 must credit or refund the full amount of any bad debt allowance or refund received to the
12 seller.
- 13 G. Provide that, for the purposes of reporting a payment received on a previously claimed
14 bad debt, any payments made on a debt or account are applied first proportionally to the
15 taxable price of the property or service and the sales tax thereon, and secondly to
16 interest, service charges, and any other charges.
- 17 H. In situations where the books and records of the party claiming the bad debt allowance
18 support an allocation of the bad debts among the member states, permit the allocation.
- 19
- 20 **Section 321: CONFIDENTIALITY AND PRIVACY PROTECTIONS UNDER MODEL 1**
- 21 A. The purpose of this section is to set forth the member states' policy for the protection of
22 the confidentiality rights of all participants in the system and of the privacy interests of
23 consumers who deal with Model 1 sellers.
- 24 B. As used in this section, the term "confidential taxpayer information" means all
25 information that is protected under a member state's laws, regulations, and privileges; the
26 term "personally identifiable information" means information that identifies a person;
27 and the term "anonymous data" means information that does not identify a person.
- 28 C. The member states agree that a fundamental precept in Model 1 is to preserve the
29 privacy of consumers by protecting their anonymity. With very limited exceptions, a

- 1 CSP shall perform its tax calculation, remittance, and reporting functions without
2 retaining the personally identifiable information of consumers.
- 3 D. The governing board may certify a CSP only if that CSP certifies that:
- 4 1. Its system has been designed and tested to ensure that the fundamental precept of
5 anonymity is respected;
 - 6 2. That personally identifiable information is only used and retained to the extent
7 necessary for the administration of Model 1 with respect to exempt purchasers;
 - 8 3. It provides consumers clear and conspicuous notice of its information practices,
9 including what information it collects, how it collects the information, how it uses the
10 information, how long, if at all, it retains the information and whether it discloses the
11 information to member states. Such notice shall be satisfied by a written privacy
12 policy statement accessible by the public on the official web site of the CSP;
 - 13 4. Its collection, use and retention of personally identifiable information will be limited
14 to that required by the member states to ensure the validity of exemptions from
15 taxation that are claimed by reason of a consumer's status or the intended use of the
16 goods or services purchased; and
 - 17 5. It provides adequate technical, physical, and administrative safeguards so as to
18 protect personally identifiable information from unauthorized access and disclosure.
- 19 E. Each member state shall provide public notification to consumers, including their exempt
20 purchasers, of the state's practices relating to the collection, use and retention of
21 personally identifiable information.
- 22 F. When any personally identifiable information that has been collected and retained is no
23 longer required for the purposes set forth in subsection (D)(4), such information shall no
24 longer be retained by the member states.
- 25 G. When personally identifiable information regarding an individual is retained by or on
26 behalf of a member state, such state shall provide reasonable access by such individual to
27 his or her own information in the state's possession and a right to correct any inaccurately
28 recorded information.
- 29 H. If anyone other than a member state, or a person authorized by that state's law or the
30 Agreement, seeks to discover personally identifiable information, the state from whom

- 1 the information is sought should make a reasonable and timely effort to notify the
2 individual of such request.
- 3 I. This privacy policy is subject to enforcement by member states' attorneys general or other
4 appropriate state government authority.
- 5 J. Each member states' laws and regulations regarding the collection, use, and maintenance
6 of confidential taxpayer information remain fully applicable and binding. Without
7 limitation, the Agreement does not enlarge or limit the member states' authority to:
- 8 1. Conduct audits or other review as provided under the Agreement and state law.
 - 9 2. Provide records pursuant to a member state's Freedom of Information Act, disclosure
10 laws with governmental agencies, or other regulations.
 - 11 3. Prevent, consistent with state law, disclosures of confidential taxpayer information.
 - 12 4. Prevent, consistent with federal law, disclosures or misuse of federal return
13 information obtained under a disclosure agreement with the Internal Revenue Service.
 - 14 5. Collect, disclose, disseminate, or otherwise use anonymous data for governmental
15 purposes.
- 16 K. This privacy policy does not preclude the governing board from certifying a CSP whose
17 privacy policy is more protective of confidential taxpayer information or personally
18 identifiable information than is required by the Agreement.
- 19
- 20 **Section 322: SALES TAX HOLIDAYS**
- 21 A. If a member state allows for temporary exemption periods, commonly referred to as sales
22 tax holidays, the member state shall:
- 23 1. Not apply an exemption after December 31, 2004, unless the items to be exempted
24 are specifically defined in the Agreement and the exemptions are uniformly applied to
25 state and local sales and use taxes.
 - 26 2. Provide notice of the exemption period at least sixty days' prior to the first day of the
27 calendar quarter in which the exemption period will begin.
- 28 B. A member state may establish a sales tax holiday that utilizes price thresholds set
29 by such state and the provisions of the Agreement on the use of thresholds shall
30 not apply to exemptions provided by a state during a sales tax holiday. In order to

1 provide uniformity, a price threshold established by a member state for exempt
2 items shall include only items priced below the threshold. A member state shall
3 not exempt only a portion of the price of an individual item during a sales tax
4 holiday.

5 C. The following procedures are to be used by member states in administering a
6 sales tax holiday exemption:

7 1. Layaway sales - A sale of eligible property under a layaway sale qualifies for
8 exemption if:

9 a. final payment on a layaway order is made by, and the property is given to,
10 the purchaser during the exemption period; or

11 b. the purchaser selects the property and the retailer accepts the order for the
12 item during the exemption period, for immediate delivery upon full
13 payment, even if delivery is made after the exemption period.

14 2. Bundled sales - Member states will follow the same procedure during the sales
15 tax holiday as agreed upon for handling a bundled sale at other times.

16 3. Coupons and discounts - A discount by the seller reduces the sales price of the
17 property and the discounted sales price determines whether the sales price is
18 within a sales tax holiday price threshold of a member state. A coupon that
19 reduces the sales price is treated as a discount if the seller is not reimbursed
20 for the coupon amount by a third-party. If a discount applies to the total
21 amount paid by a purchaser rather than to the sales price of a particular item
22 and the purchaser has purchased both eligible property and taxable property,
23 the seller should allocate the discount based on the total sales prices of the
24 taxable property compared to the total sales prices of all property sold in that
25 same transaction.

26 4. Splitting of items normally sold together - Articles that are normally sold as a
27 single unit must continue to be sold in that manner. Such articles cannot be
28 priced separately and sold as individual items in order to obtain the
29 exemption. For example, a pair of shoes cannot have each shoe sold

1 separately so that the sales price of each shoe is within a sales tax holiday
2 price threshold.

3 5. Rain checks - A rain check allows a customer to purchase an item at a certain
4 price at a later time because the particular item was out of stock. Eligible
5 property that customers purchase during the exemption period with use of a
6 rain check will qualify for the exemption regardless of when the rain check
7 was issued. Issuance of a rain check during the exemption period will not
8 qualify eligible property for the exemption if the property is actually
9 purchased after the exemption period.

10 6. Exchanges - The procedure for an exchange in regards to a sales tax holiday is
11 as follows:

12 a. If a customer purchases an item of eligible property during the exemption
13 period, but later exchanges the item for a similar eligible item, even if a
14 different size, different color, or other feature, no additional tax is due
15 even if the exchange is made after the exemption period.

16 b. If a customer purchases an item of eligible property during the exemption
17 period, but after the exemption period has ended, the customer returns the
18 item and receives credit on the purchase of a different item, the
19 appropriate sales tax is due on the sale of the newly purchased item.

20 c. If a customer purchases an item of eligible property before the exemption
21 period, but during the exemption period the customer returns the item and
22 receives credit on the purchase of a different item of eligible property, no
23 sales tax is due on the sale of the new item if the new item is purchased
24 during the exemption period.

25 7. Delivery charges - Delivery charges, including shipping, handling and service
26 charges, are part of the sales price of eligible property unless a member state
27 defines "sales price" to exclude such charges. For the purpose of determining
28 a sales tax holiday price threshold, if all the property in a shipment qualifies as
29 eligible property and the sales price for each item in the shipment is within the
30 sales tax holiday price threshold, then the seller does not have to allocate the

1 delivery, handling, or service charge to determine if the price threshold is
2 exceeded. The shipment will be considered a sale of eligible products. If the
3 shipment includes eligible property and taxable property (including an eligible
4 item with a sales price in excess of the price threshold), the seller should
5 allocate the delivery charge by using:

- 6 a. a percentage based on the total sales prices of the taxable property
7 compared to the total sales prices of all property in the shipment; or
- 8 b. a percentage based on the total weight of the taxable property compared to
9 the total weight of all property in the shipment.

10 The seller must tax the percentage of the delivery charge allocated to the
11 taxable property but does not have to tax the percentage allocated to the
12 eligible property.

- 13 8. Order date and back orders - For the purpose of a sales tax holiday, eligible
14 property qualifies for exemption if:
 - 15 a. the item is both delivered to and paid for by the customer during the
16 exemption period; or
 - 17 b. the customer orders and pays for the item and the seller accepts the order
18 during the exemption period for immediate shipment, even if delivery is
19 made after the exemption period. The seller accepts an order when the
20 seller has taken action to fill the order for immediate shipment. Actions to
21 fill an order include placement of an "in date" stamp on a mail order or
22 assignment of an "order number" to a telephone order. An order is for
23 immediate shipment when the customer does not request delayed
24 shipment. An order is for immediate shipment notwithstanding that the
25 shipment may be delayed because of a backlog of orders or because stock
26 is currently unavailable to, or on back order by, the seller.
- 27 9. Returns - For a 60-day period immediately after the sales tax holiday
28 exemption period, when a customer returns an item that would qualify for the
29 exemption, no credit for or refund of sales tax shall be given unless the
30 customer provides a receipt or invoice that shows tax was paid, or the seller

1 has sufficient documentation to show that tax was paid on the specific item.
2 This 60-day period is set solely for the purpose of designating a time period
3 during which the customer must provide documentation that shows that sales
4 tax was paid on returned merchandise. The 60-day period is not intended to
5 change a seller's policy on the time period during which the seller will accept
6 returns.

- 7 10. Different time zones - The time zone of the seller's location determines the authorized
8 time period for a sales tax holiday when the purchaser is located in one time zone and
9 a seller is located in another.

11 **Section 323: CAPS AND THRESHOLDS**

- 12 A. Each member state shall:
 - 13 1. Not have caps or thresholds on the application of state sales or use tax rates or
14 exemptions that are based on the value of the transaction or item after December 31,
15 2005. A member state may continue to have caps and thresholds until that date.
 - 16 2. Not have caps that are based on the application of the rates unless the member state
17 assumes the administrative responsibility in a manner that places no additional burden
18 on the retailer.
- 19 B. Each member state that has local jurisdictions that levy a sales or use tax shall not place
20 caps or thresholds on the application of local rates or use tax rates or exemptions that are
21 based on the value of the transaction or item after December 31, 2005. A member state
22 may continue to have caps and thresholds until that date.
- 23 C. The provisions of this section do not apply to sales or use taxes levied on the retail sale or
24 transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or
25 mobile homes or to instances where the burden of administration has been shifted from
26 the retailer.

28 **Section 324: ROUNDING RULE**

- 29 A. After December 31, 2005, each member state shall adopt a rounding algorithm that meets
30 the following criteria:

- 1 1. Tax computation must be carried to the third decimal place, and
- 2 2. The tax must be rounded to a whole cent using a method that rounds up to the next
- 3 cent whenever the third decimal place is greater than four.
- 4 B. Each state shall allow sellers to elect to compute the tax due on a transaction on an item
- 5 or an invoice basis, and shall allow the rounding rule to be applied to the aggregated state
- 6 and local taxes. No member state shall require a seller to collect tax based on a bracket
- 7 system.

8

9 **Section 325: CUSTOMER REFUND PROCEDURES**

- 10 A. These customer refund procedures are provided to apply when a state allows a purchaser
- 11 to seek a return of over-collected sales or use taxes from the seller.
- 12 B. Nothing in this section shall either require a state to provide, or prevent a state from
- 13 providing, a procedure by which a purchaser may seek a refund directly from the state
- 14 arising out of sales or use taxes collected in error by a seller from the purchaser.
- 15 Nothing in this section shall operate to extend any person's time to seek a refund of sales
- 16 or use taxes collected or remitted in error.
- 17 C. These customer refund procedures provide the first course of remedy available to
- 18 purchasers seeking a return of over-collected sales or use taxes from the seller. A cause
- 19 of action against the seller for the over-collected sales or use taxes does not accrue until
- 20 a purchaser has provided written notice to a seller and the seller has had sixty days to
- 21 respond. Such notice to the seller must contain the information necessary to determine
- 22 the validity of the request.
- 23 D. In connection with a purchaser's request from a seller of over-collected sales or use
- 24 taxes, a seller shall be presumed to have a reasonable business practice, if in the
- 25 collection of such sales or use taxes, the seller: i) uses either a provider or a system,
- 26 including a proprietary system, that is certified by the state; and ii) has remitted to the
- 27 state all taxes collected less any deductions, credits, or collection allowances.

1 **Section 326: DIRECT PAY PERMITS**

- 2 Each member state shall provide for a direct pay authority that allows the holder of a direct pay
- 3 permit to purchase otherwise taxable goods and services without payment of tax to the supplier
- 4 at the time of purchase. The holder of the direct pay permit will make a determination of the
- 5 taxability and then report and pay the applicable tax due directly to the tax jurisdiction. Each
- 6 state can set its own limits and requirements for the direct pay permit. The governing board shall
- 7 advise member states when setting state direct pay limits and requirements, and shall consider
- 8 use of the Model Direct Payment Permit Regulation as developed by the Task Force on EDI
- 9 Audit and Legal Issues for Tax Administration.

10

11 **Section 327: LIBRARY OF DEFINITIONS**

- 12 Each member state shall utilize common definitions as provided in this section. The terms
- 13 defined are set out in the Library of Definitions, in Appendix C of this Agreement. A member
- 14 state shall adhere to the following principles:
- 15 A. If a term defined in the Library of Definitions appears in a member state's sales
- 16 and use tax statutes or administrative rules or regulations, the member state shall
- 17 enact or adopt the Library definition of the term in its statutes or administrative
- 18 rules or regulations in substantially the same language as the Library definition.
- 19 B. A member state shall not use a Library definition in its sales or use tax statutes or
- 20 administrative rules or regulations that is contrary to the meaning of the Library
- 21 definition.
- 22 C. Except as specifically provided in Section 316 and the Library of Definitions, a
- 23 member state shall impose a sales or use tax on all products or services included
- 24 within each definition or exempt from sales or use tax all products or services
- 25 within each definition.

26 *Compiler's note: The Governing Board issued an interpretation of Section 327C on August 29, 2006. That*

27 *interpretation can be found in the Library of Interpretations.*

1 **Section 328: TAXABILITY MATRIX**

- 2 A. To ensure uniform application of terms defined in the Library of Definitions each
3 member state shall complete a taxability matrix adopted by the governing board.
4 The member state’s entries in the matrix shall be provided and maintained in a
5 database that is in a downloadable format approved by the governing board. A
6 member state shall provide notice of changes in the taxability of the products or
7 services listed in the taxability matrix as required by the governing board.
- 8 B. A member state shall relieve sellers and CSPs from liability to the member state and
9 its local jurisdictions for having charged and collected the incorrect amount of sales
10 or use tax resulting from the seller or CSP relying on erroneous data provided by the
11 member state in the taxability matrix.

12
13 **Section 329: EFFECTIVE DATE FOR RATE CHANGES**

14 Each member state shall provide that the effective date of rate changes for services covering a
15 period starting before and ending after the statutory effective date shall be as follows:

- 16 A. For a rate increase, the new rate shall apply to the first billing period starting on or after
17 the effective date.
- 18 B. For a rate decrease, the new rate shall apply to bills rendered on or after the effective
19 date.

20
21 **Section 330: BUNDLED TRANSACTIONS (Effective on and after January 1, 2008)**

- 22 A. A member state shall adopt and utilize to determine tax treatment, the core definition for
23 a “bundled transaction” in Appendix C, Part I of the Library of Definitions in the
24 Agreement.
- 25 B. Member states are not restricted in their tax treatment of bundled transactions except as
26 otherwise provided in the Agreement. Member states are not restricted in their ability to
27 treat some bundled transactions differently from other bundled transactions.
- 28 C. In the case of a bundled transaction that includes any of the following:
29 telecommunication service, ancillary service, internet access, or audio or video
30 programming service:

- 1 1. If the price is attributable to products that are taxable and products that are
2 nontaxable, the portion of the price attributable to the nontaxable products may be
3 subject to tax unless the provider can identify by reasonable and verifiable
4 standards such portion from its books and records that are kept in the regular
5 course of business for other purposes, including, but not limited to, non-tax
6 purposes.
- 7 2. If the price is attributable to products that are subject to tax at different tax rates,
8 the total price may be treated as attributable to the products subject to tax at the
9 highest tax rate unless the provider can identify by reasonable and verifiable
10 standards the portion of the price attributable to the products subject to tax at the
11 lower rate from its books and records that are kept in the regular course of
12 business for other purposes, including, but not limited to, non-tax purposes.
- 13 3. The provisions of this section shall apply unless otherwise provided by federal
14 law.

15 *Compiler’s note: Section 330 was added on April 16, 2005. Member States shall comply with the provisions of this*
16 *Section no later than January 1, 2008.*

17
18 **Section 331: RELIEF FROM CERTAIN LIABILITY FOR PURCHASERS (Effective on**
19 **and after January 1, 2009)**

- 20
21 A. A member state shall relieve a purchaser from liability for penalty to that member state
22 and its local jurisdictions for having failed to pay the correct amount of sales or use tax in
23 the following circumstances:
- 24 1. A purchaser’s seller or CSP relied on erroneous data provided by that member
25 state on tax rates, boundaries, taxing jurisdiction assignments, or in the taxability
26 matrix completed by that member state pursuant to Section 328; or
- 27 2. A purchaser holding a direct pay permit relied on erroneous data provided by that
28 member state on tax rates, boundaries, taxing jurisdiction assignments, or in the
29 taxability matrix completed by that member state pursuant to Section 328.
- 30 3. A purchaser relied on erroneous data provided by that member state in the
31 taxability matrix completed by that member state pursuant to Section 328.

1 4. A purchaser using databases pursuant to subsections (F), (G) and (H) of Section
2 305 relied on erroneous data provided by that member state on tax rates,
3 boundaries, or taxing jurisdiction assignments. After providing adequate notice as
4 determined by the governing board, a member state that provides an address-
5 based database for assigning taxing jurisdictions pursuant to Section 305,
6 subsection (G) or (H) may cease providing liability relief for errors resulting from
7 the reliance on the database provided by the member state under the provisions of
8 Section 305, subsection (F).

9 B. Except where prohibited by a member state's constitution, a member state shall also
10 relieve a purchaser from liability for tax and interest to that member state and its local
11 jurisdictions for having failed to pay the correct amount of sales or use tax in the
12 circumstances described in Section 331 A, provided that, with respect to reliance on the
13 taxability matrix completed by that member state pursuant to Section 328, such relief is
14 limited to the state's erroneous classification in the taxability matrix of terms included in
15 the Library of Definitions as "taxable" or "exempt," "included in sales price" or
16 "excluded from sales price" or "included in the definition" or "excluded from the
17 definition".

18 C. For purposes of this section, the term "penalty" means an amount imposed for
19 noncompliance that is not fraudulent, willful, or intentional which is in addition to the
20 correct amount of sales or use tax and interest.

21 D. A member state may allow relief on terms and conditions more favorable to a purchaser
22 than the terms required by this section.

23 E. The provisions of this section are effective on and after January 1, 2009, however, to the
24 extent any relief under this section does not require a legislative change in a member state, such
25 relief must be granted effective immediately.

26 *Compiler's note: Section 331 was added on August 29, 2006. Member States shall comply with the provisions of*
27 *this Section no later than January 1, 2009.*

28 *Compiler's note: On December 14, 2006 Section 331 was amended by inserting "provided that" in lieu of "except"*
29 *after "Section 331 A," and to add the clause following "Section 328" in B, and by adding the clause starting with*
30 *"however" in E.*

1 **ARTICLE IV**
2 **SELLER REGISTRATION**
3
4 **Section 401: SELLER PARTICIPATION**

5 A. The member states shall provide an online registration system that will allow sellers to
6 register in all the member states.

7 B. By registering, the seller agrees to collect and remit sales and use taxes for all taxable
8 sales into the member states, including member states joining after the seller's
9 registration. Withdrawal or revocation of a member state shall not relieve a seller of its
10 responsibility to remit taxes previously or subsequently collected on behalf of the state.

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

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

18

19 **Section 402: AMNESTY FOR REGISTRATION**

20 A. Subject to the limitations in this section:

21 1. A member state shall provide amnesty for uncollected or unpaid sales or use tax to a
22 seller who registers to pay or to collect and remit applicable sales or use tax on sales
23 made to purchasers in the state in accordance with the terms of the Agreement,
24 provided that the seller was not so registered in that state in the twelve-month period
25 preceding the effective date of the state's participation in the Agreement.

26 2. The amnesty will preclude assessment for uncollected or unpaid sales or use tax
27 together with penalty or interest for sales made during the period the seller was not
28 registered in the state, provided registration occurs within twelve months of the
29 effective date of the state's participation in the Agreement.

- 1 3. Amnesty similarly shall be provided by any additional state that joins the Agreement
2 after the seller has registered.
- 3 B. The amnesty is not available to a seller with respect to any matter or matters for which
4 the seller received notice of the commencement of an audit and which audit is not yet
5 finally resolved including any related administrative and judicial processes.
- 6 C. The amnesty is not available for sales or use taxes already paid or remitted to the state or
7 to taxes collected by the seller.
- 8 D. The amnesty is fully effective, absent the seller's fraud or intentional misrepresentation of
9 a material fact, as long as the seller continues registration and continues payment or
10 collection and remittance of applicable sales or use taxes for a period of at least thirty-six
11 months. Each member state shall toll its statute of limitations applicable to asserting a
12 tax liability during this thirty-six month period.
- 13 E. The amnesty is applicable only to sales or use taxes due from a seller in its capacity as a
14 seller and not to sales or use taxes due from a seller in its capacity as a buyer.
- 15 F. A member state may allow amnesty on terms and conditions more favorable to a seller
16 than the terms required by this section.

17 *Compiler's note: The Governing Board issued interpretations of Section 402B and 402C on April 18, 2006. Those*
18 *interpretations can be found in the Library of Interpretation. The Governing Board issued an interpretation of*
19 *Section 402 on August 29, 2006. That interpretation can be found in the Library of Interpretations. The Governing*
20 *Board issued two interpretations of Section 402 on December 14, 2006. Those interpretations can be found in the*
21 *Library of Interpretations.*

22

23 **Section 403: METHOD OF REMITTANCE**

24 When registering, the seller may select one of the following methods of remittances or other
25 method allowed by state law to remit the taxes collected:

- 26 A. MODEL 1, wherein a seller selects a CSP as an agent to perform all the seller's sales or
27 use tax functions, other than the seller's obligation to remit tax on its own purchases.
- 28 B. MODEL 2, wherein a seller selects a CAS to use which calculates the amount of tax due
29 on a transaction.
- 30 C. MODEL 3, wherein a seller utilizes its own proprietary automated sales tax system that
31 has been certified as a CAS.

1

2 **Section 404: REGISTRATION BY AN AGENT**

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

1 ARTICLE V

2 PROVIDER AND SYSTEM CERTIFICATION

3
4 **Section 501: CERTIFICATION OF SERVICE PROVIDERS AND AUTOMATED**
5 **SYSTEMS**

- 6 A. The governing board shall certify automated systems and service providers to aid in the
7 administration of sale and use tax collections.
- 8 B. The governing board may certify a person as a CSP if the person meets all of the
9 following requirements:
- 10 1. The person uses a CAS;
 - 11 2. The person integrates its CAS with the system of a seller for whom the person
12 collects tax so that the tax due on a sale is determined at the time of the sale;
 - 13 3. The person agrees to remit the taxes it collects at the time and in the manner specified
14 by the member states;
 - 15 4. The person agrees to file returns on behalf of the sellers for whom it collects tax;
 - 16 5. The person agrees to protect the privacy of tax information it obtains in accordance
17 with Section 321 of the Agreement; and
 - 18 6. The person enters into a contract with the member states and agrees to comply with
19 the terms of the contract.
- 20 C. The governing board may certify a software program as a CAS if the governing board
21 determines that the program meets all of the following requirements:
- 22 1. It determines the applicable state and local sales and use tax rate for a transaction, in
23 accordance with Sections 309 to 315, inclusive;
 - 24 2. It determines whether or not an item is exempt from tax;
 - 25 3. It determines the amount of tax to be remitted for each taxpayer for a reporting
26 period;
 - 27 4. It can generate reports and returns as required by the governing board; and
 - 28 5. It can meet any other requirement set by the governing board.
- 29 D. The governing board may establish one or more sales tax performance standards for
30 Model 3 sellers that meet the eligibility criteria set by the governing board and that

1 developed a proprietary system to determine the amount of sales and use tax due on
2 transactions.

3
4 **Section 502: STATE REVIEW AND APPROVAL OF CERTIFIED AUTOMATED**
5 **SYSTEM SOFTWARE AND CERTAIN LIABILITY RELIEF (Effective on and after**
6 **January 1, 2008)**

- 7 A. Each member state shall review software submitted to the governing board for
8 certification as a CAS under Section 501. Such review shall include a review to
9 determine that the program accurately reflects the taxability of the product categories
10 included in the program. Upon approval by the state, the state shall certify to the
11 governing board its acceptance of the determination of the taxability of the product
12 categories included in the program.
- 13 B. Each member state shall relieve CSPs and model 2 sellers from liability to the member
14 state and local jurisdictions for not collecting sales or use taxes resulting from the CSP or
15 model 2 seller relying on the certification provided by the member state.
- 16 C. Each member state shall provide relief from liability to CSPs for not collecting sales and
17 use taxes in the same manner as provided to sellers under the provisions of section 317.
- 18 D. The governing board and the member states shall not be responsible for classification of
19 an item or transaction within the product categories certified. The relief from liability
20 provided in this section shall not be available for a CSP or model 2 seller that has
21 incorrectly classified an item or transaction into a product category certified by a member
22 state. This paragraph shall not apply to the individual listing of items or transactions
23 within a product definition approved by the governing board or the member states.
- 24 E. If a member state determines that an item or transaction is incorrectly classified as to its
25 taxability, it shall notify the CSP or model 2 seller of the incorrect classification. The
26 CSP or model 2 seller shall have ten (10) days to revise the classification after receipt of
27 notice from the member state of the determination. Upon expiration of the ten (10) days,
28 CSP or model 2 seller shall be liable for the failure to collect the correct amount of sales
29 or use taxes due and owing to the member state.

1 Compiler's note: Section 502 was added on January 13, 2006. Member States shall comply with the provisions of
2 this Section no later than January 1, 2008.

3 Compiler's note: On June 23, 2007 subsections A and D were amended as follows:

- 4 A. Each member state shall review software submitted to the governing board for certification as a
5 CAS under Section 501. Such review shall include a review to determine that the program
6 ~~adequately classifies the state's product-based exemptions~~ accurately reflects the taxability of the
7 product categories included in the program. Upon ~~completion of the review~~ approval by the state,
8 the state shall certify to the governing board its acceptance of the ~~classifications made by the~~
9 ~~system~~ determination of the taxability of the product categories included in the program.
- 10 D. The governing board and the member states shall not be responsible for classification of an item
11 or transaction within the ~~product-based exemptions~~ product categories certified. The relief from
12 liability provided in this section shall not be available for a CSP or model 2 seller that has
13 incorrectly classified an item or transaction into a ~~product-based exemption~~ product category
14 certified by a member state. This paragraph shall not apply to the individual listing of items or
15 transactions within a product definition approved by the governing board or the member states.

1 **ARTICLE VI**
2 **MONETARY ALLOWANCES FOR NEW TECHNOLOGICAL MODELS FOR SALES**
3 **TAX COLLECTION**

4
5 **Section 601: MONETARY ALLOWANCE UNDER MODEL 1**

- 6 A. Each member state shall provide a monetary allowance to a CSP in Model 1 in
7 accordance with the terms of the contract between the governing board and the CSP. The
8 details of the monetary allowance will be provided through the contract process. The
9 governing board shall require that such allowance be funded entirely from money
10 collected in Model 1.
- 11 B. The contract between the governing board and a CSP may base the monetary allowance
12 to a CSP on one or more of the following:
- 13 1. A base rate that applies to taxable transactions processed by the CSP.
 - 14 2. For a period not to exceed twenty-four months following a voluntary seller's
15 registration through the Agreement's central registration process, a percentage of tax
16 revenue generated for a member state by the voluntary seller for each member state
17 for which the seller does not have a requirement to register to collect the tax.

18
19 **Section 602: MONETARY ALLOWANCE FOR MODEL 2 SELLERS**

- 20 The member states initially anticipate that they will provide a monetary allowance to sellers
21 under Model 2 based on the following:
- 22 A. All sellers shall receive a base rate for a period not to exceed twenty-four months
23 following the commencement of participation by a seller. The base rate will be set after
24 the base rate has been established for Model 1. This allowance will be in addition to any
25 discount afforded by each member state at the time.
- 26 B. The member states anticipate a monetary allowance to a Model 2 Seller based on the
27 following:
- 28 1. For a period not to exceed twenty-four months following a voluntary seller's
29 registration through the Agreement's central registration process, a percentage of tax

1 revenue generated for a member state by the voluntary seller for each member state
2 for which the seller does not have a requirement to register to collect the tax.
3 2. Following the conclusion of the twenty-four month period, a seller will only be
4 entitled to a vendor discount afforded under each member state's law at the time the
5 base rate expires.

6
7 **Section 603: MONETARY ALLOWANCE FOR MODEL 3 SELLERS AND ALL OTHER**
8 **SELLERS THAT ARE NOT UNDER MODELS 1 OR 2**

9 The member states anticipate that they will provide a monetary allowance to sellers under Model
10 3 and to all other sellers that are not under Models 1 or 2 based on the following:

- 11 A. For a period not to exceed twenty-four months following a voluntary seller's registration
12 through the Agreement's central registration process, a percentage of tax revenue
13 generated for a member state by the voluntary seller for each member state for which the
14 seller does not have a requirement to register to collect the tax.
15 B. Vendor discounts afforded under each member state's law.

1 **ARTICLE VII**
2 **AGREEMENT ORGANIZATION**

3
4 **Section 701: EFFECTIVE DATE**

5 The Agreement shall become binding and take effect when at least ten states comprising at least twenty
6 percent of the total population, as determined by the 2000 Federal census, of all states imposing a state
7 sales tax as of October 1, 2005 have petitioned for membership and have either been found to be in
8 compliance with the requirements of the Agreement pursuant to Section 805 or have been found to be an
9 associate member pursuant to Section 704. The Agreement shall take effect on the first day of a
10 calendar quarter at least sixty days after the tenth state is found in compliance or is found to be an
11 associate member.

12 *Compiler's note: On April 16, 2005 Section 701 was amended by inserting "either" after "and have" in the first sentence;*
13 *inserting "or have been found to be an associate member pursuant to Section 704" at the end of the first sentence; and*
14 *deleting ", but cannot take effect prior to July 1, 2003" and inserting "or is found to be an associate member" at the end of*
15 *the second sentence. The April 16, 2005 amendments to this section were effective upon adoption.*

16 *On April 18, 2006 Section 701 was amended by inserting "as of October 1, 2005" after "sales tax." The April 18, 2006*
17 *amendment to this section was effective upon adoption.*

18
19 **Section 702: APPROVAL OF INITIAL STATES**

20 Prior to the effective date of the Agreement, a state may seek membership by forwarding a petition for
21 membership and certificate of compliance to the Co-Chairs of the Streamlined Sales Tax Implementing
22 States. The certificate of compliance shall meet the requirements of Section 802. If some changes to a
23 state's statutes, rules, regulations, or other authorities have been adopted, but are not yet in effect, the
24 petition for membership shall include the date on which those changes will be effective. A petitioning
25 state shall also provide a copy of its petition for membership and certificate of compliance to each of the
26 Streamlined Sales Tax Implementing States. A petitioning state shall also post a copy of its petition for
27 membership and certificate of compliance on that state's web site.

28
29 Upon receipt of the requisite number of petitions as provided in Section 701, the Co-Chairs shall
30 convene and preside over a meeting of the petitioning states for the purpose of determining if the
31 petitioning states are in compliance with the Agreement. The meeting shall be convened as soon as

1 practicable after receipt of the requisite number of petitions provided in Section 701. An affirmative
2 vote of three-fourths of the other petitioning states is necessary for a petitioning state to be found in
3 compliance with the Agreement. A petitioning state shall not vote on its own petition for membership.

4
5 The Co-Chairs shall provide the public with an opportunity to comment prior to any vote on a state's
6 petition for membership.

7 *Compiler's note: On April 16, 2005 this section was amended by deleting "that has adopted changes to its statutes, rules,
8 regulations, or other authorities necessary to bring a state into compliance as provided in Section 805," after "a state" in
9 the first sentence; inserting the second sentence; inserting "to a state's statutes, rules, regulations, or other authorities" after
10 "changes" in the third sentence; and deleting ", but shall not be earlier than the date the relevant statutes, rules, regulations,
11 or other authorities of the requisite number of petitioning states are effective" after "Section 701" in the second sentence in
12 the second paragraph. The April 16, 2005 amendments to this section were effective upon adoption.*

13 14 **Section 703: STREAMLINED SALES TAX IMPLEMENTING STATES**

15 A. From the time of ratification of this Agreement until the provisions of Section 701 have been met, the
16 Streamlined Sales Tax Implementing States shall maintain responsibility for the Agreement, including
17 the disposition of all proposed amendments to the Agreement. If the provisions of Section 701 have
18 been met with the use of associate members as defined in Section 704, the Streamlined Sales Tax
19 Implementing States shall be responsible for the disposition of all proposed amendments to and
20 interpretations of the Agreement until such time as the provisions of Section 701 have been met without
21 the use of associate members.

22
23 B. Amendments to the Agreement considered by the Streamlined Sales Tax Implementing States shall
24 follow the provisions as set forth in Article IX, Section 901.

25
26 C. For a period of not less than six months nor longer than one year after the provisions of Section 701
27 are met without the use of associate members, the Streamlined Sales Tax Implementing States shall
28 provide advice to the Governing Board of the Agreement and shall be consulted by the Governing Board
29 before amending the Agreement.

1 D. Upon the expiration of the duties of the Streamlined Sales Tax Implementing States as set forth in
2 subsection C, any state that previously held Implementing State status shall become an Advisor State to
3 the Governing Board.

- 4 1. Advisor States shall serve in an *ex officio* capacity on the Governing Board, with non-
5 voting status, but may speak to any matter presented to the Governing Board for
6 consideration.
- 7 2. Each State's delegation to the Streamlined Sales Tax Implementing States may serve as
8 the state's delegation to the Governing Board as established herein or the state may
9 appoint a new delegation, of up to four representatives, who shall be members of state or
10 local government.
- 11 3. Representatives of Advisor States may serve on standing committees of the Governing
12 Board except they may not serve as officers or directors on the Executive Committee or
13 as members on the Finance Committee or the Compliance Review and Interpretations
14 Committee.
- 15 4. A state that was not previously an Implementing State may become an Advisor State by:
16 a. Enacting legislation authorizing the state's participation in interstate discussions to
17 develop a simplified sales and use tax system; or
18 b. Executing a memorandum of understanding or similar written document by the
19 governor and legislative leaders expressing the intent of the state to participate in
20 interstate discussions to develop a simplified sales and use tax system.
21 Any question over whether or not a state qualifies as an Advisor State shall be resolved
22 by a majority vote of the Governing Board.
- 23 5. Neither the Governing Board nor a Member State may share or grant any Advisor State
24 access to any seller information from the seller's registration pursuant to Section 401.
25 Neither the Governing Board nor a Member State may share or grant any Advisor State
26 access to any seller information from an audit conducted by the Governing Board or a
27 Member State on behalf of the Governing Board.
- 28 6. An Advisor State may not participate in a closed session of the Governing Board or a
29 Governing Board committee.

1 *Compiler's note: On April 16, 2005 Section 703 was amended by inserting the second sentence in 703 (A) and inserting*
2 *"without the use of associate members" after "are met" in 703 (C). The April 16, 2005 amendments to this section were*
3 *effective upon adoption. On August 29, 2006 Section 703 was amended by inserting subsection D. The August 29, 2006*
4 *amendment to this section was effective upon adoption.*

5
6 **Section 704: CONSIDERATION OF PETITIONS**

7 A. A petitioning state that is found to be in compliance pursuant to Section 805 of the Agreement
8 and the changes to their statutes, rules, regulations or other authorities necessary to bring them
9 into compliance are in effect shall be designated a Member State.

10
11 B. A petitioning state that is found to be in compliance pursuant to Section 805 of the Agreement
12 and the changes to their statutes, rules, regulations or other authorities necessary to bring them
13 into compliance are not in effect, but are scheduled to take effect on or before January 1, 2008,
14 shall be designated an associate member. Provided the statutes, rules, regulations or other
15 authorities remain in effect, the state shall automatically become a Member State upon the
16 effective date of the conforming legislation.

17
18 C. A petitioning state that fails to receive an affirmative vote of three-fourths of the petitioning
19 states as required under Section 702 may request associate membership. If such a request is
20 made, the Petitioning States may grant such membership by majority vote upon a finding that the
21 state has achieved substantial compliance with the terms of the Agreement taken as a whole, but
22 not necessarily each provision as required by Section 805, measured qualitatively, and there is a
23 reasonable expectation that the state will achieve compliance by January 1, 2008. A state that is
24 granted associate membership by this section shall be required to re-petition for full membership
25 under the requirements of the Agreement.

26 *Compiler's note: On April 16, 2005 Section 704 was added and was effective upon adoption.*

27
28 **Section 705: ASSOCIATE MEMBERSHIP**

29 A. An associate member shall have all the rights and privileges of a member state except that:

30 1. An associate member may not vote on amendments to or interpretations of the Agreement when
31 the provisions of Section 701 have been met without the use of associate members; and

1 2. An associate member may not vote to determine if a petitioning state is in compliance with the
2 Agreement pursuant to Section 804 of the Agreement.

3 3. A representative of an associate member state shall not be eligible to serve on the compliance
4 review and interpretations committee.

5
6 B. A state which is an associate member on January 1, 2007, shall retain such status until the
7 Governing Board finds such state to be in compliance pursuant to Section 805 or December 31, 2007,
8 whichever is earlier, without regard to whether the population requirement of Section 701 has been met.
9 Any such associate member that has not been found in compliance by December 31, 2007 shall forfeit
10 its status as an associate member. The president of the governing board shall provide an associate
11 member state with the reasons why such state is not in compliance with the Agreement. Forfeiture of its
12 status as an associate member does not preclude a state from re-petitioning for membership pursuant to
13 Section 801.

14
15 C. Notwithstanding any provision of this Agreement to the contrary, a seller may, but is not
16 required to collect sales or use tax on sales into an associate member state unless the seller is otherwise
17 required to collect such taxes under applicable law. Notwithstanding the provisions of Section 401 (B),
18 a seller that volunteers to collect tax in an associate member state is not required to collect tax in any
19 other associate member state. An associate member shall be responsible for payment of costs as
20 provided in Article VI for those sellers that volunteer to collect tax in an associate member state.

21
22 D. Neither the Governing Board nor a member state may share or grant access to an associate
23 member state any seller information from the seller's registration pursuant to Section 401. Neither the
24 Governing Board nor a member state may share or grant access to an associate member state any seller
25 information from an audit conducted by the Governing Board or a member state on behalf of the
26 Governing Board unless the associate member state is a party to the audit.

27
28 E. An associate member shall be responsible for the payment of the petition fee and the annual cost
29 allocation as determined by the Streamlined Sales Tax Implementing States or Governing Board.

1 F. An associate member state shall provide amnesty pursuant to the provisions of Section 402,
2 provided, the amnesty shall be in effect from the date the associate member status is attained until 12
3 months after the associate member state becomes a full member state.
4 *Compiler's note: On April 16, 2005 Section 705 was added and was effective upon adoption.*
5 *Compiler's note: On June 23, 2007 Section 705 was amended as follows:*
6 "A. An associate member shall have all the rights and privileges of a member state except that:
7 1. An associate member may not vote on amendments to or interpretations of the Agreement when the provisions of
8 Section 701 have been met without the use of associate members; and
9 2. An associate member may not vote to determine if a petitioning state is in compliance with the Agreement pursuant
10 to Section 804 of the Agreement. Associate members may vote on amendments to or interpretations of the Agreement as an
11 Implementing State under Section 703 (A).
12 3. A representative of an associate member state shall not be eligible to serve on the compliance review and
13 interpretations committee.
14 B. ~~An associate member~~ A state which is an associate member on January 1, 2007, shall retain such status until the
15 Governing Board finds such state to be in compliance pursuant to Section 805 or December 31, 2007, whichever is earlier,
16 without regard to whether the population requirement of Section 701 has been met. Any such associate member that has not
17 been found in compliance by December 31, 2007 shall forfeit its status as an associate member. No state may be an
18 associate member after December 31, 2007. The Co-Chairs of the Streamlined Sales Tax Implementing States president of
19 the governing board shall provide an associate member state with the reasons why such state is not in compliance with the
20 Agreement. Forfeiture of its status as an associate member does not preclude a state from re-petitioning for membership
21 pursuant to Section 801.
22 F. An associate member state shall provide amnesty pursuant to the provisions of Section 402, provided, the amnesty shall be
23 in effect from the date the associate member status is attained until 12 months after the associate member state ~~has been~~
24 ~~found to be in compliance with the Agreement becomes a full member state.~~
25 *The June 23, 2007 amendments became effective upon their adoption.*

1
2 **ARTICLE VIII**
3 **STATE ENTRY AND WITHDRAWAL**
4
5 **Section 801: ENTRY INTO AGREEMENT**
6 A. After the effective date of the Agreement, a state may apply to become a party to the Agreement
7 by submitting a petition for membership and certificate of compliance to the governing board. The
8 petition for membership shall include such state's proposed date of entry. The petitioning state's
9 proposed date of entry shall be on the first day of a calendar quarter. The proposed date of entry shall be
10 a date on which all provisions necessary for the state to be in compliance with the Agreement are in
11 place and effective.
12
13 B. The petitioning state shall provide a copy of its petition for membership and the certificate of
14 compliance to each member state when the petitioning state submits its petition for membership to the
15 governing board. A petitioning state shall also post a copy of its petition for membership and certificate
16 of compliance on that state's web site.
17
18 C. A state that petitions for membership after January 1, 2007, that is found to be in
19 compliance pursuant to Sections 804 and 805 of the Agreement except that the changes to their
20 statutes, rules, regulations or other authorities necessary to bring them into compliance are not
21 yet in effect, shall be designated an associate member effective on the first day of the calendar
22 quarter that is not more than twelve months before its proposed date of entry as a member state.
23 Such twelve month period may be extended to eighteen months if the governing board, by
24 unanimous vote approves such extension. Such extension shall be granted only if the petitioning
25 state can present adequate justification of the necessity for the future effective date and that the
26 application of the future effective date beyond twelve months is limited to the provisions of the
27 law for which such necessity is demonstrated. Such states shall be subject to the annual
28 recertification requirement set forth in Section 803 of this Agreement for all issues other than the
29 delayed effective date issues identified at the time the state becomes an associate member.
30 Extensions of effective date delays beyond those identified at the time the state becomes an

1 associate member shall require the state to submit a statement of non-compliance pursuant to
2 Section 803. Provided the statutes, rules, regulations or other authorities remain in effect, the
3 state shall automatically become a member state on the state's proposed date of entry.
4

5 D. A state which becomes an associate member after January 1, 2007 shall forfeit its status as an
6 associate member on the date provided for compliance pursuant to subsection C of this section, if the
7 state's laws are not in compliance at that time. A state that forfeits its status as an associate member
8 because it has extended its effective date for required law changes beyond the date set forth in its
9 petition for membership may not file another petition for membership for a period of twelve months
10 after such state forfeits its status as an associate member.

11 *Compiler's note: On June 23, 2007 subsections A and B were numbered and subsections C and D were added. These*
12 *changes became effective upon their adoption.*

13 **Section 802: CERTIFICATE OF COMPLIANCE**

14 The certificate of compliance shall be signed by the chief executive of the state's tax agency. The
15 certificate of compliance shall document compliance with the provisions of the Agreement and cite
16 applicable statutes, rules, regulations, or other authorities evidencing such compliance.
17

18 **Section 803: ANNUAL RE-CERTIFICATION OF MEMBER STATES**

19 Each member state shall annually re-certify that such state is in compliance with the Agreement. Each
20 member state shall make a re-certification to the governing board on or before August 1 of each year
21 after the year of the state's entry. In its annual re-certification, the state shall include any changes in its
22 statutes, rules, regulations, or other authorities that could affect its compliance with the terms of the
23 Agreement. The re-certification shall be signed by the chief executive of the state's tax agency.
24

25 A member state that cannot re-certify its compliance with the Agreement shall submit a statement of
26 non-compliance to the governing board. The statement of non-compliance shall include any action or
27 decision that takes such state out of compliance with the Agreement and the steps it will take to return to
28 compliance. The governing board shall promulgate rules and procedures to respond to statements of
29 noncompliance in accordance with Section 809.
30

1
2 Each member state shall post its annual re-certification or statement of non-compliance on that state's
3 web site.
4

5 **Section 804: REQUIREMENTS FOR MEMBERSHIP APPROVAL**

6 The governing board shall determine if a petitioning state is in compliance with the Agreement. A
7 three-fourths vote of the entire governing board is required to approve a state's petition for membership.
8 The governing board shall provide public notice and opportunity for comment prior to voting on a
9 state's petition for membership. A state's membership is effective on the proposed date of entry in its
10 petition for membership or the first day of the calendar quarter after its petition is approved by the
11 governing board, whichever is later, and is at least sixty days after its petition is approved.
12

13 **Section 805: COMPLIANCE**

14 A state is in compliance with the Agreement if the effect of the state's laws, rules, regulations, and
15 policies is substantially compliant with each of the requirements set forth in the Agreement.
16

17 **Section 806: AGREEMENT ADMINISTRATION**

18 Authority to administer the Agreement shall rest with the governing board comprised of representatives
19 of each member state. Each member state may appoint up to four representatives to the governing
20 board. The representatives shall be members of the executive or legislative branches of the state. Each
21 member state shall be entitled to one vote on the governing board. Except as otherwise provided in the
22 Agreement, all actions taken by the governing board shall require an affirmative vote of a majority of
23 the governing board present and voting. The governing board shall determine its meeting schedule, but
24 shall meet at least once annually. The governing board shall provide a public comment period at each
25 meeting to provide members of the public an opportunity to address the board on matters relevant to the
26 administration or operation of the Agreement. The governing board shall provide public notice of its
27 meetings at least thirty days in advance of such meetings. The governing board shall promulgate rules
28 establishing the public notice requirements for holding emergency meetings on less than thirty day's
29 notice. The governing board may meet electronically.
30

1 The governing board is responsible for the administration and operation of the Agreement, including the
2 appointment of all manner of committees. The governing board may employ staff, advisors, consultants
3 or agents. The governing board may issue interpretive opinions and promulgate such rules it deems
4 necessary to carry out its responsibilities. Rules may take one of two forms: procedural rules, which
5 shall require an affirmative vote of a majority of the governing board present and voting to adopt; and
6 interpretative rules which shall require an affirmative vote of three-fourths of the entire governing board
7 to adopt. The governing board may take any action that is necessary and proper to fulfill the purposes of
8 the Agreement. The governing board may allocate the cost of administration of the Agreement among
9 the member states.

10
11 The governing board may assign committees certain duties, including, but not limited to:

- 12 A. Responding to questions regarding the administration of the Agreement;
- 13 B. Preparing certification requirements and coordinating the certification process for CSPs;
- 14 C. Coordinating joint audits;
- 15 D. Issuing requests for proposals;
- 16 E. Coordinating contracts with member states and providers; and
- 17 F. Maintaining records for the governing board.

18 *Compiler's note: On August 29, 2006 the second paragraph of Section 806 was amended as follows:*
19 *"The governing board is responsible for the administration and operation of the Agreement, including the appointment of all*
20 *manner of committees. The governing board may employ staff, advisors, consultants or agents. The governing board may*
21 *issue interpretive opinions and promulgate such rules and procedures it deems necessary to carry out its responsibilities.*
22 *Rules may take one of two forms: procedural rules, which shall require an affirmative vote of a majority of the governing*
23 *board present and voting to adopt; and interpretative rules which shall require an affirmative vote of three-fourths of the*
24 *entire governing board to adopt. The governing board may take any action that is necessary and proper to fulfill the*
25 *purposes of the Agreement. The governing board may allocate the cost of administration of the Agreement among the*
26 *member states." The amendment to this section became effective upon its approval.*

27 28 **Section 807: OPEN MEETINGS**

29 Each meeting of the governing board and the minutes thereof shall be open to the public except as
30 provided herein. Meetings of the governing board may be closed only for one or more of the following:

- 31 A. Personnel issues.

- 1 B. Information required by the laws of any member state to be protected from public disclosure. In
2 the meeting, the governing board shall excuse any attendee to whom confidential taxpayer
3 information cannot be disclosed under the law of any member state.
- 4 C. Proprietary information requested by any business to be protected from disclosure.
- 5 D. The consideration of issues incident to competitive bidding, requests for information, or
6 certification, the disclosure of which would defeat the public interest in a fair and competitive
7 process.
- 8 E. The consideration of pending litigation in a member state the discussion of which in a public
9 session would, in the judgment of the member state engaged in the litigation, adversely affect its
10 interests. In the meeting, the governing board shall excuse any attendee to whom confidential
11 taxpayer information cannot be disclosed under the law of any member state.
- 12 F. The consideration of pending litigation in which the governing board is a party the discussion of
13 which in a public session would, in the judgment of the governing board, adversely affect its
14 interests. In the meeting, the governing board shall excuse any attendee to whom confidential
15 taxpayer information cannot be disclosed under the law of any member state.

16 A closed session of the governing board may be convened by the chair or by a majority vote of the
17 governing board. When a closed session is convened, the reason for the closed session shall be noted in
18 a public session. Any actions taken in the closed session shall be reported immediately upon the
19 reconvening of a public session.

20 *Compiler's note: On April 16, 2005 Section 807 (F) was added and was effective upon its adoption.*

21 22 **Section 808: WITHDRAWAL OF MEMBERSHIP OR EXPULSION OF A MEMBER**

23 With respect to each member state, the Agreement shall continue in full force and effect until a member
24 state withdraws its membership or is expelled. A member state's withdrawal or expulsion cannot be
25 effective until the first day of a calendar quarter after a minimum of sixty days' notice. A member state
26 shall submit notice of its intent to withdraw from the Agreement to the governing board and the chief
27 executive of each member state's tax agency. The member state shall provide public notice of its intent
28 to withdraw and post its notice of intent to withdraw on its web site. The withdrawal by or expulsion of
29 a state does not affect the validity of the Agreement among other member states. A state that withdraws
30 or is expelled from the Agreement remains liable for its share of any financial or contractual obligations

1 that were incurred by the governing board prior to the effective date of that state's withdrawal or
2 expulsion. The appropriate share of any financial or contractual obligation shall be determined by the
3 state and the governing board in good faith based on the relative benefits received and burdens incurred
4 by the parties.

5
6 **Section 809: SANCTION OF MEMBER STATES**

7 A. If a member state is found to be out of compliance with the Agreement, the governing board may
8 consider sanctions against the state. The sanctions that the governing board may impose include
9 expulsion from the Agreement, or other penalties as determined by the governing board. The adoption
10 of a resolution to sanction a member state for noncompliance with the Agreement shall require the
11 affirmative vote of three-fourths of the entire governing board, excluding the state that is the subject of
12 the resolution. The member state that is the subject of the resolution shall not vote on such resolution.
13 Resolutions seeking sanctions shall be acted upon by the governing board within a reasonable period of
14 time as set forth in the governing board's rules. The governing board shall provide an opportunity for
15 public comment prior to action on a proposed sanction.

16
17 B. No member state shall be sanctioned for failing to comply with any amendment to the
18 Agreement adopted under section 901 of the Agreement or an interpretation or interpretative rule
19 adopted under section 902 of the Agreement, if compliance with the amendment, interpretation or
20 interpretive rule requires the state to make a statutory change, until the later of the first day of January at
21 least two years after the adoption of the amendment or interpretive rule or the first day of a calendar
22 quarter following the end of one full session of the state's legislature.

23
24 C. No member state shall be sanctioned for failing to be in compliance with any term of the
25 Agreement that the state has adopted, in substantially identical form, in its statutes if its noncompliance
26 is a result of a judicial ruling in that state that interprets that term of the Agreement in a manner
27 inconsistent with an interpretation by, or interpretive rule of, the Governing Board adopted under section
28 902 of the Agreement and the member state comes into compliance with the interpretation of the
29 Governing Board by amending its statutes before the later of the first day of January at least two years
30 after the issuance of the judicial decision or the first day of a calendar quarter following one full session
31 of the state's legislature.

1 *Compiler's note: On December 14, 2006 Section 809 was amended by adding subsections B and C. The amendment to this*
2 *section was effective upon its adoption.*

3
4 **Section 810: STATE AND LOCAL ADVISORY COUNCIL**

5 The governing board shall create a State and Local Government Advisory Council to advise the
6 governing board on matters pertaining to the administration of the Agreement. The membership shall
7 include at least one representative from each state that is a participating member of the Streamlined
8 Sales Tax Project pursuant to the Operating Rules of the Project as designated by that state. In addition,
9 the governing board shall appoint local government officials to the State and Local Government
10 Advisory Council. The governing board may appoint other state officials as it deems appropriate.
11 Matters pertaining to the administration of the Agreement shall include, but not be limited to, admission
12 of states into membership, noncompliance, and interpretations, revisions or additions to the Agreement.
13 The State and Local Government Advisory Council shall advise and assist the Business Advisory
14 Council in the functions noted in Section 811.

15 *Compiler's note: On April 16, 2005 Section 810 was amended by deleting "and Taxpayer" after "Business" in the last*
16 *sentence. The amendment to this section was effective upon its adoption.*

17
18 **Section 811: BUSINESS ADVISORY COUNCIL**

19 The governing board shall recognize a Business Advisory Council from the private sector to advise the
20 governing board on matters pertaining to the administration of the Agreement. These matters shall
21 include, but not be limited to, admission of states into membership, noncompliance, and interpretations,
22 revisions or additions to the Agreement. The Business Advisory Council shall advise and assist the
23 State and Local Government Advisory Council in the functions noted in Section 810.

24 *Compiler's note: On April 16, 2005 Section 811 was amended by deleting "AND TAXPAYER" from the title line; deleting*
25 *"create" and inserting "recognize" after "shall" in the first sentence and deleting "and Taxpayer" after "Business" from*
26 *the first and third sentences. The amendments to this section were effective upon its adoption.*

1 **ARTICLE IX**

2 **AMENDMENTS AND INTERPRETATIONS**

3
4 **Section 901: AMENDMENTS TO AGREEMENT**

5 Amendments to the Agreement may be brought before the governing board by any member state. The
6 Agreement may be amended by a three-fourths vote of the entire governing board. The governing board
7 shall give the Governor and presiding officer of each house of each member state notice of proposed
8 amendments to the Agreement at least sixty days prior to consideration. The governing board shall give
9 public notice of proposed amendments to the Agreement at least sixty days prior to consideration. The
10 governing board shall provide an opportunity for public comment prior to action on an amendment to
11 the Agreement.

12
13 **Section 902: INTERPRETATIONS OF AGREEMENT**

14 Matters involving interpretation of the Agreement may be brought before the governing board by any
15 member state or by any other person. Interpretations may take the form of interpretive opinions, or
16 interpretive rules. An interpretive opinion is issued when the requester submits specific facts and asks
17 how certain provisions in the Agreement would apply to those facts, similar to a private letter ruling. An
18 interpretive rule is issued to clarify language in the Agreement and applies more generally, similar to
19 rules and regulations issued to clarify statutory language. Both forms of interpretations shall require a
20 three-fourths vote of the entire governing board. The governing board shall publish all interpretations
21 issued under this section. Interpretations shall be considered part of the Agreement and shall have the
22 same effect as the Agreement. The governing board shall act on requests for interpretation of the
23 Agreement within a reasonable period of time and under guidelines and procedures as set forth in the
24 governing board's rules. The governing board may determine that it will not issue an interpretation.
25 The governing board shall provide an opportunity for public comment prior to issuing an interpretation
26 of the Agreement. The governing board shall give notice of a proposed interpretive rule to the member
27 states and the public as provided in Section 901 of the Agreement, except that notice must be given at
28 least thirty days prior to consideration.

1 *Compiler's note: On August 29, 2006 Section 902 was amended by adding the second, third, fourth, and last sentences. The*
2 *fifth sentence was amended as follows: "All Both forms of". The August 29, 2006 amendment to this section became effective*
3 *upon its approval.*

4
5 **Section 903: DEFINITION REQUESTS**

6 Any member state or any other person may make requests for additional definitions or for
7 interpretations on how an individual product or service fits within a definition. Requests shall be
8 submitted in writing as determined by the governing board. Such requests shall be referred to
9 the Advisory Council created in Section 810 or other group under guidelines and procedures as
10 set forth in the governing board's rules. The entity to which the request was referred shall post
11 notice of the request and provide for input from the public and the member states as directed by
12 the governing board. Within one hundred eighty days after receiving the request, they shall
13 report to the governing board one of the following recommendations:

- 14 A. That no action be taken on the request;
15 B. That a proposed amendment to the Library be submitted;
16 C. That an interpretation request be submitted; or
17 D. That additional time is needed to review the request.

18
19 If either an amendment or an interpretation is recommended, the entity to which the request was
20 referred shall provide the appropriate language as required by the governing board. The
21 governing board shall take action on the recommendation of the entity to which the request was
22 referred at the next meeting of the governing board pursuant to the notice requirements of
23 Section 806. Action by the governing board to approve a recommendation for no action shall be
24 considered the final disposition of the request. Nothing in this paragraph shall prohibit a state
25 from directly submitting a proposed amendment or an interpretation request to the governing
26 board pursuant to Section 901 or Section 902.

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ARTICLE X
ISSUE RESOLUTION PROCESS

Section 1001: RULES AND PROCEDURES FOR ISSUE RESOLUTION

The governing board shall promulgate rules creating an issue resolution process. The rules shall govern the conduct of the process, including the participation by any petitioner, affected state, and other interested party, the disposition of a petition to invoke the process, the allocation of costs for participating in the process, the possible involvement of a neutral third party or non-binding arbitration, and such further details as the governing board determines necessary and appropriate.

Section 1002: PETITION FOR RESOLUTION

Any member state or person may petition the governing board to invoke the issue resolution process to resolve matters of:

- A. Membership of a state under Article VIII;
- B. Matters of compliance under Section 805;
- C. Possibilities of sanctions of a member state under Section 809;
- D. Amendments to the Agreement under Section 901;
- E. Interpretation issues, including differing interpretations among the member states, under Section 902; or
- F. Other matters at the discretion of the governing board.

Section 1003: FINAL DECISION OF GOVERNING BOARD

The governing board shall consider any recommendations resulting from the issue resolution process before making its decision, which decision shall, as with all other matters under the Agreement, be final and not subject to further review.

Section 1004: LIMITED SCOPE OF THIS ARTICLE

Nothing in this Article shall be construed to substitute for, stay or extend, limit, expand, or otherwise affect, in any manner, any right or duty that any person or governmental body has under the laws of any member state or local government body. This Article is specifically

1 subject to the terms of Article XI and shall not be construed as taking precedence over Article
2 XI.

1 **ARTICLE XI**

2 **RELATIONSHIP OF AGREEMENT TO MEMBER STATES AND PERSONS**

3
4 **Section 1101: COOPERATING SOVEREIGNS**

5 This Agreement is among individual cooperating sovereigns in furtherance of their governmental
6 functions. The Agreement provides a mechanism among the member states to establish and
7 maintain a cooperative, simplified system for the application and administration of sales and use
8 taxes under the duly adopted law of each member state.

9
10 **Section 1102: RELATIONSHIP TO STATE LAW**

11 No provision of the Agreement in whole or part invalidates or amends any provision of the law
12 of a member state. Adoption of the Agreement by a member state does not amend or modify any
13 law of the state. Implementation of any condition of the Agreement in a member state, whether
14 adopted before, at, or after membership of a state, must be by the action of the member state. All
15 member states remain subject to Article VIII.

16
17 **Section 1103: LIMITED BINDING AND BENEFICIAL EFFECT**

- 18 A. This Agreement binds and inures only to the benefit of the member states. No person,
19 other than a member state, is an intended beneficiary of this Agreement. Any benefit to a
20 person other than a state is established by the laws of the member states and not by the
21 terms of this Agreement.
- 22 B. Consistent with subsection (A), no person shall have any cause of action or defense under
23 the Agreement or by virtue of a member state's approval of the Agreement. No person
24 may challenge, in any action brought under any provision of law, any action or inaction
25 by any department, agency, or other instrumentality of any member state, or any political
26 subdivision of a member state on the ground that the action or inaction is inconsistent
27 with the Agreement.
- 28 C. No law of a member state, or the application thereof, may be declared invalid as to any
29 person or circumstance on the ground that the provision or application is inconsistent
30 with the Agreement.

1

2 **Section 1104: FINAL DETERMINATIONS**

3 The determinations pertaining to the Agreement that are made by the member states are final
4 when rendered and are not subject to any protest, appeal, or review.

ARTICLE XII

REVIEW OF COSTS AND BENEFITS ASSOCIATED WITH THE AGREEMENT

Section 1201: REVIEW OF COSTS AND BENEFITS

The governing board will review costs and benefits of administration and collection of sales and use taxes incurred by states and sellers under the existing sales and use tax laws at the time of adoption of the Agreement and the proposed Streamlined Sales Tax Agreement.

APPENDIX A

STREAMLINED SALES AND USE TAX AGREEMENT

PETITION FOR MEMBERSHIP

WHEREAS, it is in the interest of the private sector and of state and local governments to simplify and modernize sales and use tax administration;
WHEREAS, such simplification and modernization will result in a substantial reduction in the costs and complexity for sellers of personal property and services in conducting their commercial enterprises;
WHEREAS, such simplification and modernization will also result in additional voluntary compliance with the sales and use tax laws;
WHEREAS, such simplification and modernization of sales and use tax administration is best conducted in cooperation and coordination with other states; and
WHEREAS, the State of _____ levies a sales tax and levies a use tax. "Sales tax" means the tax levied under (CITE SPECIFIC STATUTE) and "use tax" means the tax levied under (CITE SPECIFIC STATUTE).
NOW, the undersigned representative hereby petitions the governing board of the Streamlined Sales and Use Tax Agreement (or Co-Chairs of the Streamlined Sales Tax Implementing States) for membership into the Agreement.

NAME

TITLE

STATE OF _____

1
2
3
4

Appendix B
INDEX OF DEFINITIONS

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1 Appendix C

2 LIBRARY OF DEFINITIONS

3
4 **Part I** Administrative definitions including tangible personal property. Terms included
5 in this Part are core terms that apply in imposing and administering sales and use taxes.

6
7 **Part II** Product definitions. Terms included in this Part are used to exempt items from
8 sales and use taxes or to impose tax on items by narrowing an exemption that otherwise includes
9 these items.

10
11 **Part III** Sales tax holiday definitions. Terms included in this Part are core terms that
12 apply in imposing and administering sales and use taxes during sales tax holidays.

13
14 PART I

15
16 Administrative Definitions

17
18 A **“bundled transaction”** is the retail sale of two or more products, except real property and
19 services to real property, where (1) the products are otherwise distinct and identifiable, and (2)
20 the products are sold for one non-itemized price. A “bundled transaction” does not include the
21 sale of any products in which the “sales price” varies, or is negotiable, based on the selection by
22 the purchaser of the products included in the transaction.

23
24 (A) “Distinct and identifiable products” does not include:

- 25 1. Packaging – such as containers, boxes, sacks, bags, and bottles – or other materials –
26 such as wrapping, labels, tags, and instruction guides – that accompany the “retail sale”
27 of the products and are incidental or immaterial to the “retail sale” thereof. Examples of
28 packaging that are incidental or immaterial include grocery sacks, shoeboxes, dry
29 cleaning garment bags and express delivery envelopes and boxes.

1 2. A product provided free of charge with the required purchase of another product. A
2 product is “provided free of charge” if the “sales price” of the product purchased does
3 not vary depending on the inclusion of the product “provided free of charge.”

4 3. Items included in the member state’s definition of “sales price,” pursuant to Appendix C
5 of the Agreement.

6 (B) The term “one non-itemized price” does not include a price that is separately identified by
7 product on binding sales or other supporting sales-related documentation made available to the
8 customer in paper or electronic form including, but not limited to an invoice, bill of sale, receipt,
9 contract, service agreement, lease agreement, periodic notice of rates and services, rate card, or
10 price list.

11 (C) A transaction that otherwise meets the definition of a “bundled transaction” as defined
12 above, is not a “bundled transaction” if it is:

13 (1) The “retail sale” of tangible personal property and a service where the tangible personal
14 property is essential to the use of the service, and is provided exclusively in connection with the
15 service, and the true object of the transaction is the service; or

16 (2) The “retail sale” of services where one service is provided that is essential to the use or
17 receipt of a second service and the first service is provided exclusively in connection with the
18 second service and the true object of the transaction is the second service; or

19 (3) A transaction that includes taxable products and nontaxable products and the “purchase
20 price” or “sales price” of the taxable products is de minimis.

21 (a) De minimis means the seller’s “purchase price” or “sales price” of the taxable
22 products is ten percent (10%) or less of the total “purchase price” or “sales price” of the
23 bundled products.

24 (b) Sellers shall use either the “purchase price” or the “sales price” of the products to
25 determine if the taxable products are de minimis. Sellers may not use a combination of the
26 “purchase price” and “sales price” of the products to determine if the taxable products are de
27 minimis.

28 (c) Sellers shall use the full term of a service contract to determine if the taxable
29 products are de minimis; or

1 (4) The “retail sale” of exempt tangible personal property and taxable tangible personal
2 property where:

3 (a) the transaction includes “food and food ingredients”, “drugs”, “durable medical
4 equipment”, “mobility enhancing equipment”, “over-the-counter drugs”, “prosthetic devices” (all
5 as defined in Appendix C) or medical supplies; and

6 (b) where the seller’s “purchase price” or “sales price” of the taxable tangible personal
7 property is fifty percent (50%) or less of the total “purchase price” or “sales price” of the
8 bundled tangible personal property. Sellers may not use a combination of the “purchase price”
9 and “sales price” of the tangible personal property when making the fifty percent (50%)
10 determination for a transaction.

11 *Compiler’s note: On April 16, 2005 the definition of a “bundled transaction” was added. Member States shall*
12 *comply with this definition no later than January 1, 2008.*

13
14 **“Delivery charges”** means charges by the seller of personal property or services for preparation
15 and delivery to a location designated by the purchaser of personal property or services including,
16 but not limited to, transportation, shipping, postage, handling, crating, and packing.

17 A member state may exclude from “delivery charges” the charges for delivery of “direct mail” if
18 the charges are separately stated on an invoice or similar billing document given to the
19 purchaser.

20 If a shipment includes exempt property and taxable property, the seller should allocate the
21 delivery charge by using:

- 22 a. a percentage based on the total sales prices of the taxable property compared to
23 the total sales prices of all property in the shipment; or
24 b. a percentage based on the total weight of the taxable property compared to the
25 total weight of all property in the shipment.

26 The seller must tax the percentage of the delivery charge allocated to the taxable property but
27 does not have to tax the percentage allocated to the exempt property.

28
29 **“Direct mail”** means printed material delivered or distributed by United States mail or other
30 delivery service to a mass audience or to addressees on a mailing list provided by the purchaser

1 or at the direction of the purchaser when the cost of the items are not billed directly to the
2 recipients. “Direct mail” includes tangible personal property supplied directly or indirectly by
3 the purchaser to the direct mail seller for inclusion in the package containing the printed material.
4 “Direct mail” does not include multiple items of printed material delivered to a single address.
5 *Compiler’s note: The Governing Board issued an interpretation of “direct mail” on December 14, 2006. That*
6 *interpretation can be found in the Library of Interpretations.*

7
8 **“Lease or rental”** means any transfer of possession or control of tangible personal property for
9 a fixed or indeterminate term for consideration. A lease or rental may include future options to
10 purchase or extend.

11 A. Lease or rental does not include:

- 12 1. A transfer of possession or control of property under a security agreement or deferred
13 payment plan that requires the transfer of title upon completion of the required
14 payments;
15 2. A transfer or possession or control of property under an agreement that requires the
16 transfer of title upon completion of required payments and payment of an option price
17 does not exceed the greater of one hundred dollars or one percent of the total required
18 payments; or
19 3. Providing tangible personal property along with an operator for a fixed or
20 indeterminate period of time. A condition of this exclusion is that the operator is
21 necessary for the equipment to perform as designed. For the purpose of this
22 subsection, an operator must do more than maintain, inspect, or set-up the tangible
23 personal property.

24 B. Lease or rental does include agreements covering motor vehicles and trailers where the
25 amount of consideration may be increased or decreased by reference to the amount
26 realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).

27 C. This definition shall be used for sales and use tax purposes regardless if a transaction is
28 characterized as a lease or rental under generally accepted accounting principles, the
29 Internal Revenue Code, the [state commercial code], or other provisions of federal, state
30 or local law.

1 D. This definition will be applied only prospectively from the date of adoption and will
2 have no retroactive impact on existing leases or rentals. This definition shall neither
3 impact any existing sale-leaseback exemption or exclusions that a state may have, nor
4 preclude a state from adopting a sale-leaseback exemption or exclusion after the
5 effective date of the Agreement.

6
7 **“Purchase price”** applies to the measure subject to use tax and has the same meaning as sales
8 price.

9
10 **“Retail sale or Sale at retail”** means any sale, lease, or rental for any purpose other than for
11 resale, sublease, or subrent.

12
13 **“Sales price”(Effective through December 31, 2007)** applies to the measure subject to sales
14 tax and means the total amount of consideration, including cash, credit, property, and services,
15 for which personal property or services are sold, leased, or rented, valued in money, whether
16 received in money or otherwise, without any deduction for the following:

- 17 A. The seller's cost of the property sold;
- 18 B. The cost of materials used, labor or service cost, interest, losses, all costs of
19 transportation to the seller, all taxes imposed on the seller, and any other expense
20 of the seller;
- 21 C. Charges by the seller for any services necessary to complete the sale, other than
22 delivery and installation charges;
- 23 D. Delivery charges;
- 24 E. Installation charges;
- 25 F. The value of exempt personal property given to the purchaser where taxable and
26 exempt personal property have been bundled together and sold by the seller as a
27 single product or piece of merchandise; and
- 28 G. Credit for any trade-in, as determined by state law.

1 States may exclude from “sales price” the amounts received for charges included in paragraphs
2 (C) through (G) above, if they are separately stated on the invoice, billing, or similar document
3 given to the purchaser.

4 “Sales price” shall not include:

- 5 A. Discounts, including cash, term, or coupons that are not reimbursed by a third
6 party that are allowed by a seller and taken by a purchaser on a sale;
- 7 B. Interest, financing, and carrying charges from credit extended on the sale of
8 personal property or services, if the amount is separately stated on the invoice,
9 bill of sale or similar document given to the purchaser; and
- 10 C. Any taxes legally imposed directly on the consumer that are separately stated on
11 the invoice, bill of sale or similar document given to the purchaser.

12
13 **“Sales price” (Effective on and after January 1, 2008)** applies to the measure subject to sales
14 tax and means the total amount of consideration, including cash, credit, property, and services,
15 for which personal property or services are sold, leased, or rented, valued in money, whether
16 received in money or otherwise, without any deduction for the following:

- 17 A. The seller's cost of the property sold;
- 18 B. The cost of materials used, labor or service cost, interest, losses, all costs of
19 transportation to the seller, all taxes imposed on the seller, and any other expense
20 of the seller;
- 21 C. Charges by the seller for any services necessary to complete the sale, other than
22 delivery and installation charges;
- 23 D. Delivery charges;
- 24 E. Installation charges; and
- 25 F. Credit for any trade-in, as determined by state law.

26 States may exclude from “sales price” the amounts received for charges included in paragraphs
27 (C) through (F) above, if they are separately stated on the invoice, billing, or similar document

1 given to the purchaser. States may exclude from (C) above, “telecommunications nonrecurring”
2 charges if they are separately stated on the invoice, billing, or similar documents. A state doing
3 so must define “telecommunications nonrecurring charges” as follows:
4

5 “**Telecommunications nonrecurring charges**” means an amount billed for the installation,
6 connection, change or initiation of “telecommunications service” received by the customer.
7

8 “Sales price” shall not include:

- 9 A. Discounts, including cash, term, or coupons that are not reimbursed by a third
10 party that are allowed by a seller and taken by a purchaser on a sale;
- 11 B. Interest, financing, and carrying charges from credit extended on the sale of
12 personal property or services, if the amount is separately stated on the invoice,
13 bill of sale or similar document given to the purchaser; and
- 14 C. Any taxes legally imposed directly on the consumer that are separately stated on
15 the invoice, bill of sale or similar document given to the purchaser.
16

17 “Sales price” shall include consideration received by the seller from third parties if:

- 18 A. The seller actually receives consideration from a party other than the purchaser and the
19 consideration is directly related to a price reduction or discount on the sale;
- 20 B. The seller has an obligation to pass the price reduction or discount through to the
21 purchaser;
- 22 C. The amount of the consideration attributable to the sale is fixed and determinable by the
23 seller at the time of the sale of the item to the purchaser; and
- 24 D. One of the following criteria is met:
 - 25 1. The purchaser presents a coupon, certificate or other documentation to the seller to
26 claim a price reduction or discount where the coupon, certificate or documentation is
27 authorized, distributed or granted by a third party with the understanding that the third
28 party will reimburse any seller to whom the coupon, certificate or documentation is
29 presented;

- 1 2. The purchaser identifies himself or herself to the seller as a member of a group or
2 organization entitled to a price reduction or discount (a “preferred customer” card that
3 is available to any patron does not constitute membership in such a group), or
- 4 3. The price reduction or discount is identified as a third party price reduction or discount
5 on the invoice received by the purchaser or on a coupon, certificate or other
6 documentation presented by the purchaser.
7

8 States may also exclude from “sales price” either employee discounts that are reimbursed by a
9 third party on sales of motor vehicles, or manufacturer rebates on motor vehicles, or both.

10 *Compiler’s note: On April 16, 2005 the following amendments were made to the definition of “Sales*
11 *Price”.*

12 *Deleting “F. The value of exempt personal property given to the purchaser where taxable and exempt*
13 *personal property have been bundled together and sold by the seller as a single product or piece of*
14 *merchandise;” and renumbering “G” to “F”.*

15 *Changing the cross reference to reflect the renumbering, inserting the second and third sentences in the*
16 *paragraph following (F), and inserting the definition of “telecommunications nonrecurring charges”.*
17 *Inserting all of the material starting with “Sales price” shall include consideration received by the seller*
18 *from third parties”.*

19 *Member states shall comply with the changes to this definition no later than January 1, 2008.*
20

21 “**Tangible personal property**” means personal property that can be seen, weighed, measured,
22 felt, or touched, or that is in any other manner perceptible to the senses. “Tangible personal
23 property” includes electricity, water, gas, steam, and prewritten computer software.
24

25 **PART II**

26 **Product Definitions**

27 **CLOTHING**

28 “**Clothing**” means all human wearing apparel suitable for general use. The following list
29 contains examples and is not intended to be an all-inclusive list.

- 30 A. “Clothing” shall include:
 - 31 1. Aprons, household and shop;
32

- 1 2. Athletic supporters;
- 2 3. Baby receiving blankets;
- 3 4. Bathing suits and caps;
- 4 5. Beach capes and coats;
- 5 6. Belts and suspenders;
- 6 7. Boots;
- 7 8. Coats and jackets;
- 8 9. Costumes;
- 9 10. Diapers, children and adult, including disposable diapers;
- 10 11. Ear muffs;
- 11 12. Footlets;
- 12 13. Formal wear;
- 13 14. Garters and garter belts;
- 14 15. Girdles;
- 15 16. Gloves and mittens for general use;
- 16 17. Hats and caps;
- 17 18. Hosiery;
- 18 19. Insoles for shoes;
- 19 20. Lab coats;
- 20 21. Neckties;
- 21 22. Overshoes;
- 22 23. Pantyhose;
- 23 24. Rainwear;
- 24 25. Rubber pants;
- 25 26. Sandals;
- 26 27. Scarves;
- 27 28. Shoes and shoe laces;
- 28 29. Slippers;
- 29 30. Sneakers;
- 30 31. Socks and stockings;

- 1 32. Steel toed shoes;
- 2 33. Underwear;
- 3 34. Uniforms, athletic and non-athletic; and
- 4 35. Wedding apparel.
- 5 B. "Clothing" shall not include:
 - 6 1. Belt buckles sold separately;
 - 7 2. Costume masks sold separately;
 - 8 3. Patches and emblems sold separately;
 - 9 4. Sewing equipment and supplies including, but not limited to, knitting needles,
10 patterns, pins, scissors, sewing machines, sewing needles, tape measures, and
11 thimbles; and
 - 12 5. Sewing materials that become part of "clothing" including, but not limited to, buttons,
13 fabric, lace, thread, yarn, and zippers.
- 14 *Compiler's note: The Governing Board issued an interpretation of the definition of clothing on August 29, 2006.*
- 15 *That interpretation can be found in the Library of Interpretations.*
- 16 **"Clothing accessories or equipment"** means incidental items worn on the person or in
17 conjunction with "clothing." "Clothing accessories or equipment" are mutually exclusive of and
18 may be taxed differently than apparel within the definition of "clothing," "sport or recreational
19 equipment," and "protective equipment." The following list contains examples and is not
20 intended to be an all-inclusive list. "Clothing accessories or equipment" shall include:
 - 21 A. Briefcases;
 - 22 B. Cosmetics;
 - 23 C. Hair notions, including, but not limited to, barrettes, hair bows, and hair nets;
 - 24 D. Handbags;
 - 25 E. Handkerchiefs;
 - 26 F. Jewelry;
 - 27 G. Sun glasses, non-prescription;
 - 28 H. Umbrellas;
 - 29 I. Wallets;
 - 30 J. Watches; and

1 K. Wigs and hair pieces.
2 **“Fur clothing”** means “clothing” that is required to be labeled as a fur product under the Federal
3 Fur Products Labeling Act (15 U.S.C. §69), and the value of the fur components in the product is
4 more than three times the value of the next most valuable tangible component. “Fur clothing” is
5 human wearing apparel suitable for general use but may be taxed differently from “clothing.”
6 For the purposes of the definition of “fur clothing” the term “fur” means any animal skin or part
7 thereof with hair, fleece, or fur fibers attached thereto, either in its raw or processed state, but
8 shall not include such skins that have been converted into leather or suede, or which in
9 processing, the hair, fleece, or fur fiber has been completely removed.

10 *Compiler’s note: On December 14, 2006 the definition of “fur clothing” was approved.*

11 **“Protective equipment”** means items for human wear and designed as protection of the wearer
12 against injury or disease or as protections against damage or injury of other persons or property
13 but not suitable for general use. “Protective equipment” are mutually exclusive of and may be
14 taxed differently than apparel within the definition of “clothing,” “clothing accessories or
15 equipment,” and “sport or recreational equipment.” The following list contains examples and is
16 not intended to be an all-inclusive list. “Protective equipment” shall include:

- 17 A. Breathing masks;
- 18 B. Clean room apparel and equipment;
- 19 C. Ear and hearing protectors;
- 20 D. Face shields;
- 21 E. Hard hats;
- 22 F. Helmets;
- 23 G. Paint or dust respirators;
- 24 H. Protective gloves;
- 25 I. Safety glasses and goggles;
- 26 J. Safety belts;
- 27 K. Tool belts; and
- 28 L. Welders gloves and masks.

29 **“Sport or recreational equipment”** means items designed for human use and worn in
30 conjunction with an athletic or recreational activity that are not suitable for general use. “Sport

1 or recreational equipment” are mutually exclusive of and may be taxed differently than apparel
2 within the definition of “clothing,” “clothing accessories or equipment,” and “protective
3 equipment.” The following list contains examples and is not intended to be an all-inclusive list.
4 “Sport or recreational equipment” shall include:

- 5 A. Ballet and tap shoes;
- 6 B. Cleated or spiked athletic shoes;
- 7 C. Gloves, including, but not limited to, baseball, bowling, boxing, hockey, and golf;
- 8 D. Goggles;
- 9 E. Hand and elbow guards;
- 10 F. Life preservers and vests;
- 11 G. Mouth guards;
- 12 H. Roller and ice skates;
- 13 I. Shin guards;
- 14 J. Shoulder pads;
- 15 K. Ski boots;
- 16 L. Waders; and
- 17 M. Wetsuits and fins.

18

19 **COMPUTER RELATED**

20 **“Computer”** means an electronic device that accepts information in digital or similar form and
21 manipulates it for a result based on a sequence of instructions.

22 **“Computer software”** means a set of coded instructions designed to cause a “computer” or
23 automatic data processing equipment to perform a task.

24 **“Delivered electronically”** means delivered to the purchaser by means other than tangible
25 storage media.

26 **“Electronic”** means relating to technology having electrical, digital, magnetic, wireless, optical,
27 electromagnetic, or similar capabilities.

28 **“Load and leave”** means delivery to the purchaser by use of a tangible storage media where the
29 tangible storage media is not physically transferred to the purchaser.

1 **“Prewritten computer software”** means “computer software,” including prewritten upgrades,
2 which is not designed and developed by the author or other creator to the specifications of a
3 specific purchaser. The combining of two or more “prewritten computer software” programs or
4 prewritten portions thereof does not cause the combination to be other than “prewritten computer
5 software.” “Prewritten computer software” includes software designed and developed by the
6 author or other creator to the specifications of a specific purchaser when it is sold to a person
7 other than the specific purchaser. Where a person modifies or enhances “computer software” of
8 which the person is not the author or creator, the person shall be deemed to be the author or
9 creator only of such person’s modifications or enhancements. “Prewritten computer software” or
10 a prewritten portion thereof that is modified or enhanced to any degree, where such modification
11 or enhancement is designed and developed to the specifications of a specific purchaser, remains
12 “prewritten computer software;” provided, however, that where there is a reasonable, separately
13 stated charge or an invoice or other statement of the price given to the purchaser for such
14 modification or enhancement, such modification or enhancement shall not constitute “prewritten
15 computer software.”
16 A member state may exempt “prewritten computer software” “delivered electronically” or by
17 “load and leave.”
18

19 **FOOD AND FOOD PRODUCTS**

20 **“Alcoholic Beverages”** means beverages that are suitable for human consumption and contain
21 one-half of one percent or more of alcohol by volume.

22 **“Candy”** means a preparation of sugar, honey, or other natural or artificial sweeteners in
23 combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars,
24 drops, or pieces. “Candy” shall not include any preparation containing flour and shall require no
25 refrigeration.

26 **“Dietary supplement”** means any product, other than “tobacco,” intended to supplement the
27 diet that:

- 28 A. Contains one or more of the following dietary ingredients:
29 1. A vitamin;
30 2. A mineral;
31 3. An herb or other botanical;

- 1 4. An amino acid;
2 5. A dietary substance for use by humans to supplement the diet by increasing the total
3 dietary intake; or
4 6. A concentrate, metabolite, constituent, extract, or combination of any ingredient
5 described in above; and
6 Is intended for ingestion in tablet, capsule, powder, softgel, gelcap,
7 or liquid form, or if not intended for ingestion in such a form, is not represented as
8 conventional food and is not represented for use as a sole item of a meal or of the diet; and
9 C. Is required to be labeled as a dietary supplement, identifiable by the "Supplemental Facts"
10 box found on the label and as required pursuant to 21 C.F.R § 101.36.
11 **“Food and food ingredients”** means substances, whether in liquid, concentrated, solid, frozen,
12 dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed
13 for their taste or nutritional value. “Food and food ingredients” does not include “alcoholic
14 beverages” or “tobacco.” A member state may exclude “candy,” “dietary supplements” and
15 “soft drinks” from this definition, which items are mutually exclusive of each other.
16 Notwithstanding the foregoing requirements of this definition or any other provision of the
17 Agreement, a member state may maintain its tax treatment of food in a manner that differs from
18 the definitions provided herein, provided its taxation or exemption of food is based on a
19 prohibition or requirement of that state’s Constitution that exists on the effective date of the
20 Agreement.
21 **“Food sold through vending machines”** means food dispensed from a machine or other
22 mechanical device that accepts payment.
23 **“Prepared food”** means:
24 A. Food sold in a heated state or heated by the seller;
25 B. Two or more food ingredients mixed or combined by the seller for sale as a single item;
26 or
27 C. Food sold with eating utensils provided by the seller, including plates, knives, forks,
28 spoons, glasses, cups, napkins, or straws. A plate does not include a container or
29 packaging used to transport the food.
30 “Prepared food” in B does not include food that is only cut, repackaged, or pasteurized by the
31 seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring

1 cooking by the consumer as recommended by the Food and Drug Administration in chapter 3,
2 part 401.11 of its Food Code so as to prevent food borne illnesses.

3
4 The following items may be taxed differently than “prepared food” and each other, if sold
5 without eating utensils provided by the seller, but may not be taxed differently than the same
6 item when classified under “food and food ingredients.”

- 7 1. Food sold by a seller whose proper primary NAICS classification is manufacturing in
8 sector 311, except subsector 3118 (bakeries).
- 9 2. Food sold in an unheated state by weight or volume as a single item.
- 10 3. Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries,
11 donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, torillas.

12 Substances within “food and food ingredients” may be taxed differently if sold as “prepared
13 food.” A state shall tax or exempt from taxation “candy,” dietary supplements,” and “soft
14 drinks” that are sold as “prepared food” in the same manner as it treats other substances that are
15 sold as “prepared food.”

16 *Compiler’s note: The Governing Board issued an interpretation of the definition of “prepared food” on April 18,*
17 *2006. That interpretation can be found in the Library of Interpretations. Compiler’s note: The Governing Board*
18 *issued an interpretation of “prepared food” on December 14, 2006. That interpretation can be found in the Library*
19 *of Interpretations.*

20 **“Soft drinks”** means non-alcoholic beverages that contain natural or artificial sweeteners. “Soft
21 drinks” do not include beverages that contain milk or milk products, soy, rice or similar milk
22 substitutes, or greater than fifty percent of vegetable or fruit juice by volume.

23 **“Tobacco”** means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains
24 tobacco.

25 26 **HEALTH-CARE**

27 **“Drug”** means a compound, substance or preparation, and any component of a compound,
28 substance or preparation, other than “food and food ingredients,” “dietary supplements” or
29 “alcoholic beverages:”

1 A. Recognized in the official United State Pharmacopoeia, official Homeopathic
2 Pharmacopoeia of the United States, or official National Formulary, and supplement to
3 any of them; or

4 B. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or

5 C. Intended to affect the structure or any function of the body.

6 A member state may independently:

7 A. Limit the definition of “drug” to human use (as opposed to both human and animal use)
8 in the administration of its exemption;

9 B. Draft its exemption for “drug” to specifically add insulin and/or medical oxygen so that
10 no prescription is required, even if a state requires a prescription under its exemption for
11 drugs;

12 C. Determine the taxability of the sales of drugs and prescription drugs to hospitals and
13 other medical facilities;

14 D. Determine the taxability of free samples of drugs; and

15 E. Determine the taxability of bundling taxable and nontaxable drug, if uniform treatment
16 of bundled transactions is not otherwise defined in the Agreement.

17 *Compiler’s note: The Governing Board issued an interpretation of “drug” on June 23, 2007. That interpretation*
18 *can be found in the Library of Interpretations.*

19 **“Durable medical equipment” (Effective through December 31, 2007)** means equipment
20 including repair and replacement parts for same, but does not include “mobility enhancing
21 equipment,” which:

22 A. Can withstand repeated use; and

23 B. Is primarily and customarily used to serve a medical purpose; and

24 C. Generally is not useful to a person in the absence of illness or injury; and

25 D. Is not worn in or on the body.

26 A member state may limit its exemption to “durable medical equipment” used for home use only.

27 A member state may limit the application of this definition by requiring a “prescription,” or limit
28 an exemption based on Medicare or Medicaid payments or reimbursements.

29 A member state may exclude from the product definition of “durable medical equipment” any of
30 the following for purposes enacting a product-based exemption:

- 1
2 1. Oxygen delivery equipment not worn in or on the body, including repair and
3 replacement parts;
4 2. Kidney dialysis equipment not worn in or on the body, including repair and
5 replacement parts; or
6 3. Enteral feeding systems not worn in or on the body, including repair and replacement
7 parts.

8
9 A member state choosing to enact a product-based exemption for oxygen delivery equipment,
10 kidney dialysis equipment, or enteral feeding systems, if those items are not worn in or on the
11 body, must also enact a product-based exemption for oxygen delivery equipment, kidney dialysis
12 equipment, or enteral feeding systems, if those are worn in or on the body.

13
14 A member state may limit the product-based exemption for oxygen delivery equipment, kidney
15 dialysis equipment, or enteral feeding systems using any combination of the following:

- 16
17 a. By requiring a prescription;
18 b. Based on Medicare or Medicaid payments or reimbursement; or
19 c. For home use.

20 **“Durable medical equipment” (Effective on and after January 1, 2008)** means equipment
21 including repair and replacement parts for same, but does not include “mobility enhancing
22 equipment,” which:

- 23 E. Can withstand repeated use; and
24 F. Is primarily and customarily used to serve a medical purpose; and
25 G. Generally is not useful to a person in the absence of illness or injury; and
26 H. Is not worn in or on the body.

27 A member state may limit its exemption to “durable medical equipment:”

- 28 A. By requiring a prescription;
29 B. Based on Medicare or Medicaid payments or reimbursement; or
30 C. For home use.

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

3
4 Repair and replacement parts as used in this definition include all components or attachments
5 used in conjunction with the “durable medical equipment.” A member state may exclude from
6 repair and replacement parts items which are for single patient use only.

7
8 A member state may exclude from the product definition of “durable medical equipment” any of
9 the following for purposes enacting a product-based exemption:

- 10
11 1. Oxygen delivery equipment not worn in or on the body, including repair and
12 replacement parts;
13 2. Kidney dialysis equipment not worn in or on the body, including repair and
14 replacement parts; or
15 3. Enteral feeding systems not worn in or on the body, including repair and replacement
16 parts.

17
18 A member state choosing to enact a product-based exemption for oxygen delivery equipment,
19 kidney dialysis equipment, or enteral feeding systems, if those items are not worn in or on the
20 body, must also enact a product-based exemption for oxygen delivery equipment, kidney dialysis
21 equipment, or enteral feeding systems, if those are worn in or on the body.

22
23 A member state may limit the product-based exemption for oxygen delivery equipment, kidney
24 dialysis equipment, or enteral feeding systems using any combination of the following:

- 25
26 a. By requiring a prescription;
27 b. Based on Medicare or Medicaid payments or reimbursement; or
28 c. For home use.

29 *Compiler’s note: On October 1, 2005 the durable medical equipment definition was amended by deleting: “A*
30 *member state may limit its exemption to “durable medical equipment” used for home use only. A member state*

1 ~~may limit the application of this definition by requiring a "prescription," or limit an exemption based on~~
2 ~~Medicare or Medicaid payments or reimbursements" after D and inserting:~~
3 ~~"A member state may limit its exemption to "durable medical equipment:"~~
4 ~~A. By requiring a prescription;~~
5 ~~B. Based on Medicare or Medicaid payments or reimbursement; or~~
6 ~~C. For home use.~~
7 ~~A member state may limit the exemption using any combination of the above but in no case shall an exemption~~
8 ~~certificate be required."~~
9 *Member states shall adopt and utilize this definition no later than January 1, 2008.*
10 *Compiler's note: On August 29, 2006 the durable medical equipment definition was amended by adding all the*
11 *language starting with "A member state may exclude..." The August 29, 2006 amendment to this section*
12 *became effective upon its approval.*
13 *Compiler's note: On June 23, 2007 the definition of durable medical equipment was amended by adding:*
14 *"Repair and replacement parts as used in this definition include all components or attachments used in*
15 *conjunction with the "durable medical equipment." A member state may exclude from repair and replacement*
16 *parts items which are for single patient use only."*

17 **"Grooming and hygiene products"** are soaps and cleaning solutions, shampoo, toothpaste,
18 mouthwash, antiperspirants, and sun tan lotions and screens, regardless of whether the items
19 meet the definition of "over-the-counter-drugs."

20 **"Mobility enhancing equipment"** means equipment including repair and replacement parts to
21 same, but does not include "durable medical equipment," which:

- 22 A. Is primarily and customarily used to provide or increase the ability to move from one
23 place to another and which is appropriate for use either in a home or a motor vehicle;
24 and
- 25 B. Is not generally used by persons with normal mobility; and
- 26 C. Does not include any motor vehicle or equipment on a motor vehicle normally provided
27 by a motor vehicle manufacturer.

28 A member state may limit the application of this definition by requiring a "prescription," or limit
29 an exemption based on Medicare or Medicaid payments or reimbursements.

30 **"Over-the-counter-drug"** means a drug that contains a label that identifies the product as a drug
31 as required by 21 C.F.R. § 201.66. A member state may exclude "grooming and hygiene
32 products" from this definition. The "over-the-counter-drug" label includes:

- 33 A. A "Drug Facts" panel; or

1 B. A statement of the "active ingredient(s)" with a list of those ingredients contained in the
2 compound, substance or preparation.
3 **"Prescription"** means an order, formula or recipe issued in any form of oral, written, electronic,
4 or other means of transmission by a duly licensed practitioner authorized by the laws of the
5 member state.
6 **"Prosthetic device"** means a replacement, corrective, or supportive device including repair and
7 replacement parts for same worn on or in the body to:
8 A. Artificially replace a missing portion of the body;
9 B. Prevent or correct physical deformity or malfunction; or
10 C. Support a weak or deformed portion of the body.
11 A member state may exclude any or all of the following from the definition of "prosthetic
12 device:"
13 A. Corrective eyeglasses;
14 B. Contact lenses;
15 C. Hearing aids; and
16 D. Dental prosthesis.
17 A member state may limit the application of this definition by requiring a "prescription," or limit
18 an exemption based on Medicare or Medicaid payments or reimbursements.

20 **TELECOMMUNICATIONS (Effective on and after January 1, 2008)**

21 **Tax Base/Exemption Terms**

22 **"Ancillary services"** means services that are associated with or incidental to the provision of
23 "telecommunications services", including but not limited to "detailed telecommunications
24 billing", "directory assistance", "vertical service", and "voice mail services".

26 **"Conference bridging service"** means an "ancillary service" that links two or more participants
27 of an audio or video conference call and may include the provision of a telephone number.

28 "Conference bridging service" does not include the "telecommunications services" used to reach
29 the conference bridge.

1 **“Detailed telecommunications billing service”** means an “ancillary service” of separately
2 stating information pertaining to individual calls on a customer’s billing statement.
3 **“Directory assistance”** means an “ancillary service” of providing telephone number
4 information, and/or address information.
5 **“Vertical service”** means an “ancillary service” that is offered in connection with one or more
6 “telecommunications services”, which offers advanced calling features that allow customers to
7 identify callers and to manage multiple calls and call connections, including “conference
8 bridging services”.
9 **“Voice mail service”** means an “ancillary service” that enables the customer to store, send or
10 receive recorded messages. “Voice mail service” does not include any “vertical services” that
11 the customer may be required to have in order to utilize the “voice mail service”.
12 **“Telecommunications service”** means the electronic transmission, conveyance, or routing of
13 voice, data, audio, video, or any other information or signals to a point, or between or among
14 points. The term “telecommunications service” includes such transmission, conveyance, or
15 routing in which computer processing applications are used to act on the form, code or protocol
16 of the content for purposes of transmission, conveyance or routing without regard to whether
17 such service is referred to as voice over Internet protocol services or is classified by the Federal
18 Communications Commission as enhanced or value added. “Telecommunications service” does
19 not include:
20 A. Data processing and information services that allow data to be generated, acquired,
21 stored, processed, or retrieved and delivered by an electronic transmission to a purchaser
22 where such purchaser’s primary purpose for the underlying transaction is the processed
23 data or information;
24 B. Installation or maintenance of wiring or equipment on a customer’s premises;
25 C. Tangible personal property;
26 D. Advertising, including but not limited to directory advertising.
27 E. Billing and collection services provided to third parties;
28 F. Internet access service;
29 G. Radio and television audio and video programming services, regardless of the medium,
30 including the furnishing of transmission, conveyance and routing of such services by the

1 programming service provider. Radio and television audio and video programming
2 services shall include but not be limited to cable service as defined in 47 USC 522(6) and
3 audio and video programming services delivered by commercial mobile radio service
4 providers, as defined in 47 CFR 20.3;
5 H. “Ancillary services”; or
6 I. Digital products “delivered electronically”, including but not limited to software, music,
7 video, reading materials or ring tones.
8 **“800 service”** means a “telecommunications service” that allows a caller to dial a toll-free
9 number without incurring a charge for the call. The service is typically marketed under the name
10 “800”, “855”, “866”, “877”, and “888” toll-free calling, and any subsequent numbers designated
11 by the Federal Communications Commission.
12 **“900 service”** means an inbound toll “telecommunications service” purchased by a subscriber
13 that allows the subscriber’s customers to call in to the subscriber’s prerecorded announcement or
14 live service. “900 service” does not include the charge for: collection services provided by the
15 seller of the “telecommunications services” to the subscriber, or service or product sold by the
16 subscriber to the subscriber’s customer. The service is typically marketed under the name “900”
17 service, and any subsequent numbers designated by the Federal Communications Commission.
18 **“Fixed wireless service”** means a “telecommunications service” that provides radio
19 communication between fixed points.
20 **“Mobile wireless service”** means a “telecommunications service” that is transmitted, conveyed
21 or routed regardless of the technology used, whereby the origination and/or termination points of
22 the transmission, conveyance or routing are not fixed, including, by way of example only,
23 “telecommunications services” that are provided by a commercial mobile radio service provider.
24 **“Paging service”** means a “telecommunications service” that provides transmission of coded
25 radio signals for the purpose of activating specific pagers; such transmissions may include
26 messages and/or sounds.
27 **“Prepaid calling service”** means the right to access exclusively “telecommunications services”,
28 which must be paid for in advance and which enables the origination of calls using an access
29 number or authorization code, whether manually or electronically dialed, and that is sold in
30 predetermined units or dollars of which the number declines with use in a known amount.

1 **“Prepaid wireless calling service”** means a “telecommunications service” that provides the
2 right to utilize “mobile wireless service” as well as other non-telecommunications services
3 including the download of digital products “delivered electronically”, content and “ancillary
4 services”, which must be paid for in advance that is sold in predetermined units of dollars of
5 which the number declines with use in a known amount.

6 **“Private communications service”** means a “telecommunications service” that entitles the
7 customer to exclusive or priority use of a communications channel or group of channels between
8 or among termination points, regardless of the manner in which such channel or channels are
9 connected, and includes switching capacity, extension lines, stations, and any other associated
10 services that are provided in connection with the use of such channel or channels.

11 **“Value-added non-voice data service”** means a service that otherwise meets the definition of
12 “telecommunications services” in which computer processing applications are used to act on the
13 form, content, code, or protocol of the information or data primarily for a purpose other than
14 transmission, conveyance or routing.

15 **Modifiers of Sales Tax Base/Exemption Terms**

16 The following terms can be used to further delineate the type of “telecommunications service” to
17 be taxed or exempted. The terms would be used with the broader terms and subcategories
18 delineated above.

19 **“Coin-operated telephone service”** means a “telecommunications service” paid for by inserting
20 money into a telephone accepting direct deposits of money to operate.

21 **“International”** means a “telecommunications service” that originates or terminates in the
22 United States and terminates or originates outside the United States, respectively. United States
23 includes the District of Columbia or a U.S. territory or possession.

24 **“Interstate”** means a “telecommunications service” that originates in one United States state, or
25 a United States territory or possession, and terminates in a different United States state or a
26 United States territory or possession.

27 **“Intrastate”** means a “telecommunications service” that originates in one United States state or
28 a United States territory or possession, and terminates in the same United States state or a United
29 States territory or possession.

1 **“Pay telephone service”** means a “telecommunications service” provided through any pay
2 telephone.

3 **“Residential telecommunications service”** means a “telecommunications service” or “ancillary
4 services” provided to an individual for personal use at a residential address, including an
5 individual dwelling unit such as an apartment. In the case of institutions where individuals
6 reside, such as schools or nursing homes, “telecommunications service” is considered residential
7 if it is provided to and paid for by an individual resident rather than the institution.

8
9 The terms “ancillary services” and “telecommunications service” are defined as a broad range of
10 services. The terms “ancillary services” and “telecommunications service” are broader than the
11 sum of the subcategories. Definitions of subcategories of “ancillary services” and
12 “telecommunications service” can be used by a member state alone or in combination with other
13 subcategories to define a narrower tax base than the definitions of “ancillary services” and
14 “telecommunications service” would imply. The subcategories can also be used by a member
15 state to provide exemptions for certain subcategories of the more broadly defined terms.

16 A member state that specifically imposes tax on, or exempts from tax, local telephone or local
17 telecommunications service may define “local service” in any manner in accordance with
18 Section 327 of the Agreement, except as limited by other sections of this Agreement.

19 *Compiler’s note: On April 16, 2005 the telecommunications definitions were added to the Agreement. Member*
20 *states shall adopt and utilize these definitions no later than January 1, 2008.*

1
2 **PART III**

3 **Sales Tax Holiday Definitions**

4 The definitions in this Part are only applicable for the purpose of administration of a sales tax
5 holiday, as defined in Section 322 (A).

6
7 "**Eligible property**" means an item of a type, such as clothing, that qualifies for a sales tax
8 holiday exemption in a member state.

9 "**Layaway sale**" means a transaction in which property is set aside for future delivery to a
10 customer who makes a deposit, agrees to pay the balance of the purchase price over a
11 period of time, and, at the end of the payment period, receives the property. An order is
12 accepted for layaway by the seller, when the seller removes the property from normal
13 inventory or clearly identifies the property as sold to the purchaser.

14 "**Rain check**" means the seller allows a customer to purchase an item at a certain price at
15 a later time because the particular item was out of stock.

16 "**School supply**" is an item commonly used by a student in a course of study. The term is
17 mutually exclusive of the terms "school art supply," "school instructional material," and "school
18 computer supply," and may be taxed differently. The following is an all-inclusive list:

- 19 A. Binders;
20 B. Book bags;
21 C. Calculators;
22 D. Cellophane tape;
23 E. Blackboard chalk;
24 F. Compasses;
25 G. Composition books;
26 H. Crayons;
27 I. Erasers;
28 J. Folders; expandable, pocket, plastic, and manila;
29 K. Glue, paste, and paste sticks;
30 L. Highlighters;

- 1 M. Index cards;
2 N. Index card boxes;
3 O. Legal pads;
4 P. Lunch boxes;
5 Q. Markers;
6 R. Notebooks;
7 S. Paper; loose leaf ruled notebook paper, copy paper, graph paper, tracing paper, manila
8 paper, colored paper, poster board, and construction paper;
9 T. Pencil boxes and other school supply boxes;
10 U. Pencil sharpeners;
11 V. Pencils;
12 W. Pens;
13 X. Protractors;
14 Y. Rulers;
15 Z. Scissors; and
16 AA. Writing tablets.
17 "**School art supply**" is an item commonly used by a student in a course of study for artwork.
18 The term is mutually exclusive of the terms "school supply," "school instructional material," and
19 "school computer supply," and may be taxed differently. The following is an all-inclusive list:
20 A. Clay and glazes;
21 B. Paints; acrylic, tempora, and oil;
22 C. Paintbrushes for artwork;
23 D. Sketch and drawing pads; and
24 E. Watercolors.
25 "**School instructional material**" is written material commonly used by a student in a course of
26 study as a reference and to learn the subject being taught. The term is mutually exclusive of the
27 terms "school supply," "school art supply," and "school computer supply," and may be taxed
28 differently. The following is an all-inclusive list:
29 A. Reference books;
30 B. Reference maps and globes;

- 1 C. Textbooks; and
2 D. Workbooks.
3 **“School computer supply”** is an item commonly used by a student in a course of study in which
4 a computer is used. The term is mutually exclusive of the terms “school supply,” “school art
5 supply,” and “school instructional material,” and may be taxed differently. The following is an
6 all-inclusive list:
7 A. Computer storage media; diskettes, compact disks;
8 B. Handheld electronic schedulers, except devices that are cellular phones;
9 C. Personal digital assistants, except devices that are cellular phones;
10 D. Computer printers; and
11 E. Printer supplies for computers; printer paper, printer ink.

- 1 **Appendix D**
2 **LIBRARY OF INTERPRETATIONS**
3
4 **Interpretation 2006-01**
5 **(Adopted April 18, 2006)**
6
7 This Interpretation Recommendation is made to the Governing Board by the Compliance Review
8 and Interpretations Committee this 2nd day of February, 2006 in accordance with Article IX, Rule
9 902 of Rules and Procedures adopted by the Streamlined Sales Tax Governing Board, Inc.
10
11 The party requesting the interpretation is RSM McGladrey, Inc. of Cedar Rapids, Iowa. The
12 request was made by letter dated November 23, 2005, and was made pursuant to the provisions
13 for expedited consideration contained in Rule 902 at subsection H.
14
15 Issue
16
17 The issue presented is an interpretation of Agreement section 402 pertaining to amnesty. The
18 specific question presented was whether amnesty is available to a seller for tax not collected, if
19 the seller has collected an amount of tax in a state, but failed to remit it. The seller otherwise
20 meets the qualifications prescribed in section 402. The issue was presented with an
21 acknowledgement that tax collected must be remitted with applicable penalties and interest as a
22 precondition to receiving amnesty.
23
24 Public Comment
25
26 No written public comments were received.
27
28 Recommendation
29
30 By unanimous consent the Compliance Review and Interpretations Committee submits to the
31 Governing Board a recommendation that a seller who has collected tax in a member state may
32 obtain amnesty for taxes not collected in that state or any member state in accordance with the
33 terms of Agreement section 402. The Committee further recommends that tax collected from
34 purchasers in a member state must be remitted with applicable penalty and interest to that
35 member state as a condition of receiving amnesty. This condition is in addition to those
36 conditions specifically enumerated in section 402 of the Agreement.
37
38 Rationale
39
40 A plain reading of Agreement section 402 requires a state to provide amnesty for “uncollected or
41 unpaid sales or use tax”. A similar plain reading of the disqualifying language contained in
42 subsection 402C limits disqualification to “sales or use taxes already paid or remitted to the state
43 or to taxes collected by the seller.” As the seller has not collected the taxes at issue, amnesty is

1 available despite the fact that the seller collected taxes on other sales which will not qualify for
2 amnesty.

3
4 Committee Members

5
6 Larry Wilkie, Committee Chair; Myles Vosberg, Andy Sabol, Tony Mastin, Dan Noble, Tom
7 Conley representing Joseph VanDevender, and Dale Vettel.

8
9
10 **Interpretation 2006-02**
11 **(Adopted April 18, 2006)**

12 This Interpretation Recommendation is made to the Governing Board by the Compliance Review
13 and Interpretations Committee this 2nd day of February 2006 in accordance with Article IX, Rule
14 902 of the Rules and Procedures adopted by the Streamlined Sales Tax Governing Board, Inc.

15
16 The party requesting the interpretation is Department of Treasury, State of Michigan, of Lansing
17 Michigan. The request was made by letter dated January 4, 2006, and was made pursuant to the
18 provisions for expedited consideration contained in Rule 902 H.

19
20 Issue

21
22 The issue presented is an interpretation of Agreement section 402 pertaining to amnesty. The
23 questions presented related to when a seller is considered registered under the Agreement for
24 purposes of eligibility for amnesty when a seller has registered through the central registration
25 system and indicated that it will make use of a model 1 or model 2 seller for those periods when
26 a certified service provider (CSP) or a certified automated system (CAS) have not been deemed
27 available by the Executive Committee of the Governing Board. The specific questions presented
28 are as follows:

- 29 (1) When will a model 1 or model 2 seller be deemed to have "registered under the
30 Agreement" as provided in Section 211 of the Agreement?
31 (2) When will a model 1 or model 2 seller be required to begin collecting and remitting sales
32 or use taxes to member states as provided in Section 401(B) of the Agreement?
33 (3) When will a model 1 or model 2 seller be denied amnesty because they have received a
34 notice of the commencement of an audit as provided in Section 402(B) of the
35 Agreement?

36
37 Public Comment

38
39 No written public comments were received.

40
41 Recommendation

42
43 By unanimous consent the Compliance Review and Interpretations Committee submits to the
44 Governing Board the following recommendations:

- 45 (1) A model 1 or model 2 seller will be "registered under the Agreement":

1 (a) on a date that follows the act of making application for registration through the
2 central registration system, and

3 (b) the date that they begin, or are required to begin, collecting a member state's sales
4 or use tax.

5 (2) A model 1 or model 2 seller will be required to begin collecting and remitting sales or use
6 taxes in a member state on the first day of the calendar month after 60 days notice that
7 adequate CSP or CAS services are available as determined by the Executive Committee
8 of the Governing Board.

9 (3) A model 1 or model 2 seller will be denied amnesty in a member state pursuant to
10 Section 402(B) as having received a notice of audit only if that notice of audit is received
11 on a date that precedes the date the seller made application for registration through the
12 central registration system.

13
14 Rationale

15
16 The basis for the recommended interpretations is the inability of a model 1 or model 2 seller to
17 collect and remit sales and use taxes until these technology models are deemed to be available
18 for use by the Executive Committee of the Governing Board. A registration through the central
19 registration system should not be considered complete until a model 1 or model 2 seller begins to
20 collect or is required to begin to collect a member states' sales or use tax. These interpretations
21 are consistent with the Position on Amnesty adopted by the Governing Board on November 9,
22 2005.

23
24 Committee Members

25
26 Larry Wilkie, Committee Chair, Tom Conley, representing Joe VanDevender, Tony Mastin, Dan
27 Noble, Andy Sabol, Dale Vettel, and Myles Vosberg.

28
29
30 **Interpretation 2006-03**
31 **(Adopted April 18, 2006)**

32
33 This Interpretation Recommendation is made to the Governing Board by the Compliance Review
34 and Interpretations Committee this 16th day of February 2006 in accordance with Article IX,
35 Rule 902 of the Rules and Procedures adopted by the Streamlined Sales Tax Governing Board,
36 Inc.

37
38 The party requesting the interpretation is the State of Indiana, Tom Conley, Indiana Delegate,
39 State and Local Advisory Council. The request was made by letter dated January 5, 2006, and
40 was made pursuant to the provisions for expedited consideration contained in Rule 902 H.

41
42 Issue

1 The issue presented is an interpretation of Agreement Article III, Section 310, Subsection C,
2 Clause 1 pertaining to sourcing of initial lease payments made to dealers. The quoted section of
3 the agreement reads as follows:

4
5 For a lease or rental that requires recurring periodic payments, each periodic payment is
6 sourced to the primary property location. The primary property location shall be as
7 indicated by an address for the property provided by the lessee that is available to the
8 lessor from its records maintained in the ordinary course of business, when use of this
9 address does not constitute bad faith. This location shall not be altered by intermittent
10 use at different locations.

11
12 Indiana is requesting an interpretation on the sourcing of initial payments (down payments,
13 rebates or other potentially taxable receipts) paid to the seller at the time the lease is negotiated
14 between the seller and purchaser. Are these payments considered a recurring periodic payment
15 and sourced in accordance with Section 310(C)?

16
17 Recommendation

18
19 By unanimous consent the Compliance Review and Interpretations Committee submits to the
20 Governing Board the following recommendation:

21
22 Article III, Section 310, Subsection C, of the Agreement should be interpreted to include
23 payments received at the inception of a lease (down payments, rebates or other potentially
24 taxable receipts) as periodic payments and sourced to the primary property location consistent
25 with the sourcing of the remaining periodic payments.

26
27 Rationale

28
29 The committee contacted the automobile associations of their various states. The associations
30 reported that their leasing organizations vary in the way that the receipts collected at the
31 inception of the lease are currently sourced. Some source the receipts to the primary property
32 location while others source the receipts to the dealer's location. The committee believed that
33 the intent of the original sourcing rule was to establish a single location for sourcing all
34 payments. The proposed interpretation would be consistent with what we believed to be the
35 intent of the rule. The interpretation would also eliminate the confusion that currently seems to
36 exist related to this issue.

37
38 Committee Members

39
40 Cathy Wicks representing Larry Wilkie, Tom Conley, representing Joe VanDevender, Tony
41 Mastin, Dan Noble, Andy Sabol, Dale Vettel, Acting Committee Chair, and Myles Vosberg.

42
43
44 **Interpretation 2006-04**
45 **(Adopted April 18, 2006)**

1 This Interpretation Recommendation is made to the Governing Board by the Compliance Review
2 and Interpretations Committee this 13th day of April 2006 in accordance with Article IX, Rule
3 902 of Rules and Procedures adopted by the Streamlined Sales Tax Governing Board, Inc.

4
5 The party requesting the interpretation is Brinker International on behalf of the National
6 Association of Convenience Stores, Council on State Taxation, Darden Restaurants, Food
7 Marketing Institute, Indiana Grocery & Convenience Store Association, Marathon Petroleum
8 Company, Marsh Supermarket Pharmacy, Minnesota Grocers Association, Speedway, Starbucks
9 Coffee, Target, Utah Food Industry Association and Yum! Brands, Incorporated. The request
10 was made by letter dated January 9, 2006, and was made pursuant to the provisions for expedited
11 consideration contained in Rule 902 at subsection H.

12
13 Issue

14
15 The issue presented is an interpretation of definition of "food sold with eating utensils provided
16 by the seller" found in section C of the prepared food definition found in Appendix C, Part II.

17
18 Public Comment

19
20 Public comments were received from both industry and state agencies.

21
22 Recommendation

23
24 The Compliance Review and Interpretations Committee submits to the Governing Board a
25 recommendation that the definition of "food sold with eating utensils" be interpreted as specified
26 in the State and Local Advisory Council paper on "Prepared Food Re-Visited Updated April 13,
27 2006." This paper was distributed with Diane Hardt's e-mail dated April 13, 2006 with revised
28 documents for the Streamlined Sales Tax Governing Board meeting in Indianapolis, Indiana on
29 April 18, 2006. Committee members have agreed, by a vote of five to one, that they can support
30 the proposal as presented, provided states are given adequate time to promulgate regulations,
31 make legislative changes, or prepare other published guidance as each state determines is
32 necessary to adopt the language proposed.

33
34 Rationale

35
36 The Compliance Review and Interpretations Committee finds itself in a difficult situation with
37 this request for interpretation and its subsequent determination of support of the proposal.

38
39 All members recognize the need to come to agreement on how to interpret the subject language.
40 Committee members, as well as other states and business representatives involved in the
41 discussions, have indicated support for the proposal. The Committee commends business
42 members and state members for their diligent efforts in bringing this proposal to the table.

43
44 Concern was expressed by some Committee members that the language in the proposal goes
45 beyond an interpretation of the existing language in the definition and, in some states, would

1 require legislative changes. Committee member, Tony Mastin, noted that using the Black's Law
2 Dictionary definition of the word "provided" would be an allowable interpretation of the current
3 language. Business representatives expressed concern that using a dictionary definition would
4 not provide the necessary guidance to administer the provision and would result in states
5 adopting different interpretations of the meaning of the phrase.

6
7 The Committee is seeking advice from the Governing Board on whether this interpretation goes
8 beyond the scope of an interpretation of the current definition. If so, the Committee asks for
9 advice from the Governing Board on how to proceed. The options discussed, if this is not an
10 interpretation, were either an amendment to the Agreement or a rule.

11 Committee Members

12
13
14 Larry Wilkie, Committee Chair; Myles Vosberg, Andy Sabol, Tony Mastin, Dan Noble, Tom
15 Conley representing Joseph VanDevender, and Dale Vettel.

16
17 State and Local Advisory Council
18 Prepared Food Re-Visited
19 Updated April 13, 2006

20
21
22 SSTP approved several interpretations of the food definitions at its meeting on January 6, 2005.
23 The approved interpretations are included in an Issue Paper titled "Food Definition Issues" on
24 the Streamlined web site at www.streamlinedsalestax.org. SSTP interpreted "provided by the
25 seller" with respect to utensils as:

- 26 1. Utensils need only be made available to purchasers if a seller's sales of prepared
27 food in A and B of the definition (except items 1 through 3 that a state chooses to
28 exclude), soft drinks, and alcohol beverages at an establishment are more than
29 75% of the seller's total sales at the establishment.
- 30 2. For sellers other than in 1., the seller's customary practice is to give the utensil to
31 the purchaser, except that plates, glasses, or cups necessary for the purchaser to
32 receive the food or food ingredients need only be made available.

33
34
35
36 Also, SSTP addressed utensils provided by persons other than the seller and resold by a seller as
37 follows:

38
39 Although a person other than the seller may have originally placed the utensil in
40 the package, the seller provides it to the purchaser when it transfers the package to
41 the purchaser. Therefore, in the examples provided (caterer sells a boxed lunch
42 with utensils to a concessionaire who sells the boxed lunch; food manufacturer
43 packages ready-to-eat lunch with utensils and sells to a grocer who sells the
44 lunch), utensils are provided by the seller.

1 The Food Marketing Institute and a number of interested parties submitted a request for
2 interpretation to the Compliance Review and Interpretations Committee (CRIC) on January 6,
3 2006. CRIC has requested the State and Local Advisory Council (SLAC) of the Streamlined
4 Governing Board to further address the prepared food interpretation issue.

5
6 At the SLAC meeting on January 7-8, 2006, a work group discussed concerns about the SSTP
7 approved interpretation and identified solutions. Business representatives reviewed those
8 solutions and recommended minor changes. The proposed interpretation is as follows:

- 9
10 I. We will maintain the 75% test for sellers but modify how the numerator and
11 denominator are calculated so that like businesses (single purpose coffee shop v.
12 coffee shop in a bookstore) are treated the same.
- 13
14 II. The numerator would include sales of (a) prepared food if under A and B of the
15 definition of prepared food; and (b) food where plates, bowls, glasses or cups are
16 necessary to receive the food (e.g., dispensed milk, salad bar). Alcoholic
17 beverages are not included in the numerator.
- 18
19 III. The denominator would include sales of all food and food ingredients, including
20 prepared food, candy, dietary supplements, and soft drinks. Alcoholic beverages
21 are not included in the denominator.
- 22
23 IV. For sellers with a sales percentage of 75% or less, utensils are provided by the
24 seller if the seller's practice for the item (as represented by the seller) is to
25 physically give or hand the utensil to the purchaser, except that plates, bowls,
26 glasses, or cups necessary for the purchaser to receive the food (e.g., dispensed
27 milk, salad bar) need only be made available.
- 28
29 V. For sellers with a sales percentage greater than 75%, utensils are provided by the
30 seller if they are made available to purchasers.
- 31
32 VI. For sellers with a sales percentage greater than 75% and who sell items that
33 contain four (4) or more servings packaged as one item sold for a single price, an
34 item does not become prepared food due to the seller having utensils available.
35 However, if the seller provides utensils for the item as in 4 above, then the item is
36 considered prepared food. Whenever available, serving sizes will be determined
37 based on a label on an item sold. If no label is available, a seller will reasonably
38 determine the number of servings in an item.
- 39
40 VII. When a seller sells food items that have a utensil placed in a package by a person
41 other than the seller, and that person's NAICS classification code is that of
42 manufacturers (sector 311), the seller shall not be considered to have provided the
43 utensil except as provided in 4-6 above. For any other packager with any other
44 NAICS classification code (e.g., sector 722 for caterers), the seller shall be
45 considered to have provided the utensil.

- 1
2 VIII. The prepared food sales percentage will be calculated by the seller for each tax
3 year or business fiscal year, based on the seller's data from the prior tax year or
4 business fiscal year, as soon as possible after accounting records are available, but
5 not later than 90 days after the beginning of the tax or business fiscal year.
6
7 IX. A single prepared food sales percentage will be determined annually, for all of the
8 seller's establishments in a state.
9
10 X. A new business will make a good faith estimate of their prepared food sales
11 percentage for their first year. A new business should adjust its good faith
12 estimate prospectively after the first three months of operation if actual prepared
13 food sales percentages materially affect the 75% threshold test.
14

15 If states concur that the above interpretation of "food sold with eating utensils provided by the
16 seller" requires an amendment to the Agreement or time to implement the interpretation, then a
17 temporary interpretation must be offered now so that sellers of prepared food can determine tax
18 treatments under laws enacted by states that are in compliance with the Streamlined Sales and
19 Use Tax Agreement. The Governing Board states will be surveyed to determine if they can or
20 cannot support the following uniform interpretation. If a Governing Board state cannot support
21 this interpretation, the Governing Board state will be asked to explain its interpretation. The
22 results of the survey will be presented to the Governing Board at its meeting in April.
23

24 "Food sold with eating utensils provided by the seller" means the seller's practice for
25 the item is to physically give or hand the utensil to the purchaser.
26

27 Note: Black's Law Dictionary defines "provide" as to make, procure, or furnish for future use,
28 prepare. To supply; to afford; to contribute.
29

30 **Interpretation 2006-05**
31 **(Adopted August 29, 2006)**
32

33 This Interpretation Recommendation is made to the Governing Board by the Compliance Review
34 and Interpretations Committee this 27th day of April, 2006 in accordance with Article IX, Rule
35 902 of Rules and Procedures adopted by the Streamlined Sales Tax Governing Board, Inc.
36

37 The party requesting the interpretation is George S. Isaacson of Brann & Isaacson, of Lewiston
38 Maine. The request was made by letter dated March 31, 2006, and was made pursuant to the
39 provisions for expedited consideration contained in Rule 902 at subsection H.
40

41 Issue
42

43 The first issue presented is an interpretation of the definition of "clothing" found in Appendix C,
44 Part II of the Streamlined Sales and Use Tax Agreement. The specific question is: Do articles of
45 human wearing apparel suitable for general use that are made from fur or hide on the pelt (i.e.,

1 animal skins with hair, fleece or fur fibers attached) constitute "clothing" within the meaning of
2 the Agreement?
3

4 The second issue presented is an interpretation of Section 327(C) of the Agreement which
5 requires a member state to impose sales or use tax on all products or services included within
6 each definition or to exempt from sales or use tax all products or services within each definition.
7 The specific question is, if human wearing apparel made from fur and suitable for general use
8 constitutes "clothing" as defined in the SSUTA, must a member state, under Section 327 of the
9 Agreement, treat fur clothing in the same manner as all other clothing?
10

11 The third issue presented is whether Minnesota's general exemption from sales and use tax for
12 clothing, and the imposition of a separate gross revenues tax on fur clothing results in Minnesota
13 being in violation of Section 327 (C) of the agreement.
14

15 Public Comment
16

17 No written public comments were received.
18

19 Recommendation
20

21 By unanimous consent the Compliance Review and Interpretations Committee submits to the
22 Governing Board the following recommendations regarding the above three issues:
23

- 24 1. Appendix C, Part II of the Streamlined Sales and Use Tax Agreement defines clothing as
25 human wearing apparel suitable for general use. An article made from fur or hide on the
26 pelt that is wearing apparel suitable for general use, is not excluded from the definition of
27 clothing.
28
- 29 2. Clothing made with fur must be treated in the same manner as other clothing. A state can
30 choose to impose the sales tax on all articles of clothing, or it may choose to exempt all
31 articles of clothing. A state cannot choose to apply the sales tax to some articles of
32 clothing and exempt other articles of clothing.
33
- 34 3. The third question concerns whether Minnesota is in violation of Section 327 (C) of the
35 Agreement. The Agreement pertains only to sales and use taxes. Imposition of
36 Minnesota's gross revenue tax on articles of fur clothing does not constitute a violation of
37 Section 327 (C) of the Agreement.
38

39 Rationale
40

- 41 1. The committee reviewed the definition of clothing and determined that articles of
42 clothing made from fur or hide on the pelt are not excluded from the definition of
43 clothing. There is no language in the definition or the Agreement that qualifies or restricts
44 the definition of clothing based on the materials that are used to produce the clothing.

- 1 2. The committee reviewed Section 327 of the Agreement. Section 327 requires that except
2 as specifically provided in Section 316 and any applicable definition, a member state
3 must either impose its sales and use taxes on all products or services within a definition,
4 or exempt all products or services within a definition.
5
- 6 3. Minnesota exempts all clothing from the sales and use tax. Minnesota does not impose a
7 sales tax on articles of clothing made with fur or hide on the pelt (Minnesota Statutes,
8 Chapter 297A (General Sales and Use Taxes)). Minnesota imposes a separate gross
9 revenues tax on fur clothing (Minnesota Statutes, Chapter 295 (Gross Revenues and
10 Gross Receipts Taxes)). This is not in violation of any provision of the Agreement. It is a
11 separate tax from the sales tax and is imposed on the gross receipts of the furrier for sales
12 in Minnesota. Article I, Section 104 of the agreement provides that the definition of a
13 term is not intended to influence the interpretation or application of that term with respect
14 to other tax types.
15

16 Committee Members

17 Larry Wilkie, Committee Chair, Tony Mastin, Dan Noble, Andy Sabol, Joe VanDevender, Dale
18 Vettel, and Myles Vosberg.
19

20
21 **Interpretation 2006-06**
22 **(Adopted August 29, 2006)**
23

24 This Interpretation Recommendation is made to the Governing Board by the Compliance Review
25 and Interpretations Committee this 22nd day of June, 2006 in accordance with Article IX, Rule
26 902 of Rules and Procedures adopted by the Streamlined Sales Tax Governing Board, Inc.
27

28 The party requesting the interpretation is William Riesenberger of the Ohio Department of
29 Taxation, Sales and Use Tax Division. The request was made by letter dated January 25, 2006.
30 Expedited consideration available under Rule 902, subsection H was not requested.
31

32 Issue

33
34 The issue presented is an interpretation of Agreement section 402 pertaining to amnesty. The
35 question presented was whether a company that has a physical presence in a state continues to be
36 eligible for amnesty in that same state if it deregisters in the other member and associate member
37 states. Amnesty was originally granted under section 402 of the agreement when the company
38 registered to collect tax through the streamlined sales tax central registration system.
39

40 Public Comment

41 No written public comments were received.
42
43

44 Recommendation
45

- 1 By unanimous consent the Compliance Review and Interpretations Committee submits to the
2 Governing Board a recommendation that a seller who has deregistered to collect tax in any
3 member state within thirty-six months of its registration is no longer eligible for amnesty in any
4 member state or associate member state under section 402 of the Agreement including states
5 where the seller has a physical presence.
6

7 Rationale

8
9 Section 402A(1) of the agreement provides amnesty for uncollected or unpaid sales or use tax to
10 a seller that registers to pay or to collect and remit applicable sales or use tax in accordance with
11 the terms of the agreement. In addition, section 402D states the amnesty is fully effective as
12 long as the seller continues registration and continues payment or collection and remittance of
13 applicable sales or use taxes for a period of at least thirty-six months. A seller that deregisters
14 within thirty-six months of its registration does not meet the requirements of Section 402D and,
15 therefore, forfeits the amnesty provided under the agreement in all member and associate
16 member states including any state where registration is continued. Notice of deregistration is
17 made through the central registration system to all member and associate member states.
18

19 Committee Members

20
21 Larry Wilkie, Committee Chair; Myles Vosberg, Andy Sabol, Tony Mastin, Dan Noble, Tom
22 Conley representing Joseph VanDevender, and Dale Vettel.
23

24
25 **Interpretation 2006-07**
26 **(Adopted August 29, 2006)**
27

28 This Interpretation Recommendation is made to the Governing Board by the Compliance Review
29 and Interpretations Committee this 24th day of August, 2006 in accordance with Article IX, Rule
30 902 of the Rules and Procedures adopted by the Streamlined Sales Tax Governing Board, Inc.
31

32 The party requesting the interpretation is the Software Finance & Tax Executives Council
33 (SoFTEC) represented by Mark Nebergall of 1150 17th Street NW # 601, Washington DC 20036.
34 The request was made on the prescribed form on April 11, 2006 and was made pursuant to the
35 provisions for consideration contained in Rule 902 at subsection (D). SoFTEC provided
36 supplemental information in support of the interpretation and to provide clarification of the scope
37 of the interpretation request.
38

39 Issue

40 SoFTEC raises three issues associated with Section 312A, Multiple Points of Use, effective on
41 and after January 1, 2008, of the Streamlined Sales and Use Tax Agreement (SSUTA). Each of
42 the issues involves the interpretation of the phrase “concurrently available for use in more than
43 one jurisdiction” and its application to three specific fact patterns involving the sale of software
44 and service. We list the fact patterns first and then the issues associated with each fact pattern
45 exactly as presented in the interpretation request.

1
2 Fact Pattern (1): Software Company sells software that can be loaded onto Customer’s
3 server and can be accessed and used concurrently by Customer’s employees located in
4 several states. The only copy of the software received by the Customer is the one loaded
5 onto the Customer’s server. No subsequent copies of the software are made and sent to
6 employees in other states.
7
8 Fact Pattern (2): Software is loaded onto Software Company’s server and Software
9 Company sells access to the software to Customer. Customer’s employees gain concurrent
10 access to the software from multiple locations. No copy of the software is ever delivered to
11 the Customer.
12
13 Fact Pattern (3): A copy of a computer program is licensed by Software Company to
14 Customer along with the right to make multiple copies of the software which will be
15 delivered to Customer’s users/employees in multiple jurisdictions.
16
17 Issue (1): “Is software loaded onto a server located in a single state that can be accessed by
18 users in several states “concurrently available for use in more than one jurisdiction” within
19 the meaning of Section 312A of the Agreement?”
20
21 Issue (2): “Is delivery of a copy of the computer program to the customer necessary to
22 invoke the “concurrently available for use in more than one jurisdiction” language of Section
23 312A?”
24
25 Issue (3): “Is a license of a copy of a computer program that allows the licensee/customer to
26 make copies of the software that will be used in more than one jurisdiction by the customer
27 “concurrently available for use in more than one jurisdiction” within the meaning of Section
28 312A?”
29
30 Public Comment
31
32 Public comment was received from both industry and state agencies.
33
34 Recommendation
35
36 By unanimous vote the Compliance Review and Interpretations Committee submits to the
37 Governing Board the following interpretation recommendation regarding the above three issues.
38 It is important to note that the committee’s recommendation departs from SoFTEC’s proposed
interpretation as it relates to issues one and three by incorporating clarifications provided by
SoFTEC in supplemental memorandums. This interpretation recommendation does not take a
position on whether the transactions described in the fact patterns are sales of computer software
or whether they are sales of services since this distinction is not important to the question of
whether the purchases are considered to be concurrently available for use in multiple
jurisdictions.

1 It is also important to note that regardless of the fact situation, a seller is not relieved of its
2 obligation to collect and remit sales or use tax on otherwise taxable transactions, unless the
3 purchaser delivers to the seller an exemption form claiming direct pay or multiple points of use.
4
5 E. The purchase of software loaded onto a server located in a single state that will be
6 available for access by employees in multiple jurisdictions is concurrently
7 available for use in more than one jurisdiction within the meaning of Section 312A
8 of the Agreement if the purchaser knows at the time of its purchase that the
software will be concurrently available for use in multiple jurisdictions.
9
10 F. Delivery of a copy of a computer program is not necessary to invoke the
11 “concurrently available for use in more than one jurisdiction” language of Section
12 312A.
13
14 G. The purchase of a license of a copy of a computer program that allows the
15 licensee/customer to make copies of the software that will be used in more than
16 one jurisdiction by the customer is concurrently available for use in more than one
17 jurisdiction within the meaning of Section 312A of the Agreement if the
purchaser knows at the time of its purchase that the software will be concurrently
available for use in multiple jurisdictions.

18 Rationale

- 19 1. The critical component of Section 312A is the direction provided to both the seller and
20 purchaser. The term “concurrently available for use” has clear meaning: “concurrently”
21 (occurring at the same time); “available for use” (that **can** be used). Applying the clear
22 meaning of the term “concurrently available for use” to the specific fact pattern
23 described, the purchased item is considered to be concurrently available for use in
24 multiple jurisdictions within the meaning of Section 312A.
- 25 2. The delivery of a copy of a computer program is not specifically enumerated in Section
26 312A as a trigger for invoking the “concurrently available for use” language.
- 27 3. See item 1. The same rationale applies here.

28 Committee members

29 Larry Wilkie, Committee Chair, Dale Vettel, Vice Chair, Tony Mastin, Dan Noble, Andy Sabol,
30 Joe VanDevender, and Myles Vosberg.

31 *Compiler’s note: On December 14, 2006 Section 312 was repealed.*
32

33 **Interpretation 2006-08**
34 **(Adopted December 14, 2006)**
35

1 This Interpretation Recommendation is made to the Governing Board by the Compliance Review
2 and Interpretations Committee this 17th day of August, 2006 in accordance with Article IX, Rule
3 902 of the Rules and Procedures adopted by the Streamlined Sales Tax Governing Board, Inc.

4
5 The party requesting the interpretation is Jane Page of the South Dakota Department of Revenue.
6 The request was made on the prescribed form on June 7, 2006 and was made pursuant to the
7 provisions for consideration contained in Rule 902 at subsection (D).

8
9 Issue

10
11 The issue presented is an interpretation of Agreement section 402 pertaining to amnesty. The
12 question presented was whether a registrant must remain registered with each state for a period
13 of thirty-six months from the date that the state becomes a member.

14
15 The situation described involved a seller that registers through the streamlined sales tax central
16 registration system with all member states on October 1, 2005. A new state becomes a member
17 October 1, 2008. The seller cancels registration with all states effective December 1, 2008.

18
19 The seller in the situation described above was registered for a total of thirty-eight months, but
20 only two months in the new state. Does the seller retain amnesty with the new member state?

21
22 Public Comment

23 No written public comments were received.

24 Recommendation

25 The Compliance Review and Interpretations Committee submits to the Governing Board a
26 recommendation that a seller who deregisters to collect tax in a member state within thirty-six
27 months of that state becoming a member is no longer eligible for amnesty in that new member
28 state under Section 402 of the agreement. However, the seller retains amnesty with all member
29 states in which they were registered for at least thirty-six months, provided they meet all of the
30 other requirements of Section 402 of the agreement.

31 Rationale

32 Section 402A(1) of the agreement provides amnesty for uncollected or unpaid sales or use tax to
33 a seller that registered to pay or to collect and remit applicable sales or use tax in accordance
34 with the terms of the agreement. In addition, Section 402D states that the amnesty is fully
35 effective as long as the seller continues registration and continues payment or collection and
36 remittance of applicable sales or use taxes for a period of at least thirty-six months. Each
37 member state shall toll its statute of limitations applicable to asserting a tax liability during this
38 thirty-six month period.

39 A seller that deregisters within thirty-six months of the date that a state becomes a member does
40 not meet the requirements of section 402D and, therefore, forfeits the amnesty provided under

1 the agreement for that member state. Assuming that all other requirements of Section 402 are
2 met, the seller retains amnesty in the initial member states since they met the thirty-six month
3 registration requirement in those states.

4 Committee members

5 Larry Wilkie, Committee Chair, Dale Vettel, Vice Chair, Tony Mastin, Dan Noble, Andy Sabol,
6 Joe VanDevender, and Myles Vosberg.

7
8 **Interpretation 2006-09**
9 **(Adopted December 14, 2006)**

10
11 This Interpretation Recommendation is made to the Governing Board by the Compliance Review
12 and Interpretations Committee this 14th day of September, 2006 in accordance with Article IX,
13 Rule 902 of Rules and Procedures adopted by the Streamlined Sales Tax Governing Board, Inc.

14
15 The party requesting the interpretation is Suzanne Beaudelaire of Ernst & Young, LLP. The
16 request was made on the prescribed form dated August 16, 2006, and was made pursuant to the
17 provisions for expedited consideration contained in Rule 902 at subsection H.

18
19 Issue

20
21 The issue presented is an interpretation of Agreement section 402 pertaining to amnesty. The
22 question presented was whether companies (predecessor companies) would be eligible for
23 amnesty under Agreement section 402 if another company (successor company) acquired the
24 assets and liabilities of the predecessor companies and then registered to collect sales/use tax
25 through the SST central registration system. According to facts presented in the request, the
26 predecessor companies no longer exist, but would qualify for amnesty under Agreement section
27 402 if they still existed and they registered through the central registration system.

28
29 Public Comment

30
31 No written public comments were received. Ms. Beaudelaire's discussion and response to the
32 committee's questions during the September 14, 2006 meeting were the only oral comments
33 presented to the committee. Other issues regarding liability for sales/use tax related to
34 predecessor companies were raised during the discussion, but the following recommendation is
35 limited to the specific question addressed in Ms. Beaudelaire's request.

36
37 Recommendation

38
39 By unanimous consent the Compliance Review and Interpretations Committee submits to the
40 Governing Board a recommendation that predecessor companies that do not register through the
41 central registration system are not eligible for amnesty under Agreement section 402.

1 Rationale

2
3 Section 402A(1) of the agreement provides amnesty for uncollected or unpaid sales or use tax to
4 a seller that registers to pay or to collect and remit applicable sales or use tax in accordance with
5 the terms of the agreement. The agreement language is clear that amnesty is not available to
6 companies that do not register under the agreement.

7
8 Committee Members

9
10 Larry Wilkie, Committee Chair; Myles Vosberg, Andy Sabol, Tony Mastin, Dan Noble, Tom
11 Conley representing Joseph VanDevender, and Dale Vettel.

12
13 **Interpretation 2006-10**
14 **(Withdrawn December 14, 2006)**

15
16 **Interpretation 2006-11**
17 **(Adopted December 14, 2006)**

18
19 This Interpretation Recommendation is made to the Governing Board by the Compliance Review
20 and Interpretations Committee this 26th day of October 2006 in accordance with Article IX, Rule
21 902 of the Rules and Procedures adopted by the Streamlined Sales Tax Governing Board, Inc.

22
23 The party requesting the interpretation is Mr. John Nugent of the Rhode Island Division of
24 Taxation. The request was made on the prescribed form dated October 6, 2006, and was made
25 pursuant to the provisions for expedited consideration contained in Rule 902 H.

26
27 Issue

28
29 The issue presented is an interpretation of Interpretation 2006-04 adopted on April 18, 2006 by
30 the Governing Board defining the term “food sold with eating utensils provided by the seller” for
31 purposes of the prepared food definition in the Agreement. The specific issue involves the
32 following language which is referred to as a “bulk serving” in the remainder of this document:

33
34 “For sellers with a sales percentage greater than 75% and who sell items that contain four (4)
35 or more servings packaged as one item sold for a single price, an item does not become
36 prepared food due to the seller having utensils available.”

37
38 The questions presented was whether the packaging by a seller of four or more bakery products
39 individually selected by a purchaser and sold for a single price meets the definition of “bulk
40 serving” as defined above.

41
42 Public Comment

43
44 Written public comments were received and are incorporated herein.
45

1 Recommendation

2
3 By unanimous consent the Compliance Review and Interpretations Committee submits to the
4 Governing Board the recommendation that packaging by a seller of four or more bakery products
5 individually selected by the purchaser and sold for a single price constitutes a bulk serving.

6
7 Rationale

8
9 Section VI of Interpretation 2006-04 provides, in part, the following:
10 “For sellers with a sales percentage greater than 75% and who sell items that contain four (4) or
11 more servings packaged as one item sold for a single price, an item does not become prepared
12 food due to the seller having utensils available...”

13
14 The “bulk servings” of Interpretation 2006-04 does not provide by whom the item must be
15 packaged, or that the item must be pre-packaged. Thus, for bakery products, all that is required is
16 that the item ultimately sold to the purchaser be a package of bakery products consisting of four
17 or more servings sold for a single price. The fact that the servings are individually selected by the
18 purchaser and packaged by the seller or the purchaser does not affect the transaction. The item
19 does not constitute prepared food even when sold by a seller whose sales percentage is greater
20 than 75% and who makes eating utensils available.

21
22 The Committee wishes to note that if the seller charges for each individual serving in the
23 package, the sale would not be of “one item sold for a single price.” It should be noted that the
24 same provision in Section VI of Interpretation 2006-04, which we are referring to as “bulk
25 serving,” does treat “bulk servings” as prepared food when the seller’s practice for the item (as
26 represented by the seller) is to physically hand the utensil to the purchaser, except that plates,
27 bowls, glasses, or cups necessary for the purchaser to receive food need only be made available.

28
29 Committee Members

30
31 Larry Wilkie, Committee Chair, Tom Conley, representing Joe VanDevender, Tony Mastin, Dan
32 Noble, Andy Sabol, Dale Vettel, and Myles Vosberg.

33
34 **Interpretation 2006-12**
35 **(Adopted December 14, 2006)**

36
37 This Interpretation Recommendation is made to the Governing Board by the Compliance Review
38 and Interpretations Committee this 26th day of October, 2006 in accordance with Article IX, Rule
39 902 of the Rules and Procedures adopted by the Streamlined Sales Tax Governing Board, Inc.

40
41 The party requesting the interpretation is McCarter & English, LLP. The request was made on
42 the prescribed form on October 6, 2006 and was made pursuant to the provisions for
43 consideration contained in Rule 902, subsection (H).

44
45 Issue

1
2 The issue presented is an interpretation of the definition of “direct mail” found in Appendix C,
3 Part I of the Agreement. The specific question is whether billing invoices, return envelopes and
4 any additional marketing materials are included in the definition of “direct mail.” The definition
5 in question reads as follows:
6

7 “Direct mail” means printed material delivered or distributed by United States mail or other
8 delivery service to a mass audience or to addresses on a mailing list provided by the
9 purchaser or at the direction of the purchaser when the cost of the items are not billed directly
10 to the recipients. “Direct Mail” includes tangible personal property supplied directly or
11 indirectly by the purchaser to the direct mail seller for inclusion in the package containing the
12 printed material. “Direct mail” does not include multiple items of printed material delivered
13 to a single address.

14 The Interpretation Request provided the following background facts. A company in the business
15 of printing and mailing billing statements for clients in a wide variety of industries receives
16 customer data electronically and prints statements, letters, invoices and additional pages on
17 preprinted paper or forms to meet the client’s specifications. The printed material is sorted,
18 folded and inserted into envelopes, bundled based on zip codes and given to the United States
19 Postal Service for delivery. The mailed packet typically also will include a return envelope,
20 coupons and other marketing materials.
21

22 Public Comment

23 Written public comments were received from a state agency.

24 Recommendation

25 By majority vote, the Compliance Review and Interpretations Committee submits to the
26 Governing Board a recommendation that billing invoices, return envelopes and any additional
27 marketing materials included with the mailing are included in the definition of direct mail
28 provided the sale meets the criteria set out in the definition of direct mail. Joseph VanDevender,
29 Indiana Department of Revenue, abstained from the vote on this recommendation due to a
30 potential conflict of interest.

31 The criteria requires that the sale is of printed material delivered or distributed to a mass
32 audience or to addresses on a mailing list provided by the purchaser or at the direction of the
33 purchaser when the cost of the items are not billed directly to the recipients.

34 It is important to note that this definition applies only for the purposes of determining proper
35 sourcing, and for determining whether delivery charges are included in the taxable sales price of
36 the direct mail.

37 Rationale

1 A plain reading of the definition of direct mail supports the recommendation that billing
2 invoices, return envelopes and additional marketing materials included with the printed material
3 meets the definition of direct mail. However, the discussion surrounding this interpretation
4 request indicates that there is a misunderstanding about the intended use of the definition of
5 “direct mail.”

6 The definition is placed in the Administrative Definitions section of the Agreement purposely,
7 because it is not intended to be a product definition. The definition was created only to define the
8 term as used in the Direct Mail Sourcing provisions found in Section 313, and for the exclusion
9 from “delivery charges” allowed for charges for delivery of “direct mail.”

10 States may tax or exempt any service or sale of printed material included in the definition of
11 “direct mail” in any way they choose. For example, a state may impose sales and use tax on
12 charges to print billing invoices, and exempt charges to print advertising material, both of which
13 are included in the definition of direct mail. However, if the sale is taxable and includes mailing
14 or delivering the printed material to a mass audience or to addresses on a mailing list as stated in
15 the definition, it must be sourced under the provisions of Section 313, and the exclusion for
16 delivery charges allowed applies if a member state has adopted that exclusion.

17 Committee members

18 Larry Wilkie, Committee Chair, Dale Vettel, Vice Chair, Tony Mastin, Dan Noble, Andy Sabol,
19 Joe VanDevender, and Myles Vosberg.

20

21 **Interpretation 2007-01** 22 **(Adopted June 23, 2007)**

23
24 This Interpretative Opinion Recommendation is made to the Governing Board by the
25 Compliance Review and Interpretations Committee on March 29, 2007, in accordance with
26 Article IX, Rule 902 of the Rules and Procedures adopted by the Streamlined Sales Tax
27 Governing Board, Inc.
28

29 The party requesting the interpretation is Mr. Phil Schlesinger of Avalara. The request was made
30 on the prescribed form on February 12, 2007, and was made pursuant to the provisions for
31 consideration contained in Rule 902, subsection (H).
32

33 Issue

34
35 The issue presented is an interpretation of the definition of “drug” in Appendix C, Part II of the
36 Agreement. The specific question is whether the word “drug” is limited to an item or liquid that
37 is consumed internally by the person or used externally on a person, or does it possibly extend
38 beyond this in the context of item B of the definition to include medical supplies such as
39 “Infectious Disease Testing Kits” that are intended to be used in the diagnosis of a disease.
40

1 Public Comment

2 No written public comments were received.

3 Recommendation

4 The Compliance Review and Interpretations Committee submits to the Governing Board a
5 recommendation that infectious disease testing kits do not meet the definition of "drug."
6 However, reagents, which are a component of the infectious disease test kits, do meet the
7 definition of "drug." The infectious disease test kits are made up of two or more distinct and
8 identifiable products and are sold for one non-itemized price, which may or may not be a
9 bundled transaction, depending on the tax laws in the state to which the sale is sourced. Since
10 this will vary from state to state, the Committee recommends that each state make a
11 determination of whether the sale of infectious disease test kits are taxable transactions according
12 to the laws of their state.

13 Rationale

14 The definition of "drug" found in Appendix C, Part II, of the Agreement does not require the
15 item to be internally consumed or externally applied to the patient in order for the definition to
16 apply. However, in order to qualify as a drug it must meet at least one of the provisions provided
17 in A, B, or C of the definition, and it must also meet the basic definition in the first paragraph:
18 "Drug" means a compound, substance or preparation, and any component of a compound,
19 substance or preparation, other than "food and food ingredients," "dietary supplements" or
20 "alcoholic beverages."

21 To take the position that an item qualifies as a drug merely because the item is intended to be
22 used in the diagnosis, cure, mitigation, treatment, or prevention of disease, as described in B of
23 the definition, would expand the definition of drug to include much of what is defined as durable
24 medical equipment. For example, dialysis equipment is used in the treatment of disease, but is
25 not a drug, because it is not a "compound, substance or preparation."

26 The infectious disease test kits in question contain a chemical (reagents) and other items such as
27 slides, plastic trays and droppers. The chemicals are also sold separately from the kits.
28 Committee members agree that the chemicals meet the definition of "drug," but the other items
29 in the kit do not. Since the infectious disease test kits contain two or more distinct and
30 identifiable products and are sold for one non-itemized price, the sale of the test kits may be a
31 bundled transaction. Business representatives pointed out that the test kits in question are just
32 one of many different test kits sold by various manufacturers for use by medical professionals.
33 Each type of kit sold will contain different items with different costs for the components, so the
34 results may differ for each type of kit. To make a determination about a specific test kit, one
35 must know the contents of the kit and the seller's purchase price or sales price of each item
36 included in the kit. Whether sales and use tax applies to the sale of a bundled transaction, or to
37 the sale of a transaction that meets the de minimis test, is based on the laws in the state to which
38 the sale is sourced.

1 Committee members

2 Larry Wilkie, Committee Chair, Dale Vettel, Vice Chair, Tony Mastin, Andy Sabol, Joe
3 VanDevender, Myles Vosberg and Delegate John Doyle

4

CONTRACT
BETWEEN
STREAMLINED SALES TAX GOVERNING BOARD, INC.
AND
COMPANY A

This Contract, by and between STREAMLINED SALES TAX GOVERNING BOARD, INC., hereinafter referred to as the "Governing Board" and _____, hereinafter referred to as the "Contractor," is entered into as of the 1st day of June, 2006 (the "Effective Date"), and is for the Contractor's provision of services as a Certified Service Provider pursuant to the Streamlined Sales and Use Tax Agreement, as amended, and as further defined in Section B, SCOPE OF SERVICES.

RECITALS

WHEREAS, the Streamlined Sales Tax Project was created by and is comprised of participating governmental authorities (collectively, the Member States and Associate Member States) for the purpose of developing measures to design, test and implement a sales and use tax system that simplifies and modernizes the collection and remittance of sales and use taxes throughout the United States; and

WHEREAS, the Governing Board is a nonprofit corporation incorporated in the State of Indiana with authority to oversee, manage, and implement the Streamlined Sales and Use Tax Agreement, and is located at:

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

and

WHEREAS, the Governing Board is authorized under the Streamlined Sales and Use Tax Agreement to enter into this Contract on behalf of the Member States and Associate Member States, with the exception of the State of North Carolina, which is entering into a separate agreement with the Contractor for the provision of CSP services and is authorizing the Governing Board to administer the contract on its behalf, and

WHEREAS, the Contractor is a corporation incorporated in the State of _____, and is located at:

and

WHEREAS, the Governing Board believes that many sellers of goods and services in the United States would benefit from technical assistance in collecting and remitting

sales and use taxes to the Member States and Associate Member States that comprise the Streamlined Sales and Use Tax Agreement; and

WHEREAS, the Governing Board seeks to facilitate the collection and remittance of sales and use taxes by contracting with entities that can provide technical assistance to sellers who choose to use their services; and

WHEREAS, the Contractor seeks to be designated as a Certified Service Provider under the Streamlined Sales and Use Tax Agreement with authority to provide such technical assistance to sellers of goods and services in Member States and Associate Member States that are participating in the agreement.

Now therefore,

THE GOVERNING BOARD AND THE CONTRACTOR, AS PARTIES TO THIS CONTRACT AND IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED HEREIN, AGREE AS FOLLOWS:

Upon execution of this Contract by both parties and approval of the Contract by the Governing Board, the Contractor is hereby certified by the Governing Board as a Certified Service Provider as of the Effective Date, having met the certification standards as adopted by the Governing Board and documents issued pursuant thereto.

A. DEFINITIONS:

Except where the context requires otherwise, the following definitions shall apply in this Contract.

A.1. 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.

A.2. Automated System means the software system and processes utilized by the Contractor in the performance of the services provided under this Contract.

A.3. CSP or Certified Service Provider means an entity certified as such under this Contract.

A.4. Certification Committee means the committee appointed by the Governing Board to advise the Governing Board on matters pertaining to the evaluation, testing, certification and recertification of service providers and automated systems.

A.5. 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 of such agreement.

A.6. RFP means the Request for Proposal issued by the Streamlined Sales Tax Conforming States' Committee on November 1, 2004 and re-issued September 20, 2005 (Exhibit B).

A.7. Seller means a person making sales, leases, or rentals of personal property or services who contracts with the Contractor for the performance of services by the Contractor as a Certified Service Provider.

A.8. Seller Taxes means sales and use taxes due and owing to a Member State or Associate Member State from a Seller with whom the Contractor has agreed to perform tax calculating and reporting services.

A.9. SSUTA means the multi-state Agreement known as the Streamlined Sales and Use Tax Agreement adopted November 12, 2002, as subsequently amended (Exhibit A).

A.10. Streamlined Sales Tax Conforming States Committee means the committee of the Streamlined Sales Tax Implementing States that was assigned the responsibility of issuing the RFP.

A.11. Streamlined Sales Tax Implementing States means the body referred to as such in Section 703 of the SSUTA.

B. SCOPE OF SERVICES:

B.1. General. Except as otherwise provided in this section, the Contractor agrees to and shall perform all of the sales and use tax functions of each Seller with whom it contracts as a CSP, other than such Seller's obligation to remit tax on its own purchases, for each Member State and Associate Member State in which the Seller is registered to collect sales and use tax. If the Seller is not registered as a Volunteer Seller, as defined in Section D.2(b), in a Member State or Associate Member State, the Seller and the Contractor may agree that the Contractor will not provide CSP services on behalf of the Seller in that Member State or Associate Member State. In such case, within ten (10) business days after agreeing with the Seller not to provide the CSP services, the Contractor shall notify each affected Member State and Associate Member State that it is not providing CSP services on behalf of that Seller.

B.2. Services of a Certified Service Provider. The Contractor shall undertake, on behalf of each Seller with whom it contracts to provide such services, all functions and services mandated of Certified Service Providers under the terms of the SSUTA, each Member State's or Associate Member State's laws, the RFP, the Streamlined Sales Tax Governing Board, Inc. Rules and Procedures, all interpretations of the SSUTA issued by the Governing Board pursuant to Section 902 of the SSUTA and Rule 902 of the Streamlined Sales Tax Governing Board, Inc. Rules and Procedures, and this Contract.

The Contractor shall execute a contract with each Seller addressing the services to be performed and shall include in such contract the following statement in capital letters in 12 point type or larger:

_____ HAS ENTERED INTO CONTRACTS WITH THE GOVERNING BOARD ESTABLISHED UNDER THE STREAMLINED SALES AND USE TAX AGREEMENT AND THE NORTH CAROLINA SECRETARY OF REVENUE. AS A PREREQUISITE TO ENTERING INTO THIS CONTRACT _____ HAS CREATED A TAX CALCULATION SYSTEM SATISFACTORY TO AND

CERTIFIED BY THE GOVERNING BOARD AND THE NORTH CAROLINA SECRETARY OF REVENUE. IN ADDITION _____ HAS ASSUMED CERTAIN OTHER RESPONSIBILITIES AND OBLIGATIONS AS SET FORTH IN ITS CONTRACTS WITH THE GOVERNING BOARD AND THE NORTH CAROLINA SECRETARY OF REVENUE, THE STREAMLINED SALES AND USE TAX AGREEMENT AND THE LAWS OF THE STATES THAT ARE MEMBERS OF THE STREAMLINED SALES AND USE TAX AGREEMENT. AS PROVIDED IN THE CONTRACTS BETWEEN _____ AND THE GOVERNING BOARD AND BETWEEN _____ AND THE NORTH CAROLINA SECRETARY OF REVENUE, _____ IS AUTHORIZED TO REPRESENT ITSELF AS A "CERTIFIED SERVICE PROVIDER" AND SERVE AS AN AGENT FOR SELLERS WHO DESIRE TO REGISTER AND PARTICIPATE IN THE STREAMLINED SALES AND USE TAX AGREEMENT. NOTHING IN EITHER THE CONTRACTS BETWEEN THE GOVERNING BOARD AND _____ AND THE NORTH CAROLINA SECRETARY OF REVENUE AND _____ OR THE STREAMLINED SALES USE TAX AGREEMENT ESTABLISHES ANY RIGHT OR ENTITLEMENT IN SELLERS CONTRACTING WITH _____. A SELLER'S RIGHTS AND ENTITLEMENTS WITH RESPECT TO _____ ARE ESTABLISHED AND GOVERNED BY THIS CONTRACT WITH _____. A SELLER'S RIGHTS AND OBLIGATIONS WITH RESPECT TO ANY OF THE MEMBER STATES ARE DETERMINED BY THE LAWS OF EACH MEMBER STATE.

B.3. SSUTA Section 501 Certification Requirements. Without limiting the obligations of the Contractor set forth in Section B.2, the Contractor shall:

(a) Use an Automated System. Nothing in this Contract authorizes the Contractor or any other person to sell, license, use or allow others to use the Automated System for purposes other than those necessary for the performance of this Contract, without the written authorization of the Governing Board; provided, however, that the Contractor shall not be prohibited from using the Automated System for other purposes so long as the Contractor does not represent or imply that the system is certified, approved, or endorsed for such use by the Governing Board.

(b) Integrate the Automated System with the system of a Seller for whom the Contractor provides tax calculating and reporting services so that the tax that is due on a sale, if any, is determined at the time of the sale;

(c) File tax returns and informational returns as provided for in Section 318 of the SSUTA on behalf of each Seller for whom it provides tax calculating and reporting services, and remit the Seller Taxes at the time and in the manner specified by the Governing Board, each Member State, and each Associate Member State in which the Seller is registered to collect sales and use tax;

(d) Protect the privacy of tax information it obtains in accordance with Section 321 of the SSUTA; and

(e) Maintain compliance with the provisions of the Minimum Standards for Certification document attached to this Contract as Exhibit C and as the Governing Board may modify from time to time.

B.4. Services Not Covered. The Parties recognize that the Contractor may provide services to Sellers beyond those covered in Sections B.1, B.2, and B.3 of this Contract. These may include, but are not limited to:

- (a) General accounting services,
- (b) Invoice preparation, billing and accounts receivable collection services,
- (c) Tax calculation or reporting services unrelated to the Seller's sales and use tax functions with respect to its sales, and
- (d) Consulting services.

Such services are not within the Scope of Services provided in Sections B.1, B.2, and B.3 of this Contract and neither the Governing Board nor any Member State or Associate Member State certifies, approves, or recommends the Contractor as a provider of such services.

B.5. Exclusions. The Governing Board recognizes that the Contractor may provide services similar to those described in Sections B.1, B.2, and B.3 of this Contract to:

- (a) Sellers collecting taxes for states that are not Member States or Associate Member States,
- (b) Persons as defined in Section 208 of the SSUTA that are not registered through the Streamlined Central Registration System, and
- (c) Persons as defined in Section 208 of the SSUTA that are not Model 1 Sellers pursuant to Section 205 of the SSUTA.

Such services are not within the Scope of Services provided in Sections B.1, B.2, and B.3 of this Contract and neither the Governing Board nor any Member State or Associate Member State certifies, approves, or recommends the Contractor as a provider of such services.

C. CONTRACT TERM:

C.1. Contract Term. This Contract shall be effective for two years from the Effective Date. The Governing Board shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

C.2. Term Extension. The Governing Board reserves the right to extend this Contract for an additional period or periods of time representing increments of no more than one (1) year and a total contract term of no more than four (4) years, provided that the Contractor satisfies the minimum standards for CSP certification then in effect and the Governing Board notifies the Contractor in writing of its intention to do so at least thirty (30) days prior to the Contract expiration date.

C.3. No Obligation to Re-certify or Extend. The Governing Board has no obligation to extend the Contract beyond its initial term or to re-certify the Contractor as a CSP. Decisions whether or not to extend or re-certify are within the sole discretion of the Governing Board and are not subject to review. Under no circumstances shall the

Governing Board, Member States, or Associate Member States be liable for any claim, liability, loss, damage, or injury to the Contractor or to any other person resulting directly or indirectly from a decision whether or not to extend the Contract or to re-certify. The Contractor shall indemnify and hold harmless the Governing Board, Member States, and Associate Member States, and each of their officers, directors, agents, representatives, and employees from and against any claim or suit arising or resulting from such decisions.

D. COMPENSATION:

D.1. General. The Contractor shall be compensated in accordance with the terms of this Contract and the provisions of compensation set forth in this Section D. The Contractor shall receive compensation only for services provided to a Volunteer Seller in a Member State or Associate Member State. The compensation provided for in this Section D shall be the full and total compensation that the Contractor receives for providing services to Volunteer Sellers.

D.2. Definitions. The definitions herein are included only for purposes of computing compensation for the Contractor under this Contract. These 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. Compensation under the Contract is for services rendered by the Contractor and is not payment to a seller for the administration of any state or local sales tax.

(a) Taxes Due means sales and use taxes that are due to a Member State or Associate Member State from sales of a Volunteer Seller in the Member State or Associate Member State which are processed by the Contractor, net of any debits or credits to the Member State or Associate Member State required under applicable law and related to transactions processed by the Contractor after the Effective Date of this Contract.

(b) Volunteer Seller in a Member State or Associate Member State means a Seller that has registered pursuant to Article IV of SSUTA through 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 (b)(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.

(c) For purposes of subsection (b)(2), "Property" and "Payroll" are defined as follows:

(1) "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.

(2) "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.

D.3. Losing Volunteer Seller 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 D.2(b)(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.

D.4. Reporting Requirements. At the expiration of the twenty-four (24) month period after the date on which any CSP began remitting Taxes Due from each Seller for whom the Contractor is performing CSP services, and at each twelve (12) month interval thereafter, the Contractor shall obtain from each Seller a statement of its status in each Member State and Associate Member State. If the statement indicates that a Seller is no longer a Volunteer Seller in a Member State or Associate Member State, the Contractor shall notify each affected Member State and Associate Member State that a change in status has occurred for that Seller. The Contractor shall send such notifications no later than ten (10) business days after receipt of the statement from the Seller. The Contractor shall include in its agreement with Sellers an obligation to report their status in writing within thirty (30) days of the Contractor's request.

D.5. Compensation Formula. Compensation rates are based upon the volume of Taxes Due from each Volunteer Seller with whom the Contractor agrees to provide services as a CSP. Compensation to the Contractor shall be paid in accordance with the formula set forth below.

(a) For the first \$250,000 of Taxes Due from each Volunteer Seller to all Member States and Associate Member States combined, the Contractor shall be allowed compensation in an amount equal to eight percent (8%) of the Taxes Due. The remainder shall be remitted to the Member States and Associate Member States.

(b) For Taxes Due from each Volunteer Seller to all Member States and Associate Member States combined that exceed \$250,000 but total no more than \$1,000,000, the Contractor shall be allowed compensation in an amount equal to seven percent (7%) of the Taxes Due. The remainder shall be remitted to the Member States and Associate Member States.

(c) For Taxes Due from each Volunteer Seller to all Member States and Associate Member States combined that exceed \$1,000,000 but total no more than \$2,500,000, the Contractor shall be allowed compensation in an amount equal to six percent (6%) of the Taxes Due. The remainder shall be remitted to the Member States and Associate Member States.

(d) For Taxes Due from each Volunteer Seller to all Member States and Associate Member States combined that exceed \$2,500,000 but total no more than \$5,000,000, the Contractor shall be allowed compensation in an amount equal to five percent (5%) of the Taxes Due. The remainder shall be remitted to the Member States and Associate Member States.

(e) For Taxes Due from each Volunteer Seller to all Member States and Associate Member States combined that exceed \$5,000,000 but total no more than \$10,000,000,

the Contractor shall be allowed compensation in an amount equal to four percent (4%) of the Taxes Due. The remainder shall be remitted to the Member States and Associate Member States.

(f) For Taxes Due from each Volunteer Seller to all Member States and Associate Member States combined that exceed \$10,000,000 but total no more than \$25,000,000, the Contractor shall be allowed compensation in an amount equal to three percent (3%) of the Taxes Due. The remainder shall be remitted to the Member States and Associate Member States.

(g) For Taxes Due from each Volunteer Seller to all Member States and Associate Member States combined that exceed \$25,000,000, the Contractor shall be allowed compensation in an amount equal to two percent (2%) of the Taxes Due. The remainder shall be remitted to the Member States and Associate Member States.

(h) Notwithstanding the terms of the compensation formula set forth above, the Contractor shall retain only one and one-half percent (1.5%) of Taxes Due to the State of North Dakota on taxable sales made before July 1, 2007. In the event that applicable law in North Dakota is changed to allow for higher compensation rates, the Governing Board shall notify the Contractor of the change and its effective date. Taxes Due to North Dakota and processed by the Contractor shall be included in determining the rate adjustment levels in the compensation formula that applies to other Member States and Associate Member States. In the event that North Dakota does not enact legislation to conform with the compensation formula by the end of its 2007 legislative session, with such change applicable to taxable sales made no later than July 1, 2007, then the Contractor shall no longer be obligated to remit taxes to North Dakota under the Contract as of the date the 2007 legislative session ends.

(i) For purposes of Sections D.5 and D.6, the combined Taxes Due from all Member States and Associate Member States that will result in a rate adjustment shall include all taxes due from volunteer sellers to the State of North Carolina under the separate agreement between the Contractor and the State of North Carolina for the Contractor's provision of CSP services.

D.6. Rate Adjustment Process. The combined Taxes Due for all the Member States and Associate Member States that will result in a rate adjustment shall include only sales and use taxes generated from sales sourced in accordance with sourcing rules in Article III of the SSUTA to a Member State or Associate Member State in which the Seller is a Volunteer Seller. As the amount of Taxes Due from each Volunteer Seller reaches a rate adjustment level, adjustments to compensation shall be made as soon as is practicable to avoid over compensation, but no later than the next tax remittance to the Member States and Associate Member States after the level has been reached. For example, if taxes are remitted monthly and the total amount of Taxes Due from a Volunteer Seller to all Member States and Associate Member States combined rises from \$225,000 at the end of one month to \$300,000 at the end of the following month, the Contractor shall receive eight percent (8%) of \$25,000 (\$2,000) and seven percent (7%) of \$50,000 (\$3,500) and the remainder (\$69,500) shall be remitted to the Member States and Associate Member States for that month. Sales and use taxes on sales by that Seller sourced to Member States or Associate Member States in which the Seller is not a Volunteer Seller shall be disregarded in determining when a rate adjustment level has been reached.

When remitting taxes for a reporting period in which an adjustment has been made, the Contractor shall make its best efforts to adjust the compensation rate in a manner that fairly allocates the rate change among the Member States and Associate Member States. Unless the Contractor uses a method that consistently applies the rate change more precisely, the adjustment shall be applied proportionately among the Member States and Associate Member States regardless of which individual purchases were made before or after the adjustment level was reached during the period. In the example, unless the Contractor uses a method for a more accurate allocation, the Contractor would charge all Member States and Associate Member States eight percent (8%) on one third of the taxes owed to each of them and seven percent (7%) on two-thirds of the taxes owed to each of them for that month.

D.7. Resetting Rates Annually. Rates of compensation shall reset annually for services performed on behalf of each Volunteer Seller. Regardless of the total amount of Taxes Due from each Volunteer Seller to the Member States and Associate Member States during the previous year, the rate at the beginning of the following year shall return to eight percent (8%) on the first \$250,000 of Taxes Due from each Volunteer Seller, and the rate shall adjust according to the formula set forth above. For purposes of resetting the compensation rate to eight percent (8%) annually, the one-year period for each Volunteer Seller begins on the first day of the month in which sales and use taxes are remitted for that Volunteer Seller to any Member States or Associate Member State, and a new year begins on each anniversary thereafter.

D.8. Affiliated Sellers. For purposes of determining when a rate adjustment level is reached, affiliated Volunteer Sellers shall be treated as a single Volunteer Seller. Affiliated Volunteer Sellers shall be treated as a single Volunteer Seller if they would qualify as "related persons" under section 267(b) or 707(b) of the Internal Revenue Code.

D.9. Non-Taxable Transactions. The Contractor shall not charge Volunteer Sellers a fee for processing non-taxable transactions unless non-taxable transactions exceed fifty percent (50%) of all transactions processed annually for a Volunteer Seller in a particular state. In its agreement with a Volunteer Seller, the Contractor may require a good faith estimate of the Volunteer Seller's anticipated non-taxable transactions for the first twelve (12) months. If the anticipated percentage exceeds fifty percent (50%), the Contractor shall notify the Executive Director and may negotiate with the Volunteer Seller to determine a mutually agreeable fee for processing the non-taxable transactions for the first year. For subsequent years, if the actual percentage of non-taxable transactions exceeded fifty percent (50%) in the previous year, the Contractor shall notify the Executive Director and may negotiate with the Volunteer Seller to determine a mutually agreeable fee for processing the non-taxable transactions in the following year.

D.10. Effect of Losing Volunteer Seller Status. If a Volunteer Seller loses its status as a Volunteer Seller in a Member State or Associate Member State for any reason, the Contractor shall not be required to refund compensation retained prior to notification of the change in status. On the first day of the month after receiving notice of a change in status, the Contractor shall no longer be entitled to retain compensation for processing sales and use taxes of such a Seller for the Member States and Associate Member States in which the Seller is no longer a Volunteer Seller; notwithstanding the foregoing, if a Volunteer Seller loses its status as a result of activities it conducts in a Member State

or Associate Member State after entering into its first contract with a CSP, the Contractor shall continue to receive compensation for processing sales and use taxes for that Member State or Associate Member State for a period of twenty-four (24) months after the date on which the first CSP began remitting Taxes Due for that Seller to the Member State or Associate Member State.

D.11. Additional Compensation. Individual Member States and Associate Member States may provide, in accordance with their own laws and procedures, compensation that supplements the compensation required under this Contract. Nothing herein suggests or implies that any supplements will be forthcoming.

D.12. Other Compensation Formulas. The Governing Board may adopt other compensation formulas at a later time and, in its sole discretion, offer them to the Contractor as an alternative to the formula set forth in Section D. The Contractor may adopt or reject any alternative compensation formula. If the parties agree that an alternative compensation formula is in their mutual interest, the parties shall cooperate in transitioning to the new formula.

D.13. Compensation Calculation Reports. The Contractor shall provide electronic reports to the Executive Committee on a quarterly basis that explain how the Contractor's compensation was calculated under the formula set forth in Section D. The report shall be due by the last day of the month following any calendar quarter in which the Contractor remitted Seller Taxes to any Member State or Associate Member State. Such reports shall be in a form sufficient to allow each Member State and Associate Member State to verify that the Contractor received the correct amount of compensation, computed at the correct rate, for services provided to each Seller per Member State and Associate Member State for whom the Contractor has collected or remitted taxes during that quarter.

D.14. 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 Contract becomes a Member State or Associate Member State during the term of this Contract, the Contractor shall provide tax collection and remittance services to those Sellers for whom it operates as a CSP in the new Member State or new Associate Member State, in the same manner it provides such services for collection and remittance of the sales and use taxes of the existing Member States and Associate Member States, from the effective date of the state or other governmental authority becoming a new Member State or new Associate Member State. The Governing Board shall encourage states and other governmental authorities seeking to become a new Member State or new Associate Member State to submit a proposed date of entry pursuant to Section 801 of the SSUTA that allows a reasonable period of time for the Contractor to provide all functions and services set forth in Section B of this Contract.

The Contractor shall be compensated in the manner set forth in this Contract for services provided from the effective date of the state or other governmental authority becoming a Member State or Associate Member State.

D.15. Effect of Withdrawal or Expulsion of a Member State or Associate Member State from the SSUTA. The Governing Board shall promptly notify the Contractor, if any Member State or Associate Member State either withdraws from the SSUTA or is

expelled from the SSUTA, and the Contractor shall continue to provide tax collection and remittance services to those Sellers for whom it operates as a CSP in that Member State or Associate Member State for all transactions prior to the effective date of the withdrawal or expulsion. The Contractor will be compensated as provided in this Contract for services provided to Sellers for whom it operates as a CSP prior to the later of (i) the effective date of the withdrawal or expulsion of the Member State or Associate Member State, or (ii) fifteen (15) business days after the notice of such withdrawal or expulsion (the later date being the "Last Compensation Date"). For purposes of this section, the filing of a return or remittance of tax made after the Last Compensation Date that includes transactions occurring prior to the Last Compensation Date shall be treated as a service performed prior to the withdrawal or expulsion.

D.16. Exceptions. The Contractor shall not receive compensation under the terms of this Contract for services that are not within the Scope of Services provided in Section B of this Contract. Nor shall the Contractor receive compensation under this Contract for services otherwise covered under this Contract that the Contractor provides to a Seller for Member States or Associate Member States in which the Seller is not a Volunteer Seller.

D.17. Disclaimer. Nothing in this Contract 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.

E. GENERAL TERMS AND CONDITIONS:

E.1. Liability for Unpaid Taxes. Sales and use taxes which are not remitted by the Contractor to the Member States or Associate Member States when due are delinquent. A Member State or an Associate Member State which has not received, pursuant to this Contract, full payment of Seller Taxes from the Contractor shall provide written notice of such delinquency to the Contractor. Subject to the provisions of Sections E.2, E.3 and E.4, if such Member State or Associate Member State has not received the delinquent taxes within ten (10) business days after the date of such written notice, the Contractor shall be in Breach of this Contract. In addition to any other remedies for Breach under this Contract, the Contractor shall not be entitled to compensation under Section D of this Contract for the delinquent taxes and shall be liable for the payment of the delinquent taxes to the Member State or Associate Member State, plus any additional charges or amounts that the laws of the Member State or Associate Member State impose for the nonpayment of sales and use taxes. Nothing herein shall prohibit the Contractor from providing, in its contracts with Sellers, for indemnification from Sellers to reimburse the Contractor for liability resulting from delinquent taxes, charges or other amounts to the extent that Seller Taxes are delinquent due to the actions or inactions of a Seller.

E.2. Relief from Liability: Seller's Failure to Remit. If the Seller does not remit to the Contractor all or part of the Seller Taxes when due, the Contractor shall notify each affected Member State and Associate Member State and the Seller of the failure to remit within ten (10) business days after the due date of the remittance to the Member State or Associate Member State. To the extent that sales and use taxes were not remitted by a Seller and such notice is provided, the Contractor shall be relieved of the obligation for payment of the applicable taxes for that reporting period due to the Member State or Associate Member State, plus any additional charges or amounts that the laws of the

Member State or Associate Member State impose for the nonpayment of sales and use taxes, and the Contractor shall not have breached the Contract. Nothing in this Contract relieves a Seller from its sales and use tax obligations to a Member State or Associate Member State to the extent that the Seller has not remitted such taxes to the Contractor when due.

Upon notification by a Member State or an Associate Member State that any Seller has failed to remedy the delinquencies for more than one payment period, the Contractor may discontinue providing services for that Seller. In the event services are discontinued, the Contractor shall discontinue providing services to the Seller for all Member States and Associate Member States in which the Contractor is receiving compensation under this Contract. The Contractor shall notify the Executive Director of the Governing Board that the Contractor has discontinued providing services to such a Seller. The Contractor will not be compensated pursuant to Section D of this Contract for services the Contractor continues to provide to such a Seller beyond sixty (60) days after such notification.

E.3. Relief from Liability: Erroneous Data. Each Member State and Associate Member State shall, pursuant to the terms of SSUTA Sections 306 and 328, relieve the Contractor, and any Seller registered under the SSUTA with which the latter contracts, from liability to the states and their local jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from the Contractor or any of its SSUTA-registered contracting Sellers relying on erroneous data on tax rates, boundaries, or taxing jurisdiction assignments which have been listed in the state's rates and boundaries databases, and erroneous data provided in the taxability matrix provided by the Member State or Associate Member State pursuant to Section 328.

In accordance with SSUTA, each Member State and Associate Member State shall review and certify that the Automated System utilized by the Contractor determines accurately whether or not a category of items or transactions listed in the Automated System is exempt from tax in accordance with each state's law. Prior to January 1, 2008, to the extent allowed by the law of each Member State and Associate Member State, Member States and Associate Member States shall relieve the Contractor, and any Seller registered under the SSUTA with which the latter contracts, from liability to the state and their local jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from the Contractor or any of its SSUTA-registered contracting Sellers relying on certification of erroneous data on the taxability of a category of items or transactions.

The Contractor shall have ten (10) days from the date of notification by a Member State or Associate Member State to revise the Automated System to conform with changes to: the tax rates, boundaries, or taxing jurisdiction assignments which have been listed in the state's rates and boundaries databases; the taxability matrix provided by the Member State or Associate Member State pursuant to Section 328 of the SSUTA; and the classification of the taxability of a category of items or transactions pursuant to Section 502 of the SSUTA. In the event the Contractor fails to make such changes, beginning on the eleventh day after notification the Contractor shall be liable for failure to collect the correct amount of Seller Taxes owed to the Member State or Associate Member State, plus any additional charges or amounts that the laws of the Member State or Associate Member State impose for the nonpayment of sales and use taxes, and shall be in Breach of this Contract.

The Governing Board, Member States and Associate Member States are not responsible for mapping, which is defined as classification of an item or transaction within a certified category. The Contractor is liable for mapping errors resulting in failure to collect the correct amount of Seller Taxes owed to the Member State or Associate Member State, plus any additional charges or amounts that the laws of the Member State or Associate Member State impose for the nonpayment of sales and use taxes. Nothing herein shall prohibit the Contractor from providing, in its contracts with Sellers, for indemnification from Sellers to reimburse the Contractor for liability resulting from mapping errors to the extent that such errors are due to the actions or inactions of a Seller.

E.4. Relief from Liability: Certification Compliance. The Contractor shall not be liable for the failure to remit Seller Taxes when due, or for any additional charges or amounts that the laws of the Member State or Associate Member State impose for the nonpayment of sales and use taxes, to the extent that (a) the laws of a Member State or Associate Member State relieve the Contractor or the Seller from liability to the state and its local jurisdictions for having remitted the incorrect amount of sales or use tax and (b) the incorrect amount resulted from the Contractor's reasonable reliance on an issue made available for review but not discovered in the certification process. If both (a) and (b) are satisfied, the Contractor's sole obligation and liability for such unpaid taxes shall be to correct the issue within a reasonable amount of time (not to exceed ten (10) days unless an extension is granted by the Executive Committee) from receipt of the Member State's and Associate Member State's notice of the incorrect amounts. In the event the Contractor is unable to correct the issue causing the incorrect amounts to be charged and collected, beginning on the first day after the time allotted in the previous sentence the Contractor shall be liable for failure to collect the correct amount of Seller Taxes owed to the Member State or Associate Member State, plus any additional charges or amounts that the laws of the Member State or Associate Member State impose for the nonpayment of sales and use taxes, and shall be in Breach of this Contract.

If the incorrect amount resulted from the Contractor's reasonable reliance on an issue made available for review but not discovered in the certification process, but the laws of a Member State or Associate Member State do not relieve the Seller from liability to the state and its local jurisdictions for having collected the incorrect amount of sales or use tax, the Contractor shall be liable for failure to collect the correct amount of Seller Taxes owed to the Member State or Associate Member State, plus any additional charges or amounts that the laws of the Member State or Associate Member State impose for the nonpayment of sales and use taxes. A Member State or Associate Member State that has not received the correct amount shall provide written notice to the Contractor. If the Member State or Associate Member State has not received the unpaid amount within ten (10) business days after receipt of the notice, the Contractor shall be in Breach of the Contract. Nothing herein shall prohibit the Contractor from providing, in its contracts with Sellers, for indemnification from Sellers to reimburse the Contractor for its liability under this paragraph.

E.5. Termination by Mutual Consent. This Contract may be terminated at any time by mutual written consent of the parties, with the writing signed by a person or persons authorized to execute the Contract and bind the party to the Contract termination. Unless the Governing Board otherwise determines, such termination shall not be effective until the first day of the month that is at least sixty (60) days after the Contractor

has provided written notice of the intended termination to all Sellers for whom the Contractor is providing services as of the date of written consent. A schedule documenting the date, time, and Seller representative to whom notice was given shall be maintained by the Contractor and made available to the Governing Board upon request.

E.6. Breach. A party shall be deemed to have breached the Contract if any of the following occurs, and for purposes of this Contract, these items shall hereinafter be referred to as a "Breach":

- (a) failure to perform in accordance with any term or provision of the Contract;
- (b) partial performance of any term or provision of the Contract;
- (c) any act prohibited or restricted by the Contract; or
- (d) violation of any warranty.

Notwithstanding the foregoing, neither party shall be deemed in Breach for actions required by changes to the terms of the SSUTA, changes to the membership of the SSUTA, or changes to any state or federal law.

The parties agree that all legal and equitable remedies, including without limitation, termination of this Contract, injunctive relief and specific performance, are appropriate remedies to redress any Breach or threatened Breach of this Contract by the Contractor.

Except for breaches of confidentiality obligations and infringement of intellectual property rights (Section E.35), in the event of Breach by the Governing Board, damages shall not exceed the amount of compensation owed to the Contractor pursuant to Section D. The Contractor shall not be entitled to consequential or exemplary damages for any Breach by the Governing Board.

E.7. Termination for Cause and Opportunity to Cure. If either party commits a Breach of the Contract, the other party shall, in addition to the rights and remedies set forth in Section E.6, have the right to terminate the Contract; provided, however, the Contract shall not be terminated if the party in Breach reasonably notifies the other party of its intention to cure the Breach, the party in Breach had reasonable grounds to believe that its initial performance would be acceptable, the Breach was not a material failure to perform, and the party in Breach cures in a timely manner. For purposes of this Section, a material failure of performance includes, but is not limited to, failure to remit taxes when due to any Member State or Associate Member State.

The party in Breach shall be notified in writing of the other party's intent to terminate, and the notice shall specify the effective date of the termination. Within fifteen (15) business days after giving or receiving notification of intent to terminate, the Contractor shall provide written notice to all Sellers for whom the Contractor is providing services that the Contract will be terminated as of the effective date; provided, however, if the party in Breach notifies the other party of its intent to cure within ten (10) business days after receiving notification of intent to terminate, such notices shall not be sent to Sellers. If the party in Breach has a right to cure in accordance with the requirements of this Section E.7 and makes a satisfactory and timely cure, then the Contract shall not be terminated, but the party in Breach may still be liable for damages caused by the Breach.

Notice of intent to cure does not preclude termination if the party in Breach does not have a right to cure or does not cure in accordance with the requirements of this Section E.7. If the party in Breach had a right to cure but does not make a satisfactory and timely cure, the party in Breach shall be notified again in writing of the other party's intent to terminate and the effective date of the termination, and the Contractor shall immediately provide written notice to all Sellers for whom the Contractor is providing services that the Contract will be terminated as of the effective date. The effective date of any termination by the Contractor shall not be less than one hundred eighty (180) days after the Governing Board received notice that its attempt to cure was not satisfactory.

E.8. Assignment and Subcontracting. The Contractor shall not assign this Contract or enter into any subcontract, without prior written approval of the Governing Board, for any services that have a material impact on tax calculation, system security, databases, telecommunications, systems development, systems testing, systems maintenance, systems operation, or any other critical functions of the Contractor.

If any subcontracts are approved by the Governing Board, they shall contain, at a minimum, sections of this Contract pertaining to "Conflicts of Interest", "Debarment and Suspension", "Nondiscrimination", and "Affirmative Action" (Sections E.11, E.38, E.40 and E.41). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor, shall be responsible for all work performed, and shall remain responsible for meeting all of its obligations under the Contract.

The Contractor shall obtain prior written approval of the Governing Board for any assignment or subcontracting that will be performed outside of the United States, whether or not it has a material impact on the services set forth above.

Notwithstanding the foregoing, the Contractor may assign its rights to compensation hereunder to a financial institution or other third party in connection with any transaction to provide financing related to this Contract, and any such assignee may further assign its rights hereunder in connection with such financing. The Contractor shall notify the Governing Board within ten (10) business days of any assignments of the Contractor's right to compensation.

E.9. Merger, Consolidation or Acquisition. If the Contractor is the subject of a merger, consolidation, reorganization or other combination or is the subject of an acquisition, the Contractor's certification as a CSP shall not automatically transfer to the surviving or acquiring company. The Contractor shall notify the Governing Board as soon as is practicable if a merger, consolidation, reorganization or other combination or acquisition is anticipated. The surviving or acquiring company must obtain certification from the Governing Board and enter into a Contract with the Governing Board as a CSP. The surviving or acquiring company may continue to provide services as a CSP and shall comply with all terms and conditions of this Contract for a period of up to ninety (90) days after the merger, consolidation or acquisition; provided, the surviving or acquiring company must provide written notice to all Sellers receiving services from the Contractor within ten (10) business days of the merger, consolidation, reorganization or acquisition. Unless the Governing Board agrees in writing to a longer time period, no surviving or acquiring company may continue to act as a CSP past the ninety (90) day period without obtaining certification as a CSP and entering into a Contract with the Governing Board. If the surviving or acquiring company does not obtain certification and enter into a

contract with the Governing Board by the expiration of the time periods referenced above, the Contractor shall immediately notify all Sellers that the surviving or acquiring company is no longer authorized to provide services as a CSP.

The Contractor shall ensure that the succeeding entity resulting from any merger, consolidation, reorganization or other combination or acquisition shall assume any liability attributable to the Contractor.

E.10. Public Documents. This Contract and all documents incorporated herein constitute public documents which are open to public inspection.

E.11. Conflicts of Interest. The Contractor warrants that no part of the compensation or any other resources available to it shall be paid, given or transferred directly or indirectly to any employee or official of the Governing Board, the Streamlined Sales Tax Implementing States, any delegate to the State and Local Advisory Council, or any Member State or any Associate Member State as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed related to this Contract.

E.12. Independent Contractor. The parties hereto shall not act as employees, partners, joint ventures, agents or associates of one another. It is expressly acknowledged that the parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either party to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor represents that it has secured, or will secure at its own expense, all personnel required to perform the services under this Contract. Such personnel shall not be employees of, or have any individual contractual relationship with the Governing Board, the Member States or the Associate Member States.

The Contractor, being an independent contractor and not an employee of the Governing Board, the Member States or the Associate Member States, agrees to carry public liability and other appropriate forms of insurance, including workers compensation insurance on the Contractor's employees, in an amount satisfactory to the Governing Board, and to provide written proof of such insurance to the Governing Board. The Contract further agrees to pay all applicable taxes incident to this Contract.

E.13. Governing Board Liability. The Governing Board shall have no liability except as specifically provided in this Contract.

E.14. Force Majeure. Except as provided below, neither party shall be liable for damages or be subject to Contract termination for any delay or default in performing its obligations under this Contract if such delay or default is due to *force majeure* events beyond either party's control that could not be avoided by the exercise of due care. For purposes of this section, *force majeure* events include a war, riot, terrorist acts, fire, any natural disaster such as a flood, tornado, hurricane, earthquake, lightning, or other acts of God. *Force majeure* does not include: increased cost of materials; any failure or

inability to pay any sum of money when due and payable; death, job change or departure of an essential person; change in management or ownership of a company or facility; governmental travel advisories; embargos, curtailment of transportation facilities, labor strikes, lockouts, go slow movements or other labor disputes; threats of terrorism or similar acts, as distinguished from actual terrorist acts; accidents; inability to obtain materials, supplies, permits, labor or services; late delivery of any software, equipment, machinery, or materials, except late delivery resulting directly from a *force majeure* event specifically included as such under this provision; delay in the performance of any contractor or supplier except delay in performance resulting directly from a *force majeure* event specifically included as such under this provision; normal wear and tear or random flaws in software, equipment, machinery, or materials, or any failure or breakdown of machinery, equipment or software, except failures or breakdowns resulting directly from a *force majeure* event specifically included as such under this provision; and any event or condition that can be generally expected to occur in a typical year, e.g., snow, rain, or summer heat, that is not a *force majeure* event as defined above.

Notwithstanding the foregoing, this section shall not prohibit the Governing Board from terminating this Contract for failure to remit Seller Taxes to the Member States and Associate Member States; nor shall the Contractor be excused from remitting Seller Taxes to the Member States and Associate Member States within a reasonable time after the *force majeure* event no longer prevents performance.

E.15. Compliance with Laws. The Contractor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

E.16. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Indiana. The Contractor agrees that the Governing Board will only be subject to the exclusive jurisdiction of the courts of the State of Indiana in actions that may arise under this Contract. The Contractor agrees that it will be subject to the jurisdiction of the Member States and the Associate Member States for actions by Member States or Associate Member States to enforce their rights under this Contract.

E.17. Communications and Contacts. All instructions, notices, consents, requests, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by facsimile transmission, electronic data transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

To The Governing Board:

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

Telephone Number – (615) 460-9330
Facsimile Number – (615) 460-9315

To The Contractor:

All instructions, notices, consents, requests, demands, or other communications shall be considered effectively given as of the day of delivery. The day of delivery for facsimile transmission is the day on which (a) the notice is received mechanically by the facsimile machine at the receiving location and (b) receipt is confirmed by the recipient by e-mail or telephone, whichever is later. Any communication by facsimile transmission shall also be sent by United States mail on the same date of the facsimile transmission.

When electronic data transmissions are required for the performance of the Contract, including communications made in connection with testing and sampling under Section E.26, secure and appropriate modes of data transmission, along with appropriate encryption mechanisms, shall be used. Electronic data transmissions shall be made in the form and manner appropriate for their intended purpose, and shall be directed to the person or body responsible for receiving such transmissions as contemplated under this Contract.

E.18. Communications with Member States and Associate Member States. All instructions, notices, consents, requests, demands or other communications with the Member States and Associate Member States are subject to the same conditions set forth in Section E.17. All such communications to Member States and Associate Member States shall be directed to the individuals listed as the contact person for each Member State or Associate Member State in the Governing Board's Web site. Within ten (10) business days of the Effective Date of this Contract, the Contractor shall provide to the Executive Director of the Governing Board the name, address, telephone and facsimile number of person(s) it has designated to receive communications from Member States and Associate Member States.

E.19. Mutual Cooperation. The parties acknowledge that the success of this Contract depends upon mutual cooperation between the Contractor, the Governing Board, the Member States and the Associate Member States. Therefore, to enable the efficient and timely performance of the Contract, the Governing Board and the Contractor agree to: cooperate with each other by providing timely approvals, acceptances, consents and information; participate in meetings upon appropriate notice; and provide each other with (i) timely notice of changes in policies and procedures; (ii) timely clarification of policies and procedures upon reasonable request; and (iii) timely provision of any other information or resources that may affect each other's performance under the Contract. The Governing Board further agrees to assist the Member States and Associate Member States in acting in a like manner when dealing with the Contractor as it performs its obligations under this Contract.

E.20. Renegotiation. The parties agree to renegotiate in good faith to make such adjustments and modifications to the Contract as may be reasonably necessary to reach an equitable result, under the following circumstances:

If changes in Federal law materially affect any provision of this Contract or the obligations of the parties under this Contract, the Contract shall be renegotiated to address matters affected by such Federal legislation.

If the Governing Board adopts certification standards or imposes requirements that materially affect the Contractor's performance of its obligations under the Contract, the Contract shall be renegotiated to address matters affected by such standards or requirements.

Until the renegotiation process has concluded, the parties shall perform the Contract in accordance with its then existing terms.

E.21. Contracts with Non-Member States. If the Contractor enters into a contract with a state or government authority that is not a Member State or Associate Member State ("Non-Member State Contract"), to provide sales tax collection and remittance services for that state or government authority, the Contractor shall provide a copy of that contract to the Governing Board within ten (10) days of the execution date of that contract. If the Governing Board, in its sole discretion, determines that the terms of the Non-Member State Contract are more favorable than the terms provided to the Governing Board under this Contract, the Contractor shall, at the election of the Governing Board, modify this Contract to provide services on the same terms as the Non-Member State Contract.

E.22. Third Party Beneficiaries. The parties agree that the Member States and Associate Member States are the only intended third party beneficiaries of this Contract. Member States and Associate Member States, whether acting collectively or individually, may avail themselves of any and all remedies at law and equity to enforce their rights herein.

E.23. Systems Location. The Contractor shall maintain all computer systems related to the performance of this Contract in the United States.

E.24. Records. The Contractor shall maintain documentation for all Seller Taxes under this Contract on behalf of the Member States and Associate Member States. The books, records, systems documentation and logs, and other documents of the Contractor ("Records"), insofar as they relate to work performed or money received under this Contract, shall be maintained in the United States for a period of time not less than the longest statute of limitation period for any Member State or Associate Member State for which the Contractor is providing services. The Records shall be subject to audit at any reasonable time and upon reasonable notice by the Governing Board, or its duly appointed representatives and representatives of Member States and Associate Member States. The Contractor shall maintain such Records electronically. The financial statements shall be prepared in accordance with generally accepted accounting principles. Notwithstanding the foregoing, the Contractor shall not be required to disclose or provide access to its internal cost information that constitutes confidential trade secret information of the Contractor.

To the extent permitted by the laws of the Member States and Associate Member States, the Contractor shall also provide access to the Governing Board, the Member States, and the Associate Member States to all records of the Sellers with whom it

contracts and serves as a CSP, insofar as they relate to the collection of sales and use taxes and services that the Contractor performs or is obligated to perform under this Contract. In its contracts with Sellers, the Contractor shall include a provision requiring Sellers to provide such records electronically upon request by the Governing Board, the Member States, or the Associate Member States.

The Contractor shall also provide timely responses to requests from Dun & Bradstreet, Inc. (D & B) and other industry ratings companies that provide subscribers with ratings directories, credit reports, financial ratios, and other financial information.

E.25. Tax Compliance and Re-Certification Audits. The Contractor shall comply with all requirements for periodic tax compliance and re-certification audits as established by the Member States, the Associate Member States, or Governing Board pursuant to Rules and Procedures 501.4.

If a tax compliance or re-certification audit shows that the Contractor has not remitted sales or use taxes to any Member State or Associate Member State that should have been remitted, such taxes shall be considered delinquent and the Contractor shall be held liable in accordance with Section E.1 (Liability for Unpaid Taxes), except to the extent that the Contractor is relieved from liability in accordance with Sections E.2 (Relief from Liability: Seller's Failure to Remit), E.3 (Relief from Liability: Erroneous Data) or E.4 (Relief from Liability: Certification Compliance).

E.26. Testing and Sampling. The Contractor shall authorize periodic and random testing and sampling of the Automated System, as well as the Contractor's other processes and systems used in performing its obligations under this Contract. The Contractor shall maintain procedures and mechanisms to provide persons authorized by the Governing Board, Member States and Associate Member States with timely and reasonable access (either onsite or remote) to any documentation, system, database or system component needed to perform such tests or sampling.

The Governing Board shall create a Testing Central (TC) program for the purpose of monitoring and communicating information regarding system changes and for communicating with the Contractor regarding changes to CSP requirements. The Contractor shall comply with all requirements and procedures established by TC for the performance of TC's responsibilities and functions.

The parties understand that system performance and/or availability may be affected by testing and sampling activities, and the Governing Board, Member States and Associate Member States shall cooperate with the Contractor in establishing procedures designed to minimize those effects. The Contractor releases the Governing Board and persons authorized by the Governing Board, Member States and Associate Member States from any and all liability for damages that may arise from system availability restrictions and other disruptions caused by such activities, unless such damages are the result of gross negligence or intentional misconduct. If the Contractor establishes that testing and sampling activities are directly responsible for the Contractor's failure to perform its obligations under this Contract, the Contractor shall not be deemed in Breach, so long as the Contractor undertakes timely and appropriate measures to mitigate the adverse effects caused by the failure.

The Governing Board, Member States and Associate Member States shall cooperate in protecting any proprietary, trade secret, or other confidential information accessed during testing and sampling activities, including the execution of reasonable confidentiality agreements submitted by the Contractor and approved by the Executive Director of the Governing Board.

In cases where the Governing Board, Member States, or Associate Member States require access to the Contractor's computer source code, the Contractor shall have the right to limit the inspection of the source code to the Contractor's own location or another secure location selected by the Contractor.

E.27. Trust Account. The Contractor shall create and administer a sales and use tax trust bank account to process all Seller Taxes due and owing to the Member States and Associate Member States. The trust account shall be a separate bank account established at a banking institution approved by the Governing Board within ten (10) business days after the Effective Date of this Contract. The trust account shall be established as a zero balance account that requires the deposit of all Seller Taxes processed by the Contractor and the segregation of all Seller Taxes from the Contractor's own funds. The corresponding general ledger account on the Contractor's accounting system shall provide a clear audit trail of all deposits of Seller Taxes, remittances of taxes to the Member States and Associate Member States, transfers of Contractor compensation from the trust account to the Contractor's general business accounts, and all other account transactions. The trust account shall be secured through FDIC and/or other appropriate bank collateral agreements. The account shall also be administered with generally accepted practices for the segregation of duties among account administrators, and shall have in place the necessary electronic controls to prevent unauthorized access to and transfers from the account.

All costs incurred in the creation and maintenance of the bank trust account shall be borne by the Contractor, and any interest earned on deposited funds may be retained by the Contractor.

E.28. Performance Bond and Security. In order to assure performance of its obligations under this Contract, including but not limited to liability for taxes under sections E.1 and E.25 of this Contract, the Contractor shall cause sufficient security to be deposited with the Governing Board or with a surety or financial institution approved by the Governing Board within thirty (30) days after the Effective Date of this Contract. Security shall name the Governing Board as the beneficiary or obligee who may draw on the security or make a claim on behalf of the Member States and Associate Member States. Security shall be in the manner and form prescribed by the Governing Board. Adequate security shall be in the form of: an irrevocable letter of credit issued by a financial institution acceptable to the Governing Board; certificates of deposit issued by financial institutions acceptable to the Governing Board (with a maximum of \$100,000 each); surety bonds issued by an insurance and/or surety company acceptable to the Governing Board; or direct obligations of the United States of America (e.g. United States Treasury Bills, Notes and Bonds).

(a) The amount of required security coverage shall be determined as follows:

(1) The initial security shall be five hundred thousand dollars (\$500,000).

(2) During the first twelve (12) months after the Effective Date of the Contract, the Contractor shall adjust the security, in quarterly intervals, to an amount not less than the total Seller Taxes remitted by the Contractor during the previous three months to all Member States and Associate Member States except the State of North Carolina. In other words, such adjustments shall be made after the Contract has been in effect for three, six, nine, and twelve months.

(3) Beginning one year after the Effective Date of the Contract, the Contractor shall adjust the security to equal three times the average monthly Seller Taxes remitted by the Contractor during the previous twelve (12) months to all Member States and Associate Member States except the State of North Carolina.

(4) Beginning one year after the Effective Date of the Contract, the Contractor may at any time request the Governing Board to decrease the amount of security, but in no event shall such decrease result in total security less than three times the average monthly liability to all Member States and Associate Member States, except the State of North Carolina, for the twelve (12) months preceding the request.

(5) Beginning one year after the Effective Date of the Contract, the Governing Board may at any time require the Contractor to raise the amount of security if the amount deposited becomes insufficient compared to the amount of Seller Taxes remitted by the Contractor. For purposes of this subsection, the security is insufficient if the amount deposited is less than eighty percent (80%) of the total Seller Taxes remitted by the Contractor to all Member States and Associate Member States, except the State of North Carolina, during any three month period prior to the Governing Board's determination. In such a case, the Contractor shall adjust the security to an amount not less than the total Seller Taxes remitted to all Member States and Associate Member States, except the State of North Carolina, during the three month period used by the Governing Board to make its determination.

(6) The required security shall not be adjusted if the amount calculated under subsection (2), (3), (4), or (5) varies from the amount of the existing security by less than ten percent (10%).

(7) Notwithstanding the provisions of subsections (2), (3), (4), (5), or (6), in no case shall the security be adjusted to an amount less than five hundred thousand dollars (\$500,000).

(b) The Contractor shall provide the Governing Board with copies of all financial information, financial statements, and any other materials supplied to the issuing surety or financial institution in connection with the Contractor's application for initial coverage and all requests for adjustments in coverage thereafter. The Contractor shall notify the Governing Board of any material changes that may detrimentally affect its financial soundness throughout the duration of the Contract.

(c) In the event that the amount or terms of security change for any reason without the prior written approval of the Governing Board, the Contractor or the issuing surety or financial institution providing the security shall immediately send written notification of the change to the Governing Board. Notification of any change shall not relieve the Contractor from its obligations under this Section.

(d) The Governing Board may terminate this Contract, pursuant to Section E.7 (Termination for Cause and Opportunity to Cure), if the Contractor fails to furnish or maintain security in accordance with the terms hereof or otherwise fails to perform its obligations under this section.

At the termination of this Contract for any reason, the security then in place shall remain in effect for a period of six (6) additional months and for an additional period of time, as reasonably determined by the Governing Board, sufficient to allow the Governing Board, Member States and Associate Member States to obtain audit records of the Contractor and evaluate the performance of the Contractor's obligations under this Contract.

E.29. Proprietary Rights. Documentation, policies, records, or any other information that the Contractor would consider as trade secrets or other proprietary information that it does not wish to be disclosed to persons other than the Governing Board and its authorized representatives, Member States and Associate Member States shall be identified conspicuously on each page as "CONFIDENTIAL". The Governing Board, Member States and Associate Member States shall keep such information confidential to the extent permitted by the law of any state and the Governing Board's Rules and Procedures.

E.30. Public Funding Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared, released, or authorized by the Contractor relating to this Contract shall include the statement, "This project is funded under an agreement with the Streamlined Sales Tax Governing Board, Inc." Any such notices by the Contractor shall be submitted to the Executive Director of the Governing Board in advance of their release and are subject to Governing Board approval. The Executive Director shall either approve the notice within ten (10) business days of receipt or notify the Contractor that the Governing Board will review the notice at its next regularly scheduled meeting.

E.31. Prohibited Advertising. In any advertising, marketing, or other communication, whether public or private, for services provided to Sellers, the Contractor may represent, in a form and manner approved by the Governing Board, that it has been designated as a Certified Service Provider. The Contractor shall not, in any such advertising, marketing, or communication, represent or imply that its services provided to Sellers are favored or preferred by the Governing Board, Member State or Associate Member State over services provided by any other person designated as a CSP by the Governing Board. In no case shall the Contractor state or imply in any advertising, marketing, or communication that any services it provides, other than those specified in section B.2 of this Contract, have been certified by the Governing Board, nor shall it misrepresent its status as a CSP in any such advertising, marketing or communication.

If at any time the Governing Board adopts or registers a trademark for use in connection with this Contract or the Streamlined Sales Tax Project, the Contractor shall use the trademark only in a manner authorized by the Governing Board and in accordance with policies adopted by the Governing Board for trademark use.

If the Executive Committee of the Governing Board determines that any advertising, marketing, or communication made by the Contractor violates the provisions of this Section, or that the Contractor has made unauthorized use of a Governing Board trademark, the Executive Director of the Governing Board shall notify the Contractor in

writing. Upon receipt of such notice, the Contractor shall promptly cancel or withdraw any such advertising, marketing or communication, discontinue any unauthorized use of the trademark, and shall take other corrective action required by the Executive Committee of the Governing Board.

E.32. Confidentiality of Records. Strict standards of confidentiality of records shall be maintained in accordance with the law of each Member State and Associate Member State and the Rules and Procedures of the Governing Board. All material and information regarding the transactions, property, business, or tax liability of any Seller or consumer, regardless of form, medium or method of communication, provided to the Contractor by the Governing Board, a Member State or an Associate Member State or acquired by the Contractor in its performance of this Contract, shall be regarded as confidential information in accordance with the provisions of applicable law and ethical standards and shall not be disclosed. The Contractor shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable law and ethical standards.

The obligations set forth in this section shall survive the termination of this Contract.

E.33. Contractor's Representations. In entering into this Contract, the Governing Board has relied upon the information submitted and representations made by the Contractor in connection with its proposal, and the Governing Board has assumed them to be complete and accurate. If any submitted information or representations prove to be materially incomplete or inaccurate, the Contractor will be in Breach and the Governing Board may pursue any remedy for Breach as provided in this Contract.

E.34. Warranty. By Signing this Contract, the Contractor warrants that there have been no material changes in the Contractor's systems or operations between the time the Certification Committee appointed by the Governing Board completed its review of the Contractor's proposal in response to the RFP and the Effective Date of this Contract.

E.35. Intellectual Property. Each party will retain all rights in any software, ideas, concepts, know-how, development tools, techniques or any other proprietary material or information that it owned or developed prior to the date of this Contract, or acquired or developed after the date of this Contract without reference to or use of the intellectual property of the other party. All software that is licensed by a party from a third party vendor will be and remain the property of such vendor.

Notwithstanding anything to the contrary in this Contract, the Contractor (i) will retain all right, title and interest in and to all know-how, intellectual property, methodologies, processes, technologies, algorithms, software or development tools used in performing the Contractor services which are based on trade secrets or proprietary information of the Contractor, are developed or created by or on behalf of Contractor without reference to or use of the intellectual property of the Governing Board, Member States or Associate Member States or are otherwise owned or licensed by Contractor (collectively, "Tools"), (ii) subject to the confidentiality obligations set forth in this Contract, will obtain all right, title and interest in and to and be free to use the ideas, concepts, methodologies, processes and know-how which the Contractor has developed or created in the course of performing the Contractor's services, whether in tangible or intangible form, all of which constitute substantial rights on the part of Contractor in the technology developed as a result of the Contractor services performed under this

Contract, and (iii) will retain ownership of any Contractor-owned software or Tools that are used in producing the developed software and become embedded in the therein. No licenses will be deemed to have been granted by either party to any of its patents, trade secrets, trademarks or copyrights, except as otherwise expressly provided in this Contract. All know-how, intellectual property, methodologies, processes, technologies, algorithms, software or development tools, ideas, concepts, inventions (whether or not patentable), discoveries, improvements, reports, programs, specifications, designs, documentation, and all other information or output prepared, authored, developed by Contractor or its employees, agents and representatives, either alone or in collaboration with third parties, in connection with the performance of its services hereunder (the "Intellectual Property") will become and remain Contractor's exclusive property, and title thereto shall at all times be in Contractor. The Governing Board agrees that it will not seek patent, copyright, trademark, registered design or other protection for any rights in the Contractor's Intellectual Property. The Governing Board agrees that it shall, at Contractor's expense, do all things and execute all documents as Contractor may reasonably require to vest in Contractor or its nominees any protection, the Contractor deems appropriate, for the Contractor's Intellectual Property.

Nothing herein shall preclude the Governing Board, Member States, and Associate Member States from obtaining any information or data embedded in the Automated System or other software, system, or process that relates to the Contractor's performance of its obligations under this Contract. The information or data must be provided in a format that does not require the use of propriety software other than that of the Contractor to which the Governing Board, Member States, and Associate Member States have access under the terms of this Contract.

In cases where the Governing Board, Member States, or Associate Member States require access to the Contractor's computer source code, the Contractor shall have the right to limit the inspection of the source code to the Contractor's own location or another secure location selected by the Contractor.

E.36. Patents, Trademarks, and Copyrights. The Contractor agrees to indemnify and hold harmless the Governing Board, the Member States, the Associate Member States, and each of their officers, directors, agents, representatives, and employees from and against any and all claims, liabilities, losses, and suits which may be brought against them for infringement of any laws regarding patents, trademarks, and copyrights which may arise from the Contractor's performance of this Contract. In any such action, the Contractor shall satisfy and indemnify for the amount of any judgment for infringement, and shall be liable for the court costs and reasonable fees of attorneys, including costs and fees in the event that legal proceedings are initiated to enforce the terms of this Contract or otherwise to enforce the obligations of the Contractor. The Governing Board shall give the Contractor prompt written notice of any such claim or suit, sole right and opportunity to conduct the defense or settlement thereof, and reasonable assistance (at Contractor's expense) in the defense or settlement or such claim or suit.

E.37. Indemnity and Hold Harmless. The Contractor agrees to indemnify and hold harmless the Governing Board, the Member States, the Associate Member States, and each of their officers, directors, agents, representatives, and employees from and against any and all claims, liabilities, losses, and suits which may arise, accrue, or result from any person, firm, corporation, or other entity that may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or

any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the court costs and reasonable fees of attorneys in the event that legal proceedings are initiated to enforce the terms of this Contract or otherwise to enforce the obligations of the Contractor.

The Governing Board shall give the Contractor prompt written notice of any such claim or suit that it receives, sole right and obligation to conduct the defense and settlement thereof, and reasonable assistance (at Contractor's expense) to enable Contractor to do so.

E.38. Debarment and Suspension. The Contractor warrants and certifies, to the best of its knowledge and belief, that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;

(b) have not within the preceding three years been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining or attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

(c) are not presently indicted for or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in subsection (b) of this Section;

(d) have not within the preceding three years had one or more public transactions (federal, state, or local) terminated for cause or default; and

(e) are not delinquent or in arrears on any federal, state, or local tax obligations.

In the event that, after the signing of this Contract, one or more of the aforementioned representations ceases to be accurate, the Contractor shall immediately notify the Governing Board of the change. Any such change shall be deemed a Breach of this Contract.

E.39. Interpretation of SSUTA. The Contractor may bring before the Governing Board questions of interpretation regarding its obligations, as provided in the SSUTA, Sections 902 and 903. Responses to such requests shall be made as provided in the SSUTA and in accordance with the Rules and Procedures of the Governing Board.

E.40. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, marital status, sexual orientation, or any other classification protected by Federal law or the laws of any Member State or Associate Member State. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in

conspicuous places, available to all employees and applicants, notices of nondiscrimination.

E.41. Affirmative Action. The Contractor shall take affirmative action in complying with all federal and state requirements concerning fair employment and employment of people with disabilities, and concerning the treatment of employees without regard to discrimination by reason of age, race, color, religion, sex, marital status, national origin, sexual orientation or disability.

E.42. No Collusion. Under penalty of perjury, the Contractor warrants that its offer to contract with the Governing Board to become certified as a Certified Service Provider and provide services as required in this Contract has not been arrived at collusively or otherwise in violation of either federal antitrust laws or the antitrust laws of any Member State or Associate Member State.

E.43. Confidentiality of Proposals. The Contractor warrants and certifies that it has not discussed or otherwise revealed the contents of its proposal to any source outside the Certification Committee or the Governing Board except as otherwise authorized in writing by either the Certification Committee or the Governing Board prior to the date of execution of this Contract.

E.44. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Governing Board officials in accordance with the SSUTA and applicable bylaws of the Governing Board which shall be attached hereto.

E.45. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.

E.46. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral. The parties agree that if there are inconsistencies between the terms of this Contract and the representations or statements of any party or person, whether authorized or not, the terms of this Contract shall control.

E.47. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.

E.48. Delegation. To aid in the efficient administration of this Contract, the Governing Board may delegate its rights and obligations to committees, officers, and other persons who are authorized to act on behalf of the Governing Board in accordance with its Rules and Procedures. Delegation shall not relieve the Governing Board of any contractual obligations to the Contractor.

E.49. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E.50. Exhibits. Attached to this Contract are the following Exhibits:

Exhibit A: Streamlined Sales and Use Tax Agreement adopted November 12, 2002, as subsequently amended (SSUTA)

Exhibit B: Request for Proposal originally issued by the Streamlined Sales Tax Conforming States' Committee on November 1, 2004 and re-issued September 20, 2005 (RFP)

Exhibit C: Minimum Standards for Certification

E.51. Ability to Execute Contract. Each of the parties to this Contract certifies that the person signing the Contract on its behalf is authorized by applicable law to execute the Contract and bind the party to the Contract's terms and conditions.

E.52. Required Approvals. The Governing Board is not bound by this Contract until it is approved by the Governing Board in accordance with the SSUTA and applicable bylaws of the Governing Board.

IN WITNESS WHEREOF:

_____:

By _____

Date

Streamlined Sales Tax Governing Board, Inc.:

By Senator Dwight Cook, President

Date

**Article VIII
State Entry and Withdrawal**

Rule 806: Agreement Administration

Rule 806.1 Administration of Governing Board

Rule 806.2 Notice Requirements

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 1 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)

Requirements for Audit Work File

Each state shall receive a file of all taxable and exempt records where the ship to state included in Field 12 is their own state. Fields 1 through 14 should be provided for all records. If an exemption is claimed, fields 15 through 27 should be completed using information from the Certificate of Exemption. All fields are required if the data is available. The file will be in a comma delimited (.csv) format.

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The file name will be constructed as follows:

- First and second digits being the CSP/CAS code: AV = Avalara, TX = Taxware CSP, TS = Taxware CAS, EX = Exactor

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Each state shall receive those records where there state is included in Fields 12 (Ship to State), 15 (State Where Exemption is Claimed), or 21 (Purchaser State).¶

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- Third and fourth digits being the two digit state abbreviation.

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- Fifth and sixth digit being the quarter the information is for: 01, 02, 03 or 04.

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- Seventh through tenth digits are the year the information is for.

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Example of file from Exactor for Arkansas for the third quarter of 2007:

EXAR032007.csv.

The files will be placed in the CSP/CAS FTP state folders. Once the files are transferred, the CSP/CAS will contact Testing Central. Testing Central will move the files into the corresponding state audit FTP folders and notify the states the files are ready for review.

The file will contain the following information.

Field	Field Name	Description	Format	Length
1	Retailer SSTDID		Alpha/Numeric	9
2	Retailer Name		Alpha	40
3	Record Number	Transaction ID / Identifying Number	Alpha/Numeric	10
4	Date of Transaction	Date the tax was calculated	CCYYMMDD	8
5	Total Amount of Purchase	Includes Exempt and Taxable Amounts	Numeric	15 including 2 decimals
6	Total Taxable Amount	Taxable Amount only	Numeric	15 including 2 decimals
7	Total Tax Amount	Sum of FIPS tax amounts 1 – 20	Numeric	15 including 2 decimals
8	Description of Item Sold	Provide SKU from State	Alpha	40

		Exempt Sales Product matrix if applicable. Otherwise provide description from seller		
9	Ship to Address **	Street name and number	Alpha/Numeric	40
10	Ship to Suite **	Suite, P.O. Box, Apt, Lot	Alpha/Numeric	40
11	Ship to City **	Name of city	Alpha	40
12	Ship to State **	2-digit abbreviation	Alpha	2
13	Ship to Zip Code **	9 character zip code	Alpha/Numeric	9
14	Ship to Country **	3 character country abbreviation	Alpha	3
15	State Where Exemption is Claimed	2- letter postal abbreviation	Alpha	2
16	Name of Purchaser		Alpha	40
17	Type of Purchaser ID Number Provide	Enter ID type provided: Tax ID, FEIN, DLN or FDN	Alpha	6
18	Purchaser ID Number	Enter number that corresponds to ID type selected in field 17	Alpha/Numeric	20
19	Purchaser Mailing Address		Alpha	40
20	Purchaser City		Alpha	40
21	Purchaser State	2-digit abbreviation	Alpha	2
22	Purchaser Zip Code	9 character zip code	Alpha/Numeric	9
23	Purchaser Country	3 character country abbreviation	Alpha	3
24	Purchaser Business Type Number	2-digit number	Numeric	2
25	Purchaser Business Type Description	Must be completed if "20" is selected in field 24	Alpha	40
26	Purchaser Exemption Reason Code	Letter selected on exemption form	Alpha	1
27	Purchaser Exemption Reason Description	Provided on exemption form following code and standard description	Alpha	40

** Field will contain address information as to where the item was shipped. If purchased over-the-counter the information will be the address where the item was sold.

STREAMLINED SALES TAX AUDIT COMMITTEE

**Site Requirements for Audit Worksite
Training Material**

07/09/2007

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Source

The following document outlines the data elements for taxable and exempt transaction records provided by a CPS for audit review. For more information on the SST CSP administration, please refer to Appendix F in the Rules and Procedures. This document can be found under the Rules and Bylaws on the Streamlined Sales Tax home page ([click here](#)).

Transaction Data Elements

Field	Field Name	Description	Format	Length
1	Retailer SSTID	Retailer's SST ID	Alpha/Numeric	9
2	Retailer Name	Retailer's business name	Alpha	40
3	Record Number	Transaction ID / Identifying Number	Alpha/Numeric	10
4	Date of Transaction	Date the tax was calculated	CCYYMMDD	8
5	Total Amount of Purchase	Includes Exempt and Taxable Amounts	Numeric	15 including 2 decimals
6	Total Taxable Amount	Taxable Amount only	Numeric	15 including 2 decimals
7	Total Tax Amount	Sum of FIPS tax amounts 1 – 20	Numeric	15 including 2 decimals
8	Description of Item Sold	Provide SKU from State Exempt Sales Product matrix if applicable. Otherwise provide description from seller	Alpha	40
9	Ship to Address **	Street name and number	Alpha/Numeric	40
10	Ship to Suite **	Suite, P.O. Box, Apt, Lot	Alpha/Numeric	40
11	Ship to City **	Name of city	Alpha	40
12	Ship to State **	2-digit abbreviation	Alpha	2
13	Ship to Zip Code **	9 character zip code	Alpha/Numeric	9
14	Ship to Country **	3 character country abbreviation	Alpha	3
15	State Where Exemption is Claimed	2- letter postal abbreviation	Alpha	2
16	Name of Purchaser		Alpha	40
17	Type of Purchaser ID Number Provide	Enter ID type provided: Tax ID, FEIN, DLN or FDN	Alpha	6
18	Purchaser ID Number	Enter number that corresponds to ID type selected in field 17	Alpha/Numeric	20
19	Purchaser Mailing Address		Alpha	40
20	Purchaser City		Alpha	40
21	Purchaser State	2-digit abbreviation	Alpha	2
22	Purchaser Zip Code	9 character zip code	Alpha/Numeric	9

23	Purchaser Country	3 character country abbreviation	Alpha	3
24	Purchaser Business Type Number	2-digit number	Numeric	2
25	Purchaser Business Type Description	Must be completed if "20" is selected in field 24	Alpha	40
26	Purchaser Exemption Reason Code	Letter selected on exemption form	Alpha	1
27	Purchaser Exemption Reason Description	Provided on exemption form following code and standard description	Alpha	40

** Field will contain address information as to where the item was shipped. If purchased over-the-counter the information will be the address where the item was sold.

NOTE: If an exemption certificate is claimed, fields 15 through 27 should be completed using information from the Certificate of Exemption Business Codes

Business Code	Description	Business Code	Description
01	Accommodation and food services	11	Transportation and warehousing
02	Agricultural, forestry, fishing and hunting	12	Utilities
03	Constructions	13	Wholesale trade
04	Finance and insurance	14	Business Services
05	Information, publishing, and communications	15	Professional Services
06	Manufacturing	16	Education and health-care services
07	Mining	17	Nonprofit organization
08	Real estate	18	Government
09	Rental and leasing	19	Not a business
10	Retail Trade	20	Other

Exemption Reason Codes

Reason Code	Description	Reason Code	Description
A	Federal government	H	Agricultural production
B	State or local government	I	Industrial production/ Manufacturing
C	Tribal government	J	Direct pay permit
D	Foreign diplomat	K	Multiple points of use (services, digital goods or computer software delivered electronically)
E	Charitable organization	L	Direct mail
F	Religious or educational organization	M	Other
G	Resale		

Timeline for the 2007/2008 CSP Compliance Audits

PERIOD	TASK
07/15/07 through 08/27/07	<p>Between July 15, 2007 and August 1, 2007, the Audit Core Team will request that the CSPs:</p> <ol style="list-style-type: none"> 1.) Supply a listing of Model 1 Sellers they have preformed CSP services for during the audit period, along with the date they started performing services for each Model 1 seller. The CSPs will also be requested to supply a listing of the states that each Model 1 Seller holds volunteer status in. 2.) Prepare downloads of sales transaction information, exemption information, and tax collection/remittance information on each model 1 seller split by member and/or associate member state. This information will be for the state auditors' use in their tax compliance audits. 3.) Prepare downloads of data as specifically requested by the Audit Core Team for use in completing the audit responsibilities outline in rule 806.3.4(D)(2). <p>Between July 15, 2007 and August 1, 2007, The Audit Core Team will submit questionnaires to the CSPs, member states, and the Office of Executive Director.</p> <p>All questionnaires must be returned to the Audit Core Team by the end of business on Friday, August 17, 2007.</p> <p>By the end of business on Friday, August 24, 2007, the CSPs must place on the Core Audit Team's FTP site the data downloads specifically requested by the Audit Core Team.</p>
08/28/07 through 08/31/07	<p>The Audit Core Team will meet in St. Paul, Minnesota to review the completed questionnaires, go over data downloads, and finalize the CSP field work plans. An all day meeting is scheduled for Tuesday, August 28, 2007 and a half day meeting is planned for the morning of Friday, August 31, 2007.</p>

PERIOD	TASK
09/01/07 through 10/15/06	<p>The Audit Core Team will complete field work at the CSPs location (it is important that during this time frame the Audit Core Team complete all field work in areas that could lead to an audit adjustment by any member/associate member state).</p> <p>By October 1, 2007, the CSPs must place on each member state's or associate member state's FTP site the state specific sales transaction information, exemption information, and tax collection/remittance information for each model 1 seller they performed CSP services for.</p> <p>By October 15, 2007, The Audit Core Team will prepare preliminary reports that will be forwarded to the member states and associate member states detailing work completed in potential audit adjustment areas.</p>
10/16/07 through 12/15/07	<p>During this period of time, the Audit Core Team can continue to work on and finalize the contract compliance portion of CSP audits.</p> <p>The member and associate member states will review the model 1 sellers' records and prepare reports that notify the Audit Core Team of their findings.</p> <p>The member and associate member states' preliminary feedback reports must be forwarded to the Audit Core Team by the end of business on Friday, December 14, 2007.</p>
12/15/07 through 01/15/08	<p>The Audit Core Team will compile a report on the initial findings of the contract compliance audit and the member/associate member states' tax compliance audits and submit the report to the CSP.</p> <p>Each CSP compliance audit initial findings must be forwarded to the respective CSP by the end of business on Tuesday, January 15, 2008.</p>
	<p><i>The Audit Core Team may meet in Nashville, Tennessee for few days around December 17, 2007 to compile the findings from all audit areas and meet again for a few days during the week January 8, 2008 to finalize the initial report to be forwarded to the CSPs</i></p>

PERIOD	TASK
01/16/08 through 02/15/08	<p>The CSP will review and comment on the preliminary findings of the compliance audit. Comments will be sent to the Audit Core Team and member/associate member states.</p> <p>Conference calls and/or meetings to formally discuss the preliminary findings with the CSPs can be conducted on Wednesday, January 16, 2008 through Friday, January 18, 2008 or Monday, January 21, 2008 through Wednesday, January 23, 2008.</p> <p>Conference calls and/or meetings to discuss the CSPs comments after final review will be scheduled during the week of February 11, 2008.</p> <p>Final comments to the Audit Core Team from the CSPs must be forwarded to the Core Team by the end business on Friday, February 15, 2008. Preferred method of delivery is electronic.</p>
02/16/08 through 02/29/08	The Audit Core Team and member/ associate member states can amend their findings, if necessary. The Audit Core Team will prepare the final contract compliance audit reports to be sent to the Executive Director.
	<i>The Audit Core Team may meet in Nashville, Tennessee during the week of February 25, 2008 to complete the final contract compliance audit reports.</i>
03/01/08	The final contract compliance audit reports on each CSP will be forwarded to the Executive Director on March 1, 2008 .

STATE REPRESENTATIVE QUESTIONNAIRE FOR CONTRACTOR: _____

CONTRACT PERIOD: _____

STATE: _____

STATE REPRESENTATIVE NAME/PHONE NUMBER: _____

ALTERNATE CONTACT NAME AND PHONE NUMBER: _____

(Please return no later than: / / 2007)

Contract Section	Questions (Please answer the following questions in relation to the referenced sections of the CSP contract)	Yes	No	Explanation
B.1 [Q#1]	Did your revenue agency note any instances where the above noted Contractor did not perform all of the sales and use tax functions of each Seller for whom it had Contracted as a CSP, other than such Seller's obligation to remit tax on its own purchases? If so, please describe the problems and be as specific as possible.			
B.1 [Q#2]	Did your revenue agency note any instances where the Contractor did not comply with the requirement that within ten (10) business days after agreeing with the Seller not to provide the CSP services, the Contractor notified each affected Member State and Associate Member State that it was not providing CSP services on behalf of that Seller? If so, please describe the problem(s) and be as specific as possible.			
B.2	Were there any instances where the above noted Contractor failed to adhere to the laws of your State or any other agreement as noted in Section B.2 of the CSP Contract, or the contract itself? If so, describe the issues or problems, being specific as possible.			
B.3.c [Q#1]	Were all tax returns and informational reports filed timely and completely as provided for in Section 318 of the SSUTA for each Seller contracted with them and registered with your State? If not, please provide a few instances where Contractor did not, and please explain, providing any documentation to this effect.			

Contract Section	Questions (Please answer the following questions in relation to the referenced sections of the CSP contract)	Yes	No	Explanation
B.3.c [Q#2]	Did the above mentioned Contractor remit the taxes of each Seller timely and in the manner specified by the Governing Board to your state? If not, please provide a listing where the Contractor did not. Please explain, providing any documentation to this effect.			
D.1	Were there any instances where your State determined errors in compensation?			
D.10 [Q#1]	Were any compensation fees refunded to your State with regard to any Volunteer Seller who lost their status? If so, please detail the circumstances when this took place.			
D.10 [Q#2]	With regard to any Volunteer Seller who lost their status as a result of activities it conducted in your State after entering into its first Contract with the above mentioned Contractor, has the Contractor continued to receive compensation for processing sales and use taxes for your State? If so, has it gone longer than 24 months after the date on which the first CSP began remitting Taxes due for that Seller to your State? If so, please provide details.			
D.12	In accordance with Contract Section D.12., did your State accept any alternative compensation formula to the one set forth in Section D, and as dictated and adopted by the Governing Board? If so, please provide instances.			
D.13	Did your State receive a quarterly compensation calculation report from the Office of Executive Director that explained the calculation of compensation charged your state?			
D.14	If you are a new state, are you getting the services specified in the Contract?			
E.1	Did the CSP remit all sales and use taxes to your State when due? If no, please explain any late payments.			

Contract Section	Questions (Please answer the following questions in relation to the referenced sections of the CSP contract)	Yes	No	Explanation
E.2	Did the CSP notify your State of any non remittance by a seller of sales and use taxes due to your State? If yes, please explain and provide a list of notifications you have received.			
E.3 [Q#01]	Has your State sent any notices to the CSP (i.e., through Testing Central) to revise their Automated System to conform with changes in any rates, boundaries, taxing jurisdictions, your taxability matrix, or the classification of the taxability of a category of items or transactions? If yes, please explain and provide a list of notifications you have sent.			
E.3 [Q#02]	Did the CSP perform your State's change requests (if any) within the 10-day period as required by the contract? If no, please list any non compliance.			
E.15	Has your State become aware of any instances where the CSP did not comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority? If yes, please provide a written explanation and copies of any documentation.			
E.31	Has your State had any complaints from a customer or taxpayer or received evidence of a CSP representing themselves as preferred or favored by a State or the Governing Board? If yes, please explain.			
General	Please add any other information not specifically asked for in this questionnaire that you feel would be of help to the SST Governing Board Core Team during their audit work. Please describe.	-----	-----	

STATE: _____

Report Contact (Name, Title, E-Mail, Phone #): _____

Date Completed: _____

Please indicate the following for all Model 1 Sellers Registered with your State for the period of _____ to _____

MAIN PAGE

Tax Compliance Audit of CSP for Model 1 Sellers

CSP	Number of Volunteer Sellers Registered and actually remitting tax to your State	How Many Sellers Did your State elect to audit?	Errors found? If yes, COMPLETE AN AUDIT REPORT PAGE	
CSP 1	1	1	yes	Example
CSP 2	275	25	yes	Example

STATE: _____

Report Contact (Name, Title, E-Mail, Phone #): _____

Date Completed: _____

AUDIT REPORT PAGE

Tax Compliance Audit of CSP for Model 1 Sellers

CSP	List seller if your state statute allows, otherwise list by alias - sell1, sell2, sell3, etc.	Beginning Audit Period Date	Ending Audit Period Date	Is this audit complete? If not, expected completion date	Was your State provided all information necessary to complete the audit?	Error in Taxing, Reporting, or Remitting	Please indicate the cause of this error													Who is liable for this error?			Cause of error not noted elsewhere or Additional information to communicate to Core Team
							Taxability matrix mapping		Sourcing	Tax calculation	Missing exemption data elements	Invalid exemption	Credits / Returns not properly reflected	Return(s) not filed timely	Tax not remitted timely	Change request through Testing Central not processed timely	Other	CSP	SELLER	STATE			
							Generic	Expanded															
CSP1	sell1	7/1/2006	6/30/2007	12/31/2007	yes	Taxing		X											X				EXAMPLE - Changes posted through Testing Central not implemented timely
CSP1	sell1	7/1/2006	6/30/2007	12/31/2007	yes	Remitting									X					X			EXAMPLE - 3 payments not remitted timely
CSP1	sell1	7/1/2006	6/30/2007	12/31/2007	yes	Taxing				X											X		EXAMPLE - Calculation approved during certification was actually incorrect
CSP1	sell1	7/1/2006	6/30/2007	12/31/2007	no	Taxing																	EXAMPLE - Contacted Core Team for information
CSP 2	sell2	7/1/2005	6/30/2007		yes	Taxing														X			EXAMPLE - Seller override of CSP system
CSP 2	sell3	7/1/2006	6/30/2007		yes	Taxing					X											X	EXAMPLE - State provided database incorrect

CSP/Model 1 Sellers – Who, What, Where and When:

AUDIT CORE TEAM	STATE AUDITORS
<ul style="list-style-type: none"> • Per Rule 806.3.4(B) <ul style="list-style-type: none"> ○ The Audit Core Team will report to the Streamlined Sales Tax Governing Board Executive Director or its designee for audit assignments, guidance and support. <ul style="list-style-type: none"> ✓ <i>The Core Team reports to Scott Peterson, Governing Board Executive Director, but Mr. Peterson has designated a small advisory group consisting of Bruce Christensen and Cathy Wicks for audit guidance and support.</i> 	
<ul style="list-style-type: none"> • Per Rule 806.3.4(D)(1): <ul style="list-style-type: none"> ○ The Audit Core Team is responsible for performing contract compliance audits and coordinating tax compliance audits with member states. <ul style="list-style-type: none"> ✓ <i>Each State will pick the Model 1 Sellers' transactions they want to review.</i> ✓ <i>The Core Team may want to request that the States review a few specific Model 1 Sellers' transactions across the board. So that, 1) within the contract compliance portion of the audits a level of CSP and Seller compliance (non-compliance) can be documented throughout all SST States or 2) the Core Team has identified a problem that needs to be examined further at the state level.</i> 	

AUDIT CORE TEAM	STATE AUDITORS
<ul style="list-style-type: none"> • Per Rule 806.3.4(D)(2)(a): <ul style="list-style-type: none"> ○ Determine the CSP's level of compliance with the terms of the SST Governing Board CSP contract. (Questionnaires and specific tests will be used to assess the CSP's contract compliance.) <ul style="list-style-type: none"> ✓ <i>Questionnaires will be given to the CSPs, Member/Associate Member States and the Office of Executive Director to help evaluate the CSPs compliance with their contract.</i> ✓ <i>Contract compliance attributes have been established along with accompanying compliance audit procedures. The compliance audit procedures will be completed to evaluate the compliance attribute.</i> <ul style="list-style-type: none"> ➢ <i>The Audit Core Team needs to review each compliance audit procedure and decide the following; 1) specifically define the tasks to be accomplished, 2) decide on what records may need to be reviewed, and 3) decide if the procedure outlined goes far enough or too far.</i> ➢ <i>Once the above is completed specific plans to carry out each compliance audit procedure needs to be established.</i> 	

AUDIT CORE TEAM	STATE AUDITORS
<ul style="list-style-type: none"> • Per Rule 806.3.4(D)(2)(b): <ul style="list-style-type: none"> ○ Verify that compensation was calculated properly for all volunteer sellers. <ul style="list-style-type: none"> ✓ The Core Team has not definitively concluded the audit plans necessary to accomplish this task (such as type of sample, size of sample, etc.). 	<ul style="list-style-type: none"> ○ Verify that compensation was calculated properly for all volunteer sellers. <ul style="list-style-type: none"> ✓ The State Auditors may need to address errors discovered by the Core Team.
<ul style="list-style-type: none"> • Per Rule 806.3.4(D)(2)(c): <ul style="list-style-type: none"> ○ 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. <ul style="list-style-type: none"> ✓ Mapping to the generic taxability matrix categories will be reviewed at the Core Team level. ✓ Generic taxability matrix categories should be the same for all states and defined within the SST Agreement. <ul style="list-style-type: none"> ➤ The Core Team has not definitively concluded the audit plans necessary to accomplish this task (such as type of sample, size of sample, etc.). 	<ul style="list-style-type: none"> ○ 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. <ul style="list-style-type: none"> ✓ The State Auditors will need to look at their states expanded taxability matrix (if their state has one). ✓ The State Auditors may need to address errors discovered by the Core Team.

AUDIT CORE TEAM	STATE AUDITORS
<ul style="list-style-type: none"> • Per Rule 806.3.4(D)(2)(d): <ul style="list-style-type: none"> ○ Verify that the appropriate entity use exemption data elements are captured by the CSP system. <ul style="list-style-type: none"> ✓ The Core Team has not definitively concluded the audit plans necessary to accomplish this task (such as type of sample, size of sample, etc.). ✓ Additional thought needs to be put into how this is to be completed. <ul style="list-style-type: none"> ➤ <i>In the Issue Paper on Simplified Exemption Administration Process (Approved on April 16, 2005) it states “Rules and administrative practices will be established for joint state auditing of exempt transactions”.</i> ➤ <i>The Core Team can not be responsible for auditing whether a purchaser is claiming a proper exemption; it can only be responsible for whether the proper data elements are captured.</i> ➤ If the Core Team documents missing data elements, does the Core Team request that the CSP obtain the missing elements or should this request come from the State Auditors? 	<ul style="list-style-type: none"> ○ Verify that the appropriate entity use exemption data elements are captured by the CSP system. <ul style="list-style-type: none"> ✓ The State Auditors may also need to audit exemption data elements. ✓ The State Auditors may need to address errors discovered by the Core Team. ✓ The State Auditors will be responsible for auditing whether a purchaser is claiming a proper exemption.
<ul style="list-style-type: none"> • Per Rule 806.3.4(D)(2)(e): <ul style="list-style-type: none"> ○ Verify that all tax collected was remitted timely to the appropriate tax authority. <ul style="list-style-type: none"> ✓ The Core Team has not definitively concluded the audit plans necessary to accomplish this task (such as type of sample, size of sample, etc.). 	<ul style="list-style-type: none"> ○ Verify that all tax collected was remitted timely to the appropriate tax authority. <ul style="list-style-type: none"> ✓ The State Auditors will need to verify if taxes were received in their state. ✓ The State Auditors may need to address errors discovered by the Core Team.

AUDIT CORE TEAM	STATE AUDITORS
<ul style="list-style-type: none"> • <u>Per Rule 806.3.4(D)(2)(f):</u> <ul style="list-style-type: none"> ○ Verify that sales were accurately reported by the CSP/Seller on simplified electronic returns (SERs). <ul style="list-style-type: none"> ✓ The Core Team has not definitively concluded the audit plans necessary to accomplish this task (such as type of sample, size of sample, etc.). 	<ul style="list-style-type: none"> ○ Verify that sales were accurately reported by the CSP/Seller on simplified electronic returns (SERs). <ul style="list-style-type: none"> ✓ The State Auditors will need to verify that sales were properly reported on their state's SERs. ✓ The State Auditors may need to address errors discovered by the Core Team.
<ul style="list-style-type: none"> • <u>Per Rule 806.3.4(D)(2)(g):</u> <ul style="list-style-type: none"> ○ Acquire a list of sellers represented by each CSP and provide this information to the Streamline Sales Tax Governing Board member states. <ul style="list-style-type: none"> ✓ This will be requested in the Core Team's first request for information from the CSPs. 	
<ul style="list-style-type: none"> • <u>Per Rule 806.3.4(D)(2)(h):</u> <ul style="list-style-type: none"> ○ 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. <ul style="list-style-type: none"> ✓ This will be requested in the Core Team's first request for information from the CSPs. ✓ The Core Team will need to follow-up to make sure each state receives the appropriate downloads through the FTP sites. 	
<ul style="list-style-type: none"> • <u>Per Rule 806.3.4(D)(2)(i):</u> <ul style="list-style-type: none"> ○ Create a uniform audit plan with a timeline to establish the projected dates that various audit steps should be completed. <ul style="list-style-type: none"> ✓ A Timeline as been established for the current CSP Compliance Audits. 	

AUDIT CORE TEAM	STATE AUDITORS
<ul style="list-style-type: none"> • <u>Per Rule 806.3.4(D)(2)(i):</u> <ul style="list-style-type: none"> ○ Compile the <u>feedback reports</u> 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. <ul style="list-style-type: none"> ✓ The format of the State Audit Feedback Reports has been established by the SST Audit Committee. ✓ Format for submitting the Core Team's contract compliance audit to the Executive Director has not been finalized. 	
	<ul style="list-style-type: none"> • <u>Per Rule 806.3.5.1</u> <ul style="list-style-type: none"> ○ 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. <ul style="list-style-type: none"> ✓ It is preferred that the State auditors work through the Core Team on questions to be directed to the CSPs about their Model 1 Sellers (if their state's confidentiality laws will allow this).
<ul style="list-style-type: none"> • <u>Per rule 806.3.5.2</u> <ul style="list-style-type: none"> ○ The timeline for conducting the compliance audit will vary from year to year. The Audit Core Team will establish a timeline for each audit. <ul style="list-style-type: none"> ✓ A Timeline as been established for the current CSP Compliance Audits. 	<ul style="list-style-type: none"> • <u>Per rule 806.3.5.2</u> <ul style="list-style-type: none"> ○ The timeline for conducting the compliance audit will vary from year to year. The Audit Core Team will establish a timeline for each audit. <ul style="list-style-type: none"> ✓ The States will be required to adhere to the timeline setout by the Core Team.

AUDIT CORE TEAM	STATE AUDITORS
<ul style="list-style-type: none"> • <u>Per rule 806.3.5.2</u> <ul style="list-style-type: none"> ○ The Audit Core Team will have 30 days to compile a report on the preliminary findings of the contract compliance audit and the member states' tax compliance audits and submit the report to the CSP. ✓ <i>The format of this report has not been finalized.</i> 	
<ul style="list-style-type: none"> • <u>Per rule 806.3.5.2</u> <ul style="list-style-type: none"> ○ 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. ✓ <i>The rule states the CSP will have 30 days to review and comment.</i> ✓ <i>It will be important that the CSP completes its review and comment process within this 30 day window. This would include any meetings (over telephone or face to face) with either the Core Team and/or State Auditors.</i> ✓ <i>In light of the fact that the Core Team is coordinating the tax compliance audits of the Model 1 Sellers, the Core Team may be asked by either the CSP or a State Auditor to be a party to conversations and/or meetings between the CSP and the State Auditor (if the state's confidentiality laws will allow this).</i> 	<ul style="list-style-type: none"> • <u>Per rule 806.3.5.2</u> <ul style="list-style-type: none"> ○ 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. ✓ <i>The rule states the CSP will have 30 days to review and comment.</i> ✓ <i>It will be important that the CSP completes its review and comment process within this 30 day window. This would include any meetings (over telephone or face to face) with either the Core Team and/or State Auditors.</i> ✓ <i>In light of the fact that the Core Team is coordinating the tax compliance audits of the Model 1 Sellers, the Core Team may be asked by either the CSP or a State Auditor to be a party to conversations and/or meetings between the CSP and the State Auditor (if the state's confidentiality laws will allow this).</i>

AUDIT CORE TEAM	STATE AUDITORS
<ul style="list-style-type: none"> • <u>Per rule 806.3.5.2</u> <ul style="list-style-type: none"> ○ 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. ✓ <i>After the CSP review, the Core Team and the member states will have 10 days to amend their reports. The Core Team will then submit their final reports to the Executive Director.</i> ✓ <i>If changes are necessary, the member states and Core Team will need to effectively communicate in order to meet the quick turnaround deadline.</i> 	<ul style="list-style-type: none"> • <u>Per rule 806.3.5.2</u> <ul style="list-style-type: none"> ○ 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. ✓ <i>After the CSP review, the Core Team and the member states will have 10 days to amend their reports. The Core Team will then submit their final reports to the Executive Director.</i> ✓ <i>If changes are necessary the member states and Core Team will need to effectively communicate in order to meet the quick turnaround deadline.</i>
<ul style="list-style-type: none"> • <u>Per rule 806.3.5.3(A)</u> <ul style="list-style-type: none"> ○ The Audit Core Team will provide each member state with its findings of the contract compliance audit. ✓ <i>The Core Team should provide the member states two reports of findings. A preliminary findings report documenting any areas where a potential state audit adjustment may exist. The Core Team will attempt to forward the preliminary findings to the states prior to the start of the state transactions' audits. A final contract compliance audit will be supplied to the member states following its completion.</i> 	

AUDIT CORE TEAM	STATE AUDITORS
	<ul style="list-style-type: none"> • <u>Per rule 806.3.5.3(B)</u> <ul style="list-style-type: none"> ○ 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 that 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.) ✓ <i>The Core Team will provide the member states two reports of findings. A preliminary findings report documenting any areas where a potential state audit adjustment may exist. The Core Team will attempt to forward the preliminary findings to the states prior to the start of the state transactions’ audits. A final contract compliance audit will be supplied to the member states following its completion</i>
<ul style="list-style-type: none"> • <u>Per rule 806.3.5.3(C)</u> <ul style="list-style-type: none"> ○ The feedback report on the audit findings that goes to the Executive Director will contain general information on errors found and will not contain specific taxpayer information to ensure the confidentiality of taxpayer information. ✓ <i>The format of this report has not been finalized.</i> 	

AUDIT CORE TEAM	STATE AUDITORS
	<ul style="list-style-type: none"> • <u>Per Rule 806.3.5.5(A)</u> <ul style="list-style-type: none"> ○ Each Streamline Sales Tax Governing Board 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. ✓ <i>The various state auditors and/or audits will need to be in conformance with the Core Team’s audit plan and time table.</i>
<ul style="list-style-type: none"> • <u>Per Rule 806.3.5.5(B)</u> <ul style="list-style-type: none"> ○ 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. ✓ <i>This information will be obtained and forwarded to CSP early in the audit process.</i> 	

AUDIT CORE TEAM	STATE AUDITORS
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<ul style="list-style-type: none"> • <u>Per Rule 806.3.5.5(C)</u> <ul style="list-style-type: none"> ○ 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. ✓ <i>Supply the states with a listing of sellers to include the date the CSP started processing transaction for each seller.</i> ✓ <i>The Core Team will need to follow-up to make sure each state receives the appropriate downloads through the FTP sites.</i> ✓ <i>Core Team may want to request the states to audit a few specific sellers.</i> 	<ul style="list-style-type: none"> • <u>Per Rule 806.3.5.5(C)</u> <ul style="list-style-type: none"> ○ 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. ✓ <i>The States will receive complete state specific transaction downloads for every model I seller's transactions sourced to their state. These downloads will be provided to the states through an FTP site.</i> ✓ <i>From the transactions downloads each state will decide which Model I Sellers' transactions they want to audit.</i> ✓ <i>On a seller by seller basis, a decision whether to complete a comprehensive review or choose a sampling methodology will need to be decided.</i>
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AUDIT CORE TEAM	STATE AUDITORS
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	<ul style="list-style-type: none"> • <u>Per Rule 806.3.5.5(D)(1)-(8)</u> <ul style="list-style-type: none"> ○ 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. ✓ <i>State Audits are to review the sellers' transactions and determine whether the transactions are taxed correctly. If errors exist, then the state auditors are to determine if the cause of the error is one of the eight items listed above or a ninth miscellaneous reason.</i> ✓ <i>If exemption information does not contain all the required data elements, the state auditor <u>must</u> give the seller 120 days to obtain the information.</i>
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AUDIT CORE TEAM	STATE AUDITORS
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<ul style="list-style-type: none"> • <u>Per Rule 806.3.5.5(E)</u> <ul style="list-style-type: none"> ○ 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. ✓ <i>Since the Core Team is coordinating the tax compliance audits of the Model 1 Sellers, the Core Team may be asked by either the CSP or a State Auditor to be a party to conversations and/or meetings between the CSP and the State Auditor (if the state's confidentiality laws will allow this).</i> 	<ul style="list-style-type: none"> • <u>Per Rule 806.3.5.5(E)</u> <ul style="list-style-type: none"> ○ 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. ✓ <i>Since the Core Team is coordinating the tax compliance audits of the Model 1 Sellers, the Core Team may be asked by either the CSP or a State Auditor to be a party to conversations and/or meetings between the CSP and the State Auditor (if the state's confidentiality laws will allow this).</i> ✓ <i>It will be at the discretion the Member and Associate Member States as to when they finalize their state's tax compliance audits. The Audit Committee of the Streamlined Sales Tax Governing Board would encourage the Member and Associate Member States to finish these audits in an efficient and professional manner.</i>
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AUDIT CORE TEAM	STATE AUDITORS
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	<ul style="list-style-type: none"> • <u>Per Rule 806.3.5.5(H)</u> <ul style="list-style-type: none"> ○ 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. ✓ <i>The Member and Associate Member States will individually process any liabilities and/or refunds resulting from the tax compliance audits. The ultimate outcome of these audits will not be reported to the Governing Board or the Executive Director.</i>
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This is a multistate form. Not all states allow all exemptions listed on this form. Purchasers are responsible for knowing if they qualify to claim exemption from tax in the state that would otherwise be due tax on this sale. The seller may be required to provide this exemption certificate (or the data elements required on the form) to a state that would otherwise be due tax on this sale.

The purchaser will be held liable for any tax and interest, and possibly civil and criminal penalties imposed by the member state, if the purchaser is not eligible to claim this exemption. A seller may not accept a certificate of exemption for an entity-based exemption on a sale made at a location operated by the seller within the designated state if the state does not allow such an entity-based exemption.

- 1. [] Check if you are attaching the Multistate Supplemental form. [] [] If not, enter the two-letter postal abbreviation for the state under whose laws you are claiming exemption.
2. [] Check if this certificate is for a single purchase and enter the related invoice/purchase order # _____.

3. Please print
Name of purchaser
Business Address City State Zip Code
Purchaser's Tax ID Number State of Issue Country of Issue
If no Tax ID Number FEIN Driver's License Number/State Issued ID Number Foreign diplomat number
Enter one of the following: State of Issue: Number
Name of seller from whom you are purchasing, leasing or renting
Seller's address City State Zip code

- 4. Type of business. Circle the number that describes your business
01 Accommodation and food services 11 Transportation and warehousing
02 Agricultural, forestry, fishing, hunting 12 Utilities
03 Construction 13 Wholesale trade
04 Finance and insurance 14 Business services
05 Information, publishing and communications 15 Professional services
06 Manufacturing 16 Education and health-care services
07 Mining 17 Nonprofit organization
08 Real estate 18 Government
09 Rental and leasing 19 Not a business
10 Retail trade 20 Other (explain)

- 5. Reason for exemption. Circle the letter that identifies the reason for the exemption.
A Federal government (department) H Agricultural production #
B State or local government (name) I Industrial production/manufacturing #
C Tribal government (name) J Direct pay permit #
D Foreign diplomat # K Direct mail #
E Charitable organization # L Other (explain)
F Religious or educational organization #
G Resale #

6. Sign here. I declare that the information on this certificate is correct and complete to the best of my knowledge and belief.
Signature of Authorized Purchaser Print Name Here Title Date

Name of Purchaser

Table with 3 columns: STATE, Reason for Exemption, Identification Number (If Required). Lists states from AR* to WY.

SSUTA Direct Mail provisions are not in effect for Arkansas and Tennessee.

The following nonmember states will accept this certificate for exemption claims that are valid in their respective state. SSUTA Direct Mail provisions do not apply in these states.

Table with 3 columns: STATE, Reason for Exemption, Identification Number (If Required). Lists nonmember states XX.

Approved by the Streamlined Sales Tax Project at its January 13, 2004 Meeting

Edited February 23, 2004 to add additional options for drugs for animal use and again based on February 27, 2004 teleconference

**Taxability Matrix
Library of Definitions**

State: Washington
Completed by: Greg Potegal
E-mail address: gregp@dor.wa.gov
Phone number: 360-570-6132

Each of the items listed in the chart are defined in the Library of Definitions in the Streamlined Sales Tax Agreement adopted November 12, 2002, or adopted by the Implementing States subsequent to November 12, 2002. Refer to Appendix C of the Streamlined Sales Tax Agreement for each definition.

Place an "X" in the appropriate column under the heading "Treatment of definition" to indicate the treatment of each definition in your state. If a definition does not apply to your state, enter "NA" in the first column under the heading "Treatment of definition." In accordance with the agreement, your state must adopt the definitions in the Library of Definitions that apply to your state without qualifications except for those allowed by the agreement. For this reason, do not enter any comments or qualifications in the two columns under the heading "Treatment of definition". If your state has adopted a definition in the Library of Definitions with a qualification, do not place an "X" in either column under the heading "Treatment of definition" but include a comment in the "Reference" column explaining the qualification. Enter the applicable statute/rule cite in the "Reference" column.

Sellers and certified service providers are relieved from tax liability to the member state and its local jurisdictions for having charged and collected the incorrect amount of sales and use tax resulting from the seller or certified service provider relying on erroneous data provided by the member state relative to treatment of the terms defined in the Library of Definitions.

Administrative definitions	Treatment of definition		Reference
	Included in sales price	Excluded from sales price	Statute/Rule Cite
Sales price Identify how the options listed below are treated in your state. The following options may be excluded from the definition of sales price only if they are separately stated on the bill to the purchaser. <ul style="list-style-type: none"> • Charges by the seller for any services necessary to complete the sale other than delivery and installation • Delivery charges including direct mail • Delivery charges excluding direct mail • Installation charges • Exempt personal property bundled with taxable personal property • Credit for trade-in 	X		RCW 82.08.010
		X	
	X		RCW 82.08.010, RCW 82.08.807
	X		RCW 82.08.010
		X	RCW 82.08.010
		X	RCW 82.08.010

Product definitions			
	Taxable	Exempt	Statute/Rule Cite
Clothing and related products			
Clothing	NA		
Clothing accessories or equipment	NA		
Protective equipment	NA		
Sport or recreational equipment	NA		
Computer related products			
Computer software (not prewritten)		X	RCW 82.04.050(6)
Computer software (not prewritten) delivered electronically		X	RCW 82.04.050(6)
Computer software (not prewritten) delivered via load and leave		X	RCW 82.04.050(6)
Prewritten computer software	X		RCW 82.04.050(6)
Prewritten computer software delivered electronically	X		RCW 82.04.050(6)
Prewritten computer software delivered via load and leave	X		RCW 82.04.050(6)
Food and food products			
Candy		X	RCW 82.08.0293
Dietary supplements	X		RCW 82.08.0293
Food and food ingredients		X	RCW 82.08.0293
Food sold through vending machines	X		RCW 82.08.0293(4)
Soft drinks	X		RCW 82.08.0293
Prepared food	X		RCW 82.08.0293
Prepared food options - indicate whether the following options are included or excluded from the definition of prepared food.			
<ul style="list-style-type: none"> Food sold without eating utensils provided by the seller whose primary NAICS classification is manufacturing in sector 311, except subsector 3118 (bakeries) 		X	RCW 82.08.0293(2)(b)(i)
<ul style="list-style-type: none"> Food sold without eating utensils provided by the seller in an unheated state by weight or volume as a single item 		X	RCW 82.08.0293(2)(b)(ii)
<ul style="list-style-type: none"> Bakery items sold without eating utensils provided by the seller, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, tortillas 		X	RCW 82.08.0293(2)(b)(iii)
Health-care products			
Drugs (indicate how the options are treated in your state)			
<ul style="list-style-type: none"> Drugs for human use without a prescription 	X		RCW 82.08.0281
<ul style="list-style-type: none"> Drugs for human use with a prescription 		X	RCW 82.08.0281

• Drugs for animal use without a prescription	X		RCW 82.08.0281
• Drugs for animal use with a prescription	X		RCW 82.08.0281
• Insulin for human use without a prescription		X	RCW 82.08.985
• Insulin for human use with a prescription		X	RCW 82.08.985
• Insulin for animal use without a prescription	X		RCW 82.08.985
• Insulin for animal use with a prescription	X		RCW 82.08.985
• Medical oxygen for human use without a prescription	X		RCW 82.08.0283
• Medical oxygen for human use with a prescription		X	RCW 82.08.0283
• Medical oxygen for animal use without a prescription	X		RCW 82.08.0283
Drugs continued	Taxable	Exempt	Statute/Rule Cite
• Medical oxygen for animal use with a prescription	X		RCW 82.08.0283
• Over-the-counter drugs for human use without a prescription	X		RCW 82.08.940
• Over-the-counter drugs for human with a prescription		X	RCW 82.08.940
• Over-the-counter drugs for animal use without a prescription	X		RCW 82.08.940
• Over-the-counter drugs for animal use with a prescription	X		RCW 82.08.940
• Grooming and hygiene products for human use	X		RCW 82.04.050, RCW 82.08.020
• Grooming and hygiene products for animal use	X		RCW 82.04.050, RCW 82.08.020
• Drugs for human use to hospitals and other medical facilities	X		RCW 82.08.0281
• Prescription drugs for human use to hospitals and other medical facilities		X	RCW 82.08.0281
• Drugs for animal use to veterinary hospitals and other animal medical facilities	X		RCW 82.08.0281
• Prescription drugs for animal use to hospitals and other animal medical facilities	X		RCW 82.08.0281
• Taxable and nontaxable drugs bundled together			DEPENDS ON BUNDLING RULES- SECTIONS 1401 AND 1402, CHAPTER 6, LAWS OF 2007
• Free samples of drugs for human use	X		RCW 82.12.0275
• Free samples of prescription drugs for human use		X	RCW 82.12.0275
• Free samples of drugs for animal use	X		RCW 82.12.0275
• Free samples of prescription drugs for animal use	X		RCW 82.12.0275

Durable medical equipment (indicate how the options are treated in your state)	Taxable	Exempt	Statute/Rule Cite
• Durable medical equipment without a prescription	X		RCW 82.08.0283
• Durable medical equipment with a prescription	X		RCW 82.08.0283
• Durable medical equipment paid for by Medicare	X		RCW 82.08.0283
• Durable medical equipment reimbursed by Medicare	X		RCW 82.08.0283
• Durable medical equipment paid for by Medicaid	X		RCW 82.08.0283

• Durable medical equipment reimbursed by Medicaid	X		RCW 82.08.0283
• Durable medical equipment for home use without a prescription	X		RCW 82.08.0283
• Durable medical equipment for home use with a prescription	X		RCW 82.08.0283
• Durable medical equipment for home use paid for by Medicare	X		RCW 82.08.0283
• Durable medical equipment for home use reimbursed by Medicare	X		RCW 82.08.0283
• Durable medical equipment for home use paid for by Medicaid	X		RCW 82.08.0283
• Durable medical equipment for home use reimbursed by Medicaid	X		RCW 82.08.0283
Mobility enhancing equipment (indicate how the options are treated in your state)	Taxable	Exempt	Statute/Rule Cite
• Mobility enhancing equipment without a prescription	X		RCW 82.08.0283
• Mobility enhancing equipment with a prescription	X		RCW 82.08.0283
• Mobility enhancing equipment paid for by Medicare	X		RCW 82.08.0283
• Mobility enhancing equipment reimbursed by Medicare	X		RCW 82.08.0283
• Mobility enhancing equipment paid for by Medicaid	X		RCW 82.08.0283
• Mobility enhancing equipment reimbursed by Medicaid	X		RCW 82.08.0283
Prosthetic devices (indicate how the options are treated in your state)	Taxable	Exempt	Statute/Rule Cite
• Prosthetic devices without a prescription	X		RCW 82.08.0283
• Prosthetic devices with a prescription		X	RCW 82.08.0283
• Prosthetic devices paid for by Medicare	X		Exempt with Rx
• Prosthetic devices reimbursed by Medicare	X		Exempt with Rx
• Prosthetic devices paid for by Medicaid	X		Exempt with Rx
• Prosthetic devices reimbursed by Medicaid	X		Exempt with Rx
• Corrective eyeglasses without a prescription	X		RCW 82.08.0283
• Corrective eyeglasses with a prescription		X	RCW 82.08.0283
• Corrective eyeglasses paid for by Medicare	X		Exempt with Rx
• Corrective eyeglasses reimbursed by Medicare	X		Exempt with Rx
• Corrective eyeglasses paid for by Medicaid	X		Exempt with Rx
• Corrective eyeglasses reimbursed by Medicaid	X		Exempt with Rx
• Contact lenses without a prescription	X		RCW 82.08.0283
• Contact lenses with a prescription		X	RCW 82.08.0283
• Contact lenses paid for by Medicare	X		Exempt with Rx
• Contact lenses reimbursed by Medicare	X		Exempt with Rx
• Contact lenses paid for by Medicaid	X		Exempt with Rx
• Contact lenses reimbursed by Medicaid	X		Exempt with Rx
• Hearing aids without a prescription	X		RCW 82.08.0283
• Hearing aids with a prescription		X	RCW 82.08.0283
• Hearing aids paid for by Medicare	X		Exempt with Rx
• Hearing aids reimbursed by Medicare	X		Exempt with Rx
• Hearing aids paid for by Medicaid	X		Exempt with Rx
• Hearing aids reimbursed by Medicaid	X		Exempt with Rx

• Dental prosthesis without a prescription	X		RCW 82.08.0283
• Dental prosthesis with a prescription		X	RCW 82.08.0283
• Dental prosthesis paid for by Medicare	X		Exempt with Rx
• Dental prosthesis reimbursed by Medicare	X		Exempt with Rx
• Dental prosthesis paid for by Medicaid	X		Exempt with Rx
• Dental prosthesis reimbursed by Medicaid	X		Exempt with Rx

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