



State of Georgia

Lynnette T. Riley
Commissioner

Department of Revenue
Legal Affairs & Tax Policy
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Atlanta, Georgia 30345
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Frank M. O'Connell
Director

January 14, 2019

Craig Johnson, Executive Director
Streamlined Sales Tax Governing Board, Inc.
100 Majestic Drive, Suite 400
Westby, WI 54667

Georgia Statement of Noncompliance with Requirements of the Streamlined Sales and Use Tax Agreement

Dear Craig,

The Streamlined Sales Tax Governing Board determined that Georgia is not in compliance with the following requirement(s) of the Streamlined Sales and Use Tax Agreement (Agreement):

- 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 recently enacted legislation that places a cap of \$35,000 in tax on boat repairs.

- Section 308 – State and Local Tax Rates - 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 this provision became effective in DeKalb County on April 1, 2018.

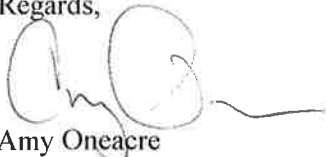
Our online taxability matrix and certificate of compliance clearly reflect how our state’s provisions differ from the above requirements of the Agreement, as required by Section 805.1 of the Agreement.

In an effort to get back into substantial compliance with the above requirements, Georgia offers the following:

- Section 317.C. – Administration of Exemptions - This noncompliance area requires a statutory change. Georgia Department of Revenue personnel will discuss the necessary corrections with the appropriate Streamlined Sales Tax legislative delegates for Georgia.
- Section 318.C.3.c and d. – Uniform Tax Returns - The Georgia Department of Revenue is only able to accept an SER from Model 1 sellers due to the inadequate SER schema that is currently in place. While Georgia is supportive of ongoing efforts to revise the SER schema such that it will include all the fields necessary for accurate filing, we maintain that our state should not be found to be out of compliance with Section 318.C.3.c and d when the SER schema is unable to accommodate proper filing for certain taxpayers.
- Section 323.A Caps and Thresholds - This noncompliance area requires a statutory change. Georgia Department of Revenue personnel will discuss the necessary corrections with the appropriate Streamlined Sales Tax legislative delegates for Georgia.
- Section 308 – State and Local Tax Rates - This noncompliance area requires a statutory change. Georgia Department of Revenue personnel will discuss the necessary corrections with the appropriate Streamlined Sales Tax legislative delegates for Georgia.

If you have further questions regarding Georgia’s statement of noncompliance, please contact me at (404) 417-6628.

Regards,



Amy Oneacre

Director – Sales & Use Tax Policy and Tax Appeals

cc: Lynne Riley, Commissioner
Frank M. O’Connell, Director, Legal Affairs & Tax Policy
Georgia Senator John Albers
Georgia Representative David Knight