

- For Information
- For Discussion
- For Decision Making

BOARD OF GOVERNANCE
INFORMAL ISSUE PAPER

Streamlined Sales and Use Tax Agreement (SSUTA)

***Proposal 2 – Motion to Amend Section 305, Local Rate and Boundary Changes,
and Section 307, Database Requirements and Exceptions***

I. Issues

Should the Board of Governance grant authority to its representative to vote on the motion to amend SSUTA Sections 305 and 307, as proposed by the State of Washington?

Should the Board of Governance vote to amend Sections 305 and 307 to allow a member state to provide and maintain an address-based system for assigning tax jurisdictions in lieu of, or in addition to, the zip code-based system currently required in the SSUTA? (Exhibit 1 provides the language of Sections 305 and 307, including the proposed revisions. Exhibit 2 provides the motion.)

II. Staff Recommendation

Staff recommends the Board of Governance authorize its representative to vote on the motion to amend SSUTA Sections 305 and 307.

Staff also recommends the Board of Governance vote “yes” on the motion to amend Sections 305 and 307 to allow member states to provide and maintain an address-based system for assigning tax jurisdictions in lieu of, or in addition to, the zip code-based system currently required in Section 305 (F).

III. Background

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

- Provide and maintain a database of all sales and use tax rates for all of the jurisdictions levying taxes within the state.

Proposal 2

Amend Sections 305 (G) and 307 (C)

- 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.

Section 307 (C) indicates that the databases provided in Section 305, subsections (D), (E) and (F) are not a requirement of a state prior to entering into the SSUTA. This amendment would add subsection 305 (G) to include an address-based database to the list.

IV. Summary

The proposed amendment permits member states to provide and maintain an address-based system for assigning tax jurisdictions in lieu of, or in addition to, the zip code-based system currently required in Section 305 (F).

This amendment would eliminate the need for member states to develop both a zip code and address-based database. Most states are developing address-based rate and jurisdiction databases pursuant to the Mobile Telecommunications Sourcing Act. Developing an additional zip code-based database, as is currently required in Section 305 (F), would be costly and unnecessary. This amendment would also provide that an address-based database is not a requirement of a state prior to entering into the SSUTA and would provide more options regarding the development of tax rate and jurisdiction databases.

For the reasons stated above, staff recommends a “yes” 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. 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.~~ Member states that provide and maintain an address-based system for assigning tax jurisdictions need not provide and maintain a database as described in subsection (F) of this section.

Section 307: DATABASE REQUIREMENTS AND EXCEPTIONS

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

AMENDMENT # 2 – OFFERED BY WASHINGTON

Motion to amend sections 305 and 307 of the Streamlined Sales and Use Tax Agreement.

The effect of the amendments is to permit member states to provide and maintain an address-based system for assigning tax jurisdictions in lieu of, or in addition to, the zip code-based system currently required in section 305 F.

Amendment: In section 305 G, after "(4 U.S.C. Sec. 119).",

STRIKE: 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. 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.

ADD: Member states that provide and maintain an address-based system for assigning tax jurisdictions need not provide and maintain a database as described in subsection (F) of this section.

Amendment: In section 307 C, after "(D), (E),",

STRIKE: and (F)

ADD: (F), and (G)