



100 Majestic Drive, Suite 400 ♦ Westby, WI
54667

State and Local Advisory Council Request and Assignment Form

Provide the name(s) and contact information of the state or parties submitting the Request.

Date: 2/21/2025

Name of State or Person(s) submitting request: Craig Johnson on behalf of Delivery Network Companies

Contact Person: Craig Johnson/Alison Jares

Address: 100 Majestic Drive, Suite 400, Westby, WI 54667

Phone: 608-634-6160 **Email:** craig.johnson@sstgb.org and alison.jares@sstgb.org

1. Agreement Section(s), Rules or Tax Administration Practice(s) involved (if any). (Identify the section(s) of the Streamlined Sales and Use Tax Agreement, the Streamlined Rules, or Tax Administration Practices, if any, which are affected or involved with the issue.)

SSUTA Section 335 Tax Administration Practices – Disclosed Practices

2. Question, Issue, or Topic for discussion. (Identify the question, issue, or topic you believe requires a study or resolution by SLAC.)

How do states want delivery network companies, marketplace sellers and other retailers to handle transactions so that sales tax is not collected twice on the same transaction? In newer business models, delivery network companies charge the end-user or customer sales tax on the sales price of an item sold on the delivery network company's online platform / marketplace. When a third-party shops for the goods purchased by the customer on the delivery network company's online platform/marketplace, the third-party often pays sales tax on the goods at the marketplace seller's point-of-sale system. The delivery network company is not purchasing the product and reselling it, but instead is merely facilitating the transfer and delivery of the product from the marketplace seller to the customer.

Are states amenable to allowing delivery network companies to claim a credit or deduction for the sales and use tax paid to a local merchant at the time a product is picked, packed, and delivered from the local merchant by an independent contractor since the delivery network company is charging its customers sales tax on the full selling price?

Is the following documentation sufficient to support the credit or deduction claimed by the delivery network company on its sales and use tax returns?

- Report showing sales tax collected on its platform from customers
- Report showing sales tax paid by independent contractors to marketplace sellers
- Customer receipt tracing tax paid by customer on the delivery network company's platform
- Independent contractor receipt tracing tax paid by the contractor to the marketplace seller

3. Statement of Background Facts. (Provide a detailed description of the issue and supporting facts. Please be as descriptive as possible and provide examples of actual transactions.)

- Delivery network companies may be considered marketplace facilitators in some or all states with marketplace facilitator laws. Delivery network companies are generally defined as business entities that own or operate an internet website or mobile application used to facilitate delivery services for the sale of local products to customers within a certain geographical range of the local merchant.
- On many of these transactions, the local business selling the product is charging sales tax and the delivery network company is also charging sales tax, resulting in tax being charged and remitted twice on these transactions.

- The delivery network company/marketplace facilitator charges the end user or customer sales tax on the platform. The delivery network company/marketplace facilitator remits such tax collected to the respective taxing authority.
- The local merchant, often times, also charges the delivery network company/marketplace facilitator sales tax when the delivery network company/marketplace facilitator purchases the goods for delivery to the customer who purchased such goods on the platform. The local merchant remits such tax to the respective taxing authority.

Although a simple solution to this issue would be for the delivery network company to provide a resale certificate to the retailer, liability concerns with respect to the products do not make that possible.

- For example, if Delivery Network Company A picks up cooked food from Fast Food Seller B and Customer C gets sick because the food was not fully cooked, contaminated, etc., Delivery Network Company A does not want to take on that liability since it had nothing to do with the purchasing, storage or cooking of the food that resulted in the contamination.
- In addition, the delivery network company/marketplace facilitator does not take title to the goods as title passes directly from the local merchant to the end-user / customer.

4. Proposed Resolution/Outcome/Solution. (Provide a description of the anticipated outcome from the workgroup. For example: Development of an interpretive rule pertaining to Section XXX of the Agreement.)

It is proposed that Tax Administration Practices – Disclosed Practices be developed so that both the delivery network companies and the retailers involved in the transactions understand what is expected in each state to prevent both the retailer and the delivery network company from charging and remitting tax on the sale of the product and for both parties to have the documentation in place to prove this to the state.

Since many challenges exist that impede the ability of local merchants to not charge delivery network company/marketplace facilitators sales tax, it is recommended states allow delivery network company/marketplace facilitators a mechanism for reducing it's sales tax liability to account for the double tax they pay to local merchants. One such mechanism is to allow a delivery network company/marketplace facilitator to reduce taxable receipts by the taxable amount of the marketplace-facilitated sale that is taxed by the marketplace seller for the period in which the retail sale occurs.

It is possible that a best practice may also be selected from these disclosed practices so that states considering changes in this area do it uniformly.

Submit completed form to:

Craig Johnson, Executive Director
Streamlined Sales Tax Governing Board
100 Majestic Dr., Suite 400
Westby, WI 54667

Email: Craig.Johnson@SSTGB.org
Phone: 608-634-6160
www.streamlinedsalestax.org

For SST Governing Board Use

Approved by: **Date:**

Approved with Modifications (If the Governing Board determines the request will be addressed by SLAC but in a modified format, explain the modifications to the request here):

Denied by: **Date:**

Form F0021 Instructions

The scope of work for the State and Local Advisory Council (SLAC) is to advise the Governing Board on matters pertaining to the administration of the Streamlined Sales and Use Tax Agreement (Agreement). Matters relating to noncompliance of members with the Agreement, interpretive rules clarifying Agreement language, and revisions or additions to the Agreement are all within the scope of a SLAC work assignment. This form, as submitted by a requestor, is a public document and shall be published on the Streamlined Governing Board's website.

Any state and person making a request for a SLAC work assignment must do so by completing the **SLAC REQUEST & ASSIGNMENT FORM** and submitting it to the Executive Director of the Streamlined Sales Tax Governing Board. The Governing Board will take up the request at its next scheduled meeting or as applicable the SLAC Chair will take up the request at the next SLAC Steering Committee meeting. Any decision by the SLAC Steering Committee shall be reported to the Governing Board at its next meeting. In the interim, a request approved by the SLAC Steering Committee can be assigned to a SLAC workgroup. The Governing Board may approve, deny or modify the request at any time.

The Governing Board is not required to use this form to refer matters to SLAC. If the Governing Board refers an item to SLAC without use of this form, the Governing Board should provide written guidance to the SLAC Chair as to the expectations regarding the assigned task.

(Note: States or other persons requesting an interpretive opinion of existing Agreement provisions or definitions should not use this form, but should instead complete and submit the **INTERPRETATION/ DEFINITION REQUEST** form.)