



100 Majestic Drive, Suite 400 ♦ Westby, WI 54667

Public Notice

30-Day Public Comment Period Regarding Possible Sanctions on States Not in Compliance With the SSUTA

January 13, 2021

Pursuant to Section 809 of the Streamlined Sales and Use Tax Agreement and Streamlined Sales Tax Governing Board Rule 809, this message will serve as official notice of the commencement of the 30-day public comment period regarding the consideration of imposing sanctions on Georgia and Kentucky. The Streamlined Sales Tax Governing Board (SSTGB) determined that Georgia and Kentucky were not in substantial compliance with the requirements of the Streamlined Sales and Use Tax Agreement (Agreement). Interested persons may submit any comments for the SSTGB's Executive Committee to consider regarding any possible sanctions on these states. **All comments must be submitted no later than 5 pm central on Monday, February 12, 2021.** All comments should be addressed to the Streamlined Sales Tax Governing Board - Executive Committee. Comments may either be emailed to Craig Johnson, Executive Director at craig.johnson@sstgb.org or mailed to Streamlined Sales Tax Governing Board, Inc., 100 Majestic Drive, Suite 400, Westby, WI 54667. All public comments received will be posted to the SSTGB website.

The specific Sections of the Agreement and issue(s) on which the SSTGB determined these states were not in substantial compliance are as follows:

Georgia

- Section 317.C. – Administration of Exemptions – The Section 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.
- Section 318.C.3.c and d. – Uniform Tax Returns – 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.
- Section 323.A. – Caps and Thresholds – Under the Agreement, caps and thresholds are not allowable “...unless the member state assumes the administrative responsibility in a manner that places no additional burden on the retailer.” Georgia enacted legislation that places a cap of \$35,000 in tax on boat repairs.
- Section 308 – The legislature extended the exemption for food to an equalized homestead option sales tax if such local tax is passed by referendum. This provision is intended for one

county. Food is not exempted from other local sales taxes. A referendum was passed and then this provision became effective in DeKalb County on April 1, 2018.

Kentucky

- Section 318.A. – Uniform Tax Returns – This Section provides that each member state shall “Require that only a single tax return for each taxing period for each seller be filed for the member state to include all the taxing jurisdictions within the member state.” Based on a recent change in Kentucky’s statutes, marketplace facilitators are required to register and file one sales and use tax return to report their own sales and obtain a second registration to file and report the sales by the marketplace retailers that the marketplace provider facilitates.

The Streamlined Sales Tax Governing Board’s Executive Committee will hold a public meeting no sooner than 10 days after the public comment period closes to consider the comments received and develop a recommendation regarding any possible sanctions that may be imposed on Georgia and Kentucky. During this meeting, there will be an opportunity for public comments as well as an opportunity for Georgia and Kentucky to provide comments.

If you have any questions regarding this, please contact me.

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