



# State and Local Advisory Council Request and Assignment Form

100 Majestic Drive, Suite 400 ♦ Westby, WI  
54667

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

**Date:** September 8, 2025

**Name of State or Person(s) submitting request:** Michele Borens @ Eversheds Sutherland (US) LLP on behalf of DNCs and local merchants

**Contact Person:** Michele Borens

**Address:** 700 6<sup>th</sup> St. NW, Washington, DC 20001

**Phone:** 202-383-0936 **Email:** michele.borens@sutherland.com

**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.)

Streamlined Sales and Use Tax Agreement, 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.)

The questions presented request guidance for Delivery Network Companies (“DNCs”) and local merchants on the application of marketplace facilitator/provider laws to DNCs’ business model. DNCs facilitate sales for local merchants (e.g., restaurants, grocery stores and other retail establishments) and often face unique issues because local merchants are generally registered and collecting sales and use tax in the states where they have stores. The questions seek to understand how DNCs are treated under marketplace facilitator/provider laws and, more specifically, how DNCs can address transactions where sales tax is collected and remitted to the state twice on the same transaction – once by the DNC that collects and remits sales tax from purchasers as the marketplace facilitator/provider and again by the local merchant that collects and remits sales tax from the DNC (because the local merchant’s in-store point of sale system charges tax).

More specifically, the questions address the following areas: (1) whether states treat DNCs as marketplace facilitators/providers, (2) whether DNCs qualify as sellers/retailers for other sales tax purposes (e.g., refunds, collection of other taxes and fees), (3) the type of documentation that a DNC can provide to a local merchant to have them turn off sales tax collection for sales that the DNC is facilitating and collecting and remitting sales/use tax on, and (4) whether a DNC can take a deduction, credit, or other mechanism on the DNC’s sales/use tax return when sales tax is collected and remitted by both the DNC and the local merchant on the same transaction.

**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.)

DNCs are business entities that own or operate an internet website or mobile application used to facilitate delivery services for products sold by local merchants (e.g., a restaurant) to customers within a certain geographical range of the local merchant. DNCs often fall within state tax law definitions of a “marketplace facilitator”; however, because DNCs’ facilitate sales for local merchants that are collecting and remitting sales/use tax, DNCs have unique issues that other marketplace facilitators/providers may not encounter. Other well-known marketplace facilitators/providers facilitate the sale of products by remote sellers that are not physically present in the state and are not registered and collecting sales tax on their sales. Thus, in some states, DNCs may be treated differently from other marketplaces under state marketplace facilitator/provider laws. For example, DNCs may be considered marketplace facilitators/providers in the state, but may not be required to collect and remit sales tax. For example, in Minnesota and New Jersey, marketplace facilitators/providers may agree with the marketplace

seller (i.e., the local merchant) that the marketplace seller will continue to collect and remit sales tax. DNCs are seeking to understand the treatment of their business model in the states and, if they are treated as being required to collect and remit sales tax, whether they are treated as sellers/retailers for purposes of other state sales and use tax collection rules.

In those states that consider DNCs to be marketplace facilitators/providers and require them to collect and remit sales tax on transactions they facilitate, DNCs that have “turned on tax collection” have encountered certain issues when local merchants continue to also collect and remit sales tax. On these transactions, the local merchant selling the product is charging and collecting sales/use tax on the same transaction on which the DNC is collecting and remitting sales/use tax. This can happen when the local merchant does not or is unable to “turn off” sales/use tax in their point-of-sale system as follows:

- Purchaser places an order on the DNC’s marketplace website
- Purchaser pays the DNC for the order including sales/use tax
- A local courier will pick, pack, and deliver the goods ordered by the purchaser from the local merchant’s retail store location
- The local courier will tender payment to the local merchant for the goods, including sales/use tax, using a payment card
- The DNC will remit sales/use tax collected from the purchaser to the state
- The local merchant will remit sales/use tax collected through their point-of-sale system to the state.

In the example above, the courier will present the local merchant with a type of swipe card that is used to process the transaction through the local merchant’s point-of-sale system. If the local merchant is unable to “turn off” sales tax in their point-of-sale system, sales/use tax will be charged on the transaction through the swipe card which results in the DNC paying the local merchant sales/use tax when the parties settle funds. The DNC also collects and remits sales/use tax to the state on the same transaction when the DNC collects sales/use tax from the purchaser.

DNCs seek guidance on how to obtain a refund of sales/use tax paid to the local merchant. DNCs would like to understand if they are able to take a credit or deduction for overpaid sales taxes on these transactions. This would be similar to a “tax paid inventory resold deduction.” This type of deduction is permitted in states where goods are purchased and sales tax is paid and then the goods are resold. In such instances, sales tax should not have been paid on the purchase and needs to be recovered from the state. Some states also permit a vendor to assign a refund claim to a purchaser or permit the purchaser to seek a refund claim directly from the taxing authority. DNCs would like to understand their options to recover sales tax paid to local merchants when the DNC has already collected and remitted sales tax on the same transaction. Local merchants (i.e., retailers) would like to understand what is acceptable documentation that the DNC could provide to them to support turning off sales tax on the transaction with the DNC.

**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.)

DNCs are seeking for Disclosed Practices to be issued addressing their specific questions so that DNCs can understand their marketplace facilitator/provider obligations and also to understand how best they can work with states to address the issues described above.

### 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](mailto:Craig.Johnson@SSTGB.org)  
Phone: 608-634-6160  
[www.streamlinedsalestax.org](http://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):

Click here to enter text.

**Denied by:** [Click here to enter name.](#)    **Date:** [Click here to select a 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.)

## Appendix E

### Library of Tax Administration Practices Disclosed Practice (DP) Number 10 – Delivery Network Companies

For purposes of Disclosed Practice 10, “Delivery Network Companies” are generally defined as business entities that own or operate an internet website and/or mobile application to facilitate delivery services of food, prepared food, and other tangible personal property to customers within a certain geographical range of the local merchant.

#### Disclosed Practice 10 – Delivery Network Companies

10.1. Does the state treat Delivery Network Companies as marketplace facilitators/providers?

10.2. If yes, to 10.1, does the state require Delivery Network Companies to collect and remit sales/use tax as a marketplace facilitator/provider?

If no, explain in the comment section why and if there is an exception/exclusion that applies as addressed 8.3.a.

10.3. If the state does not require Delivery Network Companies to collect and remit sales/use tax, can Delivery Network Companies voluntarily register to collect and remit sales/use tax as a marketplace facilitator/provider as addressed in 8.3.k?

10.4. If Delivery Network Companies are treated as marketplace facilitator/providers are they treated as sellers/retailers as addressed in 8.3.1?

10.5. Can Delivery Network Companies request a refund from the state in the same manner as a seller/retailer as addressed in 8.3.l.i?

10.6. If Delivery Network Companies are collecting and remitting sales/use tax as a marketplace facilitator/provider as required under 10.2, or as a retailer, or as voluntarily allowed under 10.3, do Delivery Network Companies follow the same collection requirements for non-sales and use taxes and fees as addressed in 8.3.o.?

10.7. If Delivery Network Companies are collecting and remitting sales/use tax as a marketplace facilitator/provider as required under 10.2, or as a retailer, or as voluntarily allowed under 10.3, what documentation, if any, can Delivery Network Companies provide marketplace sellers to have them turn off sales tax collection at their retail location(s) for sales the Delivery Network Companies are facilitating and collecting and remitting sales/use tax on?

Please explain in the comment section the form or documentation that would be provided to marketplace sellers.

10.8. If a Delivery Network Company that is collecting and remitting sales/use tax, as a marketplace facilitator/provider or as a retailer, is also being charged sales/use tax by marketplace sellers on the same transaction—e.g., the marketplace seller did not turn off sales tax on the transaction in their point of sale system—can the Delivery Network Company take a deduction, reduction or tax credit (e.g., a “tax paid inventory resold” deduction or a “tax paid at source” deduction or other similar deduction) on its sales/use tax return?

If yes, explain in the comment section how the seller takes the deduction, reduction or credit.

If no, is there an alternative method for the Delivery Network Company to obtain a recovery of sales/use tax paid on the same transactions that it already collected and remitted sales/use tax on? Please describe any alternative method.

10.9. If 10.8 is answered yes, does the answer change if the Delivery Network Company does not maintain a contract or other type of agreement with the marketplace seller?

10.10. If the Delivery Network Company issues a refund (including applicable sales tax/use tax) to a purchaser (e.g., food spoiled, order not prepared correctly, etc.) and the item is not returned or cannot be returned (e.g., spoiled food), can the Delivery Network Company take a deduction or reduction on the Delivery Network Company sales/use tax return for such refunds in these circumstances?

If "yes", explain in the comment section how the Delivery Network Company takes the deduction or reduction.

If no, is there an alternative method for the Delivery Network Company to obtain a recovery of sales/use tax refunded to the customer? Please describe any alternative method.