

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1042

2005 HOUSE FINANCE AND TAXATION

HB 1042

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1042**

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date **JANUARY 12, 2005**

Tape Number	Side A	Side B	Meter #
1	X		19.1

Committee Clerk Signature

*Janice Stein*

Minutes:

**REP. WES BELTER, CHAIRMAN** Called the committee hearing to order.

**SEN. DWIGHT COOK, DIST. 34, MANDAN** Introduced the bill. Submitted a three ring binder of testimony and information regarding streamlined sales and use tax. See attached written testimony. The information contained a synopsis of Quill Corp. v. North Dakota. This case provided the basis for the streamlined sales tax project.

**REP. WEILER** Going back, I thought we already passed a law, was there a sunset?

**SEN. COOK** The bill you have next is enabling legislation which will represent North Dakota on the governing states.

**JOHN WALSTAD, ATTORNEY, LEGISLATIVE COUNCIL** Appeared to give a background of the bill. See the attached explanation and recommendations.

With no further testimony, the committee hearing was closed.

**COMMITTEE ACTION 1-12-05 Tape #1, Side B, Meter 31.7**

Page 2  
House Finance and Taxation Committee  
Bill/Resolution Number **HB 1042**  
Hearing Date **January 12, 2005**

**REP. BRANDENBURG** Made a motion for a **DO PASS**.

**REP. DROVDAL** Second the motion. **MOTION CARRIED.**

**12 Yes      1 No   1 Absent**

**REP. BRANDENBURG** Was given the floor assignment.

**FISCAL NOTE**  
**Requested by Legislative Council**  
03/31/2005

Amendment to: HB 1042

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$0		\$0	
Appropriations			\$0		\$0	

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill, as amended, establishes in statute, provisions that four legislators represent North Dakota on the streamlined sales tax governing board and two legislators represent North Dakota on the streamlined sales tax state and local advisory council.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Additional expenditures resulting from the provisions of this bill are not anticipated to exceed \$5,000 because four legislators have already been representing North Dakota in multistate meetings relating to the streamlined sales tax project.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The 2005-07 legislative budget request includes funding to send four legislators to multistate streamlined sales tax meetings. The cost of sending two members to streamlined sales tax state and local advisory council meetings is not anticipated to exceed \$5,000.

**Name:** Jim W. Smith  
**Phone Number:** 328-2916

**Agency:** Legislative Council  
**Date Prepared:** 04/01/2005

**FISCAL NOTE**  
**Requested by Legislative Council**  
12/17/2004

Bill/Resolution No.: HB 1042

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues					
Expenditures		\$0		\$0	
Appropriations		\$0		\$0	

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill establishes in statute, provisions that four legislators represent North Dakota on the streamlined sales tax governing board.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

No additional expenditures are required as a result of the provisions of this bill because four legislators have already been representing North Dakota in multistate meetings relating to the streamlined sales tax project.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The 2005-07 legislative budget request includes funding to continue to send four legislators to multistate streamlined sales tax meetings.

Name: Jim W. Smith  
Phone Number: 328-2916

Agency: Legislative Council  
Date Prepared: 12/28/2004

Date: 1-12-05  
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1042

House FINANCE & TAXATION

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass

Motion Made By

Rep. Brandenburg

Seconded By

Rep. Drovdal

Representatives	Yes	No	Representatives	Yes	No
BELTER, WES, CHAIRMAN	✓				
DROVDAL, DAVID, V-CHAIR	✓				
BRANDENBURG, MICHAEL	✓				
CONRAD, KARI	✓				
FROELICH, ROD	✓				
GRANDE, BETTE	✓				
HEADLAND, CRAIG	✓				
IVERSON, RONALD	✓	✓			
KELSH, SCOT	✓				
NICHOLAS, EUGENE	✓				
OWENS, MARK	✓				
SCHMIDT, ARLO	✓				
WEILER, DAVE	✓				
WRANGHAM, DWIGHT	✓				

Total (Yes)

12

No

1

Absent

Floor Assignment

Rep. Brandenburg

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
January 12, 2005 1:30 p.m.

**Module No: HR-07-0352**  
**Carrier: Brandenburg**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1042: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS (12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1042 was placed on the Eleventh order on the calendar.**



2005 SENATE FINANCE AND TAXATION

HB 1042

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1042**

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date **March 16, 2005**

Tape Number	Side A	Side B	Meter #
#1	X		0.2 - 6.0

Committee Clerk Signature



Minutes:

**CHAIRMAN URLACHER** CALLED THE COMMITTEE TO ORDER AND OPENED THE HEARING ON HB 1042.

**SEN. COOK:** appeared as prime sponsor stating HB 1042 deals with North Dakotas representation on the streamlined sales tax governing board.

**GARY ANDERSON:** Tax Dept. Appeared in support and presented some amendments and explained them. The governing board for the streamlined sales tax who will essentially be the primary board or the group that takes care of membership dealing with the agreement of self changes to the agreement, however there are several committees that operate in association with the governing board and 2 of those committees, 1 is the business and tax payer advisory council, its a business community full of taxpayers that basically provide advice back to the governing committee in regards to issues or concerns that apply to the agreement and membership issue. There is also a second committee called the State and Local Advisory Committee and that

particularly committee is going to be made up of membership of all participating states. All states that participate in the process whether they \_\_\_\_\_ or not, would have representation on this State and Local Council Advisory council as well. What we've done with our proposed amendments is we're suggesting on 1042 that we actually break it into 3 subsections. The first subsection of the bill would be essentially lines beginning with two members on line 7 through line 10 where it indicates the governing board, that sentence would be the first subsection. The second subsection on page 1 line 10 after board we would insert a new subsection and that subsection would state: one member of the House of Representatives and one member of the Senate to be appointed by the Chairman of the Legislative Council shall represent the State of ND on the streamlined sales tax state and local advisory council. The third subsection would pick up on line 10 where it indicates the Tax Commissioner shall designate, that would make up the third section and the only change to that would be at the very end of that sentence on line 21 where it indicates that the Tax Dept. Would accompany advise members on the board, we would add "or council" to be able to reflect both the governing board and the state and local advisory council. Essentially those are the amendments. I would mention that on the state and local advisory board that the governing board in addition to representation from each participating state will also nominate representation from the conference of mayors, the national league of cities, the national association of counties and the government finance office association. They'll also have representation that's appointed to this particular committee as well.

**SEN. COOK:** made a **MOTION TO ADOPT THE AMENDMENTS**, seconded by Sen. Bercier.

No further discussion.

Page 3  
Senate Finance and Taxation Committee  
Bill/Resolution Number HB 1042  
Hearing Date March 16, 2005

**VOICE VOTE: 5-0-1                      MOTION PASSES**

**SEN. COOK:** made a **MOTION FOR DO PASS AS AMENDED**, seconded by Sen. Wardner.

**ROLL CALL VOTE; 5-0-1                      Sen. Cook will carry the bill.**

March 16, 2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1042

Page 1, line 3, after "board" insert "and state and local advisory council"

Page 1, line 7, after "**board**" insert "**and state and local advisory council**" and after the period insert "1."

Page 1, line 10, after "board" insert "2. One member of the house of representatives and one member of the senate, to be appointed by the chairman of the legislative council, shall represent the state of North Dakota on the streamlined sales tax state and local advisory council. 3."

Page 1, line 13, after "board" insert "or council"

Renumber accordingly

Date: 3-16-05  
Roll Call Vote #: 1

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1042**

Senate

**Finance and Taxation**

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

*Adopt Amendments by the Dept*

Motion Made By

*Cook*

Seconded By

*Bercier*

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Bercier	✓	
Sen. Wardner	✓		Sen. Every	✓	
Sen. Cook	✓				
Sen. Tollefson					

*Voice  
Vote*

Total (Yes)

*5*

No

*0*

Absent

*1*

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 3-16-05  
Roll Call Vote #: 2

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1042**

Senate

Finance and Taxation

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

*Do Pass As Amended*

Motion Made By

*Cook*

Seconded By

*Wardner*

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Bercier	✓	
Sen. Wardner	✓		Sen. Every	✓	
Sen. Cook	✓				
Sen. Tollefson					

Total (Yes)

*5*

No

*0*

Absent

*1*

Floor Assignment

*Cook*

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1042: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1042 was placed on the Sixth order on the calendar.

Page 1, line 3, after "board" insert "and state and local advisory council"

Page 1, line 7, after "board" insert "and state and local advisory council" and after the boldfaced period insert:

"1."

Page 1, line 10, after the period insert:

"2. One member of the house of representatives and one member of the senate, to be appointed by the chairman of the legislative council, shall represent the state of North Dakota on the streamlined sales tax state and local advisory council.

3."

Page 1, line 13, after "board" insert "or council"

Renumber accordingly



2005 TESTIMONY

HB 1042

## Background

When a North Dakota resident makes a retail purchase from an out-of-state retailer by means of mail, telephone, or Internet and the purchased product is shipped to the purchaser in North Dakota, the purchaser has a tax obligation to North Dakota but the retailer has no obligation to collect North Dakota sales taxes on the purchase unless the retailer has nexus in the state of North Dakota. This situation results from interpretation of the commerce clause of the United States Constitution in a series of decisions of the United States Supreme Court, including the decision in *Quill v. North Dakota*.

In *Quill* the United States Supreme Court concluded that the commerce clause of the United States Constitution does not absolutely ban sales tax collection by out-of-state retailers but that states lack authority to require sales tax collection by remote retailers unless the United States Congress acts to give states that authority.

The sales tax is the primary state tax revenue source for most states. A growing portion of retail sales in the United States are escaping state sales taxes because mail order and Internet sales constitute a growing part of the retail economy. In addition, it is perceived as unfair competition to "main street" businesses, which must collect sales taxes and are placed at a competitive disadvantage against out-of-state retailers, who are not required to add sales taxes to the purchase price of products.

In the wake of the *Quill* decision, the National Governors Association, National Conference of State Legislatures, Multistate Tax Commission, and other groups urged a cooperative effort among sales tax states to promote nationwide uniformity in sales taxes. The most viable argument of Internet and mail order retailers against being required to collect sales taxes is that sales tax laws among states are impossible for retailers to deal with because of an incredible variety of differing provisions regarding sales tax exemptions, rates, caps, thresholds, and city and county sales taxes that differ from taxes imposed by states. To overcome these objections and gain authority from Congress to tax out-of-state retailers, states recognized that it was necessary to make their sales tax systems more uniform or "streamlined."

The Streamlined Sales Tax Project was initiated in March 2000 with meetings involving participation of 26 states, including North Dakota. By November 2002 the project had recommended a Streamlined Sales and Use Tax Agreement that participating states hoped could be implemented by 2006 to create uniform sales tax systems among states, with compatible sales tax exemptions and a limited number of sales tax rates to simplify sales tax collection by remote retailers. Participating states are hopeful that streamlining state tax systems will give states the leverage they need to convince Congress to authorize states to collect sales taxes from remote sellers. The Streamlined Sales Tax Project has received support from several large retailers engaged in mail order and Internet sales. A significant number of retailers have voluntarily agreed to register with states that have implemented the Streamlined Sales and Use Tax Agreement and to collect sales taxes on behalf of those states. For states, the stakes for success of the goals of the Streamlined Sales Tax Project are enormous. It is estimated that about \$27 million per year in additional sales tax collections would result for North Dakota if purchases from out-of-state retailers were subject to North Dakota sales taxes.

The November 2002 Streamlined Sales and Use Tax Agreement was the basis for enactment in North Dakota of Senate Bill No. 2095 (2003) and Senate Bill No. 2096 (2003). The North Dakota complying legislation becomes effective January 1, 2006, as required by the agreement.

To date, 21 states have enacted legislation to comply with the Streamlined Sales and Use Tax Agreement. Almost an equal number of states are considering legislation to comply with the agreement.

Upon adoption by states representing a sufficient percentage of United States population, a governing board of participating states will be established and North Dakota hopes to be one of the states represented on the governing board.

### **Committee Consideration**

Tax Department staff pointed out several areas in which North Dakota law must be adjusted to be in compliance with the Streamlined Sales and Use Tax Agreement by the 2006 implementation date. The additional 1 percent lodging tax created in 2003 for Lewis and Clark Bicentennial funding is perceived as a provision not in compliance with the Streamlined Sales and Use Tax Agreement. It was suggested that converting the tax to a gross receipts tax would resolve the noncompliance problem.

It was pointed out that city and county home rule sales tax provisions are not in compliance with the Streamlined Sales and Use Tax Agreement to the extent that city and county sales taxes are generally limited to a maximum of \$25 on a purchase. The North Dakota League of Cities supports the effort to streamline sales taxes but has concerns with placing cities in the position of having to go through the difficulty and expense of going to the voters to change provisions of local sales tax laws. It was suggested that a state legislative solution would be welcomed to bring home rule sales tax provisions into compliance with the Streamlined Sales and Use Tax Agreement. Some of these changes can be accomplished by changing nomenclature for taxes on farm machinery and alcoholic beverages from sales taxes to gross receipts taxes. Probably the most significant change relates to the maximum sales tax for a single purchase. Representatives of the Tax Department and League of Cities agreed that compliance with the Streamlined Sales and Use Tax Agreement could be achieved by requiring retailers to collect the full amount of sales tax on a purchase and to allow the purchaser to claim a refund from the Tax Commissioner for the difference between the amount paid and the amount that would have been due with the city or county cap in place. Tax Department representatives said no additional administrative cost is expected for the Tax Department to provide refunds in these situations.

Tax Department representatives identified for the committee additional areas for technical changes in sales and use tax provisions to bring the state into compliance with the Streamlined Sales and Use Tax Agreement. Representatives of the states participating in the Streamlined Sales and Use Tax Agreement reviewed the suggested North Dakota changes and concluded that these changes would bring North Dakota into full compliance with the Streamlined Sales and Use Tax Agreement if they become effective January 1, 2006.

### **Recommendations**

The committee recommends House Bill No. 1042 to provide for North Dakota membership on the streamlined sales tax governing board. The Legislative Council chairman would appoint two members of the House of Representatives and two members of the Senate. The Tax Commissioner would designate a Tax Department staff person to accompany and advise the North Dakota members.

The committee recommends House Bill No. 1043 to bring North Dakota into compliance with the Streamlined Sales and Use Tax Agreement. The bill inserts appropriate statutory references to farm machinery and alcoholic beverage gross receipts taxes to allow those taxes to continue to be collected by cities and counties at the same rate as they are currently collected under the sales tax. The bill provides that any city or county home rule taxes on farm machinery, farm irrigation equipment, farm machinery repair parts, or alcoholic beverages become gross receipts taxes on January 1, 2006. The bill provides that a cap provided by city or county home rule for sales taxes on purchase of a single item will be replaced effective January 1, 2006, with a refund provision requiring the retailer to collect the full

amount of city or county sales taxes and allowing the purchaser to claim a refund of the difference between the full amount paid and the amount that would have been paid if the cap were in place. These changes are made for all home rule cities and counties to avoid forcing cities and counties to each conduct an election for approval of these changes. The bill provides changes in sales and use tax definitions. The bill creates a section to provide that sales taxes will continue to apply to cigarettes, cigars, and other tobacco products, which was inadvertently eliminated by the 2003 legislation. The bill creates use tax imposition provisions for the farm machinery gross receipts tax and alcoholic beverage gross receipts tax which were created in 2003 but did not include use tax provisions. The bill changes the 1 percent lodging tax for Lewis and Clark Bicentennial funding into a gross receipts tax to satisfy the requirements of the Streamlined Sales and Use Tax Agreement. The revenue from the tax will still be used for the same purposes as were provided in the legislation that established the tax. The bill would become effective January 1, 2006, as required by the Streamlined Sales and Use Tax Agreement. The Tax Department estimates no fiscal effect from enactment of the bill.

STREAMLINED SALES & USE TAX

Sen. Cook  
HB1042

Quill Corp. v North Dakota

The 1992 U.S. Supreme Court case *Quill Corp. v. North* provided the basis for the Streamlined Sales Tax Project. This court decision prohibited states from imposing sales or use tax on remote sellers that do not have a physical presence (nexus) in states they do business.

Quill Corporation sells office supplies using catalogs, telephone solicitation, and internet. In 1992, Quill sold approximately \$1 million worth of product to about 3,000 North Dakota customers. However, Quill did not have a physical presence in North Dakota, and therefore, did not collect North Dakota sales or use taxes. Identifying and insuring the remittance of use tax from the North Dakota customers was difficult or impossible.

When the U.S. Supreme Court looked at the imposition of sales and use taxes by states, such as North Dakota, the Court determined the differences in the administration of sales and use taxes by individual states and local taxing jurisdictions were cumbersome enough that they would impose an unconstitutional burden on businesses operating in interstate commerce. This resulted in a ruling that stated only those retailers having a physical presence in a state could be required to collect and remit that state's sales and use tax, unless Congressional action provides such authority.

It was in response to the Court's decision that states began to look at ways to simplify and modernize sales and use tax systems, and subsequent counter the unconstitutional burden recognized by the Court. These discussions led to the organization of the Streamlined Sales Tax Project in March 2000.

The Streamlined Sales Tax Project is an effort created by state governments, with input from local governments and the business community, to simplify and modernize sales and use tax collection and administration, and yet maintain state sovereignty. Forty-two states and the District of Columbia are involved in the Project. Forty-five states and the District of Columbia impose a sales and use tax.

**CHAPTER 542****SENATE BILL NO. 2455**

(Senators Cook, Nething)

(Approved by the Delayed Bills Committee)

**SIMPLIFIED SALES AND USE TAX ADMINISTRATION  
ACT**

AN ACT to adopt a Simplified Sales and Use Tax Administration Act.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. Definitions.** As used in this Act:

1. "Agreement" means the streamlined sales and use tax agreement.
2. "Certified automated system" means software certified jointly by the states that are signatories to the agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.
3. "Certified service provider" means an agent certified jointly by the states that are signatories to the agreement to perform all of the seller's sales tax functions.
4. "Person" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity.
5. "Sales tax" means the tax levied under chapter 57-39.2.
6. "Seller" means any person making sales, leases, or rentals of personal property or services.
7. "State" means any state of the United States and the District of Columbia.
8. "Use tax" means the tax levied under chapter 57-40.2.

**SECTION 2. Participation in multistate discussions.** For reviewing or amending the agreement embodying the provisions contained in section 5 of this Act, the state shall enter into multistate discussions. For purposes of such discussions, the state must be represented by two members of the house of representatives and two members of the senate, to be appointed by the chairman of the legislative council. The tax commissioner shall designate a member of the tax commissioner's staff to accompany and advise the members appointed under this section with regard to reviewing or amending the agreement.

**SECTION 3. Tax commissioner may enter agreement.** Upon prior approval of the agreement by the legislative assembly, the tax commissioner may enter into the streamlined sales and use tax agreement with one or more states to simplify and modernize sales and use tax administration in order to substantially

reduce the burden of tax compliance for all sellers and for all types of commerce. In furtherance of the agreement, the tax commissioner may act jointly with other states that are members of the agreement to establish standards for certification of a certified service provider and certified automated system and establish performance standards for multistate sellers.

The tax commissioner may take other actions reasonably required to implement this Act. Other actions authorized by this section include the adoption of rules and the joint procurement, with other member states, of goods and services in furtherance of the cooperative agreement.

The tax commissioner or the tax commissioner's designee is authorized to represent this state before the other states that are signatories to the agreement.

**SECTION 4. Relationship to state law.** A provision of the agreement authorized by this Act does not invalidate or amend, in whole or in part, any provision of the law of this state. Adoption of the agreement by this state does not amend or modify any law of this state. Implementation of any condition of the agreement in this state, whether adopted before, at, or after membership of this state in the agreement, must be by the action of this state.

**SECTION 5. Agreement requirements.** The streamlined sales and use tax agreement must include provisions relating to a simplified state rate; uniform standards for sourcing of transactions, exempt sales, and returns and remittances; central registration for sellers; monetary allowances for certified service providers and sellers implementing new technological models; consumer privacy; and state administration of local sales and use taxes.

**SECTION 6. Cooperating sovereigns.** The agreement authorized by this Act is an accord among individual cooperating sovereigns in furtherance of their governmental functions. The agreement provides a mechanism among the member states to establish and maintain a cooperative, simplified system for the application and administration of sales and use taxes under the duly adopted law of each member state.

**SECTION 7. Limited binding and beneficial effect.**

1. The agreement authorized by this Act binds and inures only to the benefit of this state and the other member states. A person, other than a member state, is not an intended beneficiary of the agreement. Any benefit to a person other than a state is established by the law of this state and the other member states and not by the terms of the agreement.
2. Consistent with subsection 1, a person does not have any cause of action or defense under the agreement or by virtue of this state's approval of the agreement. A person may not challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of this state, or any political subdivision of this state on the ground that the action or inaction is inconsistent with the agreement.
3. A law of this state, or the application of a law, may not be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the agreement.

**SECTION 8. Seller and third-party liability.**

1. A certified service provider is the agent of a seller, with whom the certified service provider has contracted, for the collection and remittance of sales and use taxes. As the seller's agent, the certified service provider is liable for sales and use tax due each member state on all sales transactions it processes for the seller except as set out in this section.

A seller who contracts with a certified service provider is not liable to the state for sales or use tax due on transactions processed by the certified service provider unless the seller misrepresented the type of items it sells or committed fraud. In the absence of probable cause to believe that the seller has committed fraud or made a material misrepresentation, the seller is not subject to audit on the transactions processed by the certified service provider. A seller is subject to audit for transactions not processed by the certified service provider. The member states acting jointly may perform a system check of the seller and review the seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by the certified service provider.

2. A person who provides a certified automated system is responsible for the proper functioning of that system and is liable to the state for underpayments of tax attributable to errors in the functioning of the certified automated system. A seller who uses a certified automated system remains responsible and is liable to the state for reporting and remitting tax.
3. A seller who has a proprietary system for determining the amount of tax due on transactions and has signed an agreement establishing a performance standard for that system is liable for the failure of the system to meet the performance standard.

Approved April 23, 2001  
Filed April 23, 2001





# Streamlined Sales Tax Project

## Executive Summary

April 2004

### Steering Committee

Diane Hardt  
Co-Chair  
Wisconsin

Scott Peterson  
Co-Chair  
South Dakota

Carol Fischer  
Missouri

Arnold Fox  
New Jersey

Bruce Johnson  
Utah

Eleanor Kim  
Texas

Tom Kimmett  
Pennsylvania

Marshall Stranburg  
Florida

The Streamlined Sales Tax Project is an effort created by state governments, with input from local governments and the private sector, to simplify and modernize sales and use tax collection and administration. The Project's proposals include tax law simplifications, more efficient administrative procedures, and emerging technologies to substantially reduce the burden of tax collection. The Project's proposals are focused on improving sales and use tax administration systems for both Main Street and remote sellers for all types of commerce.

Forty-two states and the District of Columbia are involved in the Project. Forty-five states and the District of Columbia impose a sales and use tax.

The Project was organized in March 2000. The Project is conducting its work through a steering committee with co-chairs, and a number of work groups. Project participants are generally state revenue department administrators but there are also representatives of state legislatures and local governments. Businesses — including national retailers, trade associations, manufacturers, direct marketers, telecommunications companies, leasing companies, technology companies, printers, accounting firms, and others — have actively participated in the Project by offering expertise and input, reviewing proposals, suggesting language, and testifying at public hearings.

The goal of the Streamlined Sales Tax Project is to provide states with a Streamlined Sales Tax System that includes the following key features:

- **Uniform definitions within tax laws.** Legislatures still choose what is taxable or exempt in their state. However, participating states will agree to use the common definitions for key items in the tax base and will not deviate from these definitions. As states move from their current definitions to the Project's definitions, a certain amount of impact on state revenues is inevitable. However, it is the intent of the Project to provide states with the ability to closely mirror their existing tax bases through common definitions.
- **Rate simplification.** States will be allowed one state rate and a second state rate in limited circumstances (food and drugs). Each local jurisdiction will be allowed one local rate. A state or local government may not choose to tax telecommunications services, for example, at one rate and all other items of tangible personal property or taxable services at another rate. State and local governments will accept responsibility for notice of rate and boundary

changes at restricted times. States will provide an on-line rate/jurisdiction database to simplify rate determinations.

- **State level tax administration of all state and local sales and use taxes.** Businesses will no longer file tax returns with each local government within which it conducts business in a state. Each state will provide a central point of administration for all state and local sales and use taxes and the distribution of the local taxes to the local governments. A state and its local governments will use common tax bases.
- **Uniform sourcing rules.** The states will have uniform and simple rules for how they will source transactions to state and local governments. The uniform rules will be destination/delivery based and uniform for tangible personal property, digital property, and services. Special sourcing rules will be developed for unique industries.
- **Simplified exemption administration for use- and entity-based exemptions.** Sellers are relieved of the "good faith" requirements that exist in current law and will not be liable for uncollected tax. Purchasers will be responsible for paying the tax, interest and penalties for claiming incorrect exemptions. States will have a uniform exemption certificate in paper and electronic form.
- **Uniform audit procedures.** Sellers who participate in one of the certified Streamlined Sales Tax System technology models will either not be audited or will have limited scope audits, depending on the technology model used. The states may conduct joint audits of large multi-state businesses.
- **State funding of the system.** To reduce the financial burdens on sellers, states will assume responsibility for funding some of the technology models. The states are also participating in a joint business – government study of the costs of collection on sellers.

The Project proposes that states change their sales and use tax laws to conform with the simplifications as proposed by the Project. Thus, the simplifications would apply to all sellers. Sellers who do not have a physical presence or "nexus" are not required to collect sales and use taxes unless Congress chooses to require collection from all sellers for all types of commerce. Sellers without a physical presence can volunteer to collect under the proposed simplifications. Registration by sellers to voluntarily collect sales and use taxes will not infer that the business must pay business activity taxes, such as the corporate franchise or income tax.

The Streamlined Sales Tax System will provide sellers the opportunity to use one of three technology models. A seller may use Model 1 where a Certified Service Provider, compensated by the states, will perform all of the seller's sales tax

functions. A seller may use Model 2, a Certified Automated System, to perform only the tax calculation function. A larger seller with nationwide sales that has developed its own proprietary sales tax software may use Model 3 and have its own system certified by the states collectively. However, some sellers may choose to continue to use their current systems and still enjoy the benefits of the Project's simplifications.

The Streamlined Sales Tax Project envisions two components to the legislation necessary to accomplish the Project's goals. First, states would adopt enabling legislation referred to as the Uniform Sales and Use Tax Administration Act ("Act"). The Act allows the state to enter into an agreement with one or more states to simplify and modernize sales and use tax administration in order to reduce the burden of tax compliance for all sellers and all types of commerce. The Act does not require any amendments to a state's sales and use tax law.

Secondly, states would amend or modify their sales and use tax laws to achieve the simplifications and uniformity required by the participating states working together. The Project refers to this legislation as the Streamlined Sales and Use Tax Agreement ("Agreement"). Some states will require only minor changes to current law to implement the requirements of the Agreement. Other states with more complicated sales tax laws may require significant changes to current law to be in accord with the Agreement.

A certificate of compliance will document each state's compliance with the provisions of the Agreement and cite applicable statutes, rules or regulations, or other authorities supporting such compliance. Public notice and comment will be provided before a state becomes part of the interstate Agreement. A state is in compliance with the Agreement if the effect of the state's laws, rules or regulations, and policies is substantially compliant with each of the requirements of the Agreement. If a state is found to be out of compliance with the Agreement, it will not be accepted into the interstate Agreement or will be sanctioned or expelled by the other participating states. In a voluntary system, sellers who are voluntarily collecting sales taxes for participating states may decide to no longer collect for the expelled state. Also, that state may not have a vote on changes in the Agreement.

A governing board will be comprised of representatives of each member state of the Agreement. Each member state is entitled to one vote on the governing board. The governing board is responsible for interpretations of the Agreement, amendments to the Agreement, and issue resolution. A State and Local Government Advisory Council and a Business and Taxpayer Advisory Council from the private sector will advise the governing board.

On November 12, 2002, thirty states and the District of Columbia approved the interstate Agreement provisions. As of April 2004, twenty states have moved forward and enacted all or part of the conforming legislation.

It's anticipated that states that enacted the conforming legislation and are found to be in compliance with the Agreement will continue as the governing states of the interstate Agreement of the future. States will verify compliance with the requirements of the Agreement in 2004.

The project website is [www.streamlinedsalestax.org](http://www.streamlinedsalestax.org).

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# **STREAMLINED SALES AND USE TAX AGREEMENT**

**Adopted November 12, 2002**

**(As amended November 19, 2003)**

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**ARTICLE I**  
**PURPOSE AND PRINCIPLE**

**Section 101: TITLE**

This multistate Agreement shall be referred to, cited, and known as the Streamlined Sales and Use Tax Agreement.

**Section 102: FUNDAMENTAL PURPOSE**

It is the purpose of this Agreement to simplify and modernize sales and use tax administration in the member states in order to substantially reduce the burden of tax compliance. The Agreement focuses on improving sales and use tax administration systems for all sellers and for all types of commerce through all of the following:

- A. State level administration of sales and use tax collections.
- B. Uniformity in the state and local tax bases.
- C. Uniformity of major tax base definitions.
- D. Central, electronic registration system for all member states.
- E. Simplification of state and local tax rates.
- F. Uniform sourcing rules for all taxable transactions.
- G. Simplified administration of exemptions.
- H. Simplified tax returns.
- I. Simplification of tax remittances.
- J. Protection of consumer privacy.

**Section 103: TAXING AUTHORITY PRESERVED**

This Agreement shall not be construed as intending to influence a member state to impose a tax on or provide an exemption from tax for any item or service. However, if a member state chooses to tax an item or exempt an item from tax, that state shall adhere to the provisions concerning definitions as set out in Article III of this Agreement.

1   **Section 104: DEFINED TERMS**

2   This Agreement defines terms for use within the Agreement and for application in the sales and  
3   use tax laws of the member states. The definition of a term is not intended to influence the  
4   interpretation or application of that term with respect to other tax types.

5  
6   An alphabetical list of all the terms defined in the Agreement and their location in the Agreement  
7   is found in Appendix B of this Agreement, the Index of Definitions. Terms defined for use  
8   within this Agreement are set out in Article II of the Agreement. Many of the uniform definitions  
9   for application in the sales and use tax laws of the member states are set out in Appendix C of  
10   this Agreement, the Library of Definitions. Definitions that are not set out in Appendix C are  
11   defined when applied in a particular section of the Agreement and are set out in that section of  
12   the Agreement. The appendices have the same effect as the Articles in the Agreement.

13  
14   **Section 105: TREATMENT OF VENDING MACHINES**

15   The provisions of the Agreement do not apply to vending machines sales. The Agreement does  
16   not restrict how a member state taxes vending machine sales.

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1   **Section 209: PRODUCT-BASED EXEMPTION**

2   An exemption based on the description of the product and not based on who purchases the  
3   product or how the purchaser intends to use the product.

4   **Section 210: PURCHASER**

5   A person to whom a sale of personal property is made or to whom a service is furnished.

6   **Section 211: REGISTERED UNDER THIS AGREEMENT**

7   Registration by a seller with the member states under the central registration system provided in  
8   Article IV of this Agreement.

9   **Section 212: SELLER**

10   A person making sales, leases, or rentals of personal property or services.

11   **Section 213: STATE**

12   Any state of the United States and the District of Columbia.

13   **Section 214: USE-BASED EXEMPTION**

14   An exemption based on the purchaser's use of the product.

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**ARTICLE III**

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**REQUIREMENTS EACH STATE MUST ACCEPT TO PARTICIPATE**

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**Section 301: STATE LEVEL ADMINISTRATION**

25 Each member state shall provide state level administration of sales and use taxes. The state level  
26 administration may be performed by a member state's Tax Commission, Department of Revenue,  
27 or any other single entity designated by state law. Sellers are only required to register with, file  
28 returns with, and remit funds to the state level authority. Each member state shall provide for  
29 collection of any local taxes and distribution of them to the appropriate taxing jurisdictions.

30 Each member state shall conduct, or authorize others to conduct on its behalf, all audits of the  
sellers registered under the Agreement for that state's tax and the tax of its local jurisdictions,  
and local jurisdictions shall not conduct independent sales or use tax audits of sellers registered  
under the Agreement.

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**Section 302: STATE AND LOCAL TAX BASES**

Through December 31, 2005, if a member state has local jurisdictions that levy a sales or use tax,  
all local jurisdictions in the state shall have a common tax base. After December 31, 2005, the  
tax base for local jurisdictions shall be identical to the state tax base unless otherwise prohibited  
by federal law. This section does not apply to sales or use taxes levied on the retail sale or  
transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile  
homes.

**Section 303: SELLER REGISTRATION**

Each member state shall participate in an online sales and use tax registration system in  
cooperation with the other member states. Under this system:

- A. A seller registering under the Agreement is registered in each of the member states.
- B. The member states agree not to require the payment of any registration fees or other  
charges for a seller to register in a state in which the seller has no legal requirement to  
register.

- 1 C. A written signature from the seller is not required.
- 2 D. An agent may register a seller under uniform procedures adopted by the member states.
- 3 E. A seller may cancel its registration under the system at any time under uniform
- 4 procedures adopted by the governing board. Cancellation does not relieve the seller of its
- 5 liability for remitting to the proper states any taxes collected.

#### 7 **Section 304: NOTICE FOR STATE TAX CHANGES**

- 8 A. Each member state shall lessen the difficulties faced by sellers when there is a change in
- 9 a state sales or use tax rate or base by making a reasonable effort to do all of the
- 10 following:
  - 11 1. Provide sellers with as much advance notice as practicable of a rate change.
  - 12 2. Limit the effective date of a rate change to the first day of a calendar quarter.
  - 13 3. Notify sellers of legislative changes in the tax base and amendments to sales and use
  - 14 tax rules and regulations.
- 15 B. Failure of a seller to receive notice or failure of a member state to provide notice or limit
- 16 the effective date of a rate change shall not relieve the seller of its obligation to collect
- 17 sales or use taxes for that member state.

#### 19 **Section 305: LOCAL RATE AND BOUNDARY CHANGES**

20 Each member state that has local jurisdictions that levy a sales or use tax shall:

- 21 A. Provide that local rate changes will be effective only on the first day of a calendar
- 22 quarter after a minimum of sixty days' notice to sellers.
- 23 B. Apply local sales tax rate changes to purchases from printed catalogs wherein the
- 24 purchaser computed the tax based upon local tax rates published in the catalog only on
- 25 the first day of a calendar quarter after a minimum of one hundred twenty days' notice to
- 26 sellers.
- 27 C. For sales and use tax purposes only, apply local jurisdiction boundary changes only on
- 28 the first day of a calendar quarter after a minimum of sixty days' notice to sellers.



- 1 D. Provide and maintain a database that describes boundary changes for all taxing  
2 jurisdictions. This database shall include a description of the change and the effective  
3 date of the change for sales and use tax purposes.
- 4 E. Provide and maintain a database of all sales and use tax rates for all of the jurisdictions  
5 levying taxes within the state. For the identification of states, counties, cities, and  
6 parishes, codes corresponding to the rates must be provided according to Federal  
7 Information Processing Standards (FIPS) as developed by the National Institute of  
8 Standards and Technology. For the identification of all other jurisdictions, codes  
9 corresponding to the rates must be in the format determined by the governing board.
- 10 F. Provide and maintain a database that assigns each five digit and nine digit zip code  
11 within a member state to the proper tax rates and jurisdictions. The state must apply the  
12 lowest combined tax rate imposed in the zip code area if the area includes more than one  
13 tax rate in any level of taxing jurisdictions. If a nine digit zip code designation is not  
14 available for a street address or if a seller is unable to determine the nine digit zip code  
15 designation of a purchaser after exercising due diligence to determine the designation,  
16 the seller may apply the rate for the five digit zip code area. For the purposes of this  
17 section, there is a rebuttable presumption that a seller has exercised due diligence if the  
18 seller has attempted to determine the nine digit zip code designation by utilizing  
19 software approved by the governing board that makes this designation from the street  
20 address and the five digit zip code of the purchaser.
- 21 G. Participate with other member states in the development of an address-based system for  
22 assigning taxing jurisdictions. The system must meet the requirements developed  
23 pursuant to the federal Mobile Telecommunications Sourcing Act (4 U.S.C. Sec. 119).  
24 The governing board may allow a member state to require sellers that register under this  
25 Agreement to use an address-based system provided by that member state. If any  
26 member state develops an address-based assignment system pursuant to the Mobile  
27 Telecommunications Sourcing Act, a seller may use that system in place of the system  
28 provided for in subsection (F) of this section.
- 29

1   **Section 306: RELIEF FROM CERTAIN LIABILITY**

2   Each member state shall relieve sellers and CSPs from liability to the member state and local  
3   jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting  
4   from the seller or CSP relying on erroneous data provided by a member state on tax rates,  
5   boundaries, or taxing jurisdiction assignments. A member state that provides an address-based  
6   system for assigning taxing jurisdictions pursuant to Section 305, subsection (G) or pursuant to  
7   the federal Mobile Telecommunications Sourcing Act will not be required to provide liability  
8   relief for errors resulting from the reliance on the information provided by the member state  
9   under the provisions of Section 305, subsection (F).

10  
11   **Section 307: DATABASE REQUIREMENTS AND EXCEPTIONS**

- 12   A.     The electronic databases provided for in Section 305, subsections (D), (E), (F), and (G)  
13         shall be in a downloadable format approved by the governing board.
- 14   B.     The provisions of Section 305, subsections (F) and (G) do not apply when the purchased  
15         product is received by the purchaser at the business location of the seller.
- 16   C.     The databases provided by Section 305, subsections (D), (E), and (F) are not a  
17         requirement of a state prior to entering into the Agreement. The governing board shall  
18         establish the effective dates for availability and use of the databases.

19  
20   **Section 308: STATE AND LOCAL TAX RATES**

- 21   A.     No member state shall have multiple state sales and use tax rates on items of personal  
22         property or services after December 31, 2005, except that a member state may impose a  
23         single additional rate, which may be zero, on food and food ingredients and drugs as  
24         defined by state law pursuant to the Agreement.
- 25   B.     A member state that has local jurisdictions that levy a sales or use tax shall not have  
26         more than one local sales tax rate or more than one local use tax rate per local  
27         jurisdiction. If the local jurisdiction levies both a sales tax and use tax, the local rates  
28         must be identical.
- 29   C.     The provisions of this section do not apply to sales or use taxes levied on electricity,  
30         piped natural or artificial gas, or other heating fuels delivered by the seller, or the retail

1 sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured  
2 homes, or mobile homes.  
3

4 **Section 309: APPLICATION OF GENERAL SOURCING RULES AND EXCLUSIONS**  
5 **FROM THE RULES**

6 A. Each member state shall agree to require sellers to source the retail sale of a product in  
7 accordance with Section 310. The provisions of Section 310 apply regardless of the  
8 characterization of a product as tangible personal property, a digital good, or a service.  
9 The provisions of Section 310 only apply to determine a seller's obligation to pay or  
10 collect and remit a sales or use tax with respect to the seller's retail sale of a product.  
11 These provisions do not affect the obligation of a purchaser or lessee to remit tax on the  
12 use of the product to the taxing jurisdictions of that use.

13 B. Section 310 does not apply to sales or use taxes levied on the following:

- 14 1. The retail sale or transfer of watercraft, modular homes, manufactured homes, or  
15 mobile homes. These items must be sourced according to the requirements of each  
16 member state.
  - 17 2. The retail sale, excluding lease or rental, of motor vehicles, trailers, semi-trailers, or  
18 aircraft that do not qualify as transportation equipment, as defined in Section 310,  
19 subsection (D). The retail sale of these items shall be sourced according to the  
20 requirements of each member state, and the lease or rental of these items must be  
21 sourced according to Section 310, subsection (C).
  - 22 3. Telecommunications services, as set out in Section 315, shall be sourced in  
23 accordance with Section 314.
  - 24 4. Until December 31, 2005, florist sales as defined by each member state. Prior to this  
25 date, these items must be sourced according to the requirements of each member  
26 state.
- 27

28 **Section 310: GENERAL SOURCING RULES**

29 A. The retail sale, excluding lease or rental, of a product shall be sourced as follows:

1. When the product is received by the purchaser at a business location of the seller, the sale is sourced to that business location.
  2. When the product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser (or the purchaser's donee, designated as such by the purchaser) occurs, including the location indicated by instructions for delivery to the purchaser (or donee), known to the seller.
  3. When subsections (A)(1) and (A)(2) do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.
  4. When subsections (A)(1), (A)(2), and (A)(3) do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.
  5. When none of the previous rules of subsections (A)(1), (A)(2), (A)(3), or (A)(4) apply, including the circumstance in which the seller is without sufficient information to apply the previous rules, then the location will be determined by the address from which tangible personal property was shipped, from which the digital good or the computer software delivered electronically was first available for transmission by the seller, or from which the service was provided (disregarding for these purposes any location that merely provided the digital transfer of the product sold).
- B. The lease or rental of tangible personal property, other than property identified in subsection (C) or subsection (D), shall be sourced as follows:
1. For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with the provisions of subsection (A). Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property

1 location shall not be altered by intermittent use at different locations, such as use of  
2 business property that accompanies employees on business trips and service calls.

3 2. For a lease or rental that does not require recurring periodic payments, the payment is  
4 sourced the same as a retail sale in accordance with the provisions of subsection (A).

5 3. This subsection does not affect the imposition or computation of sales or use tax on  
6 leases or rentals based on a lump sum or accelerated basis, or on the acquisition of  
7 property for lease.

8 C. The lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify  
9 as transportation equipment, as defined in subsection (D), shall be sourced as follows:

10 1. For a lease or rental that requires recurring periodic payments, each periodic payment  
11 is sourced to the primary property location. The primary property location shall be as  
12 indicated by an address for the property provided by the lessee that is available to the  
13 lessor from its records maintained in the ordinary course of business, when use of this  
14 address does not constitute bad faith. This location shall not be altered by intermittent  
15 use at different locations.

16 2. For a lease or rental that does not require recurring periodic payments, the payment is  
17 sourced the same as a retail sale in accordance with the provisions of subsection (A).

18 3. This subsection does not affect the imposition or computation of sales or use tax on  
19 leases or rentals based on a lump sum or accelerated basis, or on the acquisition of  
20 property for lease.

21 D. The retail sale, including lease or rental, of transportation equipment shall be sourced the  
22 same as a retail sale in accordance with the provisions of subsection (A),  
23 notwithstanding the exclusion of lease or rental in subsection (A). "Transportation  
24 equipment" means any of the following:

25 1. Locomotives and railcars that are utilized for the carriage of persons or property in  
26 interstate commerce.

27 2. Trucks and truck-tractors with a Gross Vehicle Weight Rating (GVWR) of 10,001  
28 pounds or greater, trailers, semi-trailers, or passenger buses that are:

29 a. Registered through the International Registration Plan; and

1           b. Operated under authority of a carrier authorized and certificated by the U.S.  
2           Department of Transportation or another federal authority to engage in the  
3           carriage of persons or property in interstate commerce.

4       3.    Aircraft that are operated by air carriers authorized and certificated by the U.S.  
5           Department of Transportation or another federal or a foreign authority to engage in  
6           the carriage of persons or property in interstate or foreign commerce.

7       4.    Containers designed for use on and component parts attached or secured on the items  
8           set forth in subsections (D)(1) through (D)(3).  
9

#### 10   **Section 311: GENERAL SOURCING DEFINITIONS**

11   For the purposes of Section 310, subsection (A), the terms "receive" and "receipt" mean:

12   A.    Taking possession of tangible personal property,

13   B.    Making first use of services, or

14   C.    Taking possession or making first use of digital goods, whichever comes first.

15   The terms "receive" and "receipt" do not include possession by a shipping company on behalf of  
16   the purchaser.

#### 17 18   **Section 312: MULTIPLE POINTS OF USE**

19   Notwithstanding the provisions of Section 310, a business purchaser that is not a holder of a  
20   direct pay permit that knows at the time of its purchase of a digital good, computer software  
21   delivered electronically, or a service that the digital good, computer software delivered  
22   electronically, or service will be concurrently available for use in more than one jurisdiction shall  
23   deliver to the seller in conjunction with its purchase a form disclosing this fact ("Multiple Points  
24   of Use or MPU" Exemption Form).

25   A.    Upon receipt of the MPU Exemption Form, the seller is relieved of all obligation to  
26           collect, pay, or remit the applicable tax and the purchaser shall be obligated to collect,  
27           pay, or remit the applicable tax on a direct pay basis.

28   B.    A purchaser delivering the MPU Exemption Form may use any reasonable, but  
29           consistent and uniform, method of apportionment that is supported by the purchaser's  
30           business records as they exist at the time of the consummation of the sale.

1 C. The MPU Exemption Form will remain in effect for all future sales by the seller to the  
2 purchaser (except as to the subsequent sale's specific apportionment that is governed by  
3 the principle of subsection (B) and the facts existing at the time of the sale) until it is  
4 revoked in writing.

5 D. A holder of a direct pay permit shall not be required to deliver a MPU Exemption Form  
6 to the seller. A direct pay permit holder shall follow the provisions of subsection (B) in  
7 apportioning the tax due on a digital good or a service that will be concurrently available  
8 for use in more than one jurisdiction.  
9

10 **Section 313: DIRECT MAIL SOURCING**

11 A. Notwithstanding Section 310, a purchaser of direct mail that is not a holder of a direct  
12 pay permit shall provide to the seller in conjunction with the purchase either a Direct  
13 Mail Form or information to show the jurisdictions to which the direct mail is delivered  
14 to recipients.

15 1. Upon receipt of the Direct Mail Form, the seller is relieved of all obligations to  
16 collect, pay, or remit the applicable tax and the purchaser is obligated to pay or remit  
17 the applicable tax on a direct pay basis. A Direct Mail Form shall remain in effect for  
18 all future sales of direct mail by the seller to the purchaser until it is revoked in  
19 writing.

20 2. Upon receipt of information from the purchaser showing the jurisdictions to which  
21 the direct mail is delivered to recipients, the seller shall collect the tax according to  
22 the delivery information provided by the purchaser. In the absence of bad faith, the  
23 seller is relieved of any further obligation to collect tax on any transaction where the  
24 seller has collected tax pursuant to the delivery information provided by the  
25 purchaser.

26 B. If the purchaser of direct mail does not have a direct pay permit and does not provide the  
27 seller with either a Direct Mail Form or delivery information, as required by subsection  
28 (A) of this section, the seller shall collect the tax according to Section 310, subsection  
29 (A)(5). Nothing in this paragraph shall limit a purchaser's obligation for sales or use tax  
30 to any state to which the direct mail is delivered.

- 1 C. If a purchaser of direct mail provides the seller with documentation of direct pay  
2 authority, the purchaser shall not be required to provide a Direct Mail Form or delivery  
3 information to the seller.  
4

5 **Section 314: TELECOMMUNICATION SOURCING RULE**

- 6 A. Except for the defined telecommunication services in subsection (C), the sale of  
7 telecommunication service sold on a call-by-call basis shall be sourced to (i) each level  
8 of taxing jurisdiction where the call originates and terminates in that jurisdiction or (ii)  
9 each level of taxing jurisdiction where the call either originates or terminates and in  
10 which the service address is also located.

- 11 B. Except for the defined telecommunication services in subsection (C), a sale of  
12 telecommunications services sold on a basis other than a call-by-call basis, is sourced to  
13 the customer's place of primary use.

- 14 C. The sale of the following telecommunication services shall be sourced to each level of  
15 taxing jurisdiction as follows:

- 16 1. A sale of mobile telecommunications services other than air-to-ground radiotelephone  
17 service and prepaid calling service, is sourced to the customer's place of primary use  
18 as required by the Mobile Telecommunications Sourcing Act.
- 19 2. A sale of post-paid calling service is sourced to the origination point of the  
20 telecommunications signal as first identified by either (i) the seller's  
21 telecommunications system, or (ii) information received by the seller from its service  
22 provider, where the system used to transport such signals is not that of the seller.
- 23 3. A sale of prepaid calling service is sourced in accordance with Section 310. Provided  
24 however, in the case of a sale of mobile telecommunications service that is a prepaid  
25 telecommunications service, the rule provided in Section 310, subsection (A)(5) shall  
26 include as an option the location associated with the mobile telephone number.
- 27 4. A sale of a private communication service is sourced as follows:
- 28 a. Service for a separate charge related to a customer channel termination point is  
29 sourced to each level of jurisdiction in which such customer channel termination  
30 point is located.



- 1 b. Service where all customer termination points are located entirely within one  
2 jurisdiction or levels of jurisdiction is sourced in such jurisdiction in which the  
3 customer channel termination points are located.
- 4 c. Service for segments of a channel between two customer channel termination points  
5 located in different jurisdictions and which segment of channel are separately charged  
6 is sourced fifty percent in each level of jurisdiction in which the customer channel  
7 termination points are located.
- 8 d. Service for segments of a channel located in more than one jurisdiction or levels of  
9 jurisdiction and which segments are not separately billed is sourced in each  
10 jurisdiction based on the percentage determined by dividing the number of customer  
11 channel termination points in such jurisdiction by the total number of customer  
12 channel termination points.
- 13

14 **Section 315: TELECOMMUNICATION SOURCING DEFINITIONS**

15 For the purpose of Section 314, the following definitions apply:

- 16 A. "Air-to-Ground Radiotelephone service" means a radio service, as that term is defined in  
17 47 CFR 22.99, in which common carriers are authorized to offer and provide radio  
18 telecommunications service for hire to subscribers in aircraft.
- 19 B. "Call-by-call Basis" means any method of charging for telecommunications services  
20 where the price is measured by individual calls.
- 21 C. "Communications Channel" means a physical or virtual path of communications over  
22 which signals are transmitted between or among customer channel termination points.
- 23 D. "Customer" means the person or entity that contracts with the seller of  
24 telecommunications services. If the end user of telecommunications services is not the  
25 contracting party, the end user of the telecommunications service is the customer of the  
26 telecommunication service, but this sentence only applies for the purpose of sourcing  
27 sales of telecommunications services under Section 314. "Customer" does not include a  
28 reseller of telecommunications service or for mobile telecommunications service of a  
29 serving carrier under an agreement to serve the customer outside the home service  
30 provider's licensed service area.

- 1 E. "Customer Channel Termination Point" means the location where the customer either  
2 inputs or receives the communications.
- 3 F. "End user" means the person who utilizes the telecommunication service. In the case of  
4 an entity, "end user" means the individual who utilizes the service on behalf of the  
5 entity.
- 6 G. "Home service provider" means the same as that term is defined in Section 124(5) of  
7 Public Law 106-252 (Mobile Telecommunications Sourcing Act).
- 8 H. "Mobile telecommunications service" means the same as that term is defined in Section  
9 124(7) of Public Law 106-252 (Mobile Telecommunications Sourcing Act).
- 10 I. "Place of primary use" means the street address representative of where the customer's  
11 use of the telecommunications service primarily occurs, which must be the residential  
12 street address or the primary business street address of the customer. In the case of  
13 mobile telecommunications services, "place of primary use" must be within the licensed  
14 service area of the home service provider.
- 15 J. "Post-paid calling service" means the telecommunications service obtained by making a  
16 payment on a call-by-call basis either through the use of a credit card or payment  
17 mechanism such as a bank card, travel card, credit card, or debit card, or by charge made  
18 to a telephone number which is not associated with the origination or termination of the  
19 telecommunications service. A post-paid calling service includes a telecommunications  
20 service that would be a prepaid calling service except it is not exclusively a  
21 telecommunication service.
- 22 K. "Prepaid calling service" means the right to access exclusively telecommunications  
23 services, which must be paid for in advance and which enables the origination of calls  
24 using an access number or authorization code, whether manually or electronically dialed,  
25 and that is sold in predetermined units or dollars of which the number declines with use  
26 in a known amount.
- 27 L. "Private communication service" means a telecommunication service that entitles the  
28 customer to exclusive or priority use of a communications channel or group of channels  
29 between or among termination points, regardless of the manner in which such channel or  
30 channels are connected, and includes switching capacity, extension lines, stations, and

1 any other associated services that are provided in connection with the use of such  
2 channel or channels.

3 M. "Service address" means:

- 4 1. The location of the telecommunications equipment to which a customer's call is  
5 charged and from which the call originates or terminates, regardless of where the call  
6 is billed or paid.
- 7 2. If the location in subsection (M)(1) is not known, service address means the  
8 origination point of the signal of the telecommunications services first identified by  
9 either the seller's telecommunications system or in information received by the seller  
10 from its service provider, where the system used to transport such signals is not that  
11 of the seller.
- 12 3. If the location in subsection (M)(1) and subsection (M)(2) are not known, the service  
13 address means the location of the customer's place of primary use.

#### 15 **Section 316: ENACTMENT OF EXEMPTIONS**

- 16 A. A member state may enact a product-based exemption without restriction if the  
17 Agreement does not have a definition for the product or for a term that includes the  
18 product. If the Agreement has a definition for the product or for a term that includes the  
19 product, a member state may exempt all items included within the definition but shall  
20 not exempt only part of the items included within the definition unless the Agreement  
21 sets out the exemption for part of the items as an acceptable variation.
- 22 B. A member state may enact an entity-based or a use-based exemption without restriction  
23 if the Agreement does not have a definition for the product whose use or purchase by a  
24 specific entity is exempt or for a term that includes the product. If the Agreement has a  
25 definition for the product whose use or specific purchase is exempt, a member state may  
26 enact an entity-based or a use-based exemption that applies to that product as long as the  
27 exemption utilizes the Agreement definition of the product. If the Agreement does not  
28 have a definition for the product whose use or specific purchase is exempt but has a  
29 definition for a term that includes the product, a member state may enact an entity-based  
30 or a use-based exemption for the product without restriction.

- 1 C. For purposes of complying with the requirements in this section, the inclusion of a  
2 product within the definition of tangible personal property is disregarded.  
3

4 **Section 317: ADMINISTRATION OF EXEMPTIONS**

- 5 A. Each member state shall observe the following provisions when a purchaser claims an  
6 exemption:

- 7 1. The seller shall obtain identifying information of the purchaser and the reason for  
8 claiming a tax exemption at the time of the purchase as determined by the governing  
9 board.  
10 2. A purchaser is not required to provide a signature to claim an exemption from tax  
11 unless a paper exemption certificate is used.  
12 3. The seller shall use the standard form for claiming an exemption electronically as  
13 adopted by the governing board.  
14 4. The seller shall obtain the same information for proof of a claimed exemption  
15 regardless of the medium in which the transaction occurred.  
16 5. A member state may utilize a system wherein the purchaser exempt from the payment  
17 of the tax is issued an identification number that shall be presented to the seller at the  
18 time of the sale.  
19 6. The seller shall maintain proper records of exempt transactions and provide them to a  
20 member state when requested.  
21 7. A member state shall administer use-based and entity-based exemptions when  
22 practicable through a direct pay permit, an exemption certificate, or another means  
23 that does not burden sellers.

- 24 B. Each member state shall relieve sellers that follow the requirements of this section from  
25 any tax otherwise applicable if it is determined that the purchaser improperly claimed an  
26 exemption and to hold the purchaser liable for the nonpayment of tax. This relief from  
27 liability does not apply to a seller who fraudulently fails to collect the tax or solicits  
28 purchasers to participate in the unlawful claim of an exemption.  
29

30 **Section 318: UNIFORM TAX RETURNS**

1 Each member state shall:

2 A. Require that only one tax return for each taxing period for each seller be filed for the  
3 member state and all the taxing jurisdictions within the member state.

4 B. Require that returns be due no sooner than the twentieth day of the month following the  
5 month in which the transaction occurred.

6 C. Allow any Model 1, Model 2, or Model 3 seller to submit its sales and use tax returns in  
7 a simplified format that does not include more data fields than permitted by the  
8 governing board. A member state may require additional informational returns to be  
9 submitted not more frequently than every six months under a staggered system  
10 developed by the governing board.

11 D. Allow any seller that is registered under the Agreement, which does not have a legal  
12 requirement to register in the member state, and is not a Model 1, 2, or 3 seller, to submit  
13 its sales and use tax returns as follows:

14 1. Upon registration, a member state shall provide to the seller the returns required by  
15 that state.

16 2. A member state may require a seller to file a return anytime within one year of the  
17 month of initial registration, and future returns may be required on an annual basis in  
18 succeeding years.

19 3. In addition to the returns required in subsection (D)(2), a member state may require  
20 sellers to submit returns in the month following any month in which they have  
21 accumulated state and local tax funds for the state in the amount of one thousand  
22 dollars or more.

23 E. Participate with other member states in developing a more uniform sales and use tax  
24 return that, when completed, would be available to all sellers.

25 F. Require, at each member state's discretion, all Model 1, 2, and 3 sellers to file returns  
26 electronically. It is the intent of the member states that all member states have the  
27 capability of receiving electronically filed returns by January 1, 2004.  
28

29 **Section 319: UNIFORM RULES FOR REMITTANCES OF FUNDS**

30 Each member state shall:

- 1 A. Require only one remittance for each return except as provided in this subsection. If any  
2 additional remittance is required, it may only be required from sellers that collect more  
3 than thirty thousand dollars in sales and use taxes in the member state during the  
4 preceding calendar year as provided herein. The amount of the additional remittance  
5 shall be determined through a calculation method rather than actual collections and shall  
6 not require the filing of an additional return.
- 7 B. Require, at each member state's discretion, all remittances from sellers under Models 1,  
8 2, and 3 to be remitted electronically.
- 9 C. Allow for electronic payments by both ACH Credit and ACH Debit.
- 10 D. Provide an alternative method for making "same day" payments if an electronic funds  
11 transfer fails.
- 12 E. Provide that if a due date falls on a legal banking holiday in a member state, the taxes are  
13 due to that state on the next succeeding business day.
- 14 F. Require that any data that accompanies a remittance be formatted using uniform tax type  
15 and payment type codes approved by the governing board.
- 16

17 **Section 320: UNIFORM RULES FOR RECOVERY OF BAD DEBTS**

18 Each member state shall use the following to provide a deduction for bad debts to a seller. To  
19 the extent a member state provides a bad debt deduction to any other party, the same procedures  
20 will apply. Each member state shall:

- 21 A. Allow a deduction from taxable sales for bad debts. Any deduction taken that is  
22 attributed to bad debts shall not include interest.
- 23 B. Utilize the federal definition of "bad debt" in 26 U.S.C. Sec. 166 as the basis for  
24 calculating bad debt recovery. However, the amount calculated pursuant to 26 U.S.C.  
25 Sec. 166 shall be adjusted to exclude: financing charges or interest; sales or use taxes  
26 charged on the purchase price; uncollectable amounts on property that remain in the  
27 possession of the seller until the full purchase price is paid; expenses incurred in  
28 attempting to collect any debt, and repossessed property.
- 29 C. Allow bad debts to be deducted on the return for the period during which the bad debt is  
30 written off as uncollectable in the claimant's books and records and is eligible to be

1 deducted for federal income tax purposes. For purposes of this subsection, a claimant  
2 who is not required to file federal income tax returns may deduct a bad debt on a return  
3 filed for the period in which the bad debt is written off as uncollectable in the claimant's  
4 books and records and would be eligible for a bad debt deduction for federal income tax  
5 purposes if the claimant was required to file a federal income tax return.

6 D. Require that, if a deduction is taken for a bad debt and the debt is subsequently collected  
7 in whole or in part, the tax on the amount so collected must be paid and reported on the  
8 return filed for the period in which the collection is made.

9 E. Provide that, when the amount of bad debt exceeds the amount of taxable sales for the  
10 period during which the bad debt is written off, a refund claim may be filed within the  
11 member state's otherwise applicable statute of limitations for refund claims; however,  
12 the statute of limitations shall be measured from the due date of the return on which the  
13 bad debt could first be claimed.

14 F. Where filing responsibilities have been assumed by a CSP, allow the service provider to  
15 claim, on behalf of the seller, any bad debt allowance provided by this section. The CSP  
16 must credit or refund the full amount of any bad debt allowance or refund received to the  
17 seller.

18 G. Provide that, for the purposes of reporting a payment received on a previously claimed  
19 bad debt, any payments made on a debt or account are applied first proportionally to the  
20 taxable price of the property or service and the sales tax thereon, and secondly to  
21 interest, service charges, and any other charges.

22 H. In situations where the books and records of the party claiming the bad debt allowance  
23 support an allocation of the bad debts among the member states, permit the allocation.  
24

## 25 **Section 321: CONFIDENTIALITY AND PRIVACY PROTECTIONS UNDER MODEL 1**

26 A. The purpose of this section is to set forth the member states' policy for the protection of  
27 the confidentiality rights of all participants in the system and of the privacy interests of  
28 consumers who deal with Model 1 sellers.

29 B. As used in this section, the term "confidential taxpayer information" means all  
30 information that is protected under a member state's laws, regulations, and privileges; the

1 term "personally identifiable information" means information that identifies a person;  
2 and the term "anonymous data" means information that does not identify a person.

3 C. The member states agree that a fundamental precept in Model 1 is to preserve the  
4 privacy of consumers by protecting their anonymity. With very limited exceptions, a  
5 CSP shall perform its tax calculation, remittance, and reporting functions without  
6 retaining the personally identifiable information of consumers.

7 D. The governing board may certify a CSP only if that CSP certifies that:

- 8 1. Its system has been designed and tested to ensure that the fundamental precept of  
9 anonymity is respected;
- 10 2. That personally identifiable information is only used and retained to the extent  
11 necessary for the administration of Model 1 with respect to exempt purchasers;
- 12 3. It provides consumers clear and conspicuous notice of its information practices,  
13 including what information it collects, how it collects the information, how it uses the  
14 information, how long, if at all, it retains the information and whether it discloses the  
15 information to member states. Such notice shall be satisfied by a written privacy  
16 policy statement accessible by the public on the official web site of the CSP;
- 17 4. Its collection, use and retention of personally identifiable information will be limited  
18 to that required by the member states to ensure the validity of exemptions from  
19 taxation that are claimed by reason of a consumer's status or the intended use of the  
20 goods or services purchased; and
- 21 5. It provides adequate technical, physical, and administrative safeguards so as to  
22 protect personally identifiable information from unauthorized access and disclosure.

23 E. Each member state shall provide public notification to consumers, including their exempt  
24 purchasers, of the state's practices relating to the collection, use and retention of  
25 personally identifiable information.

26 F. When any personally identifiable information that has been collected and retained is no  
27 longer required for the purposes set forth in subsection (D)(4), such information shall no  
28 longer be retained by the member states.

29 G. When personally identifiable information regarding an individual is retained by or on  
30 behalf of a member state, such state shall provide reasonable access by such individual to



1 his or her own information in the state's possession and a right to correct any inaccurately  
2 recorded information.

3 H. If anyone other than a member state, or a person authorized by that state's law or the  
4 Agreement, seeks to discover personally identifiable information, the state from whom  
5 the information is sought should make a reasonable and timely effort to notify the  
6 individual of such request.

7 I. This privacy policy is subject to enforcement by member states' attorneys general or other  
8 appropriate state government authority.

9 J. Each member states' laws and regulations regarding the collection, use, and maintenance  
10 of confidential taxpayer information remain fully applicable and binding. Without  
11 limitation, the Agreement does not enlarge or limit the member states' authority to:

- 12 1. Conduct audits or other review as provided under the Agreement and state law.
- 13 2. Provide records pursuant to a member state's Freedom of Information Act, disclosure  
14 laws with governmental agencies, or other regulations.
- 15 3. Prevent, consistent with state law, disclosures of confidential taxpayer information.
- 16 4. Prevent, consistent with federal law, disclosures or misuse of federal return  
17 information obtained under a disclosure agreement with the Internal Revenue Service.
- 18 5. Collect, disclose, disseminate, or otherwise use anonymous data for governmental  
19 purposes.

20 K. This privacy policy does not preclude the governing board from certifying a CSP whose  
21 privacy policy is more protective of confidential taxpayer information or personally  
22 identifiable information than is required by the Agreement.

23  
24 **Section 322: SALES TAX HOLIDAYS**

25 A. If a member state allows for temporary exemption periods, commonly referred to as sales  
26 tax holidays, the member state shall:

- 27 1. Not apply an exemption after December 31, 2004, unless the items to be exempted  
28 are specifically defined in the Agreement and the exemptions are uniformly applied to  
29 state and local sales and use taxes.

1        2.        Provide notice of the exemption period at least sixty days' prior to the first day of the  
2                   calendar quarter in which the exemption period will begin.

3        B.        A member state may establish a sales tax holiday that utilizes price thresholds set  
4                   by such state and the provisions of the Agreement on the use of thresholds shall  
5                   not apply to exemptions provided by a state during a sales tax holiday. In order to  
6                   provide uniformity, a price threshold established by a member state for exempt  
7                   items shall include only items priced below the threshold. A member state shall  
8                   not exempt only a portion of the price of an individual item during a sales tax  
9                   holiday.

10       C.        The following procedures are to be used by member states in administering a  
11                   sales tax holiday exemption:

12       1.        Layaway sales - A sale of eligible property under a layaway sale qualifies for  
13                   exemption if:

14               a.        final payment on a layaway order is made by, and the property is given to,  
15                   the purchaser during the exemption period; or

16               b.        the purchaser selects the property and the retailer accepts the order for the  
17                   item during the exemption period, for immediate delivery upon full  
18                   payment, even if delivery is made after the exemption period.

19       2.        Bundled sales - Member states will follow the same procedure during the sales  
20                   tax holiday as agreed upon for handling a bundled sale at other times.

21       3.        Coupons and discounts - A discount by the seller reduces the sales price of the  
22                   property and the discounted sales price determines whether the sales price is  
23                   within a sales tax holiday price threshold of a member state. A coupon that  
24                   reduces the sales price is treated as a discount if the seller is not reimbursed  
25                   for the coupon amount by a third-party. If a discount applies to the total  
26                   amount paid by a purchaser rather than to the sales price of a particular item  
27                   and the purchaser has purchased both eligible property and taxable property,  
28                   the seller should allocate the discount based on the total sales prices of the  
29                   taxable property compared to the total sales prices of all property sold in that  
30                   same transaction.

- 1       4.     Splitting of items normally sold together - Articles that are normally sold as a  
2             single unit must continue to be sold in that manner. Such articles cannot be  
3             priced separately and sold as individual items in order to obtain the  
4             exemption. For example, a pair of shoes cannot have each shoe sold  
5             separately so that the sales price of each shoe is within a sales tax holiday  
6             price threshold.
- 7       5.     Rain checks - A rain check allows a customer to purchase an item at a certain  
8             price at a later time because the particular item was out of stock. Eligible  
9             property that customers purchase during the exemption period with use of a  
10            rain check will qualify for the exemption regardless of when the rain check  
11            was issued. Issuance of a rain check during the exemption period will not  
12            qualify eligible property for the exemption if the property is actually  
13            purchased after the exemption period.
- 14     6.     Exchanges - The procedure for an exchange in regards to a sales tax holiday is  
15             as follows:
  - 16       a.     If a customer purchases an item of eligible property during the exemption  
17               period, but later exchanges the item for a similar eligible item, even if a  
18               different size, different color, or other feature, no additional tax is due  
19               even if the exchange is made after the exemption period.
  - 20       b.     If a customer purchases an item of eligible property during the exemption  
21               period, but after the exemption period has ended, the customer returns the  
22               item and receives credit on the purchase of a different item, the  
23               appropriate sales tax is due on the sale of the newly purchased item.
  - 24       c.     If a customer purchases an item of eligible property before the exemption  
25               period, but during the exemption period the customer returns the item and  
26               receives credit on the purchase of a different item of eligible property, no  
27               sales tax is due on the sale of the new item if the new item is purchased  
28               during the exemption period.
- 29     7.     Delivery charges - Delivery charges, including shipping, handling and service  
30             charges, are part of the sales price of eligible property unless a member state

1 defines "sales price" to exclude such charges. For the purpose of determining  
2 a sales tax holiday price threshold, if all the property in a shipment qualifies as  
3 eligible property and the sales price for each item in the shipment is within the  
4 sales tax holiday price threshold, then the seller does not have to allocate the  
5 delivery, handling, or service charge to determine if the price threshold is  
6 exceeded. The shipment will be considered a sale of eligible products. If the  
7 shipment includes eligible property and taxable property (including an eligible  
8 item with a sales price in excess of the price threshold), the seller should  
9 allocate the delivery charge by using:

- 10 a. a percentage based on the total sales prices of the taxable property  
11 compared to the total sales prices of all property in the shipment; or  
12 b. a percentage based on the total weight of the taxable property compared to  
13 the total weight of all property in the shipment.

14 The seller must tax the percentage of the delivery charge allocated to the  
15 taxable property but does not have to tax the percentage allocated to the  
16 eligible property.

17 8. Order date and back orders - For the purpose of a sales tax holiday, eligible  
18 property qualifies for exemption if:

- 19 a. the item is both delivered to and paid for by the customer during the  
20 exemption period; or  
21 b. the customer orders and pays for the item and the seller accepts the order  
22 during the exemption period for immediate shipment, even if delivery is  
23 made after the exemption period. The seller accepts an order when the  
24 seller has taken action to fill the order for immediate shipment. Actions to  
25 fill an order include placement of an "in date" stamp on a mail order or  
26 assignment of an "order number" to a telephone order. An order is for  
27 immediate shipment when the customer does not request delayed  
28 shipment. An order is for immediate shipment notwithstanding that the  
29 shipment may be delayed because of a backlog of orders or because stock  
30 is currently unavailable to, or on back order by, the seller.

- 1        9.       Returns - For a 60-day period immediately after the sales tax holiday  
2           exemption period, when a customer returns an item that would qualify for the  
3           exemption, no credit for or refund of sales tax shall be given unless the  
4           customer provides a receipt or invoice that shows tax was paid, or the seller  
5           has sufficient documentation to show that tax was paid on the specific item.  
6           This 60-day period is set solely for the purpose of designating a time period  
7           during which the customer must provide documentation that shows that sales  
8           tax was paid on returned merchandise. The 60-day period is not intended to  
9           change a seller's policy on the time period during which the seller will accept  
10          returns.  
11       10.      Different time zones - The time zone of the seller's location determines the authorized  
12           time period for a sales tax holiday when the purchaser is located in one time zone and  
13           a seller is located in another.

14  
15       **Section 323: CAPS AND THRESHOLDS**

- 16       A.       Each member state shall:  
17           1.       Not have caps or thresholds on the application of state sales or use tax rates or  
18           exemptions that are based on the value of the transaction or item after December 31,  
19           2005. A member state may continue to have caps and thresholds until that date.  
20           2.       Not have caps that are based on the application of the rates unless the member state  
21           assumes the administrative responsibility in a manner that places no additional burden  
22           on the retailer.  
23       B.       Each member state that has local jurisdictions that levy a sales or use tax shall not place  
24           caps or thresholds on the application of local rates or use tax rates or exemptions that are  
25           based on the value of the transaction or item after December 31, 2005. A member state  
26           may continue to have caps and thresholds until that date.  
27       C.       The provisions of this section do not apply to sales or use taxes levied on the retail sale or  
28           transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or  
29           mobile homes or to instances where the burden of administration has been shifted from  
30           the retailer.

1  
2 **Section 324: ROUNDING RULE**

3 A. After December 31, 2005, each member state shall adopt a rounding algorithm that meets  
4 the following criteria:

- 5 1. Tax computation must be carried to the third decimal place, and  
6 2. The tax must be rounded to a whole cent using a method that rounds up to the next  
7 cent whenever the third decimal place is greater than four.

8 B. Each state shall allow sellers to elect to compute the tax due on a transaction on an item  
9 or an invoice basis, and shall allow the rounding rule to be applied to the aggregated state  
10 and local taxes. No member state shall require a seller to collect tax based on a bracket  
11 system.  
12

13 **Section 325: CUSTOMER REFUND PROCEDURES**

14 A. These customer refund procedures are provided to apply when a state allows a purchaser  
15 to seek a return of over-collected sales or use taxes from the seller.

16 B. Nothing in this section shall either require a state to provide, or prevent a state from  
17 providing, a procedure by which a purchaser may seek a refund directly from the state  
18 arising out of sales or use taxes collected in error by a seller from the purchaser.  
19 Nothing in this section shall operate to extend any person's time to seek a refund of sales  
20 or use taxes collected or remitted in error.

21 C. These customer refund procedures provide the first course of remedy available to  
22 purchasers seeking a return of over-collected sales or use taxes from the seller. A cause  
23 of action against the seller for the over-collected sales or use taxes does not accrue until  
24 a purchaser has provided written notice to a seller and the seller has had sixty days to  
25 respond. Such notice to the seller must contain the information necessary to determine  
26 the validity of the request.

27 D. In connection with a purchaser's request from a seller of over-collected sales or use  
28 taxes, a seller shall be presumed to have a reasonable business practice, if in the  
29 collection of such sales or use taxes, the seller: i) uses either a provider or a system,

1 including a proprietary system, that is certified by the state; and ii) has remitted to the  
2 state all taxes collected less any deductions, credits, or collection allowances.  
3

#### 4 **Section 326: DIRECT PAY PERMITS**

5 Each member state shall provide for a direct pay authority that allows the holder of a direct pay  
6 permit to purchase otherwise taxable goods and services without payment of tax to the supplier  
7 at the time of purchase. The holder of the direct pay permit will make a determination of the  
8 taxability and then report and pay the applicable tax due directly to the tax jurisdiction. Each  
9 state can set its own limits and requirements for the direct pay permit. The governing board shall  
10 advise member states when setting state direct pay limits and requirements, and shall consider  
11 use of the Model Direct Payment Permit Regulation as developed by the Task Force on EDI  
12 Audit and Legal Issues for Tax Administration.  
13

#### 14 **Section 327: LIBRARY OF DEFINITIONS**

15 Each member state shall utilize common definitions as provided in this section. The terms  
16 defined are set out in the Library of Definitions, in Appendix C of this Agreement. A member  
17 state shall adhere to the following principles:

- 18 A. If a term defined in the Library of Definitions appears in a member state's sales  
19 and use tax statutes or administrative rules or regulations, the member state shall  
20 enact or adopt the Library definition of the term in its statutes or administrative  
21 rules or regulations in substantially the same language as the Library definition.
- 22 B. A member state shall not use a Library definition in its sales or use tax statutes or  
23 administrative rules or regulations that is contrary to the meaning of the Library  
24 definition.
- 25 C. Except as specifically provided in Section 316 and the Library of Definitions, a  
26 member state shall impose a sales or use tax on all products or services included  
27 within each definition or exempt from sales or use tax all products or services  
28 within each definition.  
29

#### 30 **Section 328: TAXABILITY MATRIX**

- 1 A. To ensure uniform application of terms defined in the Library of Definitions each  
2 member state shall complete a taxability matrix adopted by the governing board.  
3 The member state's entries in the matrix shall be provided and maintained in a  
4 database that is in a downloadable format approved by the governing board. A  
5 member state shall provide notice of changes in the taxability of the products or  
6 services listed in the taxability matrix as required by the governing board.
- 7 B. A member state shall relieve sellers and CSPs from liability to the member state and  
8 its local jurisdictions for having charged and collected the incorrect amount of sales  
9 or use tax resulting from the seller or CSP relying on erroneous data provided by the  
10 member state in the taxability matrix.

11  
12 **Section 329: EFFECTIVE DATE FOR RATE CHANGES**

13 Each member state shall provide that the effective date of rate changes for services covering a  
14 period starting before and ending after the statutory effective date shall be as follows:

- 15 A. For a rate increase, the new rate shall apply to the first billing period starting on or after  
16 the effective date.
- 17 B. For a rate decrease, the new rate shall apply to bills rendered on or after the effective  
18 date.



**ARTICLE IV**  
**SELLER REGISTRATION**

**Section 401: SELLER PARTICIPATION**

- A. The member states shall provide an online registration system that will allow sellers to register in all the member states.
- B. By registering, the seller agrees to collect and remit sales and use taxes for all taxable sales into the member states, including member states joining after the seller's registration. Withdrawal or revocation of a member state shall not relieve a seller of its responsibility to remit taxes previously or subsequently collected on behalf of the state.
- C. In member states where the seller has a requirement to register prior to registering under the Agreement, the seller may be required to provide additional information to complete the registration process or the seller may choose to register directly with those states.
- D. A member state or a state that has withdrawn or been expelled shall not use registration with the central registration system and the collection of sales and use taxes in the member states as a factor in determining whether the seller has nexus with that state for any tax at any time.

**Section 402: AMNESTY FOR REGISTRATION**

- A. Subject to the limitations in this section:
1. A member state shall provide amnesty for uncollected or unpaid sales or use tax to a seller who registers to pay or to collect and remit applicable sales or use tax on sales made to purchasers in the state in accordance with the terms of the Agreement, provided that the seller was not so registered in that state in the twelve-month period preceding the effective date of the state's participation in the Agreement.
  2. The amnesty will preclude assessment for uncollected or unpaid sales or use tax together with penalty or interest for sales made during the period the seller was not registered in the state, provided registration occurs within twelve months of the effective date of the state's participation in the Agreement.

1 3. Amnesty similarly shall be provided by any additional state that joins the Agreement  
2 after the seller has registered.

3 B. The amnesty is not available to a seller with respect to any matter or matters for which  
4 the seller received notice of the commencement of an audit and which audit is not yet  
5 finally resolved including any related administrative and judicial processes.

6 C. The amnesty is not available for sales or use taxes already paid or remitted to the state or  
7 to taxes collected by the seller.

8 D. The amnesty is fully effective, absent the seller's fraud or intentional misrepresentation of  
9 a material fact, as long as the seller continues registration and continues payment or  
10 collection and remittance of applicable sales or use taxes for a period of at least thirty-six  
11 months. Each member state shall toll its statute of limitations applicable to asserting a tax  
12 liability during this thirty-six month period.

13 E. The amnesty is applicable only to sales or use taxes due from a seller in its capacity as a  
14 seller and not to sales or use taxes due from a seller in its capacity as a buyer.

15 F. A member state may allow amnesty on terms and conditions more favorable to a seller  
16 than the terms required by this section.

17  
18 **Section 403: METHOD OF REMITTANCE**

19 When registering, the seller may select one of the following methods of remittances or other  
20 method allowed by state law to remit the taxes collected:

21 A. MODEL 1, wherein a seller selects a CSP as an agent to perform all the seller's sales or  
22 use tax functions, other than the seller's obligation to remit tax on its own purchases.

23 B. MODEL 2, wherein a seller selects a CAS to use which calculates the amount of tax due  
24 on a transaction.

25 C. MODEL 3, wherein a seller utilizes its own proprietary automated sales tax system that  
26 has been certified as a CAS.

27  
28 **Section 404: REGISTRATION BY AN AGENT**

29 A seller may be registered by an agent. Such appointment shall be in writing and submitted to a  
30 member state if requested by the member state.

**ARTICLE V**  
**PROVIDER AND SYSTEM CERTIFICATION**

**Section 501: CERTIFICATION OF SERVICE PROVIDERS AND AUTOMATED SYSTEMS**

- A. The governing board shall certify automated systems and service providers to aid in the administration of sale and use tax collections.
- B. The governing board may certify a person as a CSP if the person meets all of the following requirements:
1. The person uses a CAS;
  2. The person integrates its CAS with the system of a seller for whom the person collects tax so that the tax due on a sale is determined at the time of the sale;
  3. The person agrees to remit the taxes it collects at the time and in the manner specified by the member states;
  4. The person agrees to file returns on behalf of the sellers for whom it collects tax;
  5. The person agrees to protect the privacy of tax information it obtains in accordance with Section 321 of the Agreement; and
  6. The person enters into a contract with the member states and agrees to comply with the terms of the contract.
- C. The governing board may certify a software program as a CAS if the governing board determines that the program meets all of the following requirements:
1. It determines the applicable state and local sales and use tax rate for a transaction, in accordance with Sections 309 to 315, inclusive;
  2. It determines whether or not an item is exempt from tax;
  3. It determines the amount of tax to be remitted for each taxpayer for a reporting period;
  4. It can generate reports and returns as required by the governing board; and
  5. It can meet any other requirement set by the governing board.
- D. The governing board may establish one or more sales tax performance standards for Model 3 sellers that meet the eligibility criteria set by the governing board and that

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developed a proprietary system to determine the amount of sales and use tax due on

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transactions.

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**ARTICLE VI**

**MONETARY ALLOWANCES FOR NEW TECHNOLOGICAL MODELS FOR SALES  
TAX COLLECTION**

**Section 601: MONETARY ALLOWANCE UNDER MODEL 1**

- A. Each member state shall provide a monetary allowance to a CSP in Model 1 in accordance with the terms of the contract between the governing board and the CSP. The details of the monetary allowance will be provided through the contract process. The governing board shall require that such allowance be funded entirely from money collected in Model 1.
- B. The contract between the governing board and a CSP may base the monetary allowance to a CSP on one or more of the following:
1. A base rate that applies to taxable transactions processed by the CSP.
  2. For a period not to exceed twenty-four months following a voluntary seller's registration through the Agreement's central registration process, a percentage of tax revenue generated for a member state by the voluntary seller for each member state for which the seller does not have a requirement to register to collect the tax.

**Section 602: MONETARY ALLOWANCE FOR MODEL 2 SELLERS**

The member states initially anticipate that they will provide a monetary allowance to sellers under Model 2 based on the following:

- A. All sellers shall receive a base rate for a period not to exceed twenty-four months following the commencement of participation by a seller. The base rate will be set after the base rate has been established for Model 1. This allowance will be in addition to any discount afforded by each member state at the time.
- B. The member states anticipate a monetary allowance to a Model 2 Seller based on the following:
1. For a period not to exceed twenty-four months following a voluntary seller's registration through the Agreement's central registration process, a percentage of tax

1 revenue generated for a member state by the voluntary seller for each member state  
2 for which the seller does not have a requirement to register to collect the tax.

- 3 2. Following the conclusion of the twenty-four month period, a seller will only be  
4 entitled to a vendor discount afforded under each member state's law at the time the  
5 base rate expires.  
6

7 **Section 603: MONETARY ALLOWANCE FOR MODEL 3 SELLERS AND ALL OTHER**  
8 **SELLERS THAT ARE NOT UNDER MODELS 1 OR 2**

9 The member states anticipate that they will provide a monetary allowance to sellers under Model  
10 3 and to all other sellers that are not under Models 1 or 2 based on the following:

- 11 A. For a period not to exceed twenty-four months following a voluntary seller's registration  
12 through the Agreement's central registration process, a percentage of tax revenue  
13 generated for a member state by the voluntary seller for each member state for which the  
14 seller does not have a requirement to register to collect the tax.  
15 B. Vendor discounts afforded under each member state's law.

**ARTICLE VII**  
**AGREEMENT ORGANIZATION**

**Section 701: EFFECTIVE DATE**

The Agreement shall become binding and take effect when at least ten states comprising at least twenty percent of the total population, as determined by the 2000 Federal census, of all states imposing a state sales tax have petitioned for membership and have been found to be in compliance with the requirements of the Agreement pursuant to Section 805. The Agreement shall take effect on the first day of a calendar quarter at least sixty days after the tenth state is found in compliance, but cannot take effect prior to July 1, 2003.

**Section 702: APPROVAL OF INITIAL STATES**

Prior to the effective date of the Agreement, a state may seek membership by forwarding a petition for membership and certificate of compliance to the Co-Chairs of the Streamlined Sales Tax Implementing States. A petitioning state shall also provide a copy of its petition for membership and certificate of compliance to each of the Streamlined Sales Tax Implementing States. A petitioning state shall also post a copy of its petition for membership and certificate of compliance on that state's web site.

Upon receipt of the requisite number of petitions as provided in Section 701, the Co-Chairs shall convene and preside over a meeting of the petitioning states for the purpose of determining if the petitioning states are in compliance with the Agreement. An affirmative vote of three-fourths of the other petitioning states is necessary for a petitioning state to be found in compliance with the Agreement. A petitioning state shall not vote on its own petition for membership.

The Co-Chairs shall provide the public with an opportunity to comment prior to any vote on a state's petition for membership.

**Section 703: STREAMLINED SALES TAX IMPLEMENTING STATES**

1 A. From the time of ratification of this Agreement until the provisions of Section 701 have been met, the  
2 Streamlined Sales Tax Implementing State shall maintain responsibility for the Agreement, including  
3 the disposition of all proposed amendments to the Agreement.

4  
5 B. Amendments to the Agreement considered by the Streamlined Sales Tax Implementing States shall  
6 follow the provisions as set forth in Article IX, Section 901.

7  
8 C. For a period of not less than six months nor longer than one year after the provisions of Section 701  
9 are met, the Streamlined Sales Tax Implementing States shall provide advice to the Governing Board of  
10 the Agreement and shall be consulted by the Governing Board before amending the Agreement.

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**ARTICLE VIII**  
**STATE ENTRY AND WITHDRAWAL**

**Section 801: ENTRY INTO AGREEMENT**

After the effective date of the Agreement, a state may apply to become a party to the Agreement by submitting a petition for membership and certificate of compliance to the governing board. The petition for membership shall include such state's proposed date of entry. The petitioning state's proposed date of entry shall be on the first day of a calendar quarter. The proposed date of entry shall be a date on which all provisions necessary for the state to be in compliance with the Agreement are in place and effective.

The petitioning state shall provide a copy of its petition for membership and the certificate of compliance to each member state when the petitioning state submits its petition for membership to the governing board. A petitioning state shall also post a copy of its petition for membership and certificate of compliance on that state's web site.

**Section 802: CERTIFICATE OF COMPLIANCE**

The certificate of compliance shall be signed by the chief executive of the state's tax agency. The certificate of compliance shall document compliance with the provisions of the Agreement and cite applicable statutes, rules, regulations, or other authorities evidencing such compliance.

**Section 803: ANNUAL RE-CERTIFICATION OF MEMBER STATES**

Each member state shall annually re-certify that such state is in compliance with the Agreement. Each member state shall make a re-certification to the governing board on or before August 1 of each year after the year of the state's entry. In its annual re-certification, the state shall include any changes in its statutes, rules, regulations, or other authorities that could affect its compliance with the terms of the Agreement. The re-certification shall be signed by the chief executive of the state's tax agency.

1 A member state that cannot re-certify its compliance with the Agreement shall submit a statement of  
2 non-compliance to the governing board. The statement of non-compliance shall include any action or  
3 decision that takes such state out of compliance with the Agreement and the steps it will take to return to  
4 compliance. The governing board shall promulgate rules and procedures to respond to statements of  
5 noncompliance in accordance with Section 809.

6  
7 Each member state shall post its annual re-certification or statement of non-compliance on that state's  
8 web site.

9  
10 **Section 804: REQUIREMENTS FOR MEMBERSHIP APPROVAL**

11 The governing board shall determine if a petitioning state is in compliance with the Agreement. A three-  
12 fourths vote of the entire governing board is required to approve a state's petition for membership. The  
13 governing board shall provide public notice and opportunity for comment prior to voting on a state's  
14 petition for membership. A state's membership is effective on the proposed date of entry in its petition  
15 for membership or the first day of the calendar quarter after its petition is approved by the governing  
16 board, whichever is later, and is at least sixty days after its petition is approved.

17  
18 **Section 805: COMPLIANCE**

19 A state is in compliance with the Agreement if the effect of the state's laws, rules, regulations, and  
20 policies is substantially compliant with each of the requirements set forth in the Agreement.

21  
22 **Section 806: AGREEMENT ADMINISTRATION**

23 Authority to administer the Agreement shall rest with the governing board comprised of representatives  
24 of each member state. Each member state may appoint up to four representatives to the governing  
25 board. The representatives shall be members of the executive or legislative branches of the state. Each  
26 member state shall be entitled to one vote on the governing board. Except as otherwise provided in the  
27 Agreement, all actions taken by the governing board shall require an affirmative vote of a majority of  
28 the governing board present and voting. The governing board shall determine its meeting schedule, but  
29 shall meet at least once annually. The governing board shall provide a public comment period at each  
30 meeting to provide members of the public an opportunity to address the board on matters relevant to the

1 administration or operation of the Agreement. The governing board shall provide public notice of its  
2 meetings at least thirty days in advance of such meetings. The governing board shall promulgate rules  
3 establishing the public notice requirements for holding emergency meetings on less than thirty day's  
4 notice. The governing board may meet electronically.

5  
6 The governing board is responsible for the administration and operation of the Agreement, including the  
7 appointment of all manner of committees. The governing board may employ staff, advisors, consultants  
8 or agents. The governing board may promulgate rules and procedures it deems necessary to carry out its  
9 responsibilities. The governing board may take any action that is necessary and proper to fulfill the  
10 purposes of the Agreement. The governing board may allocate the cost of administration of the  
11 Agreement among the member states.

12  
13 The governing board may assign committees certain duties, including, but not limited to:

- 14 A. Responding to questions regarding the administration of the Agreement;  
15 B. Preparing certification requirements and coordinating the certification process for CSPs;  
16 C. Coordinating joint audits;  
17 D. Issuing requests for proposals;  
18 E. Coordinating contracts with member states and providers; and  
19 F. Maintaining records for the governing board.

20  
21 **Section 807: OPEN MEETINGS**

22 Each meeting of the governing board and the minutes thereof shall be open to the public except as  
23 provided herein. Meetings of the governing board may be closed only for one or more of the following:

- 24 A. Personnel issues.  
25 B. Information required by the laws of any member state to be protected from public disclosure. In  
26 the meeting, the governing board shall excuse any attendee to whom confidential taxpayer  
27 information cannot be disclosed under the law of any member state.  
28 C. Proprietary information requested by any business to be protected from disclosure.

1 D. The consideration of issues incident to competitive bidding, requests for information, or  
2 certification, the disclosure of which would defeat the public interest in a fair and competitive  
3 process.

4 E. The consideration of pending litigation in a member state the discussion of which in a public  
5 session would, in the judgment of the member state engaged in the litigation, adversely affect its  
6 interests. In the meeting, the governing board shall excuse any attendee to whom confidential  
7 taxpayer information cannot be disclosed under the law of any member state.

8 A closed session of the governing board may be convened by the chair or by a majority vote of the  
9 governing board. When a closed session is convened, the reason for the closed session shall be noted in  
10 a public session. Any actions taken in the closed session shall be reported immediately upon the  
11 reconvening of a public session.

#### 12 13 **Section 808: WITHDRAWAL OF MEMBERSHIP OR EXPULSION OF A MEMBER**

14 With respect to each member state, the Agreement shall continue in full force and effect until a member  
15 state withdraws its membership or is expelled. A member state's withdrawal or expulsion cannot be  
16 effective until the first day of a calendar quarter after a minimum of sixty days' notice. A member state  
17 shall submit notice of its intent to withdraw from the Agreement to the governing board and the chief  
18 executive of each member state's tax agency. The member state shall provide public notice of its intent  
19 to withdraw and post its notice of intent to withdraw on its web site. The withdrawal by or expulsion of  
20 a state does not affect the validity of the Agreement among other member states. A state that withdraws  
21 or is expelled from the Agreement remains liable for its share of any financial or contractual obligations  
22 that were incurred by the governing board prior to the effective date of that state's withdrawal or  
23 expulsion. The appropriate share of any financial or contractual obligation shall be determined by the  
24 state and the governing board in good faith based on the relative benefits received and burdens incurred  
25 by the parties.

#### 26 27 **Section 809: SANCTION OF MEMBER STATES**

28 If a member state is found to be out of compliance with the Agreement, the governing board may  
29 consider sanctions against the state. The sanctions that the governing board may impose include

1 expulsion from the Agreement, or other penalties as determined by the governing board. The adoption of  
2 a resolution to sanction a member state for noncompliance with the Agreement shall require the  
3 affirmative vote of three-fourths of the entire governing board, excluding the state that is the subject of  
4 the resolution. The member state that is the subject of the resolution shall not vote on such resolution.  
5 Resolutions seeking sanctions shall be acted upon by the governing board within a reasonable period of  
6 time as set forth in the governing board's rules. The governing board shall provide an opportunity for  
7 public comment prior to action on a proposed sanction.  
8

9 **Section 810: STATE AND LOCAL ADVISORY COUNCIL**

10 The governing board shall create a State and Local Government Advisory Council to advise the  
11 governing board on matters pertaining to the administration of the Agreement. The membership shall  
12 include at least one representative from each state that is a participating member of the Streamlined  
13 Sales Tax Project pursuant to the Operating Rules of the Project as designated by that state. In addition,  
14 the governing board shall appoint local government officials to the State and Local Government  
15 Advisory Council. The governing board may appoint other state officials as it deems appropriate.  
16 Matters pertaining to the administration of the Agreement shall include, but not be limited to, admission  
17 of states into membership, noncompliance, and interpretations, revisions or additions to the Agreement.  
18 The State and Local Government Advisory Council shall advise and assist the Business and Taxpayer  
19 Advisory Council in the functions noted in Section 811.  
20

21 **Section 811: BUSINESS AND TAXPAYER ADVISORY COUNCIL**

22 The governing board shall create a Business and Taxpayer Advisory Council from the private sector to  
23 advise the governing board on matters pertaining to the administration of the Agreement. These matters  
24 shall include, but not be limited to, admission of states into membership, noncompliance, and  
25 interpretations, revisions or additions to the Agreement. The Business and Taxpayer Advisory Council  
26 shall advise and assist the State and Local Government Advisory Council in the functions noted in  
27 Section 810.  
28

**ARTICLE IX**  
**AMENDMENTS AND INTERPRETATIONS**

**Section 901: AMENDMENTS TO AGREEMENT**

Amendments to the Agreement may be brought before the governing board by any member state. The Agreement may be amended by a three-fourths vote of the entire governing board. The governing board shall give the Governor and presiding officer of each house of each member state notice of proposed amendments to the Agreement at least sixty days prior to consideration. The governing board shall give public notice of proposed amendments to the Agreement at least sixty days prior to consideration. The governing board shall provide an opportunity for public comment prior to action on an amendment to the Agreement.

**Section 902: INTERPRETATIONS OF AGREEMENT**

Matters involving interpretation of the Agreement may be brought before the governing board by any member state or by any other person. All interpretations shall require a three-fourths vote of the entire governing board. The governing board shall publish all interpretations issued under this section. Interpretations shall be considered part of the Agreement and shall have the same effect as the Agreement. The governing board shall act on requests for interpretation of the Agreement within a reasonable period of time and under guidelines and procedures as set forth in the governing board's rules. The governing board may determine that it will not issue an interpretation. The governing board shall provide an opportunity for public comment prior to issuing an interpretation of the Agreement.

**Section 903: DEFINITION REQUESTS**

Any member state or any other person may make requests for additional definitions or for interpretations on how an individual product or service fits within a definition. Requests shall be submitted in writing as determined by the governing board. Such requests shall be referred to the Advisory Council created in Section 810 or other group under guidelines and procedures as set forth in the governing board's rules. The entity to which the request was referred shall post notice of the request and provide for input from the public and the member states as directed by

1 the governing board. Within one hundred eighty days after receiving the request, they shall  
2 report to the governing board one of the following recommendations:

- 3 A. That no action be taken on the request;
- 4 B. That a proposed amendment to the Library be submitted;
- 5 C. That an interpretation request be submitted; or
- 6 D. That additional time is needed to review the request.

7  
8 If either an amendment or an interpretation is recommended, the entity to which the request was  
9 referred shall provide the appropriate language as required by the governing board. The  
10 governing board shall take action on the recommendation of the entity to which the request was  
11 referred at the next meeting of the governing board pursuant to the notice requirements of  
12 Section 806. Action by the governing board to approve a recommendation for no action shall be  
13 considered the final disposition of the request. Nothing in this paragraph shall prohibit a state  
14 from directly submitting a proposed amendment or an interpretation request to the governing  
15 board pursuant to Section 901 or Section 902.

**ARTICLE X**  
**ISSUE RESOLUTION PROCESS**

**Section 1001: RULES AND PROCEDURES FOR ISSUE RESOLUTION**

The governing board shall promulgate rules creating an issue resolution process. The rules shall govern the conduct of the process, including the participation by any petitioner, affected state, and other interested party, the disposition of a petition to invoke the process, the allocation of costs for participating in the process, the possible involvement of a neutral third party or non-binding arbitration, and such further details as the governing board determines necessary and appropriate.

**Section 1002: PETITION FOR RESOLUTION**

Any member state or person may petition the governing board to invoke the issue resolution process to resolve matters of:

- A. Membership of a state under Article VIII;
- B. Matters of compliance under Section 805;
- C. Possibilities of sanctions of a member state under Section 809;
- D. Amendments to the Agreement under Section 901;
- E. Interpretation issues, including differing interpretations among the member states, under Section 902; or
- F. Other matters at the discretion of the governing board.

**Section 1003: FINAL DECISION OF GOVERNING BOARD**

The governing board shall consider any recommendations resulting from the issue resolution process before making its decision, which decision shall, as with all other matters under the Agreement, be final and not subject to further review.

**Section 1004: LIMITED SCOPE OF THIS ARTICLE**

Nothing in this Article shall be construed to substitute for, stay or extend, limit, expand, or otherwise affect, in any manner, any right or duty that any person or governmental body has under the laws of any member state or local government body. This Article is specifically



1 subject to the terms of Article XI and shall not be construed as taking precedence over Article  
2 XI.

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**ARTICLE XI**

**RELATIONSHIP OF AGREEMENT TO MEMBER STATES AND PERSONS**

**Section 1101: COOPERATING SOVEREIGNS**

This Agreement is among individual cooperating sovereigns in furtherance of their governmental functions. The Agreement provides a mechanism among the member states to establish and maintain a cooperative, simplified system for the application and administration of sales and use taxes under the duly adopted law of each member state.

**Section 1102: RELATIONSHIP TO STATE LAW**

No provision of the Agreement in whole or part invalidates or amends any provision of the law of a member state. Adoption of the Agreement by a member state does not amend or modify any law of the state. Implementation of any condition of the Agreement in a member state, whether adopted before, at, or after membership of a state, must be by the action of the member state. All member states remain subject to Article VIII.

**Section 1103: LIMITED BINDING AND BENEFICIAL EFFECT**

- A. This Agreement binds and inures only to the benefit of the member states. No person, other than a member state, is an intended beneficiary of this Agreement. Any benefit to a person other than a state is established by the laws of the member states and not by the terms of this Agreement.
- B. Consistent with subsection (A), no person shall have any cause of action or defense under the Agreement or by virtue of a member state's approval of the Agreement. No person may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of any member state, or any political subdivision of a member state on the ground that the action or inaction is inconsistent with the Agreement.
- C. No law of a member state, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement.

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2 **Section 1104: FINAL DETERMINATIONS**

3 The determinations pertaining to the Agreement that are made by the member states are final  
4 when rendered and are not subject to any protest, appeal, or review.

**ARTICLE XII**

**REVIEW OF COSTS AND BENEFITS ASSOCIATED WITH THE AGREEMENT**

**Section 1201: REVIEW OF COSTS AND BENEFITS**

The governing board will review costs and benefits of administration and collection of sales and use taxes incurred by states and sellers under the existing sales and use tax laws at the time of adoption of the Agreement and the proposed Streamlined Sales Tax Agreement.

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**WHEREAS, such simplification and modernization will result in a substantial reduction in the costs and complexity for sellers of personal property and services in conducting their commercial enterprises;**

**WHEREAS, such simplification and modernization of sales and use tax administration is best conducted in cooperation and coordination with other states; and**

**WHEREAS**, the State of \_\_\_\_\_ levies a sales tax and levies a use tax. “Sales tax” means the tax levied under (CITE SPECIFIC STATUTE) and “use tax” means the tax levied under (CITE SPECIFIC STATUTE).

**NOW**, the undersigned representative hereby petitions the governing board of the Streamlined Sales and Use Tax Agreement (or Co-Chairs of the Streamlined Sales Tax Implementing States) for membership into the Agreement.

NAME \_\_\_\_\_

**TITLE**

STATE OF

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## Appendix B

### INDEX OF DEFINITIONS

Term	Placement in Agreement
Alcoholic beverages	Appendix C, Part II, within food and food products category
Agent	Article II, Section 201
Air-to-ground radiotelephone service	Article III, Section 315
Call-by-call basis	Article III, Section 315
Candy	Appendix C, Part II, within food and food products category
Certified automated system	Article II, Section 202
Certified service provider	Article II, Section 203
Clothing	Appendix C, Part II, within clothing category
Clothing accessories or equipment	Appendix C, Part II, within clothing category
Computer	Appendix C, Part II, within computer related category
Computer software	Appendix C, Part II, within computer related category
Communications channel	Article III, Section 315
Confidential taxpayer information	Article III, Section 321
Customer	Article III, Section 315
Customer channel termination point	Article III, Section 315
Delivered electronically	Appendix C, Part II, within computer related category
Delivery charges	Appendix C, Part I, 1
Dietary supplement	Appendix C, Part II, within food and food products category
Direct mail	Appendix C, Part I, 2
Drug	Appendix C, Part II, within health care category
Durable medical equipment	Appendix C, Part II, within health care category
Electronic	Appendix C, Library, within computer related category
Eligible property	Appendix C, Part III, for sales tax holidays

<b>Term</b>	<b>Placement in Agreement</b>
Entity-based exemption	Article II, Section 204
Food and food ingredients	Appendix C, Part II, within food and food products category
Food sold through vending machines	Appendix C, Part II, within food and food products category
Grooming and hygiene products	Appendix C, Part II, within health care category
Home service provider	Article III, Section 315
Layaway sale	Appendix C, Part III, for sales tax holidays
Lease	Appendix C, Part I, 3
Load and leave	Appendix C, Part II, within computer related category
Mobile telecommunications service	Article III, Section 315
Mobility enhancing equipment	Appendix C, Part II, within health care category
Model 1 Seller	Article II, Section 205
Model 2 Seller	Article II, Section 206
Model 3 Seller	Article II, Section 207
Over-the-counter drug	Appendix C, Part II, within health care category
Person	Article II, Section 208
Place of primary use	Article III, Section 315
Post-paid calling service	Article III, Section 315
Prepaid calling service	Article III, Section 315
Prepared food	Appendix C, Part II, within food and food products category
Prescription	Appendix C, Part II, within health care category
Prewritten computer software	Appendix C, Part II, within computer related category
Private communication service	Article III, Section 315
Product-based exemption	Article II, Section 209
Prosthetic device	Appendix C, Part II, within health care category
Protective equipment	Appendix C, Part II, within clothing category
Purchase price	Appendix C, Part I, 4
Purchaser	Article II, Section 210
Rain check	Appendix C, Part III, for sales tax holidays
Receive and receipt	Article III, Section 311

Registered under this agreement  
Rental

### **Term**

Retail sale  
Sale at retail  
Sales price  
Seller  
Service address  
Soft drinks  
Sport or recreational equipment  
State  
Tangible personal property  
Tobacco  
Transportation equipment  
Use-based exemption

Article II, Section 211  
Appendix C, Part I, 3

### **Placement in Agreement**

Appendix C, Part I, 5  
Appendix C, Part I, 5  
Appendix C, Part I, 6  
Article II, Section 212  
Article III, Section 315  
Appendix C, Part II, within food and food products category  
Appendix C, Part II, within clothing category  
Article II, Section 213  
Appendix C, Part I, 7  
Appendix C, Part II, within food and food products category  
Article III, Section 310  
Article II, Section 214



1 **Appendix C**

2 **LIBRARY OF DEFINITIONS**

3  
4 **Part I** Administrative definitions including tangible personal property. Terms included  
5 in this Part are core terms that apply in imposing and administering sales and use taxes.  
6

7 **Part II** Product definitions. Terms included in this Part are used to exempt items from  
8 sales and use taxes or to impose tax on items by narrowing an exemption that otherwise includes  
9 these items.  
10

11 **Part III** Sales tax holiday definitions. Terms included in this Part are core terms that  
12 apply in imposing and administering sales and use taxes during sales tax holidays.  
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14 **PART I**

15  
16 **Administrative Definitions**  
17

- 18 1. **"Delivery charges"** means charges by the seller of personal property or services for  
19 preparation and delivery to a location designated by the purchaser of personal property or  
20 services including, but not limited to, transportation, shipping, postage, handling, crating, and  
21 packing.

22 A member state may exclude from "delivery charges" the charges for delivery of "direct  
23 mail" if the charges are separately stated on an invoice or similar billing document given to  
24 the purchaser.

25 If a shipment includes exempt property and taxable property, the seller should allocate the  
26 delivery charge by using:

- 27 a. a percentage based on the total sales prices of the taxable property compared  
28 to the total sales prices of all property in the shipment; or

- 1                   b. a percentage based on the total weight of the taxable property compared to the  
2                   total weight of all property in the shipment.

3       The seller must tax the percentage of the delivery charge allocated to the taxable property but  
4       does not have to tax the percentage allocated to the exempt property.  
5

- 6   2. **"Direct mail"** means printed material delivered or distributed by United States mail or other  
7       delivery service to a mass audience or to addressees on a mailing list provided by the  
8       purchaser or at the direction of the purchaser when the cost of the items are not billed directly  
9       to the recipients. "Direct mail" includes tangible personal property supplied directly or  
10      indirectly by the purchaser to the direct mail seller for inclusion in the package containing the  
11      printed material. "Direct mail" does not include multiple items of printed material delivered  
12      to a single address.  
13

- 14   3. **"Lease or rental"** means any transfer of possession or control of tangible personal property  
15      for a fixed or indeterminate term for consideration. A lease or rental may include future  
16      options to purchase or extend.

17   A.     Lease or rental does not include:

- 18       1.     A transfer of possession or control of property under a security agreement or deferred  
19              payment plan that requires the transfer of title upon completion of the required  
20              payments;  
21       2.     A transfer or possession or control of property under an agreement that requires the  
22              transfer of title upon completion of required payments and payment of an option price  
23              does not exceed the greater of one hundred dollars or one percent of the total required  
24              payments; or  
25       3.     Providing tangible personal property along with an operator for a fixed or  
26              indeterminate period of time. A condition of this exclusion is that the operator is  
27              necessary for the equipment to perform as designed. For the purpose of this  
28              subsection, an operator must do more than maintain, inspect, or set-up the tangible  
29              personal property.

- 1 B. Lease or rental does include agreements covering motor vehicles and trailers where the  
2 amount of consideration may be increased or decreased by reference to the amount  
3 realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).
- 4 C. This definition shall be used for sales and use tax purposes regardless if a transaction is  
5 characterized as a lease or rental under generally accepted accounting principles, the  
6 Internal Revenue Code, the [state commercial code], or other provisions of federal, state  
7 or local law.
- 8 D. This definition will be applied only prospectively from the date of adoption and will  
9 have no retroactive impact on existing leases or rentals. This definition shall neither  
10 impact any existing sale-leaseback exemption or exclusions that a state may have, nor  
11 preclude a state from adopting a sale-leaseback exemption or exclusion after the  
12 effective date of the Agreement.
- 13
- 14 4. **"Purchase price"** applies to the measure subject to use tax and has the same meaning as  
15 sales price.
- 16
- 17 5. **"Retail sale or Sale at retail"** means any sale, lease, or rental for any purpose other than for  
18 resale, sublease, or subrent.
- 19
- 20 6. **"Sales price"** applies to the measure subject to sales tax and means the total amount of  
21 consideration, including cash, credit, property, and services, for which personal property or  
22 services are sold, leased, or rented, valued in money, whether received in money or  
23 otherwise, without any deduction for the following:
- 24 A. The seller's cost of the property sold;
- 25 B. The cost of materials used, labor or service cost, interest, losses, all costs of  
26 transportation to the seller, all taxes imposed on the seller, and any other expense  
27 of the seller;
- 28 C. Charges by the seller for any services necessary to complete the sale, other than  
29 delivery and installation charges;
- 30 D. Delivery charges;

1 E. Installation charges;

2 F. The value of exempt personal property given to the purchaser where taxable and  
3 exempt personal property have been bundled together and sold by the seller as a  
4 single product or piece of merchandise; and

5 G. Credit for any trade-in, as determined by state law.

6 States may exclude from "sales price" the amounts received for charges included in paragraphs  
7 (C) through (G) above, if they are separately stated on the invoice, billing, or similar document  
8 given to the purchaser.

9 "Sales price" shall not include:

10 A. Discounts, including cash, term, or coupons that are not reimbursed by a third  
11 party that are allowed by a seller and taken by a purchaser on a sale;

12 B. Interest, financing, and carrying charges from credit extended on the sale of  
13 personal property or services, if the amount is separately stated on the invoice,  
14 bill of sale or similar document given to the purchaser; and

15 C. Any taxes legally imposed directly on the consumer that are separately stated on  
16 the invoice, bill of sale or similar document given to the purchaser.

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18 7. **"Tangible personal property"** means personal property that can be seen, weighed,  
19 measured, felt, or touched, or that is in any other manner perceptible to the senses. **"Tangible**  
20 **personal property"** includes electricity, water, gas, steam, and prewritten computer software.

## **PART II**

### **Product Definitions**

#### **CLOTHING**

"Clothing" means all human wearing apparel suitable for general use. The following list contains examples and is not intended to be an all-inclusive list.

A. "Clothing" shall include:

1. Aprons, household and shop;
2. Athletic supporters;
3. Baby receiving blankets;
4. Bathing suits and caps;
5. Beach capes and coats;
6. Belts and suspenders;
7. Boots;
8. Coats and jackets;
9. Costumes;
10. Diapers, children and adult, including disposable diapers;
11. Ear muffs;
12. Footlets;
13. Formal wear;
14. Garters and garter belts;
15. Girdles;
16. Gloves and mittens for general use;
17. Hats and caps;
18. Hosiery;
19. Insoles for shoes;
20. Lab coats;
21. Neckties;
22. Overshoes;
23. Pantyhose;

- 1 24. Rainwear;
- 2 25. Rubber pants;
- 3 26. Sandals;
- 4 27. Scarves;
- 5 28. Shoes and shoe laces;
- 6 29. Slippers;
- 7 30. Sneakers;
- 8 31. Socks and stockings;
- 9 32. Steel toed shoes;
- 10 33. Underwear;
- 11 34. Uniforms, athletic and non-athletic; and
- 12 35. Wedding apparel.
- 13 B. "Clothing" shall not include:
  - 14 1. Belt buckles sold separately;
  - 15 2. Costume masks sold separately;
  - 16 3. Patches and emblems sold separately;
  - 17 4. Sewing equipment and supplies including, but not limited to, knitting needles,  
18 patterns, pins, scissors, sewing machines, sewing needles, tape measures, and  
19 thimbles; and
  - 20 5. Sewing materials that become part of "clothing" including, but not limited to, buttons,  
21 fabric, lace, thread, yarn, and zippers.

22 "Clothing accessories or equipment" means incidental items worn on the person or in  
23 conjunction with "clothing." "Clothing accessories or equipment" are mutually exclusive of and  
24 may be taxed differently than apparel within the definition of "clothing," "sport or recreational  
25 equipment," and "protective equipment." The following list contains examples and is not  
26 intended to be an all-inclusive list. "Clothing accessories or equipment" shall include:

- 27 A. Briefcases;
- 28 B. Cosmetics;
- 29 C. Hair notions, including, but not limited to, barrettes, hair bows, and hair nets;
- 30 D. Handbags;

- 1 E. Handkerchiefs;
- 2 F. Jewelry;
- 3 G. Sun glasses, non-prescription;
- 4 H. Umbrellas;
- 5 I. Wallets;
- 6 J. Watches; and
- 7 K. Wigs and hair pieces.

8 **"Protective equipment"** means items for human wear and designed as protection of the wearer  
9 against injury or disease or as protections against damage or injury of other persons or property  
10 but not suitable for general use. "Protective equipment" are mutually exclusive of and may be  
11 taxed differently than apparel within the definition of "clothing," "clothing accessories or  
12 equipment," and "sport or recreational equipment." The following list contains examples and is  
13 not intended to be an all-inclusive list. "Protective equipment" shall include:

- 14 A. Breathing masks;
- 15 B. Clean room apparel and equipment;
- 16 C. Ear and hearing protectors;
- 17 D. Face shields;
- 18 E. Hard hats;
- 19 F. Helmets;
- 20 G. Paint or dust respirators;
- 21 H. Protective gloves;
- 22 I. Safety glasses and goggles;
- 23 J. Safety belts;
- 24 K. Tool belts; and
- 25 L. Welders gloves and masks.

26 **"Sport or recreational equipment"** means items designed for human use and worn in  
27 conjunction with an athletic or recreational activity that are not suitable for general use. "Sport  
28 or recreational equipment" are mutually exclusive of and may be taxed differently than apparel  
29 within the definition of "clothing," "clothing accessories or equipment," and "protective

1 equipment.” The following list contains examples and is not intended to be an all-inclusive list.

2 “Sport or recreational equipment” shall include:

- 3 A. Ballet and tap shoes;
- 4 B. Cleated or spiked athletic shoes;
- 5 C. Gloves, including, but not limited to, baseball, bowling, boxing, hockey, and golf;
- 6 D. Goggles;
- 7 E. Hand and elbow guards;
- 8 F. Life preservers and vests;
- 9 G. Mouth guards;
- 10 H. Roller and ice skates;
- 11 I. Shin guards;
- 12 J. Shoulder pads;
- 13 K. Ski boots;
- 14 L. Waders; and
- 15 M. Wetsuits and fins.

16  
17 **COMPUTER RELATED**

18 “Computer” means an electronic device that accepts information in digital or similar form and  
19 manipulates it for a result based on a sequence of instructions.

20 “Computer software” means a set of coded instructions designed to cause a “computer” or  
21 automatic data processing equipment to perform a task.

22 “Delivered electronically” means delivered to the purchaser by means other than tangible  
23 storage media.

24 “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical,  
25 electromagnetic, or similar capabilities.

26 “Load and leave” means delivery to the purchaser by use of a tangible storage media where the  
27 tangible storage media is not physically transferred to the purchaser.

28 “Prewritten computer software” means “computer software,” including prewritten upgrades,  
29 which is not designed and developed by the author or other creator to the specifications of a  
30 specific purchaser. The combining of two or more “prewritten computer software” programs or



1 prewritten portions thereof does not cause the combination to be other than "prewritten computer  
2 software." "Prewritten computer software" includes software designed and developed by the  
3 author or other creator to the specifications of a specific purchaser when it is sold to a person  
4 other than the specific purchaser. Where a person modifies or enhances "computer software" of  
5 which the person is not the author or creator, the person shall be deemed to be the author or  
6 creator only of such person's modifications or enhancements. "Prewritten computer software" or  
7 a prewritten portion thereof that is modified or enhanced to any degree, where such modification  
8 or enhancement is designed and developed to the specifications of a specific purchaser, remains  
9 "prewritten computer software;" provided, however, that where there is a reasonable, separately  
10 stated charge or an invoice or other statement of the price given to the purchaser for such  
11 modification or enhancement, such modification or enhancement shall not constitute "prewritten  
12 computer software."

13 A member state may exempt "prewritten computer software" "delivered electronically" or by  
14 "load and leave."

#### 15 16 **FOOD AND FOOD PRODUCTS**

17 "Alcoholic Beverages" means beverages that are suitable for human consumption and contain  
18 one-half of one percent or more of alcohol by volume.

19 "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in  
20 combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars,  
21 drops, or pieces. "Candy" shall not include any preparation containing flour and shall require no  
22 refrigeration.

23 "Dietary supplement" means any product, other than "tobacco," intended to supplement the  
24 diet that:

25 A. Contains one or more of the following dietary ingredients:

- 26 1. A vitamin;
- 27 2. A mineral;
- 28 3. An herb or other botanical;
- 29 4. An amino acid;
- 30 5. A dietary substance for use by humans to supplement the diet by increasing the total  
31 dietary intake; or

1       6. A concentrate, metabolite, constituent, extract, or combination of any ingredient  
2       described in above; and

3       B. Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not  
4       intended for ingestion in such a form, is not represented as conventional food and is not  
5       represented for use as a sole item of a meal or of the diet; and

6       C. Is required to be labeled as a dietary supplement, identifiable by the "Supplemental Facts"  
7       box found on the label and as required pursuant to 21 C.F.R § 101.36.

8       **"Food and food ingredients"** means substances, whether in liquid, concentrated, solid, frozen,  
9       dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed  
10      for their taste or nutritional value. "Food and food ingredients" does not include "alcoholic  
11      beverages" or "tobacco." A member state may exclude "candy," "dietary supplements" and  
12      "soft drinks" from this definition, which items are mutually exclusive of each other.

13      Notwithstanding the foregoing requirements of this definition or any other provision of the  
14      Agreement, a member state may maintain its tax treatment of food in a manner that differs from  
15      the definitions provided herein, provided its taxation or exemption of food is based on a  
16      prohibition or requirement of that state's Constitution that exists on the effective date of the  
17      Agreement.

18      **"Food sold through vending machines"** means food dispensed from a machine or other  
19      mechanical device that accepts payment.

20      **"Prepared food"** means:

21      A. Food sold in a heated state or heated by the seller;

22      B. Two or more food ingredients mixed or combined by the seller for sale as a single item;  
23      or

24      C. Food sold with eating utensils provided by the seller, including plates, knives, forks,  
25      spoons, glasses, cups, napkins, or straws. A plate does not include a container or  
26      packaging used to transport the food.

27      "Prepared food" in B does not include food that is only cut, repackaged, or pasteurized by the  
28      seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring  
29      cooking by the consumer as recommended by the Food and Drug Administration in chapter 3,  
30      part 401.11 of its Food Code so as to prevent food borne illnesses.

1  
2 The following items may be taxed differently than "prepared food" and each other, if sold  
3 without eating utensils provided by the seller, but may not be taxed differently than the same  
4 item when classified under "food and food ingredients."

5 1. Food sold by a seller whose proper primary NAICS classification is manufacturing in  
6 sector 311, except subsector 3118 (bakeries).

7 2. Food sold in an unheated state by weight or volume as a single item.

8 3. Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries,  
9 donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, tortillas.

10 Substances within "food and food ingredients" may be taxed differently if sold as "prepared  
11 food." A state shall tax or exempt from taxation "candy," dietary supplements," and "soft  
12 drinks" that are sold as "prepared food" in the same manner as it treats other substances that are  
13 sold as "prepared food."

14 "Soft drinks" means non-alcoholic beverages that contain natural or artificial sweeteners. "Soft  
15 drinks" do not include beverages that contain milk or milk products, soy, rice or similar milk  
16 substitutes, or greater than fifty percent of vegetable or fruit juice by volume.

17 "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains  
18 tobacco.

#### 20 HEALTH-CARE

21 "Drug" means a compound, substance or preparation, and any component of a compound,  
22 substance or preparation, other than "food and food ingredients," "dietary supplements" or  
23 "alcoholic beverages:"

24 A. Recognized in the official United State Pharmacopoeia, official Homeopathic  
25 Pharmacopoeia of the United States, or official National Formulary, and supplement to  
26 any of them; or

27 B. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or

28 C. Intended to affect the structure or any function of the body.

29 A member state may independently:

- 1 A. Limit the definition of "drug" to human use (as opposed to both human and animal use)  
2 in the administration of its exemption;
- 3 B. Draft its exemption for "drug" to specifically add insulin and/or medical oxygen so that  
4 no prescription is required, even if a state requires a prescription under its exemption for  
5 drugs;
- 6 C. Determine the taxability of the sales of drugs and prescription drugs to hospitals and  
7 other medical facilities;
- 8 D. Determine the taxability of free samples of drugs; and
- 9 E. Determine the taxability of bundling taxable and nontaxable drug, if uniform treatment  
10 of bundled transactions is not otherwise defined in the Agreement.

11 **"Durable medical equipment"** means equipment including repair and replacement parts for  
12 same, but does not include "mobility enhancing equipment," which:

- 13 A. Can withstand repeated use; and
- 14 B. Is primarily and customarily used to serve a medical purpose; and
- 15 C. Generally is not useful to a person in the absence of illness or injury; and
- 16 D. Is not worn in or on the body.

17 A member state may limit its exemption to "durable medical equipment" used for home use only.  
18 A member state may limit the application of this definition by requiring a "prescription," or limit  
19 an exemption based on Medicare or Medicaid payments or reimbursements.

20 **"Grooming and hygiene products"** are soaps and cleaning solutions, shampoo, toothpaste,  
21 mouthwash, antiperspirants, and sun tan lotions and screens, regardless of whether the items  
22 meet the definition of "over-the-counter-drugs."

23 **"Mobility enhancing equipment"** means equipment including repair and replacement parts to  
24 same, but does not include "durable medical equipment," which:

- 25 A. Is primarily and customarily used to provide or increase the ability to move from one  
26 place to another and which is appropriate for use either in a home or a motor vehicle;  
27 and
- 28 B. Is not generally used by persons with normal mobility; and
- 29 C. Does not include any motor vehicle or equipment on a motor vehicle normally provided  
30 by a motor vehicle manufacturer.

1 A member state may limit the application of this definition by requiring a "prescription," or limit  
2 an exemption based on Medicare or Medicaid payments or reimbursements.

3 **"Over-the-counter-drug"** means a drug that contains a label that identifies the product as a drug  
4 as required by 21 C.F.R. § 201.66. A member state may exclude "grooming and hygiene  
5 products" from this definition. The "over-the-counter-drug" label includes:

6 A. A "Drug Facts" panel; or

7 B. A statement of the "active ingredient(s)" with a list of those ingredients contained in the  
8 compound, substance or preparation.

9 **"Prescription"** means an order, formula or recipe issued in any form of oral, written, electronic,  
10 or other means of transmission by a duly licensed practitioner authorized by the laws of the  
11 member state.

12 **"Prosthetic device"** means a replacement, corrective, or supportive device including repair and  
13 replacement parts for same worn on or in the body to:

14 A. Artificially replace a missing portion of the body;

15 B. Prevent or correct physical deformity or malfunction; or

16 C. Support a weak or deformed portion of the body.

17 A member state may exclude any or all of the following from the definition of "prosthetic  
18 device:"

19 A. Corrective eyeglasses;

20 B. Contact lenses;

21 C. Hearing aids; and

22 D. Dental prosthesis.

23 A member state may limit the application of this definition by requiring a "prescription," or limit  
24 an exemption based on Medicare or Medicaid payments or reimbursements.

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## PART III

### Sales Tax Holiday Definitions

"Eligible property" means an item of a type, such as clothing, that qualifies for a sales tax holiday exemption in a member state.

"Layaway sale" means a transaction in which property is set aside for future delivery to a customer who makes a deposit, agrees to pay the balance of the purchase price over a period of time, and, at the end of the payment period, receives the property. An order is accepted for layaway by the seller, when the seller removes the property from normal inventory or clearly identifies the property as sold to the purchaser.

"Rain check" means the seller allows a customer to purchase an item at a certain price at a later time because the particular item was out of stock.

1                   **PROPOSED CHANGES TO DRAFT BYLAWS\* OF THE STREAMLINED**  
2                                   **SALES TAX GOVERNING BOARD, INC.**

3                                   A Nonprofit Corporation

4                                   (\*as amended in Chicago, November 16, 2004)

5  
6                                   **Article One – Name and Purpose**

7           **Section 1.** The name of this organization shall be the Streamlined Sales Tax Governing  
8 Board, Inc., and its membership shall be determined under these bylaws as set forth in Article  
9 Three.

10          **Section 2.** The object and purpose of this organization shall be to administer and operate  
11 the Streamlined Sales and Use Tax Agreement as Amended (the "Agreement") under authority  
12 conferred in the Agreement.

13          **Section 3.** The Streamlined Sales Tax Governing Board, Inc. (hereinafter referred to as  
14 "Governing Board") may take any action that is necessary and proper to fulfill the purposes of the  
15 Agreement including but not limited to employing staff, advisors, consultants or agents and  
16 allocating the cost of administering the Agreement among the Member States. Procedures for  
17 amending the Agreement are contained in the Agreement.

18  
19                                   **Article Two – Offices**

20          **Section 1. Offices.** The principal office of the Governing Board will be in the  
21 State of XXXXXX, located in the City of XXXXXX County of XXXXXX. The Governing  
22 Board may have such other offices, either within or out of the State of XXXXXX as may  
23 be necessary to conduct the business of the corporation.

24          **Section 2. Records.** Records of all transactions and meetings of the Governing  
25 Board and Executive Committee, as well as all corporate records shall be maintained at  
26 the principal office.

27  
28                                   **Article Three - Membership**

29          **Section 1. Eligibility and Requirements.** Membership on the Governing Board  
30 shall be open to any state of the United States of America and the District of Columbia  
31 that is in compliance with the Agreement as provided in Section 805. Any such entity  
32 desiring membership must submit a petition for membership and a Certificate of  
33 Compliance to the Governing Board. The application must be in accordance with  
34 Sections 801 through 804 of the Agreement. After approval of a state's petition for

1 membership, such state shall be called a Member State. Each Member State shall  
2 annually re-certify that such state is in compliance with all terms of Agreement pursuant  
3 to section 803.

4 **Section 2.** Member States must pay the annual cost allocation, hereafter referred to  
5 as dues, adopted at an annual meeting of the Governing Board in order to remain in good  
6 standing.

7 **Section 3. *Number of Representatives to Governing Board.*** Each Member State  
8 may appoint up to four representatives to the Governing Board as described in section  
9 806 of the Agreement. Each Member State shall have only one vote.

10 **Section 4. *Expulsion or Withdrawal.*** Any Member State failing to properly comply  
11 with the terms of the Agreement or failing to pay the annual cost allocation may be  
12 expelled upon action of the Governing Board. Member States may also be permitted to  
13 withdraw from the Governing Board. Both expulsion and withdrawal are described in the  
14 Agreement, Section 808.

#### 15 16 **Article Four - Meetings of the Governing Board**

17 **Section 1. *Quorum.*** A two-thirds majority of the Member States shall constitute a  
18 quorum. A quorum is required to conduct the business of Governing Board at any  
19 meeting. For the purposes of determining whether a quorum is established, at least one  
20 representative of a Member State must be participating in the meeting, either in person or  
21 electronically.

22 **Section 2. *Annual Meeting.*** An annual meeting of the members of Governing Board  
23 shall be held once each year in a Member State for the purpose of electing Officers and  
24 Executive Committee Directors, for approving an annual budget, and for the transaction  
25 of such other business as may come before the meeting. The annual meeting shall be  
26 held at such time and place as determined by the Executive Committee. Notice  
27 provisions in Section 5 of this Article apply.

28 **Section 3. *Special Meetings.*** Special meetings of the Governing Board may be  
29 called by the Officers, the Executive Committee, or by petition of forty percent of  
30 Member States. Such meetings shall be held in a Member State at such time and place as



1 determined by the Executive Committee. Notice provisions in Section 5 of this Article  
2 apply.

3 **Section 4. *Emergency Meetings.*** Emergency meetings of the Governing Board may  
4 be called by the President, the Executive Committee, or by petition of forty percent of  
5 Member States. Such meetings shall be held at such time and place as determined by  
6 those who called the meeting. The purpose of the meeting must be contained in the  
7 notice, and no other business may be transacted. Electronic participation will be  
8 allowed. The thirty day notice requirements in Section 5 may be waived, although each  
9 Member State must be notified, and public notice must be given as far in advance as  
10 possible.

11 **Section 5. *Notice of Meetings.*** Except in the case of an emergency meeting, or a  
12 meeting in which the Agreement is to be amended, written notice stating the place, day,  
13 and hour of any Special or Annual meeting of the Governing Board shall be delivered 30  
14 days in advance by mail or electronically to each Member State entitled to vote at such  
15 meeting, and the Executive Committee shall provide public notice not less than thirty  
16 days before the date of such meeting. In the case of a special meeting, the notice shall  
17 contain a statement of the purpose of the meeting. Notice of any meeting which proposes  
18 to amend the Agreement must be given 60 days in advance and must follow the  
19 procedures outlined in Section 901 of the Agreement.

20 **Section 6. *Voting Rights.*** Each Member State of the Governing Board shall be  
21 entitled to one vote on each matter submitted to a vote at a meeting. For a vote for  
22 Officers and Executive Committee Directors, each Member State shall have one vote for  
23 each Officer or Director to be elected.

24 All actions taken by the Governing Board, except as otherwise provided in the  
25 Agreement, shall require an affirmative vote of a majority of those present and voting.

26 A three-fourths vote of the entire Governing Board is required to approve a state's  
27 petition for membership, to amend the Agreement, or to act on a request for interpretation  
28 of the Agreement. The adoption of a resolution to sanction a Member State for  
29 noncompliance with the Agreement shall require the affirmative vote of three-fourths of  
30 the entire Governing Board, excluding the state that is the subject of the resolution.

1 **Article Five – Officers**

2 **Section 1. Titles and Duties.** The officers of Governing Board shall be the  
3 President, First Vice-President, Second Vice-President and Secretary/ Treasurer. The  
4 President shall preside at all meetings of the Governing Board and Executive Committee.  
5 The First Vice-President, the Second Vice-President and the Secretary/Treasurer shall  
6 perform such duties as the President may from time to time assign or delegate to them.

7 The President shall prepare and present an annual report of the work of Governing  
8 Board to the Member States at the annual meeting. The President shall have such other  
9 powers that may be reasonably necessary to the performance of the office.

10 The First Vice-President shall serve in the President's absence.

11 The Second Vice-President shall coordinate such projects as the President assigns.

12 The Secretary/Treasurer shall see that all records, reports, and certificates required  
13 by law are properly kept or filed and shall see that the financial records of the  
14 organization are kept in accordance with generally accepted accounting principals and  
15 that an annual report of the finances of the organization is presented at the annual  
16 meeting. The Secretary/Treasurer shall also serve on the finance committee and shall  
17 assist in the preparation of an annual budget.

18 **Section 2. Election and Term of Office.** The four officers shall be directly elected  
19 by the Governing Board at the annual meeting *from a slate put forth by the Nominating*  
20 *Committee*. They shall serve a one year term, but may serve two additional one-year  
21 terms as officers, but not more than three years consecutively in any office or  
22 combination of offices. They shall hold office until their successors are selected.

23 **Section 3. Vacancies.** Should the office of President become vacant *during a term*  
24 or upon completion of the term, the First Vice-President shall fill the vacancy. Should the  
25 office of First Vice-President become vacant *during a term*, the Second Vice-President  
26 shall fill the vacancy. Should any of the other offices *the office of Secretary/Treasurer*  
27 *or Second Vice-President* become vacant, the Executive Committee shall appoint a  
28 representative of a Member State of the Governing Board to fill the ~~vacancy~~ *unexpired*  
29 *term*. Officers who fill vacancies shall serve the unexpired portion of the term of the  
30 predecessor in that office and may be elected to the same office for a full term.

1       **Section 4. Succession.** *When possible, the Nominating Committee shall put forth a*  
2 *slate of candidates for the offices of President, First Vice-President and Second Vice-*  
3 *President that allows for the succession of officers from Second Vice-President to First*  
4 *Vice-President to President, subject to election by the Governing Board. Nothing in this*  
5 *section shall prevent an officer from serving more than one term in the same office, but in*  
6 *no case shall an individual serve more than 3 years as provided in Section 2. Nothing in*  
7 *this section shall prevent the Nominating Committee from altering this planned*  
8 *succession if circumstances require.*

9       **Section 5. Resignation.** The Officers may resign from the office without having to  
10 resign as representatives to the Governing Board. They may not remain on the Executive  
11 Committee.

12       **Section 6. Compensation.** Officers shall not, by virtue of the office, be entitled  
13 to receive any salary or compensation from the Governing Board, but nothing shall be  
14 construed to prevent any officer from receiving reimbursement for any expenses incurred  
15 on behalf of Governing Board. No reimbursement for expenses shall be paid to Officers  
16 unless approved by the Executive Committee by majority vote.

## 17 18                                   **Article Six – Executive Committee**

19       **Section 1. Powers and Duties.** The general affairs of the Governing Board shall  
20 be managed by an Executive Committee in accordance with policies approved by the  
21 Governing Board. The Executive Director of Governing Board shall be an ex officio  
22 member of the Executive Committee with no voting rights. The Executive Committee is  
23 granted authority to:

- 24       1. Appoint an executive director of the Governing Board for such term as the Executive  
25       Committee shall deem appropriate and to fix compensation for the executive director  
26       and any and all staff determined to be necessary to conduct the business of the  
27       Governing Board.
- 28
- 29       2. Fix the duties and responsibilities of the executive director, and through the executive  
30       director, the work, policies and compensation of subordinates.
- 31
- 32       3. Provide for the raising of revenue, other than dues, and the discharge of obligations  
33       incurred by its employees.
- 34

- 1 4. Prepare an annual budget for the operation of the organization and submit it to the  
2 Governing Board for approval.  
3
- 4 5. Provide for the regular dissemination of information to the membership, the  
5 Governing Board and to the public.  
6
- 7 6. Enter into contracts and obligations for the attainment of the ends and purposes of the  
8 Governing Board in areas specifically delegated by the Governing Board and in  
9 accordance with their policies.  
10

11       **Section 2. *Number and Terms.*** There shall be five Directors on the Executive  
12 Committee in addition to the four Officers. The term of office for a Director shall be two  
13 years. Directors and Officers will be elected annually at the Annual Meeting of the  
14 Governing Board. Three Directors will be elected in odd-numbered years, two directors  
15 in even-numbered years, except that in the year the Governing Board is formed, all five  
16 Directors will be elected but the Directors whose terms would ordinarily expire the year  
17 following formation of the Governing Board will be elected for one year terms. No  
18 Director may serve more than two complete two-year consecutive terms, except those  
19 Directors filling an unexpired term or an initial one year term shall be eligible to serve a  
20 full term if elected. All Directors will serve until their respective successors are elected.

21       **Section 3. *Representation of Member States.*** The Nominating Committee shall  
22 assure geographic representation and diversity on the slate of Officers and Directors for  
23 the Executive Committee.

24       **Section 4. *Qualifications.*** Any duly appointed representative of a Member State is  
25 eligible to serve as a Director or Officer, except that no more than one Officer or Director  
26 shall be elected from a Member State at any given time.

27       **Section 5. *Regular Meetings.*** The Executive Committee shall meet each calendar  
28 quarter unless the President of Governing Board determines that more frequent meetings  
29 are needed. These meetings shall be at such times and at such places as designated by the  
30 President of Governing Board. Notice of meetings shall be given in accordance with  
31 Section 7 in these bylaws.

32       **Section 6. *Special Meetings.*** Special meetings of the Executive Committee may be  
33 called by the President. The time and place of special meetings shall be fixed by the  
34 President, and if desirable, may be held via teleconference. Notice of special meetings

1 must be given 10 days in advance to the public, Executive Committee and to the Member  
2 States. The meeting notice must include the items to be discussed and no other business  
3 may be transacted. In case of an emergency the 10 day notice requirement may be  
4 waived, although every member of the Executive Committee must be notified, and notice  
5 to the Member States and the public must be given as far in advance as possible.

6 **Section 7. Notice.** The Executive Committee members shall be given at least 30  
7 days notice prior to any regular meeting. Public notice shall also be given 30 days in  
8 advance of the meeting. Any Officer or Director may waive notice of a meeting. Notice  
9 requirements for special meetings are included in Section 6.

10 **Section 8. Voting.** Each Director shall have one vote.

11 **Section 9. Manner of Acting.** Five affirmative votes shall be required to approve  
12 any action of the Executive Committee.

13 **Section 10. Vacancies.** Any Officer or Director's position becoming vacant  
14 between annual meetings shall be filled by the Executive Committee from  
15 recommendations of the Nominating Committee.

#### 16 17 **Article Seven – Standing Committees of the Governing Board**

18 **Section 1. Nominating Committee.** The Conforming States Committee shall serve as  
19 the Nominating Committee to present the first slate of Officers and Directors to the  
20 Governing Board. Thereafter, the Governing Board shall elect a Nominating Committee  
21 of 8 persons at the Annual Meeting from a multiple slate of nominees representative of  
22 the Member States. The President shall chair the Nominating Committee once elected.

23 Nominating committee members serve a one-year term. (are they limited to 1 term?)

24 The Nominating Committee shall actively seek candidates for nomination as Officers  
25 and Directors. The Nominating Committee shall present a single slate of Officers and  
26 Directors of the Executive Committee to the members voting at the annual meeting.  
27 Candidates for Officers or Directors may also be nominated from the floor at the annual  
28 meeting, with the consent of the person being nominated, and are not limited to those  
29 recommended by the Nominating Committee. Any nomination from the floor must be in  
30 accordance with Article VI, Section 4 (Qualifications).

1 In the event of a vacancy between annual meetings, the Nominating Committee shall  
2 make recommendations to the Executive Committee to fill vacant Director or Nominating  
3 Committee positions. Vacant Officer positions shall be filled in accordance with Article  
4 V, Section 3.

5 **Section 2. *Membership and Compliance-Review and Interpretations Committee-***  
6 **The Membership and Compliance and Interpretations Review Committee has the dual**  
7 **responsibility for (1) recommending rules to the Governing Board to respond to**  
8 **statements of non-compliance, certifying to the Governing Board applications of states**  
9 **for compliance with the Agreement, maintaining a Compliance Review Guide, reviewing**  
10 **all compliance review reports to determine any needs for reassessment, to recommend**  
11 **findings of compliance or non-compliance to the Governing Board, and such other**  
12 **responsibilities as specified in the Agreement or assigned to them by the Executive**  
13 **Committee; (2) making recommendations to the Governing Board on matters involving**  
14 **interpretations, definitions, revisions or additions to the Agreement. Any request for**  
15 **interpretation or definitions presented to the Governing Board shall be referred to this**  
16 **Committee and public hearings held prior to issuing a recommendation. The Committee**  
17 **may seek the advice of the Advisory Councils on these matters prior to adopting a**  
18 **recommendation for the Governing Board.**

19 The President, with the approval of the Executive Committee, shall appoint a  
20 Membership and Compliance Review Committee Chair and six committee members The  
21 committee members shall be selected from the membership of Governing Board.

22 **Section 3. *Finance Committee.*** The Finance Committee has the responsibility to  
23 prepare an annual budget, monitor finances, review contracts, establish banking  
24 procedures and other financial policies, and recommend cost allocations for Member  
25 States for the Governing Board's approval. The President shall appoint a Finance Chair  
26 from the Executive Committee membership. The Chair shall select additional committee  
27 members to serve on the Finance Committee. The committee members shall be selected  
28 from the membership of the Governing Board. Size of committee?

29 **Section 4. *Issues Resolution Committee.*** The Issue Resolution Committee has the  
30 responsibility to promulgate rules and to implement the issue resolution process in  
31 Article X of the Agreement. The President, with the approval of the Executive

1 *Committee, shall appoint an Issue and one member shall be designated as chair. The*  
2 *chair and committee members shall be selected from the membership of the Governing*  
3 *Board.*

4 **Section 5. Other Committees.** The President, with the approval of the Executive  
5 Committee, may establish such other standing or ad hoc committees as from time to time  
6 are deemed necessary or desirable, and may, with the approval of the Executive  
7 Committee, appoint Chairs to such Committees.

8 **Section 6. Open Meetings, Notice Provisions.** *Except in circumstances permitted by*  
9 *the Agreement, all meetings of standing or ad hoc committees of the Governing Board*  
10 *shall be open meetings and shall provide for public comment. Advance notice of*  
11 *meetings, including an agenda, shall be given to committee members, the Governing*  
12 *Board, the Advisory Councils and the interested public.*

## 13 **Article Eight – Advisory Councils**

### 14 **A. State and Local Advisory Council.**

15  
16 **Section 1. Purpose.** The Governing Board shall create a State and Local  
17 Advisory Council to advise it on matters pertaining to the administration of the  
18 Agreement including but not limited to admission of states into membership,  
19 noncompliance, interpretations, and revision or additions to the Agreement. The  
20 Governing Board, *working through its committees*, shall solicit, consider and respond to  
21 Council positions on these matters.  
22

23 The Council also provides a forum for state and local government officials not  
24 represented on the Governing Board to express their ideas, concerns and have a formal  
25 process to bring those concerns to the Governing Board.

26 **Section 2. Membership.** The membership shall consist of one representative  
27 from each state that is a participating member of the Streamlined Sales Tax Project,  
28 designated by the state as outlined in the Agreement.

29 *In addition, the Governing Board shall appoint 3 representatives nominated from*  
30 *each of the following organizations to represent local government on the Council: U.S*  
31 *Conference of Mayors, National League of Cities, National Association of Counties, and*  
32 *the Government Finance Officers Association.*

1 The Governing Board may appoint other state and local officials to serve on the  
2 Council as it deems appropriate or necessary.

3 **Section 3. Officers.** The President, with the consent of the Executive Committee,  
4 shall appoint from among this group a Chair and Vice Chair of this Advisory Council to  
5 serve a one year term. An individual may serve no more than 2 consecutive terms as  
6 Chair or Vice-Chair, except to fill an unexpired term. The Chair and Vice-Chair will  
7 serve as *ex officio* members of the Governing Board, without a vote.

8 **Section 4. Rules of Operation.** The Council will adopt Rules of Procedure which  
9 may include establishment of committees or workgroups, decision-making processes and  
10 setting the Council agenda. Such rules must provide for open meetings, public comment,  
11 public notice that is consistent with the Governing Board.

12 **Section 5. Agenda Setting.** The Council will consider and respond to those matters  
13 referred to it from the Governing Board *or its committees*. In addition, the Council may  
14 recommend items to the Governing Board for consideration. The Governing Board shall  
15 give due consideration to the positions of the Council.

16 **Section 6. Relationship to Business and Taxpayer Advisory Council.** The State and  
17 Local Advisory Council shall seek the advice of and respond to the Business and  
18 Taxpayer Advisory Council on any item pertaining to the business community, prior to  
19 formulating a recommendation to the Governing Board *or its committees*.

20  
21 **B. Business and Taxpayer Advisory Council**

22 **Section 1. Purpose.** The Governing Board shall create a Business and Taxpayer  
23 Advisory Council with membership from the private sector to advise it on matters  
24 pertaining to the administration of the Agreement including but not limited to admission  
25 of states into membership, noncompliance, interpretations, and revision or additions to  
26 the Agreement. The Governing Board *and its committees* shall solicit, consider and  
27 respond to Council positions on these matters.

28 The Council also provides a forum for the private business sector to express their  
29 ideas, concerns and have a formal process to bring those concerns to the Governing  
30 Board.



1       **Section 2. Membership.** Membership on this Council shall be open to any seller or  
2 person subject to sales tax and organization representing such sellers or persons including  
3 an individual, business, association, organization of businesses or practitioner wishing to  
4 participate. The Council should recruit its members from companies of all sizes and  
5 industry types in order to be representative of the national business community.

6       **Section 3. Rules of Operation and Organizational Structure.** The Council shall  
7 adopt Bylaws and Rules of Procedure *which may include establishment of a Board of*  
8 *Directors*, committees or workgroups, decision-making processes and setting the Council  
9 agenda. The Board of Directors of the Council shall be representative of the diversity of  
10 its membership.

11       **Section 4. Officers.** The Board of Directors of the Council, in accordance with its  
12 Bylaws, will appoint a Chair and Vice Chair of this Advisory Council. The Chair and  
13 Vice-Chair will serve as *ex officio* members of the Governing Board, without vote.

14       **Section 5. Agenda Setting.** The Business and Taxpayer Advisory Council will  
15 consider and respond to those matters referred to it from the Governing Board *and its*  
16 *committees*. In addition, the Council may recommend items to the Governing Board for  
17 consideration and response. The Governing Board shall give due consideration to the  
18 positions of the Council.

19       **Section 6. Relationship to State and Local Advisory Council.** The Business and  
20 Taxpayer Advisory Council shall seek the advice of and respond to the State and Local  
21 Advisory Council on any item pertaining to the business community or tax administration  
22 prior to formulating a recommendation to the Governing Board *or its committees*.

23  
24                   **Article Nine– Procedures for Adopting/Amending Bylaws**

25       **Section 1. Adoption of Bylaws.** When at least ten states comprising at least twenty  
26 percent of the total population of all states imposing a state sales tax have petitioned the  
27 Streamlined Sales Tax Implementing States (hereinafter referred to as SSTIS) and are  
28 found to be in compliance with the Agreement pursuant to Section 805, the Governing  
29 Board may be formed by adopting these bylaws at an annual meeting as described in  
30 Article Four.

1       **Section 2. *Bylaw Amendments.*** These bylaws may be amended, repealed or altered  
2 in whole or in part by a majority of those present and voting at any annual or special  
3 meeting of the Governing Board, providing that the amendment, repeal or alteration has  
4 been presented in writing not less than thirty days prior to giving notice of the meeting to  
5 Member States, the Business and Taxpayer Advisory Council and the State and Local  
6 Government Advisory Council.

7  
8                                   **Article Ten - General Powers**

9       **Section 1. *Indemnification.*** The Governing Board and Executive Committee is  
10 authorized to provide for the indemnification of damages and expenses incurred by  
11 Directors, Officers, employees of the corporation which may arise out of their defense of  
12 a legal proceeding brought against them as a result of their duties with the Governing  
13 Board.

14       **Section 2. *Fiscal Year.*** The Fiscal Year of the Corporation shall commence on  
15 the first day of July and end on the 30<sup>th</sup> day of June. The books and accounts of the  
16 Corporation for each fiscal year shall be examined and audited by Certified Public  
17 Accountants selected by the Executive Committee.

18       **Section 3. *Waiver of Notice.*** Whenever notice is required under the provisions of  
19 these bylaws, the Articles of Incorporation or the Agreement, a written waiver signed by  
20 three-fourths of the Member States is sufficient to supersede the requirement.

21       **Section 4. *Non-discrimination.*** The Governing Board, Officers and Directors,  
22 committee members, employees and persons served by the Corporation shall be selected  
23 entirely on a non-discriminatory basis.

24       **Section 5. *Contracts.*** The Executive Committee may authorize any officer to  
25 enter into any contract or execute and deliver any instrument in the name of and on behalf  
26 of Governing Board and such authority may be general or confined to specific instances.

27       **Section 6. *Loans.*** No loans shall be contracted on behalf of Governing Board and  
28 no evidence of indebtedness shall be issued in its name unless authorized by the  
29 Governing Board. Such authority may be general or confined to specific instances.

1       **Section 7. *Parliamentary Authority.*** Mason's Rules of Parliamentary Procedure  
2 shall be the parliamentary authority for all matters of procedure not specifically covered  
3 by the bylaws or by specific rules of procedure adopted by the Corporation.  
4

5                               **Article Eleven– Dissolution**

6       In the event of the dissolution of this Corporation, the assets shall be distributed to  
7 the Member States in a manner to be determined by the Governing Board, or distributed  
8 to organizations whose exempt purposes are specified in Section 501( c ) of the Internal  
9 Revenue Code of 1054 and amendments thereto.  
10

11       Need Certificate of Adoption when we get to finalizing this.  
12  
13  
14

RBJ Draft

LLC Modified

1210/311401/04

Edited by Joan Wagon 12/31/04

**STREAMLINED SALES TAX PROJECT  
GOVERNING BOARD**

**RULES AND PROCEDURES**

***WORKING DRAFT OCTOBER 14, 2004 DECEMBER 30, 2004***

# STREAMLINED SALES TAX PROJECT GOVERNING BOARD

## RULES AND PROCEDURES

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  - Rule 404. Registration by an Agent. [Reserved.]
- V. ARTICLE V. Provider and System Certification. [Reserved.]
- VI. ARTICLE VI. Monetary Allowances for New Technological Models For Sales Tax Collection. [Reserved.]
- VII. ARTICLE VII. Agreement Organization.
  - Rule 701. Effective Date. [Reserved.]
  - Rule 702. Approval of Initial States.
- VIII. Article VIII. State Entry and Withdrawal.
  - Rule 801. Entry Into Agreement. [Reserved.]
  - Rule 802. Certificate of Compliance. [Reserved.]
  - Rule 803. Annual Recertification of Member States. [Reserved.]
  - Rule 804. Requirements for Membership Approval. [Reserved.]

78	Rule 805. Compliance. [Reserved.]
79	Rule 806. Agreement Administration.
80	Rule 806.1 Administration of Governing Board
81	806.1.1 Bylaws, Articles of Incorporation
82	806.1.2 Finance Administration Policies
83	806.1.3 Personnel Policies
84	806.1.4 Communication Policies
85	806.1.5 Cost Allocation Formula to Member States
86	Rule 806.2 Notice Requirements.
87	Rule 807. Meetings.
88	Rule 807.1. Open Meetings.
89	Rule 807.2. Regular Meetings. [Reserved.]
90	Rule 807.3. Emergency Meetings.
91	Rule 807.4 Electronic Participation, voting
92	Rule 808. Withdrawal or Expulsion of a Member.
93	Rule 808.1 Withdrawal of a Member. [Reserved.]
94	Rule 808.2 Expulsion of a Member. [Reserved.]
95	Rule 809. Sanction of a Member State. [Reserved.]
96	Rule 810. State and Local Advisory Council. [Reserved.]
97	Rule 811. Business Taxpayer Advisory Council. [Reserved.]
98	
99	IX. Article IX. Amendments and Interpretations.
100	
101	Rule 901. Amendments to Agreement.
102	Rule 902. Interpretations of Agreement.
103	Rule 903. Definition Requests.
104	Rule 903.1. Requests for Additional Definitions.
105	Rule 903.2. Requests for Interpretation of a Definition.
106	
107	X. Issue Resolution Process.
108	
109	Rule 1001. Rules and Procedures for Dispute Resolution
110	Rule 1002. Petition for Resolution.
111	Rule 1003. Final Decision of Governing Board. [Reserved.]
112	Rule 1004. Limited Scope of this Article. [Reserved.]
113	
114	XI. Relationship of Agreement to Member States and Persons. [Reserved.]
115	
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120 **STREAMLINED SALES TAX PROJECT**  
121 **GOVERNING BOARD**

122  
123 **RULES AND PROCEDURES**

124  
125 **ARTICLE I**

126 **Purpose and Principle**

127 [Reserved.]  
128

129 **ARTICLE II**

130 **Definitions**

131 [Reserved.]  
132

133 **ARTICLE III**

134 **Requirements Each State Must Accept to Participate**

135  
136 **Rules 301—327. [Reserved]**  
137

138 **Rule 328. Taxability Matrix.**

139  
140 **Rule 329. Effective Date for Rate Changes. [Reserved.]**  
141

142 **ARTICLE IV**

143 **Seller Registration.**

144  
145 **Rule 401. Seller Participation.**

146  
147 **Rule 401.1. Registration. [Reserved.]**  
148

149 **Rule 401.2. Cancellation of registration. [Reserved.]**  
150

151 **Rule 402. Amnesty for Registration. [Reserved.]**

152 **Rule 403. Method of Remittance. [Reserved.]**

153 **Rule 404. Registration by an Agent. [Reserved.]**  
154

155 **ARTICLE V**

156 **Provider and System Certification**

157 [Reserved.]  
158

159 **ARTICLE VI**

160 **Monetary Allowances for New Technological Models For Sales Tax Collection**

161 [Reserved.]

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**ARTICLE VII**  
**Agreement Organization**  
[Reserved.]

**ARTICLE VII**  
**Agreement Organization**

**Rule 701. Effective Date. [Reserved.]**

**Rule 702. Approval of Initial States.**

**A. Meeting of Petitioning States.**

1. The Co-Chairs of the Implementing States shall schedule a meeting of all states eligible to petition for membership into the Agreement on July 1, 2005.

2. A state is eligible to petition for membership into the Agreement if the effective date of ~~the~~ effective date of a state's substantial compliance with the Agreement is on or before July 1, 2005.

**B. Procedure for Petitioning States.** In order for a state to be considered for membership at a meeting of Petitioning States on July 1, 2005, the state must file a petition for membership and certificate of compliance with the Co-Chairs of the Streamlined Sales Tax Implementing States on or before May 1, 2005. A copy of the petitions for membership and certificate of compliance shall be sent to each of the Co-Chairs of the Streamlined Sales Tax Implementing States, to the Conforming States Interim Director and each of the Co-Chairs of the Conforming States Committee. The petitions for membership and certificate of compliance may be filed electronically. The petitions for membership and certificate of compliance shall be posted prominently on the petitioning state's website. The posting on the state's website shall display the filing date of the state's petition for membership.

**C. Compliance and Interpretations Committee.** The Co-Chairs of the Implementing States shall appoint a Compliance and Interpretations Committee Chair whose responsibility is to convene the committee and manage the process of reviewing petitions for membership. Each ~~member~~ of the Conforming States Committee shall ~~nominate~~ appoint a person to serve on the Compliance Committee by January 15, 2005. The ~~nominee~~ appointed committee members must have substantial background and familiarity with the provisions of the Agreement. The purpose of the Compliance and Interpretations Committee shall be to review each petition for membership and certificate of compliance and to review any public comments related thereto. The Compliance committee shall make a written recommendation regarding compliance of each state and shall present its recommendation at the meeting of Petitioning States. All meetings of the



committee, whether in person or by telephone, shall be open to the public and advance notice of meetings shall be given.

**D. Public Notice.** The Executive Director shall provide a copy of each petition and each certificate of compliance to the general public as provided in Rule 806.1. The Executive Director shall also provide notice to the Chairs of the State and Local Advisory Council and the Business Taxpayer Advisory Council if such Councils have been formed by May 1, 2005.

**E. Public Comment.** In order to be considered at a meeting of Petitioning States on July 1, 2005, comments related to a state's petition for membership and certificate of compliance shall be in writing and shall be filed within 30 days of the filing of a state's petition for membership. The comments shall be filed with the Co-Chairs of the Streamlined Sales Tax Implementing States and with the chief executive of the petitioning state's tax agency. A copy of the comments shall be sent to each of the Streamlined Sales Tax Implementing States and to the Conforming States Interim Director and the Co-Chairs of the Conforming States Committee. The comments may be filed electronically.

**F. Response to Public Comment.** A state shall have 15 days from the filing date of comments to file a written response to the comments. The state's response shall be filed with the Co-Chairs of the Streamlined Sales Tax Implementing States and with the party submitting the written comment. A copy of the response shall be sent to each of the Streamlined Sales Tax Implementing States and to the Conforming States Interim Director and the Co-Chairs of the Conforming States Committee. The response may be filed electronically.

#### **G. Petition Fee.**

Each petitioning state shall submit a state's petition for membership shall be accompanied by a petition fee in the amount of \$20,000 ~~to the Interim Executive~~ Director on or before July 1, 2005. This amount shall be held in escrow pending the Effective Date of the Agreement and the Effective Date of the State's membership. In the event that the Agreement fails to become effective by July 1, 2006, 2005, or the State is not found to be in compliance with the Agreement, the petition fee will be refunded to the State. ~~If~~ When the Agreement becomes effective and the State is found to be in compliance with the Agreement, the fee may be applied as a dollar-for-dollar credit against any future dues imposed by the Governing Board and payable by that state. If the Agreement fails to become effective by July 1, 2005, but the effective date appears to the co-chairs of the Implementing states to be within 90 days of that date, the petitioning states have the discretion to delay the refunding of dues to the states for that time period.

#### **H. Public Hearing.**

1. The Co-Chairs of the Implementing States shall schedule a public hearing as a part of the July 1, 2005 meeting of the petitioning states. Testimony may be

254 given in person or via telephone hookup. Following the public hearing, the vote on the  
255 each Petitioning State's membership petition shall be taken. Both the public hearing and  
256 vote on a state's petition for compliance must occur in an open meeting convened in  
257 accordance with Rule 807.1. The Co-Chairs may limit total public testimony to a  
258 reasonable time, not to be less than 15 minutes on any Petitioning State.  
259

260 2. The State and Local Advisory Council and the Business Advisory  
261 Council shall have the right to present oral testimony if they choose, provided they have  
262 been formed prior to May 1, 2005 and have provided written comments. The  
263 Streamlined Sales Tax Project Co-chairs shall also have the right to present oral  
264 testimony. The Executive Director Co-Chairs of the Implementing States may limit the  
265 time for each Council or the Project Co-Chairs to testify to a reasonable time, not to be  
266 less than 15 minutes each.  
267

268 3. Any Petitioning State has the right to make oral comments to the extent  
269 it deems appropriate, subject only to a motion by the other Petitioning States to cut off  
270 debate.  
271

272 4. Any party submitting written comments may include in its comments  
273 may submit a written request to testify before the Petitioning States. The Co-Chairs of  
274 the Implementing States shall grant those requests to the extent practicable but may limit  
275 the time for any single presentation.  
276

277 **I. Voting.** An affirmative vote of three-fourths of the other petitioning states is  
278 necessary for a petitioning state to be found in compliance with the Agreement. A  
279 petitioning state shall not vote on its own petition for membership.  
280

## 281 **Rule 702.2. Interim Operation of Petitioning States**

282

283 **A. Interim Nominating Committee.** The Conforming States Committee shall  
284 serve as the Nominating Committee to present the first single slate of Officers and  
285 Directors to the Governing Board and a multiple slate for members of the Nominating  
286 Committee. Thereafter,  
287

288 **B. Executive Director Search.** The Petitioning States shall name a four member  
289 panel to interview candidates conduct a search for an Executive Director., consisting of  
290 three delegates named by the Petitioning States and the Interim Executive Director and  
291 present qualified candidates to the Executive Committee of the Governing Board when it  
292 is formed. The Executive Committee will make the final selection.  
293

294 **C. Formation of the Governing Board.** The Petitioning States will meet on  
295 October 1, 2005 and form the Governing Board by adopting the Bylaws developed by the  
296 Conforming States Committee. The Governing Board, after its formation, shall elect its  
297 Officers and Directors and a Nominating Committee of 8 persons at the first Annual  
298 Meeting from a multiple slate of nominees representative of the Member States as  
299 described in Article Seven of the Bylaws. When a requisite number of states have been

found to be in compliance with the Agreement, the Potitioning States shall appoint an Interim Nominating Committee of 10 members from among the representatives of approved Petitioning States, which Committee shall include regional representation. The Interim Nominating Committee shall actively seek candidates for nomination as Officers and Directors. The Interim Nominating Committee shall present a slate of Officers and Directors for consideration at the organizational meeting of the Governing Board. Candidates for Officers or Directors may also be nominated from the floor at the organizational meeting of the Governing Board.

## **ARTICLE VIII**

### **State Entry and Withdrawal**

**Rule 801. Entry Into Agreement. [Reserved.]**

**Rule 802. Certificate of Compliance. [Reserved.]**

**Rule 803. Annual Recertification of Member States. [Reserved.]**

**Rule 804. Requirements for Membership Approval. [Reserved.]**

**Rule 805. Compliance. [Reserved.]**

**Rule 806. Agreement Administration.**

#### **Rule 806.1 Administration of Governing Board**

##### **806.1.1 Bylaws and Articles of Incorporation**

The Streamlined Sales Tax Governing Board, Inc, was incorporated on XXXdate under the laws of XXX state. The Bylaws and Articles of Incorporation are on file at the headquarters in XXXXXlocation. The corporation is recognized as 501( c ) 6 Corporation under the IRS whatever the language is. The Bylaws set forth the operation and administration of the Governing Board, its committees and advisory councils in accordance with the Agreement.

##### **806.1.2 Finance Administration Policies [reserved]**

(these should include policies on establishing banking accounts, check signing, reserves, payroll, budget process, facility leasing and purchase of equipment, etc. Note that the Bylaws require an annual audit and the policy for audit procurement should also be addressed.)

##### **806.1.3 Personnel Policies [reserved]**

(these include hiring/firing, non-discrimination clauses, vacation and other types leave, benefits, etc.)

##### **806.1.4 Communications Policies [reserved]**

(most important among these is who speaks for the GB to the press/public)

##### **806.1.5 Cost Allocation Formula for Member States [reserved]**

(cost allocation is determined and approved by Gov. Bd. – should be written down here and include method for calculating. We decided on

50% population, 50% sales taxes collected I think, but it should be spelled out .)

**Rule 806.2. Notice Requirements.**

**A. Forms of Notice.**

**1. Written Notice.** All notices required or provided for in the Agreement shall be in writing. The writing may be incorporated in a paper document or it may be in electronic form posted on the Website or contained in electronic mail. Telephonic voice communications do not constitute written notice.

**2. Paper Form.** Written notice may be sent in paper form through first-class mail or any private mail delivery service accredited by the Internal Revenue Service for tax return filing purposes. Notices to the Governing Board are properly addressed to the Executive Director at the address indicated on the Website. Until an Executive Director is appointed, notice to the Board may be sent to the Interim Executive Director at the address indicated on the Website.

*[For informational purposes only, the current name and address of the Interim Executive Director are as follows:*

*Scott Peterson  
Interim Executive Director  
SST Conforming States Committee  
c/o Federation of Tax Administrators  
444 North Capitol Street, N. W.  
Suite 348  
Washington, D. C. 20001*

*This name and address may be changed from time-to-time without amending these Rules of Procedure.]*

**3. Electronic Form.** Written notice may be sent in electronic form to parties who have supplied an e-mail address, or by sending an e-mail to the Executive Director at the e-mail address indicated on the Website. Until an Executive Director is appointed, notice to the Board may be sent to the Interim Executive Director at the e-mail address indicated on the Website.

*[For informational purposes only, the current name and e-mail address of the Interim Executive Director are as follows:*

*Scott Peterson  
Scott.Peterson@state.sd.us*

*This name and address may be changed from time-to-time without amending these Rules of Procedure.]*

**4. Facsimile transmission.** Written notice may be sent by facsimile transmission. Contact the Governing Board by sending a fax to the Executive Director at the fax number indicated on the Website. Until an Executive Director is appointed, notice to the Board may be sent to the Interim Executive Director at the fax number indicated on the Website.

*[For informational purposes only, the current name and fax number of the Interim Executive Director are as follows:*

*Scott Peterson*

*This name and address may be changed from time-to-time without amending these Rules of Procedure.*

**B. Notice to the Public.**

**1. Publication.** Notice to the public may be accomplished by publishing the notice on the Governing Board website (the "Website") at under the section identified for public notice. Until the Website is established, public notice may be accomplished by publishing the notice on the Streamlined Sales Tax website at [www.streamlinedsalestax.org](http://www.streamlinedsalestax.org). Public notices shall also be sent to registrants on the electronic mailing list.

**2. Electronic mailing list.** Interested parties may register with the Governing Board to be placed on an electronic mailing list, by sending a written request. The registration will be effective as soon as practicable, but in no event later than thirty days after the request is received. Any such registration will automatically terminate on December 31 of the first full calendar year following the request for registration and at the end of each year thereafter unless if the party requests fails to respond to a request for renewal of the registration in writing.

**D. Notice to a Member State and to Advisory Councils.**

**1. Authorized Representative.** Each Member State shall designate the name, mailing address and electronic mail address of the person(s) authorized to receive written notice for that State on matters governed by the Agreement, referred to herein as the "authorized representative." That name and address shall be published on the Governing Board Website.

**2. Governing Board Members.** Each Member State shall designate the name, mailing address and electronic mail address of the four people authorized to represent the Member State on the Governing Board. That name and address shall be published on the Governing Board Website. Member States are responsible for updating their membership designations.

**3. Advisory Councils.** Each Member State shall designate the name, mailing address and electronic mail address of the person authorized to represent the Member State on the State and Local Advisory Council. That name and address shall be published on the Governing Board Website. Member States are responsible for updating their membership designations. The Business and Taxpayer Advisory Council shall submit its membership lists for purposes of giving notice of meetings and shall be responsible for updating the lists.

**E. Written notice to a taxpayer, representative, or other non-governmental entity.**

**1. Designation of address.** A taxpayer, representative, or other nongovernmental party that initiates a proceeding before the Governing Board

(collectively referred to as an "interested party") may designate in the document initiating the proceedings or communication whether it wishes to receive notices or other communications in paper format, ~~or~~ by electronic mail, or by facsimile transmission.

**2. Written Notice.** Written notice may be accomplished by paper form as set forth in part CD.3 of this Rule, or by electronic form as set forth in part CD.4 of this Rule, or by facsimile transmission as set forth in part D.5 of this rule.

**3. Paper form.** Written notice may be sent to the interested party in paper form through first class mail or any private mail delivery service accredited by the Internal Revenue Service for tax return filing purposes, properly addressed to the mailing address provided by the interested party.

**4. Electronic form.** Written notice may be sent to the interested party in electronic form by sending an e mail properly addressed to the e mail address provided by the interested party.

**5. Facsimile transmission.** Written notice may be sent by facsimile transmission by sending a fax to the interested party at a fax number indicated by the interested party.

**52. Default rule.** If the interested party does not designate the manner of notice or a designated address, the Governing Board shall use the same form of written notice used by the party in initiating the proceeding and shall use the address or fax number used by the party in initiating its notice. If no address or fax number is included or can be determined from the party's initial communication, the Governing Board shall have no obligation to provide a written response.

## **Rule 807. Meetings.**

### **Rule 807.1. Open Meetings.**

- A. Definitions
- B. Required open and public meetings
- C. Recording proceedings
- D. Agenda and other "writing" as public record; Inspection
- E. Conditions for taking action on items not appearing on posted agenda
- F. Minutes of closed session
- G. Statement of reasons and authority for closed session
- H. Governing Board bodies subject to rule
- I. When closed sessions held
- J. Continuance or recontinuance of hearing
- K. Fees
- L. Complaints regarding public participation rule
- M. Prohibition against use of certain facilities
- N. Prohibition against closed sessions except as expressly authorized

483 **807.1.AA. Definitions“ Streamlined Sales Tax Governing Board, Inc.,”**  
484 **“Governing Board;” “Governing Board member;” “Governing Board body” and**  
485 **“Member State.”**

486 [Note to Loren: because the Member States only have 1 vote each on the GB, but 4  
487 representatives, and some of these folks are on committees, the open meetings  
488 requirements which we ordinarily apply to elected officials don't seem so relevant  
489 regarding groups of people convening outside a regular meeting. That's why I shortened  
490 a lot of this.]

491  
492 **i1. Action taken.** As used in this rule, “action taken” means a  
493 collective decision made by the members of the Governing Board or of a  
494 Governing Board ~~body~~ committee, a collective commitment or promise by the  
495 members of the Governing Board or of a Governing Board body to make a  
496 positive or negative decision or an actual vote by the members of the Governing  
497 Board or of a Governing Board ~~body~~ committee when sitting as a body or entity  
498 upon a motion, proposal, resolution, order or similar action.

499 ~~\_\_\_\_\_~~ As used in this rule, “Streamlined Sales Tax Governing Board,  
500 Inc.” or “Governing Board” means the Governing Board established by Section 806 of  
501 the Streamlined Sales and Use Tax Agreement.  
502

503 **2.** As used in this rule, “Governing Board member” means a  
504 member of the Governing Board as described in Section 806 of the Streamlined Sales and  
505 Use Tax Agreement.  
506

507 **ii3. Governing Board body.** As used in this rule, “Governing Board  
508 body” means: [I struck most of this because it is way too broad.]  
509

510 **a. E** every committee, advisory committee, subcommittee or  
511 similar multimember body of the Governing Board which is required by  
512 the Streamlined Sales and Use Tax Agreement or the By Laws of the  
513 Governing Board to conduct official meetings and every committee  
514 created by the Governing Board or its Executive Committee.  
515

516 **1.** As used in this rule, “Governing Board body” also means  
517 any board, Governing Board, committee, or similar multimember body  
518 which exercises any authority of the Governing Board delegated to it by  
519 the Governing Board;  
520

521 **b.** Any board, Governing Board, committee, or similar  
522 multimember body which exercises any authority of the Governing Board  
523 delegated to it by the Governing Board  
524

524 **e. ~~A~~**

525 **5.** As used in this rule, “Governing Board body” also means  
526 any advisory board, advisory Governing Board, advisory committee,  
527 advisory subcommittee, or similar multimember advisory body of the  
528 Governing Board, if created by formal action of the Governing Board or

529 of any member of the Governing Board when acting in their official  
530 capacity as a member of the Governing Board, and if the advisory body so  
531 created consists of three or more persons;

532 d. Notwithstanding the foregoing subsections, Governing Board  
533 body does not include the State and Local Advisory Council ~~or the~~  
534 Business and Taxpayer Advisory Council.  
535

536 iii.. **Governing Board member.** As used in this rule, "**Governing**  
537 **Board member**" means a member of the Governing Board as described in  
538 Section 806 of the Streamlined Sales and Use Tax Agreement. ~~[is all this~~  
539 definition necessary? Do you want to reference the bylaws?]  
540

541 iiiiv. **Meeting.** As used in this rule, "meeting" includes any  
542 congregation, whether in person or by electronic means, of a majority of the  
543 members of the Governing Board or Governing Board ~~body~~ committee at the  
544 same time to hear, discuss, deliberate or act upon any item that is within their  
545 subject matter jurisdiction except the following do not constitute a meeting:

546 a. social or ceremonial occasions whether sponsored in whole or  
547 in part by the Governing Board or a Governing Board related body;

548 b. ~~at~~ a conference or similar gathering sponsored by an entity  
549 other than the Governing Board or a Governing Board ~~body~~ committee  
550 that involves discussion of issues of general interest provided that a  
551 majority of the members do not discuss among themselves, other than as  
552 part of the scheduled program, business that is within the jurisdiction of  
553 the Governing Board or the Governing Board body; [suggestion that this  
554 be clarified] or [this is pretty unrealistic!]

555 c. training or informational sessions sponsored by the Governing  
556 Board or a Governing Board committee~~body~~ at which there are no actions  
557 or deliberative discussions undertaken.  
558

559  
560 y6. **Member State.** As used in this rule, "**Member State**" means a  
561 party State of the Streamlined Sales and Use Tax Agreement. "State" means the  
562 same as Section 213 of the Streamlined Sales and Use Tax Agreement.  
563

564 vi. **Streamlined Sales Tax Governing Board, Inc.** As used in this  
565 rule, "**Streamlined Sales Tax Governing Board, Inc.**" or "**Governing Board**"  
566 means the Governing Board established by Section 806 of the Streamlined Sales  
567 and Use Tax Agreement.  
568

569 **B. 807.1.B "Action taken."** As used in this rule, "action taken" means a  
570 collective decision made by the members of the Governing Board or of a Governing  
571 Board body, a collective commitment or promise by the members of the Governing  
572 Board or of a Governing Board body to make a positive or negative decision or an actual  
573 vote by the members of the Governing Board or of a Governing Board body when sitting  
574 as a body or entity upon a motion, proposal, resolution, order or similar action.



575  
576 **C. Required open and public meetings.**  
577

578 i1. Pursuant to Section 807 of the Streamlined Sales and Use Tax  
579 Agreement and Articles Six and Seven of the Bylaws, all meetings of the Governing  
580 Board or a Governing Board ~~body~~ committee shall be open and public and all persons  
581 shall be permitted to attend any meeting of the Governing Board or a Governing Board  
582 ~~body~~ committee except as otherwise provided in this rule.  
583

584 ii2. Nothing in this rule shall be construed to prohibit the Governing  
585 Board or a Governing Board ~~body~~ committee from holding an open or closed meeting by  
586 teleconference if the convening at one location of a quorum of the Governing Board or  
587 the Governing Board body is difficult or impossible, subject to all of the following:  
588

589 a. The teleconferencing meeting shall comply with all requirements of  
590 this rule applicable to other meetings.  
591

592 b. The portion of the teleconferenced meeting that is required to be open  
593 to the public shall be audible to the public at the location specified in the  
594 notice of the meeting.  
595

596 c. Each teleconference location shall be identified in the notice of the  
597 meeting and shall be accessible to the public.  
598

599 d. All votes taken during a teleconferenced meeting shall be by roll call.  
600

601 e. At least one member of the Governing Board or Governing Board ~~body~~  
602 committee or of an employee of the Governing Board or a Mmember State  
603 shall be physically present at the location specified in the notice of the  
604 meeting.  
605

606 iii3. For the purposes of this section, "teleconference" means a  
607 conference of individuals in different locations, connected by electronic means, through  
608 either audio or video, or both.  
609

610 **D. Meeting definition.** For the purposes of this rule, "meeting" includes any  
611 congregation, whether in person or by electronic means, of a majority of the members of  
612 the Governing Board or Governing Board body at the same time to hear, discuss,  
613 deliberate or act upon any item that is within their subject matter jurisdiction except:  
614

615 1. social or ceremonial occasions whether sponsored in whole or in part  
616 by the Governing Board or a Governing Board body;  
617

618 2. at a conference or similar gathering sponsored by an entity other than  
619 the Governing Board or a Governing Board body that involves discussion of issues of  
620 general interest provided that a majority of the members do not discuss among

621 themselves, other than as part of the scheduled program, business that is within the  
622 jurisdiction of the Governing Board or the Governing Board body; [suggestion that this  
623 be clarified] or  
624

625 3. training or informational sessions sponsored by the Governing Board or  
626 a Governing Board body at which there are no actions or deliberative discussions  
627 undertaken.  
628

629 **807.1.CE. Recording proceedings.** Any person attending an open and public  
630 meeting of the Governing Board or a Governing Board ~~body~~ committee may record the  
631 proceedings on a tape recorder in the absence of a reasonable finding of the Governing  
632 Board or the Governing Board ~~body~~ committee that such recording constitutes, or would  
633 constitute, a disruption of the proceedings.  
634

635 **807.1.DF. Agenda and other "writing" as public record; Inspection.**  
636

637 **i1.** Agendas of public meetings and other writings, when distributed to all,  
638 or a majority of all, of the members of the Governing Board or a Governing Board ~~body~~  
639 committee by a member, officer, employee, or agent of the Governing Board for  
640 discussion or consideration at a public meeting of the Governing Board or the Governing  
641 Board ~~body~~ committee, are public records as soon as distributed, and shall be made  
642 available. However, this section shall not include any writing which is  
643

644 a. a preliminary draft, note or memoranda which are not retained  
645 by the Governing Board or the Governing Board committee in the  
646 ordinary course of business, provided that the public interest in  
647 withholding those records clearly outweighs the public interest in  
648 disclosure;  
649

650 b. records pertaining to pending litigation to which the Governing  
651 Board, Governing Board committee -or ~~M~~member ~~S~~state is a party  
652 until the pending litigation has been finally adjudicated or  
653 otherwise settled;  
654

655 c. minutes made pursuant to Rule 807.1.F regarding closed  
656 meetings; and  
657

658 de. personnel, medical or similar files the disclosure of which  
659 would constitute an unwarranted invasion of personal privacy.  
660

661 **ii2.** Writings which are public records under subdivision (a) and which  
662 are distributed prior to commencement of a public meeting shall be made available for  
663 public inspection upon written request prior to commencement of such meeting.  
664

665 **iii3.** Writings which are public records under subdivision (a) and which  
666 are distributed during a public meeting, either prior to commencement of their discussion

or during their discussion at such meeting shall be made available for public inspection prior to commencement of, and immediately during their discussion at such meeting.

iv4. Writings which are public records under subdivision (a) and which are distributed during their discussion at a public meeting shall be made available for public inspection immediately or as soon thereafter as is practicable.

v5. Nothing in this section shall be construed to prevent the Governing Board from charging a fee or deposit for a copy of a public record to cover the direct costs of duplication. This section shall not be construed to be applicable to any writings solely because they are properly discussed in a closed session of the Governing Board or a Governing Board ~~committee~~ body. Nothing in this rule shall be construed to require the Governing Board to place any paid advertisement or any other paid notice in any publication.

vi6. "Writing" for purposes of this section means handwriting, typewriting, printing, photostatting, photographing, and every other means of recording upon any form or communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

*[Create general section on reporting from closed meetings.]*

**807.1.EC. Conditions for taking action on items not appearing on posted agenda.** [this seems out of place here it belongs in a section on setting the agenda for GB I also think you don't want this much restriction on a committee agenda!]

i1. The Governing Board or a Governing Board body committee may take action on items of business not appearing on the posted agenda under any of the conditions stated below:

[Loren, review sec. 6, Art. 4 of the bylaws]

a. Upon a determination by a majority of those present and voting of the Governing Board or a Governing Board body committee that an emergency situation exists, as defined in Section 806 and Rule 807.3 of the Streamlined Sales and Use Tax Agreement. or

b. Upon a determination by a two thirds vote of the Governing Board or a Governing Board body, ~~or, if less than two thirds of the members are present, a unanimous vote of those members present;~~ that there exists a need to take immediate action and that the need for action came to the attention of the Governing Board or the Governing Board body subsequent to the agenda being posted. [this appears to be inconsistent with out quorum requirements we require 2/3 to be present for a quorum in GB, then a majority of those present and voting can pass something. It doesn't matter

713 why it's not on the agenda the question is whether you want a supermajority to approve  
714 its addition.]

715  
716 ii2. Notice of the additional item to be considered shall be provided to  
717 each member of the Governing Board or the Governing Board body and to the public as  
718 provided in Rule 806.1. all parties that have requested notice of its meetings as soon as is  
719 practicable after a determination of the need to consider the item is made, but shall be  
720 delivered in a manner that allows it to be received by the members at least 48 hours  
721 before the time of the meeting specified in the notice. Notice shall be made available to  
722 national publications which specifically address tax matters. Notice shall be provided to  
723 the general public by placing it on appropriate electronic bulletin boards or other  
724 appropriate mechanisms, whenever the Governing Board has the electronic capability  
725 necessary to do so.

726  
727  
728 *[The agreement should be amended to allow for a closed session when*  
729 *the Governing Board is a party to litigation.] Don't you think an*  
730 *"interpretation" of 807E could cover this? If not, then I agree it should be added*  
731 *to that list.*

732  
733 **807.1.FH. Minutes of closed session.** The Governing Board or a Governing  
734 Board ~~body~~-committee shall keep minutes of the topics discussed and decisions made at  
735 a closed session and the reason for such a session. The minutes made pursuant to this  
736 section is are not a public record and shall be kept confidential. The minutes shall be  
737 available to members of the Governing Board or the Governing Board body. Such  
738 minutes may, but need not, consist of a recording of the closed session.

739  
740 **807.1.GI. Statement of reasons and authority for closed session.**

741  
742 i1. Prior to holding any closed session, the Governing Board or a  
743 Governing Board ~~body~~-committee shall state the general reason or reasons for the closed  
744 session, and cite the specific authority, including the particular subdivision of Section 807  
745 of the Streamlined Sales and Use Tax Agreement under which the session is being held.  
746 If the session is closed pursuant to subdivision E of Section 807 the Governing Board or  
747 the Governing Board ~~body~~committee shall state the title of, or otherwise specifically  
748 identify, the litigation to be discussed unless the Governing Board or the Governing  
749 Board ~~body~~-committee states that to do so would jeopardize the Governing Board's or a  
750 member State's ability to effectuate service of process upon one or more unserved  
751 parties, or that to do so would jeopardize its ability to conclude existing settlement  
752 negotiations to its advantage.

753  
754 ii2. In the closed session, the Governing Board or the Governing Board  
755 ~~body~~-committee may consider only those matters covered in its statement.

756  
757 iii3. The statement shall be made as part of the notice provided for the  
758 meeting.

759  
760 |           iv4. If, after the closed session agenda has been published in compliance  
761 with this section, any additional pending litigation (under paragraph E of Section 807)  
762 matters arise, the postponement of which will prevent the Governing Board or the  
763 Governing Board ~~body~~ committee from complying with any statutory, court-ordered, or  
764 other legally imposed deadline, the Governing Board or Governing Board ~~body~~  
765 committee may proceed to discuss those matters in closed session and shall publicly  
766 announce in the meeting the title of, or otherwise specifically identify, the litigation to be  
767 discussed. Such an announcement shall be deemed to comply fully with the requirements  
768 of this section.  
769

770 |           v5. Nothing in this section shall require or authorize the giving of names  
771 or other information which would constitute an invasion of privacy or otherwise  
772 unnecessarily divulge the particular facts concerning the closed session.  
773

774 |           **807.1.HJ. Governing Board bodies subject to rule.** Each provision of this rule  
775 shall apply to every Governing Board body unless the body is specifically excepted from  
776 this rule. *[Need to consider application of this provision to Advisory Councils.]*  
777 *[Bylaws make it applicable to all committees – not needed here.]*  
778

779 |           **807.1.IK. When closed sessions held.** Each closed session of the Governing  
780 Board or a Governing Board body shall be held only during a regular or special meeting  
781 of the Governing Board or a Governing Board body. *[Unnecessarily restrictive what*  
782 *about an emergency meeting? not needed\*  
783

784 |           **807.1.JL. Continuance or recontinuance of hearing.** Any hearing being held,  
785 or noticed or ordered to be held by the Governing Board or a Governing Board ~~body~~  
786 committee at any meeting may by order or notice of continuance be continued or  
787 recontinued to any subsequent meeting of the Governing Board or the Governing Board  
788 ~~body~~committee which is noticed pursuant to Section 8. A copy of the order or notice of  
789 continuance shall be conspicuously posted on or near the door of the place where the  
790 hearing was held within 24 hours after the time of the continuance; provided, that if the  
791 hearing is continued to a time less than 24 hours after the time specified in the order or  
792 notice of hearing, a copy of the order or notice of continuance of hearing shall be posted  
793 immediately following the meeting at which the order or declaration of continuance was  
794 adopted or made. If a hearing is held in a hotel or other facility not under the control of  
795 the Governing Board or a member State, the posting requirement is waived, and the  
796 Governing Board or the Governing Board ~~body~~committee shall accomplish the purpose  
797 of this section through a reasonable alternative means.  
798

799 |           **807.1.KM. Fees.** No fees may be charged by the Governing Board for providing  
800 a notice required by Section 8 or for carrying out any provision of this rule, except as  
801 specifically authorized pursuant to this rule.  
802

803 |           **807.1.L.N. Complaints regarding public participation rule.** Complaints  
804 involving alleged failures of the Governing Board or a Governing Board ~~body~~ committee

to adhere to the policies expressed herein shall be directed to the Executive Director of the Governing Board. Upon receipt of any complaint, the Executive Director shall immediately forward a copy of the complaint to each member of the Governing Board. Thereafter, the Executive Director shall conduct or have conducted an investigation of the complaint and prepare a report of findings and recommendations for any remedial steps which may be necessary to implement the letter and spirit of this rule. A copy of this report shall be forwarded to each member of the Governing Board within 45 days of receipt of the complaint and the matter shall be scheduled for discussion and possible action at the next meeting of the Governing Board or the Executive Committee, whichever occurs first.

**807.1.MØ. Prohibition against use of certain facilities.** The Governing Board or a Governing Board ~~body~~- committee shall not conduct any meeting, conference, or other function in any facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, sexual orientation or sex.

**807.1.NP. Prohibition against closed sessions except as expressly authorized.** Except as expressly authorized by the Agreement or this rule, no closed session may be held by the Governing Board or a Governing Board ~~body~~- committee.

**Rule 807.2. Regular Meetings. [Reserved.]**

A. Governing Board. Note: bylaw provisions on annual meeting: An annual meeting of the members of Governing Board shall be held once each year ~~in a~~ Member State for the purpose of electing Officers and Executive Committee Directors, for approving an annual budget, and for the transaction of such other business as may come before the meeting.

i. The Executive Committee of the Governing Board shall determine the time and place as determined by the Executive Committee. Notice provisions in Section 5 of this Article apply for the annual meeting and shall prepare an agenda for distribution to the Member States. Written notice of the meeting must be given at least 30 days in advance of the meeting and must include the agenda, budget, information about the proposed slate of officers and a description of other items on the agenda. Supplementary materials must be distributed in writing no later than 10 days prior to the meeting.

ii. Member States wishing to add action or discussion items to the agenda may do so, if circulated in writing in advance to the membership of the Governing Board not less than 10 days prior to the meeting and with the approval of a majority of those present and voting at the meeting. A motion to add the item to the agenda must be considered.

850                    iii. Proposed amendments to the Agreement must conform to Rule 901.  
851                    Requests for interpretation or definition must conform to Rules 902 and 903.  
852

853                    The place for annual meetings should be rotated among the Member States on a  
854                    voluntary basis.  
855

856                    B. Executive Committee. The Executive Committee shall meet no less than once  
857                    each calendar quarter or it may meet more frequently. The President shall post a  
858                    schedule for regular meetings on the website scheduling as far in advance as  
859                    possible; however, in not case shall notice of less than 30 days be given.  
860

861                    C. Other Committees. Standing Committees shall post their meeting schedule on  
862                    the website. Ten day advance written notice is sufficient, although regular  
863                    meetings should be scheduled as far in advance as possible.  
864

865                    **Rule 807.3 Special Meetings. [Reserved.]**

866                    A. Governing Board. Note: bylaw provisions on special meetings. Special  
867                    meetings of the Governing Board may be called by the Officers, the Executive  
868                    Committee, or by petition of forty percent of Member States. Such mootings shall be hold  
869                    in a Member State at such time and place as determined by the Exccutive Committee.  
870                    Notice provisions in Section 5 of this Article apply.

871                    i. The Executive Committee of the Governing Board shall determine the time  
872                    and place as dctermined by the Exccutive Committec. Notice provisions in Section 5  
873                    of this Article apply for special meetings. The Executive Committee shall prepare  
874                    an agenda for distribution to the Member States except when called by a petition of  
875                    Member States. Written notice of the meeting must be given at least 30 days in  
876                    advance of the meeting and must include the agenda, purpose of the meeting and all  
877                    pertinent materials for discussion. Member States wishing to add action or  
878                    discussion items to the agenda may do so, if circulated in writing in advance to the  
879                    membership of the Governing Board not less than 10 days prior to the meeting and  
880                    with the approval of a majority of those present and voting at the meeting.

881                    ii. For meetings called by petition of Member States, the petition must contain the  
882                    purpose of the meeting and the agenda, and no other business may be discussed.  
883

884                    iii. Proposed amendments to the Agreement must conform to Rule 901. Requests  
885                    for interpretation or definition must conform to Rules 902 and 903.  
886

887                    B. Executive Committee. The President may call special meetings of the  
888                    Executive Committee by giving 10 days written notice of the place, time and  
889                    agenda for such a meeting.  
890

891                    **Rule 807.43. Emergency Meetings.**

892  
893                    A. -Executive Committee. An emergency meeting of the Executive  
894                    Committee may be called on as little as 24 hours written notice if the Executive Director

895 and the President of the Governing Board determines that an emergency action is  
896 necessary to--

- 897 1. Prevent imminent damage to the public welfare,
- 898
- 899 2. Ensure the proper functioning of the Agreement or the Governing Board,
- 900 or
- 901 3. Prevent the Governing Board or any Member State acting pursuant to the
- 902 provisions of the Agreement or direction of the Governing Board from
- 903 violating any federal or state law.
- 904

905 i. The Governing Board must be notified of the nature of the emergency, the  
906 proposed action and the time and place of the meeting. Member States wishing to  
907 participate and vote in the meeting of the Executive Committee may do so, either  
908 in person or electronically.

909  
910 B. Governing Board. Emergency meetings of the Governing Board may be  
911 called by the President, the Executive Committee or by petition of forty percent of  
912 Member States at a time and place determined by those who called the meeting. The  
913 purpose of the meeting and the agenda must be contained in the written notice and not  
914 other business may be transacted. The 30 day notice may be waived, but in no case shall  
915 less than 10 days notice be given. Electronic participation will be allowed.

916  
917  
918 **Rule 807.5 Electronic participation.** In so far as possible, each meeting of a  
919 committee, the Executive Committee or the Governing Board shall provide an  
920 opportunity for Member States to participate by telephone. Telephone participation by a  
921 Member State may be counted for purposes of a quorum or voting.

922  
923 **Rule 807.6 Conditions for taking action on items not appearing on posted agenda.**  
924 The Governing Board or a Governing Board ~~body~~ committee may take action on items  
925 of business not appearing on the posted agenda upon a determination by a majority of  
926 those present and voting of the Governing Board or a Governing Board ~~body~~ committee  
927 that there exists a need to take immediate action and that the need for action came to the  
928 attention of the Governing Board or the Governing Board committee subsequent to the  
929 agenda being posted or that an emergency situation exists.

930  
931  
932 **Rule 808. Withdrawal of Membership or Expulsion of a Member.**

933  
934 Rule 808.1. Withdrawal of Membership. [Reserved.]

935  
936 Rule 808.2. Expulsion of a Member. [Reserved.]

937  
938  
939  
940 **Rule 809. Sanction of Member States. [Reserved.]**



941  
942  
943 Section 810. State and Local Advisory Council. [Reserved.]  
944

945  
946 Section 811. Business Taxpayer Advisory Council. [Reserved.]  
947  
948

949 **ARTICLE IX**  
950 **Amendments and Interpretations.**  
951

952 **Rule 901. Amendments to Agreement.**  
953

954 **A. Requests of Amendments to the Agreement.** Any member state may  
955 propose an amendment to the Agreement by submitting the proposed amendment, in  
956 writing and in electronic form, to the Executive Director. The proposed amendment will  
957 be considered at the next annual meeting occurring at least 75 days after the request is  
958 received by the Executive Director unless the requesting state asks, in writing, for  
959 consideration of the amendment at a special meeting.  
960

961 **B. Notice of Request.** The Executive Director shall provide notice of the  
962 proposed amendment and the date of the meeting at which the proposed amendment will  
963 be considered to the following parties:  
964

- 965 1. The Governor and the presiding officer of each house of each member  
966 state;  
967  
968 2. The authorized representative of each member state;  
969  
970 3. The Chair of the State and Local Advisory Council;  
971  
972 4. The Chair of the Business Taxpayer Advisory Council;  
973  
974 5. The Chair of the Compliance and Interpretations Committee;  
975  
976 ~~6.5.~~ The general public as provided in Rule 806.1.  
977

978 **C. Public Comment.**  
979

- 980 1. Any party may comment on the proposed amendment by sending  
981 writtenthe comments, in writing, to the Executive Director with a copy to the authorized  
982 representative of the requesting state. Any such comments must be submitted at least 30  
983 days prior to the date of the meeting at which the proposed amendment will be  
984 considered.  
985

986 2. The requesting state has the option of responding to any written  
987 comments by submitting the response to the Executive Director in electronic form, at  
988 least 10 days prior to the hearing date, with a copy, either in electronic form or in paper  
989 form, to the party originating the comments.  
990

991 3. The Executive Director shall post all written comments received in  
992 electronic form to the Governing Board website. The Executive Director may also post  
993 comments not received in electronic form to the extent resources are available.  
994

995 4. Any party submitting written comments may include in its comments a  
996 request to testify before the Governing Board. The Executive Director shall grant those  
997 requests to the extent practicable but may limit the time for any single presentation. The  
998 Executive Director may limit total public testimony to a reasonable time, not to be less  
999 than one hour.  
1000

#### 1001 **D. Public Meeting.**

1002

1003 1. The vote on the proposed amendment shall be held at an open meeting  
1004 convened in accordance with Rule  
1005

1006 2. The State and Local Advisory Council and the Business Advisory  
1007 Council shall have the right to present oral testimony if they choose. The Executive  
1008 Director may limit the time for each Council to testify to a reasonable time, not to be less  
1009 than 15 minutes each.  
1010

1011 3. Any member state has the right to make oral comments to the extent it  
1012 deems appropriate, subject only to a motion by the Governing Board to cut off debate.  
1013 Any member state has the right to propose revisions to the proposed amendments to the  
1014 extent those revisions are germane.  
1015

1016 4. After discussion and receipt of testimony, the Governing Board shall  
1017 vote on any revisions to the proposed amendment. Approval of the proposed revisions  
1018 shall be by a simple majority vote of those member states present  
1019

1020 5. After discussion and receipt of testimony, the Governing Board shall  
1021 vote on adoption of the proposed amendment, whether or not revised. The proposed  
1022 amendment will be adopted only if approved by a three-fourths vote of the entire  
1023 Governing Board.  
1024

#### 1025 **Rule 902. Interpretations of Agreement.**

1026

1027 **A. Requests for Interpretation of the Agreement.** Any member state or person  
1028 may request an interpretation of the Agreement by submitting the request, in writing, to  
1029 the Executive Director.  
1030  
1031

1032  
1033 | **B. Compliance and Interpretations Committee.**  
1034

1035 | 1. The Executive Director shall forward the request to the Compliance  
1036 | and Interpretations Committee for an initial evaluation. The Compliance and  
1037 | Interpretations Committee shall review the request to determine if further action is  
1038 | warranted.  
1039 |

1040 | 2. If the Compliance and Interpretations Committee determines that the  
1041 | request is inappropriate, unwarranted or unnecessary for any reason, it shall notify the  
1042 | Executive Director who shall notify the requestor that the Governing Board declines to  
1043 | act on the request. This action shall be reported to the Executive Committee and the  
1044 | Governing Board. If the requestor disagrees with the initial evaluation, the requestor may  
1045 | invoke the dispute resolution process provided for in Article X.  
1046 |

1047 | 3. If the Compliance and Interpretations Committee determines that the  
1048 | request should be granted and an interpretation should be issued, the Committee shall  
1049 | inform the Executive Director who shall publish the request for interpretation on the  
1050 | website and solicit comment. The Compliance and Interpretations Committee shall  
1051 | consult with the State and Local Advisory Council and the Business and Taxpayer  
1052 | Advisory Council and shall formulate a recommendation to the Governing Board.  
1053 |

1054 | **C. Public Notice.** The Executive Director shall provide a copy of the request  
1055 | for interpretation to and shall solicit comment from the following parties:  
1056 |

- 1057 | 1. The authorized representative of each member state;  
1058 |  
1059 | 2. The Chair of the State and Local Advisory Council;  
1060 |  
1061 | 3. The Chair of the Business Taxpayer Advisory Council;  
1062 |  
1063 | 4. The general public as provided in Rule 806.1.  
1064 |

1065 | **D. Public Meeting.** No sooner than 60 days after solicitation of comment, the  
1066 | Compliance and Interpretations Committee shall meet in a public meeting convened in  
1067 | accordance with Rule \_\_\_\_\_ to consider the request and shall issue a written  
1068 | recommendation~~decision~~. The recommendation~~decision~~ may be in the form of (1) an  
1069 | interpretation of the agreement or (2) a determination that an interpretation should not be  
1070 | issued, not to issue an interpretation. The recommendation ~~decision~~ shall be in writing  
1071 | and shall provide the Committee's rationale for its recommended action. the decision. A  
1072 | copy of the recommendation ~~decision~~ shall be sent to the requesting party, the Executive  
1073 | Committee and the Governing Board.  
1074 |

1075 | **E.** Actions recommended by the Compliance and Interpretations Committee  
1076 | shall be placed on the agenda of the Governing Board for either regular or special  
1077 | meetings.

1078  
1079 **FF. Appeal.** If the requestor disagrees with the decision, the requestor may  
1080 invoke the dispute resolution appeals process provided for in Article X.  
1081

1082 **GF. Publication of Decision.** Once the decision of the Governing Board  
1083 becomes final, either because no appeal is filed or because the appeal procedures have  
1084 been exhausted, the decision shall be sent to the requesting party and a copy of the  
1085 decision shall be posted on the Website.  
1086

1087 **H.G. Expedited Process.** The time limitations in this rule may be shortened if  
1088 the requestor asks for expedited consideration in its request. In that case, the notice to  
1089 interested parties shall request written comment within 10 days. The Compliance and  
1090 Interpretations Committee may meet any time after that 10-day period has expired.  
1091

1092  
1093 **Rule 903. Definition Requests.**  
1094

1095 **Rule 903.1. Additional Definitions.**  
1096

1097 **A. Requests for Additional Definitions.** Any member state or person may  
1098 request an additional definition in the Agreement by submitting the proposed definition,  
1099 in writing, to the Executive Director.  
1100

1101 **B. Compliance and Interpretations Committee.**  
1102

1103 1. The Executive Director shall circulate the proposed definition to the  
1104 Compliance and Interpretations Committee for an initial evaluation. The Compliance  
1105 and Interpretations Committee shall review the proposed definition to determine if  
1106 further action is warranted.  
1107

1108 2. If the Compliance and Interpretations Committee determines that the  
1109 definition is inappropriate, unwarranted or unnecessary for any reason, it shall notify the  
1110 Executive Director who shall notify the requestor that the Governing Board declines to  
1111 adopt the proposed definition. This action shall be reported to the Executive Committee  
1112 and the Governing Board. If the requestor disagrees with the initial evaluation, the  
1113 requestor may invoke the dispute resolution process provided for in Article X.  
1114

1115 3. If the Compliance and Interpretations Committee determines that  
1116 additional consideration of the proposed definition is warranted, the Committee shall  
1117 inform the Executive Director who shall publish the request for definition on the Website  
1118 and solicit comment. The Compliance and Interpretations Committee shall consult with  
1119 the State and Local Advisory Council and the Business and Taxpayer Advisory Council  
1120 and shall formulate a recommendation to the Governing Board.  
1121

1122 **C. Public Notice.** If the the Compliance and Interpretations Committee has  
1123 notified the Executive Director that additional consideration of the proposed definition is

warranted, the Executive Director shall provide a copy of the request for definition to and shall solicit comment from the following parties:

1. The authorized representative of each member state;
2. The Chair of the State and Local Advisory Council;
3. The Chair of the Business Taxpayer Advisory Council;
4. The general public as provided in Rule 806.1.

**D. Public Meeting.** No sooner than 60 days after solicitation of comment, the Compliance and Interpretations Committee shall meet in a public meeting convened in accordance with Rule \_\_\_\_\_ to consider the request and shall issue a written recommendation. The decision may be in the form of (1) a recommendation of a proposed definition or (2) a determination not to propose a new definition. The recommendation shall be in writing and shall provide the Committee's rationale for the decision. A copy of the decision shall be sent to the requesting party, the Executive Committee and the Governing Board.

**E. Actions on definitions recommended by the Compliance and Interpretations Committee shall be placed on the agenda of the Governing Board for either regular or special meetings.**

**FE. Appeal.** If the decision is not to propose a new definition and the requestor disagrees with the decision, the requestor may invoke the dispute resolution appeals process provided for in Article X.

**GF. Publication of Decision.** Once the decision becomes final, either because no appeal is filed or because the appeal procedures have been exhausted, the decision shall be sent to the requesting party and a copy of the decision shall be posted on the Website.

**HG. Proposal of Amendment.** If the Compliance and Interpretations Committee proposes a new definition, it shall propose an Amendment to the Agreement and the provisions of Section 901 shall be followed.

#### **Rule 903.2. Requests for Interpretation of a Definition.**

A request for interpretation of a definition shall be considered in the same manner as a request for interpretation of the Agreement and the provisions of Rule 902 shall apply.

### **ARTICLE X Issue Resolution Process.**

1170 | **Rule 1001. Rules and Procedures for Dispute Resolution Appeals.**

1171  
1172 |       **A. Issue Resolution Committee.** The Executive Director shall appoint an Issue  
1173 Resolution Committee consisting of no fewer than three representatives, each from a  
1174 different member state, whose responsibilities shall be those attributed to the issue  
1175 resolution process indicated in Articles IX and X of the Agreement and the corresponding  
1176 rules promulgated thereunder.

1177  
1178 |       **AB. Petition for Reconsideration.** Any party dissatisfied with a decision of the  
1179 Governing Board may file an appeal with the Governing Board to request reconsideration  
1180 of the decision.

1181  
1182 |               1. **Contents of the petition.** A petition shall set forth in reasonable detail  
1183 the basis for the request being made, containing all facts, evidence and legal discussion  
1184 necessary to allow for a disposition of the matter; a statement as to whether the petition  
1185 relates to any matter pending in any state or local administrative or judicial process; a  
1186 statement as to whether a hearing is requested; and an affidavit or affirmation that the  
1187 facts contained therein are true and correct.

1188  
1189 |               2. **Timing of the petition.** Unless otherwise stated in these rules, a  
1190 petition for reconsideration shall be filed within sixty (60) days after the decision is  
1191 issued.

1192  
1193 |               3. **Fee.** There shall be no fee or charge for the initial filing of any  
1194 petition, although the Governing Board retains the discretion to allocate the costs  
1195 incurred by the GB and the IRC in determining the petition to the petitioner in whole or  
1196 in part, and/or to other persons who have participated in the issue resolution process.

1197  
1198 |       **BC. Publication of the Petition.** On receipt of the petition, the Executive  
1199 Director shall publish the petition on the website, and provide a copy of the  
1200 petition request for interpretation to and solicit comment from the following parties:

- 1201  
1202 |               1. the designated delegate authorized representative of each member state;  
1203  
1204 |               2. the designated representative chair of the State and Local Advisory  
1205 Council;  
1206  
1207 |               3. the designated representative chair of the Business Taxpayer Advisory  
1208 Council;  
1209  
1210 |               4. the chair of the Issues Resolution Committee; and  
1211  
1212 |               5. the general public as provided in Rule 806.1

1213  
1214 |       **CD. No Hearing Requested.** If the petitioner has not requested a hearing, the  
1215 Issue Resolution Committee shall meet to consider the petition and any comment

received, and shall issue a recommendation to the Governing Board, no sooner than 60 days, and no later than 120 days, after solicitation of comment. The recommendation shall be in writing and shall provide the Issue Resolution Committee's rationale for the recommendation.

**E. Hearing Requested.** If the petitioner has requested a hearing, the Issue Resolution Committee shall, no sooner than 60 days, and no later than 120 days, after solicitation of comment, schedule a hearing on the petition and mail notice of the hearing to the petitioner and any other person who has submitted a comment on the petition, as well as to (1) the authorized representative designated delegate of each member state; (2) the designated representative of the State and Local Advisory Council; (3) the designated representative of the Business Taxpayer Advisory Council; and (4) the general public as provided in Rule 806.1. The hearing shall take place at the office of the Governing Board, or another location designated by the Issue Resolution Committee. At the hearing, the Issue Resolution Committee will designate the amount of time the petitioner will be allotted to speak, with a minimum of fifteen minutes to be allotted. Other persons whose written requests to speak at the hearing have been received by the Issue Resolution Committee prior to the day of the hearing will be allotted time to speak at the discretion of the Issue Resolution Committee. Within 60 days of the hearing, the Issue Resolution Committee shall meet to consider the petition and any comment received and shall issue a recommendation to the Governing Board. The recommendation shall be in writing and shall provide the Issue Resolution Committee's rationale for the recommendation.

**F. Governing Board Action.** Within 60 days of receipt of a recommendation from the Issue Resolution Committee, the Governing Board shall meet to consider the recommendation and issue a decision. The decision shall be in writing and shall provide the Governing Board's rationale for the decision. The decision shall be sent to the petitioner and a copy of the decision shall be posted on the website.

**G. Expedited Appeal.** The time limitations in this rule may be shortened if the petitioner asks for expedited consideration in its request. In that case, the notice to interested parties shall request written comment within 10 days. The Issue Resolution Committee may meet any time after that 10-day period has expired.

**Rule 1002. Petition for Resolution.** [See Rule 1001, above.]

**Rule 1003. Final Decision of Governing Board.** [Reserved.]

**Rule 1004. Limited Scope of this Article.** [Reserved.]

## **ARTICLE XI**

### **Relationship of Agreement to Member States and Persons**

[Reserved.]

## **ARTICLE XII**

### **Review of Costs and Benefits Associated with the System**

[Reserved.]

## **STREAMLINED SALES AND USE TAX**

### **Timeline**

- January 2005** Iowa, Kansas, North Dakota, Oklahoma, South Dakota, Tennessee submit Certificates of Compliance to Co-Chairs Of SSTP Implementing States
- March 2005** Compliance Committee reviews Certificate of Compliance of Six (6) states filing in January
- Schedule series of compliance meetings to review state certificate of Compliance, public comments and state responses to comments
- Other states filing Certificates of Compliance
- File Articles of Incorporation – Spring '05
- File IRS 501(c)(6) application – Spring '05
- May 2005** May 1 – deadline to file Certificate of Compliance for consideration at 7/1/05 meeting
- May 31 – deadline for written public comment on Certificates of Compliance filed May 1, 2005
- June 2005** Compliance committee holds final compliance meetings to Review state certificates of compliance, public comments and State responses to comments
- Compliance committee makes recommendation on whether State is in substantial compliance – and presents recommendations to petitioning states at July 1 meeting
- Payments of \$20,000 application fee/dues by June 30, 2005 for States in compliance July 1, 2005
- July 2005** Meeting of Petitioning States
- Vote on each state at conclusion of all presentations
- Select nominating committee to nominate slate at October 1 Meeting of Governing Board
- Select executive search committee for Executive Director
- Saturday, October 1, 2005**
- Governing Board Organizational Meeting**
- Approve Bylaws
  - Elect Executive Committee
  - Appoint Committees
  - Consider pending certificates of compliance



## Streamlined Sales Tax Conforming States

	State	Population	Estimated Effective Date	Percent of Population
1	Indiana	6,080,485	1/1/2004	2.22
2	Iowa	2,926,324	7/1/2004	1.07
3	Kansas	2,688,418	7/1/2003	0.98
4	Kentucky	4,041,769	7/1/2004	1.47
5	Michigan	9,938,444	9/1/2004	3.62
6	Nebraska	1,711,263	1/1/2004	0.62
7	North Carolina	8,049,313	1/1/2004	2.93
8	Ohio	11,353,140	1/1/2005	4.14
9	Oklahoma	3,450,654	1/1/2003	1.26
10	South Dakota	754,844	1/1/2004	0.28
11	West Virginia	1,808,344	1/1/2004	0.66
12	Wyoming	493,782	1/1/2004	0.18
13	Minnesota	4,919,479	7/1/2005	1.79
14	Tennessee	5,689,283	7/1/2005	2.07
15	Utah	2,233,169	7/1/2005	0.81
16	Arkansas	2,673,400	1/1/2006	0.97
17	North Dakota	642,200	1/1/2006	0.23
18	Nevada	1,998,257	1/1/2006	0.73
19	Vermont	608,827	1/1/2006	0.22
	Totals	72,061,395		26.25