

**A motion by Minnesota to amend sections 305, 306, 308, 309 and 310 of the SSUTA to address sourcing transactions when complete street address information is not needed to transfer or deliver products to customers.**

**Section 305: STATE RATES, LOCAL RATES AND BOUNDARIES ~~SY~~ CHANGES**

**A.** Each member state that has local jurisdictions that levy a sales or use tax shall:

**A.** **1.** Provide that local rate changes will be effective only on the first day of a calendar quarter after a minimum of sixty days' notice to sellers.

**B.** **2.** Apply local sales tax rate changes to purchases from printed catalogs wherein the purchaser computed the tax based upon local tax rates published in the catalog only on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to sellers.

**C.** **3.** For sales and use tax purposes only, apply local jurisdiction boundary changes only on the first day of a calendar quarter after a minimum of sixty days' notice to sellers.

**D.** **4.** Provide and maintain a database that describes boundary changes for all taxing jurisdictions. This database shall include a description of the change and the effective date of the change for sales and use tax purposes.

**E.** ~~**5.**~~ **5.** Provide and maintain a database of all sales and use tax rates for all of the jurisdictions levying taxes within the state. For the identification of states, counties, cities, and parishes, codes corresponding to the rates must be provided according to Federal Information Processing Standards (FIPS) as developed by the National Institute of Standards and Technology. For the identification of all other jurisdictions, codes corresponding to the rates must be in the format determined by the Governing Board.

**6.** Provide and maintain a database that assigns the proper tax rates and jurisdictions to each five-digit and nine-digit zip code within a member state.

**(a).** ~~If the nine-digit zip code area includes more than one tax rate in any level of taxing jurisdictions. If a nine-jurisdiction the state must assign the lowest combined tax rate imposed in the nine-digit zip code area. designation is not available for a street address or~~

**(b)i.** If the five-digit zip code area includes more than one tax rate in any level of taxing jurisdiction, the state may assign the highest, lowest or blended rate based on the rates imposed in the five-digit zip code area.

ii. If a state assigns the highest rate or a blended rate in a five-digit zip code area and the seller followed the procedures provided in section 309.A. but the purchaser failed to provide the requested information at the time of the sale, neither the state nor the seller is required to allow the purchaser a refund for the difference between the tax collected and the tax that would have been collected if the requested information had been provided. However, this does not preclude a purchaser from seeking a refund if the purchaser provided the requested information at the time of the sale but later proves the information was inaccurate.~~If a state assigns the highest rate or a blended rate in a five-digit zip code area:~~

~~1. The state shall provide a reasonable procedure by which a purchaser may seek a refund for the rate difference directly from the state if the seller followed the procedures provided in Section 309.A. and the purchaser provided the requested information.~~

~~**NOTE: It is expected that an amendment will be offered to strike paragraph**~~

~~1.~~

~~2. If the seller followed the procedures provided in section 309.A. but the purchaser failed to provide the requested information at the time of the sale, neither the state nor the seller is required to allow the purchaser a refund for the difference between the tax collected and the tax that would have been collected if the requested information had been provided.~~

~~3. Subsection b does not preclude a purchaser from seeking a refund if the purchaser provided the requested information at the time of the sale but later proves the information was inaccurate.~~

~~F. c. Except as provided in paragraph 7.c, if a seller or CSP is unable to determine the applicable rate and jurisdiction using the nine-nine-digit zip code designation applicable to a transaction after exercising due diligence to determine the designation, the as provided in section 309.A.2 or 3., the seller or CSP may apply the rate for the five digit zip code area. For the purposes of this section, there is a rebuttable presumption that a seller or CSP has exercised due diligence in determining the five and nine digit zip code designation, as applicable, to match against the state provided database, if the seller or CSP has attempted to make this determination~~

~~by using (1) the look-up application available from the United States Postal Service, (2) software certified by the Coding Accuracy Support System (CASS™), or (3) other software approved by the Governing Board that makes this designation from the address and five-digit zip code information applicable to the transaction.~~

**7. (a)** Have the option of supplementing the database required in subsection **(F)A.6** of this section by providing address-based boundary database records for assigning taxing jurisdictions and their associated rates. The database records must be in the same approved format as the database records pursuant to subsection ~~(F)A.6~~ of this section and must meet the requirements developed pursuant to the federal Mobile Telecommunications Sourcing Act (4 U.S.C.A. Sec. 119(a)).

**(b)** ~~Except as provided in subsections 306.C. and D, A~~ member state may require that sellers and CSPs, in order to obtain the liability relief provided under ~~Section~~ section 306 of this Agreement, ~~follow the requirements provided in section 309.A.2 and 3. and~~ use the address-based database records provided by that member state.

**(c)** If a seller or CSP is unable to determine the applicable rate and jurisdiction using an address-based database record ~~after exercising due diligence~~, the seller or CSP ~~may apply~~ shall use the nine-digit zip code designation to determine the applicable rate and jurisdiction. If a ~~nine-digit zip code designation is not available for a street address or if a~~ seller or CSP is unable to determine the applicable rate and jurisdiction using the nine-digit zip code designation applicable to a transaction as provided in section 309.A.2. or 3. ~~after exercising due diligence to determine the designation~~, the seller or CSP ~~may~~ shall apply the rate for the five digit zip code area. ~~For the purposes of this section, there is a rebuttable presumption that a seller or CSP has exercised due diligence in standardizing the address and determining the five and nine digit zip code designation, as applicable, to match against the state provided database, if the seller or CSP has attempted to make this determination by using (1) the look-up application available from the United States Postal Service, (2) software certified by the Coding Accuracy Support System (CASS™), or (3) other software approved by the Governing Board that makes this designation from the address and zip code information applicable to the transaction.~~

**B.** A member state that has local jurisdictions that do not levy a sales or use tax, need only provide and maintain a database that includes a five-digit zip code and/or nine-digit zip code as necessary.

**HC.** States that have met the requirements of subsection (~~FA.6~~) may also elect to certify vendor provided address-based databases for assigning tax rates and jurisdictions. The databases must be in the same approved format as the database records pursuant to (~~A.7G~~) of this section and must meet the requirements developed pursuant to the federal Mobile Telecommunications Sourcing Act (4 U.S.C.A. Sec. 119 (a)). If a state certifies a vendor address-based database, a seller or CSP may use that database in place of the database provided for in subsection (~~FA.6~~) or (~~GA.7~~) of this section. Vendors providing address-based databases may request certification of their databases from the Governing Board. Certification by the Governing Board does not replace the requirement that the databases be certified by the states individually.

**ID.** Make databases provided pursuant to subsections (~~EA.5~~), (~~FA.6~~), (~~GA.7~~) and (~~HC~~) available to a seller or CSP by the first day of the month prior to the first day of a calendar quarter. Databases must be in a format approved by the Governing Board and available on each state's website or other location determined by the Governing Board.

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

**A.** Each member state shall relieve sellers and CSPs using databases pursuant to subsections (F), (G) and (H) of Section 305 from liability to the member state and local jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from their reliance on erroneous data provided by a member state on tax rates, boundaries, or taxing jurisdiction assignments.

**B.** If a seller demonstrates that requiring the use of the address-based database would create an undue hardship, a member state may extend the relief from liability to such seller for a designated period of time.

**C.** For sourcing the retail sale of a product that does not require a complete street address to transfer or deliver the product, if the seller does not request the complete street address including the five-digit zip code and/or nine-digit zip code as provided in subsection 309.A.3., a member state is not required to relieve the seller or CSP from any additional liability that may be due as a result of incorrect sourcing.

**D.** A member state that does not require sellers to request the complete street address including the five-digit zip code and/or nine-digit zip code, but ~~and~~ allows the seller to use the five-digit zip code as provided in subsection 309.A.3., shall relieve sellers and CSPs for not

having charged and collected the incorrect amount of sales or use tax as a result of incorrect sourcing to the incorrect taxing jurisdiction.

### **Section 308: STATE AND LOCAL TAX RATES**

A. No member state shall have multiple state sales and use tax rates on items of personal property or services, except that a member state may impose a single additional rate, which may be zero, on food and food ingredients and drugs as defined by state law pursuant to the Agreement. In addition, if federal law prohibits the imposition of local tax on a product that is subject to state tax, the state may impose an additional rate on such product, provided such rate achieves tax parity for similar products.

B. Except as provided in subsection C., Aa member state that has local jurisdictions that levy a sales or use tax shall not have more than one local sales tax rate or more than one local use tax rate per local jurisdiction. If the local jurisdiction levies both a sales tax and use tax, the local rates must be identical.

C. 1. A member state that has local jurisdictions that levy a sales or use tax, may- assign the highest, lowest, or blended rate in the five-digit zip code area, if the area includes more than one tax rate in any level of taxing jurisdiction. The rate shall be reflected in the state's electronic databases provided for in section 305.

2. A member state that has local jurisdictions that levy a sales or use tax, must assign the lowest combined tax rate imposed in a nine-digit zip code area if the area includes more than one tax rate in any level of taxing jurisdiction. The rate shall be reflected in the state's electronic databases provided for in section 305.

C.D. The provisions of this section do not apply to sales or use taxes levied on energy as defined in ~~Section~~ section 302 of the Agreement, fuel used to power motor vehicles, aircraft, locomotives, or watercraft, or to electricity, piped natural or artificial gas, or other fuels delivered by the seller, or the retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.

D.E. 1. A state or local jurisdiction that allows a different rate on items of personal property or services as provided in this section may allow the reporting of these taxes on the Simplified Electronic Return using the format approved by the Governing Board.

2. A state or local jurisdiction that has different rates as provided in this section may provide information on the different rates or different bases as provided in ~~Section-section~~ 302 in a separate boundary file using the format approved by the Governing Board.

3. The approved formats for reporting on the SER and the optional boundary file will be published in the Streamlined Sales Tax Technology Guide.

4. States that choose to require separate reporting of these taxes on the SER must notify the Governing Board of their intention to do so and would be effective no sooner than the first day of a calendar quarter beginning at least 6 months after notifying the Governing Board.

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

A. 1. Each member state shall agree to require sellers to source the retail sale of a product in accordance with Section 310 or Section 310.1.

~~2.- (a) For purposes of sourcing the retail sale of a product to the address of the purchaser as provided in subsections 310.A.2., 3., and 4. and subsections 310.1.A. and B. and for purposes of subsection 305.A.6 and 7, if the transaction requires a complete street address to transfer or deliver the product, a seller has exercised due diligence if the seller has obtained from the purchaser at the time of sale or has previously obtained in the ordinary course of the seller's business:~~

~~(1) the complete street address and five-digit zip code and the seller or CSP:~~

~~(a): standardized the address using either:~~

~~i1.: the look-up application available from the United States Postal Service;~~

~~ii2. software certified by the Coding Accuracy Support System (CASS™); or~~

~~iii3. other software approved by the Governing Board; and~~

~~(b): if the state has an address-based database, the seller or CSP shall use the result from (a): of this subsection to match to the address-based records as provided in subsection 305.A.7.~~

~~(c): If the seller or CSP cannot match the address to the address-based records or the state does not have an address-based database, the seller or CSP shall use the result from (a): of this subsection to determine the nine-digit zip code designation applicable to the~~

transaction to match to the nine-digit zip code records as provided in subsections 305.A.6 and 7.

(d). If the seller or CSP cannot match the nine-digit zip code to the nine-digit zip code records, the seller or CSP shall use the five-digit zip code to match to the five-digit zip code records provided in subsections 305.A.6 and 7.

3.— (a) ~~(a)~~ For purposes of sourcing the retail sale of a product to an address for the purchaser as provided in subsections 310.A.2., 3. and 4. and subsections 310.1.A. and B., and for purposes of subsections 305.A.6 and 7, if the transaction does not require a complete street address to transfer or deliver the product, a seller has exercised due diligence if the seller has requested from the purchaser at the time of sale, unless the seller has previously obtained in the ordinary course of business of the seller, either the purchaser’s complete street address and five-digit zip code and/or the purchaser’s nine-digit zip code.

~~(1).~~ If the seller obtains the purchaser’s complete street address and five-digit zip code, the seller or CSP shall:

\_\_\_\_\_ a. standardize the address using either:

\_\_\_\_\_ ~~(i).~~ the look-up application available from the United States Postal Service;

\_\_\_\_\_ ~~(ii).~~ software certified by the Coding Accuracy Support System (CASS™); or

\_\_\_\_\_ ~~(iii).~~ other software approved by the Governing Board; and

b. if the state has an address-based database, use the result from a. to match to the address-based records as provided in subsection 305.A.7; or

c. if the seller or CSP cannot match the address to the address-based records or the state does not have an address-based database, the seller or CSP shall use the result from a. of this subsection to determine the nine-digit zip code designation applicable to the transaction to match to the nine-digit zip code records as provided in subsections 305.A.6 and 7; or

~~(2).~~ If the seller only obtained the purchaser’s nine-digit zip code, the seller or CSP shall use the nine-digit zip code to match to the nine-digit zip code records as provided in subsections 305.A.6 and 7.

~~(3).~~ If the seller or CSP cannot match the address to the address-based records or the nine-digit zip code to the nine-digit zip code records, the seller or CSP shall use the five-digit zip code to match to the five-digit zip code records provided in subsections 305.A.6 and 7.

~~(b)~~ A state may allow the seller to use only the five-digit zip code contained in the seller's books and records or obtained from the purchaser's payment instrument for purposes of sourcing the transaction for their state.

4. A seller that has not obtained or requested from the purchaser the complete street address including the five-digit zip code as provided in Section 309.A.2. and 3., or the nine-digit zip code as provided in Section 309.A.3., shall use the five-digit zip code contained in the seller's books and records or obtained from the purchaser's payment instrument for purposes of sourcing the transaction. However, the state is not required to provide the liability relief in Section 306.

~~5.~~ For purposes of a "request" as required by this section, all of the following apply:

(a) i. A seller has provided a location on its ordering page that allows a purchaser to enter their complete street address and five-digit zip code and/or nine-digit zip code that is at least as prominently displayed (e.g., in the same size or larger font), as other information requested from the purchaser that is necessary to complete the sale.

ii. The purchaser's address may be populated based on the address associated with the payment instrument selected by the purchaser or the purchaser's location based on global positioning services (GPS) location at the time of the sale if that information is maintained by the seller.

(b) A seller may not expressly label ~~indicate that the request for the~~ address and zip code information ~~and/or nine-digit zip code is~~ as "optional." However, the seller is not required ~~precluded to~~ ~~from indicating that the information~~ what information is ~~is~~ "mandatory" to complete the transaction.<sup>22</sup> The seller may indicate the information is used to determine the correct amount of tax(es).

(c) The seller is not required to reject the transaction if the information is not provided by the purchaser.



6. Each member state shall agree that once a seller has sourced a transaction to the appropriate state as provided in this section, the seller shall collect the applicable tax pursuant to section 305.

B. Except as provided in Section 310.1, the provisions of Section 310 apply to all sales regardless of the characterization of a product as tangible personal property, a digital good, or a service.

A.C. Except as otherwise provided in this Agreement, the provisions of Section 310 and Section 310.1 only apply to determine a seller's obligation to pay or collect and remit a sales or use tax with respect to the seller's retail sale of a product. These provisions do not affect the obligation of a purchaser or lessee to remit tax on the use of the product to the taxing jurisdictions of that use.

B.D. Sections 310 and 310.1 do not apply to sales or use taxes levied on the following:

1. The retail sale or transfer of watercraft, modular homes, manufactured homes, or mobile homes. These items must be sourced according to the requirements of each member state.
2. The retail sale, excluding lease or rental, of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment, as defined in Section 310, subsection (D). The retail sale of these items shall be sourced according to the requirements of each member state, and the lease or rental of these items must be sourced according to Section 310, subsection (C).
3. Telecommunications services and ancillary services, as set out in Section 315, and Internet access service shall be sourced in accordance with Section 314.
4. Florist sales as defined by each member state. Such sales must be sourced according to the requirements of each member state.
5. The retail sale of products and services qualifying as direct mail shall be sourced in accordance with Section 313.

### **Section 310: GENERAL SOURCING RULES**

- A. Except as provided in Section 310.1, 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). If a seller has not complied with section 309.A., and as a result sources the transaction under this subsection, a state is not required to provide the liability relief under section 306.

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

2. For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsection (A).
  3. This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.
- C. The lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment, as defined in subsection (D), shall be sourced as follows:
1. For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. 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. This location shall not be altered by intermittent use at different locations.
  2. For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsection (A).
  3. This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.
- D. The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with the provisions of subsection (A),

notwithstanding the exclusion of lease or rental in subsection (A). “Transportation equipment” means any of the following:

1. Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce.
2. Trucks and truck-tractors with a Gross Vehicle Weight Rating (GVWR) of 10,001 pounds or greater, trailers, semi-trailers, or passenger buses that are:
  - a. Registered through the International Registration Plan; and
  - b. Operated under authority of a carrier authorized and certificated by the U.S. Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.
3. Aircraft that are operated by air carriers authorized and certificated by the U.S. Department of Transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce.
4. Containers designed for use on and component parts attached or secured on the items set forth in subsections (D)(1) through (D)(3).