SSTGB EXECUTIVE COMMITTEE
2018 SANCTIONS RECOMMENDATIONS

Initial Summary of Findings by the SSTGB

Georgia was voted to not be in substantial compliance with the SSUTA in December 2017. Below is a brief description of each of their compliance issues:

Georgia

1. **Good faith requirement for accepting exemption certificates (Section 317 of the SSUTA) –** Section 317 provides in part that "Each state shall relieve a seller of the tax otherwise applicable if the seller obtains a fully completed exemption certificate or captures the relevant data elements required under the Agreement within 90 days subsequent to the date of sale..." Rather than just providing this liability relief to sellers who obtain a fully completed exemption certificate within 90 days subsequent to the sale, Georgia imposes a requirement under Section 48-8-38 that the exemption certificates must also be accepted in good faith. Although these additional requirements may be placed on a seller if the seller did not obtain an exemption certificate within 90 days subsequent to the sale, they cannot be placed on the seller if the seller obtained the fully completed exemption certificate within 90 days subsequent to the sale. Although Georgia complied with this provision when their membership was initally approved, the legislature reinstated the "good faith" requirement for accepting exemption certificates in 2012. To correct this issue, Georgia will need a legislative change and it was indicated that Georgia Department of Revenue officials have discussed the necessary corrections with the Streamlined legislative delegates for Georgia.

2. **Only accepts the SER from Model 1 volunteer sellers - Not able to accept the SER from Model 4 or other sellers at this time (Section 318 of the SSUTA) –** Under the Agreement, effective January 1, 2011 a state must allow Model 4 sellers to file the simplified electronic return (SER) and effective January 1, 2013 a state must allow all sellers, including those not registered under the Agreement to file an SER. Georgia currently only accepts SERs from Model 1 Sellers. The SER has limitations in its schema that will not accommodate correct vendor compensation for sellers with multiple locations in Georgia. Such sellers receive more vendor compensation if they do not use the SER. Georgia also indicated that due to the SER schema limitations, they do not believe the schema provides an adequate method for sellers to report the variations between the state and local tax base and rate differences that are allowed in Section 302 and 308 of the SSUTA.

3. **Imposes a cap of $35,000 in tax on boat repairs (Section 323.A of the SSUTA) –** Under the Agreement, caps and thresholds are not allowable (with very limited exceptions) "…unless the member state assumes the administrative responsibility in a manner that places no additional burden on the retailer." To correct this issue, Georgia will need a legislative change and it was indicated that Georgia Department of Revenue officials have discussed the necessary corrections with the Streamlined legislative delegates for Georgia.

Status as of April 12, 2018 – No change from above.

Executive Committee Recommendation

Based on the above and in accordance with Section 809 of the SSUTA and SSTGB Rule 809, the Executive Committee met and recommended that the same sanctions imposed on Georgia last year continue to be imposed since their compliance issues have not yet been resolved. The Executive Committee also voted not to recommend any sanction with respect to Georgia's cap and threshold issue at this time.

Recommendation by Executive Committee

The Executive Committee recommends that the following sanctions be imposed:

Georgia

Executive Committee Recommendation: The Executive Committee recommends that the same sanctions that were imposed previously on Georgia continue to be imposed until the issue(s) are resolved. Those sanctions are that Georgia will not be permitted to (a) vote on issues related to other state's compliance and (b) vote on amendments to the SSUTA, until such time as the issues are corrected. (**Note:** Table 1 details what sanctions would be imposed if one or the other of these compliance issues are resolved.)

Rationale: Georgia has been aware of these issues for several years and appears to be making an effort to get back into compliance. With respect to the good faith issue, that change was made by their legislature after they were approved as an SST full member state knowing it could take them out of compliance with the SSUTA. In addition, imposing the good faith requirement leads to a potential liability for every seller that accepts exemption certificates and potentially places a significant burden on them. With respect to the SER issue related to the vendor compensation, Georgia could actually accept the SERs, but it would result in the sellers receiving less vendor compensation than they are entitled to under Georgia's law. For some of the other SER issues, due to the schema limitations, the SER would not provide them with the detail they need to properly distribute these taxes. With respect to the schema limitations, the Certification Committee and SSTGB staff will look into what may be able to be done to help address those issues. (Note: Georgia revised their ST-3 at the end of January 2018, effective April 1, 2018 and SSTGB staff have started reviewing the revised return to try to help them address part of this issue.)

Table 1

Compliance Issue	**Sanction Recommended**
Good faith and SER acceptance issues **both unresolved**	Not allowed to vote on SSUTA amendments and not allowed to vote on other state's compliance
Only **good faith** issue unresolved	Not allowed to vote on SSUTA amendments and not allowed to vote on other state's compliance
Only **SER acceptance** issue unresolved	Not allowed to vote on other state's compliance