

- For Information
- For Discussion
- For Decision Making

BOARD OF GOVERNANCE  
**INFORMAL ISSUE PAPER**

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**Streamlined Sales and Use Tax Agreement (SSUTA)**

***Proposal 1 – Motion to Amend Section 305, Local Rate and Boundary Changes***

**I. Issues**

Should the Board of Governance grant authority to its representative to vote on the motion to amend SSUTA Section 305, as proposed by Mr. Stephen Kranz of Washington D.C.?

Should the Board of Governance vote to amend Section 305 in two parts as follows? (Exhibit 1 provides the language of Section 305, including the proposed revisions. Exhibit 2 provides the motion.)

1. Add language to Section 305 (G) to allow registered sellers to use a vendor address-based assignment system certified by that state.
2. Add a new subsection (H) to Section 305 to provide for a member state’s certification of an address-based assignment system provided by a vendor.

**II. Staff Recommendation**

Staff recommends the Board of Governance authorize its representative to vote on the motion to amend SSUTA Section 305.

Staff also recommends the Board of Governance vote “no” on the motion to amend Section 305 to allow member states to require registered sellers to use a vendor address-based assignment system certified by that state.

**III. Background**

Among other things, Section 305 requires that each member state that has local jurisdictions that levy a sales and use tax shall:

## **Proposal 1**

### **Amend Section 305**

- Provide and maintain a database of all sales and use tax rates for all of the jurisdictions levying taxes within the state.
- Provide and maintain a database that assigns each five digit and nine digit zip code within a member state to the proper tax rate and jurisdiction.
- Participate with other member states in the development of an address-based system for assigning taxing jurisdictions. The system must meet the requirements developed pursuant to the federal Mobile Telecommunications Sourcing Act (4 U.S.C. Sec. 119).
- Be authorized by the governing board, in its discretion, to require sellers that register under this Agreement to use an address-based assignment system provided by that member state.

The SSUTA requires that member states develop a zip code-based database to assist sellers in determining the applicable tax rate and tax jurisdiction for the location of their customer. However, many states have determined that a zip code could include more than one local or state tax jurisdiction. Accordingly, the zip code-based database may not provide the seller with sufficient information to identify the correct tax rate or jurisdiction in all situations. Section 305 provides guidance to sellers if they are unable to determine the specific tax rate or jurisdiction of their customer. However, this can result in an inaccurate rate being charged and misallocation of the tax on the sale.

Several states have developed address-based database systems that can determine the applicable tax rate and tax jurisdiction using the address of the customer. Address-based systems have been found to be more accurate than the zip code-based systems.

Four states provide statewide address listings which retailers or telecommunications service providers can use to compare with their customer lists to become certified in those states. Two states have recently enacted legislation to provide for certification of vendor databases for sales and use tax jurisdiction assignments.

#### **IV. Summary**

The proposed amendments do not require the vendor database systems to be developed pursuant to the federal Mobile Telecommunications Sourcing Act as required in Section 305 (G) for member states. This would create different levels of compliance with the Mobile Telecommunications Sourcing Act between state and vendor developed systems. Vendor systems should be required to meet the same standards as state developed systems.

The proposed amendments also do not provide for any process to verify the accuracy of the vendor database in future periods or specify the responsibility of the vendor if the database is found to be inaccurate.

For the reasons stated above, staff recommends a “no” vote on the proposed amendment.

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

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

- A. 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. 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. 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. 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. 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.
- F. Provide and maintain a database that assigns each five digit and nine digit zip code within a member state to the proper tax rates and jurisdictions. The state must apply the lowest combined tax rate imposed in the zip code area if the area includes more than one tax rate in any level of taxing jurisdictions. If a nine digit zip code designation is not available for a street address or if a seller is unable to determine the nine digit zip code designation of a purchaser after exercising due diligence to determine the designation, the seller 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 has exercised due diligence if the seller has attempted to determine the nine digit zip code designation by utilizing software approved by the governing board that makes this designation from the street address and the five digit zip code of the purchaser.
- G. Participate with other member states in the development of an address-based system for assigning taxing jurisdictions. The system must meet the requirements developed pursuant to the federal Mobile Telecommunications Sourcing Act (4 U.S.C. Sec. 119). The governing board may allow a member state to require sellers that register under this Agreement to use an address-based system provided by that member state or a vendor address-based assignment system certified by that state. If any member state develops an address-based assignment system pursuant to the Mobile Telecommunications Sourcing Act, a seller may use that system in place of the system provided for in subsection (F) of this section.
- H. A member state may provide for Certification of Address Databases provided by Vendors. An address-based database is a system by which a user of such system can determine whether an address is within the state and one or more local tax jurisdictions. A "system" can be one or more software applications and/or other electronic process by which the provider determines which state and local sales tax jurisdictions apply to particular address.

**Amendment # 1 – Offered by Stephen Kranz of Washington, D.C.**

**Motion to Amend Section 305 of the Agreement as follows:**

Add the bold language in subsection (G) to the end of the sentence which reads

G. The Governing Board may allow a member state to require sellers that register under this Agreement to use an address-based system provided by that member state ***or a vendor address-based assignment system certified by that state.***

Add a new subsection (H) to Section 305 as follows:

H. A member state may provide for Certification of Address Databases provided by Vendors. An address database is a system by which a user of such system can determine whether an address is within the state and one or more local tax jurisdictions. A “system“ can be one or more software applications and/or other electronic processes by which the provider determines which state and local sales tax jurisdictions apply to a particular address

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Rationale for suggested change:

A number of states, WA, OH, FL and MO provide statewide address listings which retailers or Telecommunications service providers can use to compare with their customer lists to become certified in those states. The states of FL and CO have recently enacted legislation to provide for certification of vendor databases for sales and use tax jurisdiction assignment. Some commercial products today can provide a more accurate solution than 9 digit ZIP codes to meet the point of use tax provisions – as evidenced by their extensive use to meet the MTSA requirements within telecommunications industry. These vendor databases combine street address level data with current municipal boundary data. It would seem prudent and practical for the SSTOP to accept this type of solution for those states that wish to allow certification of vendor databases to meet the SSTOP requirements.

A good number of the COST members, including most of the telecommunications companies, already have implemented such a vendor based system. This would greatly simplify some of the current processes needed to meet the SSTOP requirements

Suggested change to wording:

Rates and Boundary Databases Instructional Paper (May 2004)  
APPENDIX A

Section 305: LOCAL RATE AND BOUNDARY CHANGES

G. The Governing Board may allow a member state to require sellers that register under this Agreement to use an address-based system provided by that member state ***or a vendor address-based assignment system certified by that state.***

Add new subsection:

H. A member state may provide for Certification of Address Databases provided by Vendors. An address database is a system by which a user of such system can determine whether an address is within the state and one or more local tax jurisdictions. A “system“ can be one or more software applications and/or other electronic processes by which the provider determines which state and local sales tax jurisdictions apply to a particular address.