

**STREAMLINED SALES AND USE TAX AGREEMENT  
COMPLIANCE REVIEW AND INTERPRETATIONS COMMITTEE  
Interpretive Opinion 2021-1**

This Interpretive Opinion recommendation is made to the Streamlined Sales Tax Governing Board by the Compliance Review and Interpretations Committee this \_\_\_ day of \_\_\_, 2021, in accordance with Article IX, Rule 902 of the Rules and Procedures adopted by the Streamlined Sales Tax Governing Board, Inc.

Austin DeMoss of Wipfli LLP requested the determination on 12/20/2020 on behalf of its client, Educators Credit Union. Expedited consideration was not requested.

**Issue**

The issue considered here is whether providing and hosting an online banking platform as described in the request falls within the definition of “telecommunications services” under Appendix C, Part II of the Streamlined Sales and Use Tax Agreement.

It should be noted that the interpretation request also included a proposed interpretation that the services be determined not subject to Wisconsin sales and use tax. This Interpretive Opinion does not address taxability of the services.

**Background Provided by Mr. DeMoss (Summarized)**

In August 2019, Educators Credit Union (“ECU”) (purchaser) submitted a private letter ruling request to the Wisconsin Department of Revenue regarding the taxability of an online and mobile banking platform that ECU purchased from their vendor, Alkami Technology, Inc. (“Alkami”). ECU’s position was that the online and mobile banking platform provided by Alkami was not subject to Wisconsin sales and use tax because Alkami was providing a data processing service by processing ECU’s customers’ banking data from ECU’s servers and displaying that information to ECU’s customers when they logged in to their bank accounts. The online and mobile banking platform provided by Alkami is similar to creating and hosting a website. The WI DOR determined in their ruling that Alkami’s online and mobile banking platform and certain other services provided through that platform were taxable as telecommunications services.

Prior to submitting the ruling request to the WI DOR, Mr. DeMoss indicated they researched how other Streamlined Sales Tax member states treated similar transactions. Recent rulings from Indiana and Utah were provided in which an online and mobile banking platform, very similar to the one provided by Alkami, was the subject of the ruling request. Neither of those states determined that telecommunications services were being provided, which is contrary to Wisconsin’s position. (Note: Utah clarified in their public comment that the State’s ruling had been misinterpreted by the requestor and that the transaction at issue was not determined to be data processing and information services but was determined to be the use of the taxpayer’s application software.) After the WI ruling was received, Mr. DeMoss requested the State look more closely at the data processing aspect of the banking platform rather than the

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service of merely transferring data from ECU's servers to their customers' computer or smartphone screens. The WI DOR concluded that Alkami's online and mobile banking platform was subject to Wisconsin sales and use tax as a telecommunications service.

**Public Comment**

Written public comments were received from the State of Utah, the Electronic Transactions Association, and the SST Business Advisory Council. During the teleconference, representatives from each of the 3 groups explained the written public comments they had submitted.

Various other comments were made, and questions were asked during the CRIC meeting, including questions about the history of the definition of "telecommunications service" and "value added non-voice data service." Ms. Deborah Bierbaum (AT&T) provided historical background of the definitions. John Cmelak (Verizon) provided additional background.

**Recommendation**

By a vote 6-0, with one member abstaining, the Compliance Review and Interpretations Committee (CRIC) submits to the Governing Board a recommendation that the interpretation proposed by the requestor be accepted in part. Based on the facts presented in the documents provided to CRIC by the requestor and the written public comments received, the transactions between ECU and Alkami do not fall within the definition of "telecommunication services" contained in the SSUTA. (Note: This interpretation does not address the taxability of the transaction between ECU and Alkami as that is determined by each state's laws. Therefore, the interpretation proposed by the requestor is accepted in part.)

**Rationale**

Appendix C of the Agreement defines "telecommunications service" to mean the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. The term "telecommunications service" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to as voice over Internet protocol services or is classified by the Federal Communications Commission as enhanced or value added.

Generally, telecommunications services are a means by which a product is received. The requirement that a telecommunications service be necessary as a means of receiving another product or service does not necessarily make that other product or service a "telecommunications service".

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The Committee determined that telecommunication services are the services that are needed to carry information and messages between various points. It was best described as the pipeline that carries the information between the two parties. ECU purchased those services (i.e., the pipeline) from a third-party and not from Alkami. ECU's customers also purchased those services (i.e., the pipeline) from a third party which enabled them to communicate with the online banking platform Alkami was providing on behalf of ECU. Alkami was not providing the pipeline, but instead was providing the information that was being transmitted between the parties through the use of a pipeline the parties purchased from someone other than Alkami.

**Participating Committee Members**

Present were Dan Noble, Senator Wayne Harper, Richard Dobson, David Matelski, Alison Jares and Representative Brian Kennedy. David Steines was present but abstained.

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