



100 Majestic Drive
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Public Notice

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

January 10, 2020

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 Georgia, Michigan and Rhode Island. The Streamlined Sales Tax Governing Board (SSTGB) determined that Georgia, Michigan and Rhode Island were not in substantial compliance with the requirements of the Streamlined Sales and Use Tax Agreement (Agreement). Interested persons may submit any comments he or she would like 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 10, 2020.** 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.

Michigan

- Section 318.C. – Uniform Tax Returns – Under the Agreement, a state must allow sellers to file the simplified electronic return (SER), regardless of whether they are registered under the Agreement or not. In addition, states must allow these returns to be filed using webservices. At the time of the Compliance Review and Interpretations Committee (CRIC) review in 2019 and at the Governing Board meeting in October 2019, Michigan confirmed that they were not able to follow these provisions.

Rhode Island

- Section 332 – Imposition of Tax on Digital Goods – Under the Agreement, a statute imposing a tax on specified digital products is construed to only be imposing the tax on sales to end users that have the right of permanent use and which are not conditioned on continued payments unless the statute specifically enumerates such conditions. Although the specific enumerations described above are not included in Rhode Island’s statutory language, Rhode Island completed its taxability matrix indicating that sales of digital products with less than permanent use or which are conditioned on continued payments are subject to tax.

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, Michigan and Rhode Island. During this meeting, there will be an opportunity for public comments as well as an opportunity for Georgia, Michigan and Rhode Island to provide comments as well.

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

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