

Model Certified Service Provider Act

DRAFT- 12/17/18

Short Title.

This [chapter, statute, law] shall be known and cited as the “simplified sales and use tax administration act.”

[Findings.]

The legislature finds that certified service providers simplify sales and use tax compliance for both in-state and out-of-state sellers, which fosters higher levels of accurate sales tax collection and remittance, generating new marginal tax revenue and administrative savings to the [tax department/commission]. By making the services of certified service providers available to sellers as provided in this (section/chapter) the state will substantially eliminate the burden on remote sellers as it related to collecting and remitting sales and use taxes.

Definitions.

“Certified service provider” means an agent certified by the state to perform the seller’s sales and use tax functions, as outlined in the contract between the state and the certified service provider.

“Remote seller” means a seller that did not have a legal obligation to collect sales tax in this state prior to [reference effective date of post-*South Dakota v. Wayfair* statute/regulation requiring collection by remote sellers].

“Sales tax” means the tax levied under _____.

“Seller” means the definition under _____ [insert or reference sales tax definition of seller].

“Use tax” means the tax levied under _____.

Authority.

The (Commissioner, Director) of Revenue is directed to establish standards for certification of certified service providers including acting jointly with other states to accomplish these ends.

The (Commissioner, Director) is authorized to take other actions reasonably required to implement these provisions, including the adoption of rules and regulations, and the procurement of goods and services, which also may be coordinated jointly with other states, in furtherance of this act.

[Optional] The (Commissioner, Director) is authorized to allow a certified service provider to register with the state for sales tax purposes on behalf of multiple remote retailers.

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Provision of Databases.

The (Tax Commission, Revenue Department) shall: (applicable for states with local jurisdictions)

1. Provide and maintain an electronic, downloadable database of defined product categories that identifies the taxability of each category.
2. Provide and maintain an electronic, downloadable database of all sales and use tax rates for the jurisdictions in this state that levy a sales or use tax.
3. Provide and maintain an electronic, downloadable database that assigns delivery addresses in this state to the applicable taxing jurisdictions.

Certification.

The (Tax Commission, Revenue Department) shall:

1. Provide uniform minimum standards that companies wishing to be designated as a certified service provider in this state must meet. The minimum standards may include an expedited certification process for companies that have been certified in at least 5 other states.
2. Establish a certification process to review the systems of companies wishing to be designated as a certified service provider in this state. The process shall provide that companies meeting all required standards and whose systems have been tested and approved for properly determining the taxability of items to be sold, the correct tax rate to apply to a transaction, and the appropriate jurisdictions to which the tax shall be remitted, shall be certified.
3. Enter into a contractual relationship with each company that qualifies as a certified service provider. Such contracts, at a minimum, shall provide:
 - a. The responsibilities of the certified service provider and the sellers that contract with the certified service provider related to liability for proper collection and remittance of sales and use taxes.
 - b. The responsibilities of the certified service provider and the sellers that contract with the certified service provider related to record keeping and auditing.
 - c. The method and amount of compensation to be provided to the certified service provider by this state for the services the certified service provider provides to remote sellers.
 - d. For the protection and confidentiality of tax information.
4. The provisions of this paragraph shall supersede this state's Purchasing Act.

Relief from Liability.

Sellers and certified service providers are relieved from liability to the state for having charged and collected the incorrect amount of sales or use tax resulting from the seller or certified

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service provider relying on 1) erroneous data provided by the state in database files on tax rates, boundaries, or taxing jurisdictions, or 2) erroneous data provided by the state concerning the taxability of products and services.

Sellers and certified service providers are relieved from liability to the state for having charged and collected an incorrect amount of sales and use tax resulting from the seller or certified service provider relying on certification by the (Commission, Department) of the accuracy of the certified service provider's tax rules and automated systems.

Effective Date.

The effective date of this act shall be _____.