

Liability Relief to Sellers

Per the Streamlined Sales and Use Tax Agreement and the Contract Between Streamlined Sales Tax Governing Board, Inc. and CSP, liability relief is available to sellers under the following circumstances:

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

**C. Each member state failing to provide for at least thirty days between the enactment of the statute providing for a rate change and the effective date of such rate change shall relieve the seller of liability for failing to collect tax at the new rate if:**

 **1. the seller collected tax at the immediately preceding effective rate; and**

 **2. the seller’s failure to collect at the newly effective rate does not extend beyond thirty days after the date of enactment of the new rate.**

D. Notwithstanding subsection (C), if the member state establishes the seller fraudulently failed to collect at the new rate or solicits purchasers based on the immediately preceding effective rate this relief does not apply.

E. Member states may provide for relief of liability for failing to collect tax as a result of a tax change beyond the liability relief required by subsection (C).

**Section 306: RELIEF FROM CERTAIN LIABILITY**

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 the seller or CSP relying on erroneous data provided by a member state on tax rates, boundaries, or taxing jurisdiction assignments.** After providing adequate notice as determined by the governing board, a member state that provides an address-based database for assigning taxing jurisdictions pursuant to Section 305, subsection (G) or (H) may cease providing liability relief for errors resulting from the reliance on the database provided by the member state under the provisions of Section 305, subsection (F). If a seller demonstrates that requiring the use of the address-based database would create an undue hardship, a member state and the governing board may extend the relief from liability to such seller for a designated period of time.

**Section 317: ADMINISTRATION OF EXEMPTIONS**

B. Each member state shall relieve sellers that follow the requirements of this section from the tax otherwise applicable if it is determined that the purchaser improperly claimed an exemption and to hold the purchaser liable for the nonpayment of tax. This relief from liability does not apply to a seller who fraudulently fails to collect tax; to a seller who solicits purchasers to participate in the unlawful claim of an exemption; to a seller who accepts an exemption certificate when the purchaser claims an entity-based exemption when (1) the subject of the transaction sought to be covered by the exemption certificate is actually received by the purchaser at a location operated by the seller and (2) the state in which that location resides provides an exemption certificate that clearly and affirmatively indicates (graying out exemption reason types on the uniform form and posting it on a state’s web site is an indicator) that the claimed exemption is not available in that state.

C. Each state shall relieve a seller of the tax otherwise applicable if the seller obtains a fully completed exemption certificate or captures the relevant data elements required under the Agreement within 90 days subsequent to the date of sale. A member state may provide for a period longer than 90 days for the seller to obtain necessary information.

**Section 328: TAXABILITY MATRIX**

C. A member state shall relieve sellers and CSPs from liability to the member state and its local jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from the seller or CSP relying on erroneous data provided by the member state in the Library section of the taxability matrix. If a member state amends an existing provision of the Library section of the taxability matrix, the member state shall, to the extent possible, relieve sellers and CSPs from liability to the member state and its local jurisdictions until the first day of the calendar month that is at least 30 days after notice of a change to a member state’s Library section of the taxability matrix is submitted to the governing board, provided the seller or CSP relied on the prior version of the taxability matrix.

D. To the extent possible, **the member state shall relieve sellers and CSPs from liability to the member state and its local jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from the seller or CSP relying on erroneous data provided by the member state in the tax administration practices section of the taxability matrix.** If a member state amends an existing provision of the tax administration practices section of its taxability matrix, the member state shall, to the extent possible, relieve sellers and CSPs from liability to the member state and its local jurisdictions until the first day of the calendar month that is at least 30 days after notice of a change to a member state’s tax administration practices section of the taxability matrix is submitted to the governing board, provided the seller or CSP relied on the prior version of the taxability matrix.

**Section 502: STATE REVIEW AND APPROVAL OF CERTIFIED AUTOMATED SYSTEM SOFTWARE AND CERTAIN LIABILITY RELIEF**

A. Each member state shall review software submitted to the governing board for certification as a CAS under Section 501. Such review shall include a review to determine that the program accurately reflects the taxability of the product categories included in the program. Upon approval by the state, the state shall certify to the governing board its acceptance of the determination of the taxability of the product categories included in the program.

**B. Each member state shall relieve CSPs and model 2 sellers from liability to the member state and local jurisdictions for not collecting sales or use taxes resulting from the CSP or model 2 seller relying on the certification provided by the member state.**

C. Each member state shall provide relief from liability to CSPs for not collecting sales and use taxes in the same manner as provided to sellers under the provisions of section 317.

D. The governing board and the member states shall not be responsible for classification of an item or transaction within the product categories certified. The relief from liability provided in this section shall not be available for a CSP or model 2 seller that has incorrectly classified an item or transaction into a product category certified by a member state. This paragraph shall not apply to the individual listing of items or transactions within a product definition approved by the governing board or the member states.

E. If a member state determines that an item or transaction is incorrectly classified as to its taxability, it shall notify the CSP or model 2 seller of the incorrect classification. The CSP or model 2 seller shall have ten (10) days to revise the classification after receipt of notice from the member state of the determination. Upon expiration of the ten (10) days, CSP or model 2 seller shall be liable for the failure to collect the correct amount of sales or use taxes due and owing to the member state.

**Appendix E Disclosed Practice 3.1 – Liability relief for erroneous information in the tax administration practices section of the taxability matrix**

The State provides sellers and CSPs with liability relief for tax, interest and penalties if the sellers and CSPs charged and collected the incorrect tax due to erroneous information in the tax administration practices section of the taxability matrix.

**Appendix E Disclosed Practice 3.2 – Extended liability relief for changes to the tax administration practices section of the taxability matrix**

When the State makes a change to its tax administration practice section of the taxability matrix, the State provides sellers and CSPs with liability relief for the tax, interest and penalties for having charged and collected the incorrect tax until the first day of the calendar month that is at least 30 days after notice of the change to the state's tax administration practices section of the taxability matrix is submitted to the governing board, provided the seller or CSP relied on the prior version of the taxability matrix.

**Disclosed Practice 3.3 – Extended liability relief for changes to the library of definitions section of the taxability matrix**

When the State makes a change to the library of definitions section of its taxability matrix, the State provides sellers and CSPs with liability relief for the tax, interest and penalties for having charged and collected the incorrect tax until the first day of the calendar month that is at least 30 days after notice of the change to the member state’s library of definitions section of the taxability matrix is submitted to the governing board, provided the seller or CSP relied on the prior version of the taxability matrix.

**E.2. Relief from Liability: Seller’s Failure to Remit**

If the Seller does not remit to the Contractor all or part of the Seller Taxes prior to the due date of the return, the Contractor shall notify the Executive Director and the Seller of the failure to remit within ten (10) business days after the due date of the remittance to the Member State, Contingent Member State or Associate Member State. To the extent that sales and use taxes were not remitted by a Seller and such notice is provided, the Contractor shall be relieved of the obligation for payment of the applicable taxes for that reporting period due to the Member State, Contingent Member State or Associate Member State, plus any additional charges or amounts that the laws of the Member State, Contingent Member State or Associate Member State impose for the nonpayment of sales and use taxes, and the Contractor shall not have breached the Contract. Nothing in this Contract relieves a Seller from its sales and use tax obligations to a Member State, Contingent Member State or Associate Member State to the extent that the Seller has not remitted such taxes to the Contractor by the due date of the return.

Upon notification by a Member State, Contingent Member State, or an Associate Member State that any Seller has failed to remedy the delinquencies for more than one payment period, the Contractor may discontinue providing services for that Seller. In the event services are discontinued, the Contractor shall discontinue providing CSP Services to the Seller for all Member States, Contingent Member States and Associate Member States in which the Contractor is receiving compensation under this Contract. The Contractor shall notify the Executive Director of the Governing Board that the Contractor has discontinued providing services to such a Seller. The Contractor will not be compensated pursuant to Section D. of this Contract for services the Contractor continues to provide to such a Seller beyond sixty (60) days after such notification. If the Seller does not remit the Taxes Due to the Contractor, the Contractor may pursue the lost compensation from the Seller. The Contractor’s notice to the Executive Director pursuant to this section shall include which return period(s) are impacted by the Seller’s failure to remit.

**E.3. Relief from Liability: Erroneous Data**

Each Member State, Contingent Member State and Associate Member State shall, pursuant to the terms of SSUTA Sections 306 and 328, relieve the Contractor, and any Seller registered under the SSUTA with which the latter contracts, from liability to the states and their local jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from the Contractor or any of its SSUTA-registered contracting Sellers relying on erroneous data on tax rates, boundaries, or taxing jurisdiction assignments which have been listed in the state’s rates and boundaries databases, and erroneous data provided in the taxability matrix provided by the Member State, Contingent Member State or Associate Member State pursuant to Section 328.

(a) In accordance with the SSUTA, each Member State, Contingent Member State and Associate Member State shall review and certify that the CAS utilized by the Contractor accurately reflects the taxability of the product categories included in the CAS in accordance with each state’s law. To the extent allowed by the laws of each Member State, Contingent Member State and Associate Member State, Member States, Contingent Member States and Associate Member States shall relieve the Contractor, and any Seller registered under the SSUTA with which the latter contracts, from liability to the state and their local jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from the Contractor or any of its SSUTA-registered contracting Sellers relying on certification of erroneous data on the taxability of a category of items or transactions.

(b) The Contractor shall have ten (10) business days after the date of notification by a Member State, Contingent Member State or Associate Member State to revise the CAS to conform with changes to: the tax rates, boundaries, or taxing jurisdiction assignments which have been listed in the state’s rates and boundaries databases; the taxability matrix provided by the Member State, Contingent Member State or Associate Member State pursuant to Section 328 of the SSUTA; and the classification of the taxability of a category of items or transactions pursuant to Section 502 of the SSUTA. In the event the Contractor fails to make such changes, beginning on the eleventh after notification the Contractor shall be liable for failure to collect the correct amount of Seller Taxes owed to the Member State, Contingent Member State or Associate Member State, plus any additional charges or amounts that the laws of the Member State, Contingent Member State or Associate Member State impose for the nonpayment of sales and use taxes, and shall be in Breach of this Contract. Nothing prohibits a state from providing the Contractor additional time to make these changes.

(c) The Governing Board, Member States, Contingent Member States and Associate Member States are not responsible for mapping, which is defined as classification of an item or transaction within a certified category. Regardless of who does the mapping, the Contractor is liable for mapping errors resulting in failure to collect the correct amount of Seller Taxes owed to the Member State, Contingent Member State or Associate Member State, plus any additional charges or amounts that the laws of the Member State, Contingent Member State or Associate Member State impose for the nonpayment of sales and use taxes. Nothing herein shall prohibit the Contractor from providing, in its contracts with Sellers, for indemnification from Sellers to reimburse the Contractor for liability resulting from mapping errors to the extent that such errors are due to the actions or inactions of a Seller.

**E.4. Relief from Liability: Certification Compliance**

The Contractor shall not be liable for the failure to remit Seller Taxes when due, or for any additional charges or amounts that the laws of the Member State, Contingent Member State or Associate Member State impose for the nonpayment of sales and use taxes, to the extent that (a) the laws of a Member State, Contingent Member State or Associate Member State relieve the Contractor or the Seller from liability to the state and its local jurisdictions for having remitted the incorrect amount of sales or use tax and (b) the incorrect amount resulted from the Contractor’s reasonable reliance on an issue made available for review but not discovered in the certification process. If both (a) and (b) are satisfied, the Contractor’s sole obligation and liability for such unpaid taxes shall be to correct the issue within a reasonable amount of time (not to exceed ten (10) business days after the date of notification by a Member State, Contingent Member State or Associate Member State unless an extension is granted by the Executive Committee) from receipt of the Member State’s, Contingent Member State’s and Associate Member State’s notice of the incorrect amounts. In the event the Contractor is unable to correct the issue causing the incorrect amounts to be charged and collected, beginning on the first day after the time allotted in the previous sentence the Contractor shall be liable for failure to collect the correct amount of Seller Taxes owed to the Member State, Contingent Member State or Associate Member State, plus any additional charges or amounts that the laws of the Member State, Contingent Member State or Associate Member State impose for the nonpayment of sales and use taxes, and shall be in Breach of this Contract. Nothing prohibits a state from providing the Contractor additional time to make these changes.

(a) If the incorrect amount resulted from the Contractor’s reasonable reliance on an issue made available for review but not discovered in the certification process, but the laws of a Member State, Contingent Member State or Associate Member State do not relieve the Seller from liability to the state and its local jurisdictions for having collected the incorrect amount of sales or use tax, the Contractor shall be liable for failure to collect the correct amount of Seller Taxes owed to the Member State, Contingent Member State or Associate Member State, plus any additional charges or amounts that the laws of the Member State, Contingent Member State or Associate Member State impose for the nonpayment of sales and use taxes. A Member State, Contingent Member State or Associate Member State that has not received the correct amount shall provide written notice to the Contractor. If the Member State, Contingent Member State or Associate Member State has not received the unpaid amount within ten (10) business days after receipt of the notice, the Contractor shall be in Breach of the Contract. Nothing herein shall prohibit the Contractor from providing, in its contracts with Sellers, for indemnification from Sellers to reimburse the Contractor for its liability under this paragraph.

(b) If a Contractor adds additional product categories to its CAS after its initial certification by the Member States, Contingent Member States and Associate Member States, the Member States, Contingent Member States and Associate Member States shall have until the first day of the calendar month that is at least 30 days from the date Testing Central notifies the Member States, Contingent Member States and Associate Member States of the Contractor’s request to certify the proposed sales and use tax treatment of these new product categories. If a Member State, Contingent Member State or Associate Member State is not able to certify some or all of the new product categories because inadequate descriptions and citations are provided by the Contractor, the Member State, Contingent Member State or Associate Member State shall request the additional information that is needed and the time period provided for in this section for those items shall not begin until the Contractor resubmits the request with additional information to Testing Central and Testing Central provides such to the Member State, Contingent Member State or Associate Member State.

(c) If a Member State, Contingent Member State or Associate Member State needs additional time to certify the sales and use tax treatment of the product categories being added to the CAS, the Member State, Contingent Member State or Associate Member State shall notify the Executive Director in writing and be allowed until the first day of the calendar month that is at least 60 days from the date Testing Central notified the Member States, Contingent Member States and Associate Member States of the Contractor’s request to certify the proposed sales and use tax treatment of these new product categories.

(d) If a Member State, Contingent Member State or Associate Member State fails to certify the sales and use tax treatment of these new product categories within the time period described in pars. (b) and (c) above, the Contractor shall not be liable to the extent determined by each state for any sales or use taxes due to the Member State, Contingent Member State or Associate Member State for these product categories until the first day of the calendar month that is at least 30 days after the Contractor is notified of the required change in accordance with Section E.3.(b) above.

(e) “Product categories” does not include individual products.

**E.5. Relief from Liability: Seller Filed Bankruptcy**

The Contractor shall notify the Executive Director upon notice that a seller or former seller for whom it provided CSP Services has filed for bankruptcy. The Contractor shall not be liable to the extent determined by each state for Seller Taxes or for any additional charges or amounts that the laws of the Member State, Contingent Member State or Associate Member State impose for the nonpayment of sales and use taxes that are due as the result of an audit of the transactions the Contractor processed for a Volunteer Seller, if the Volunteer Seller from whom the taxes are due as a result of the audit (i) has filed bankruptcy prior to the date the Member State, Contingent Member State or Associate Member State notified the Contractor of the amount of taxes due as a result of the audit, (ii) has not paid such amounts to the Contractor and (iii) the amount of taxes due as a result of the audit are not due to the Contractor’s failure to gather and maintain the information required under this Contract or the SSUTA. The Executive Director shall notify the Member States, Contingent Member States and Associate Member States, of any seller or former seller that has filed for bankruptcy.

Nothing in this Contract relieves a Seller from these sales and use tax obligations to a Member State, Contingent Member State or Associate Member State to the extent that the Seller has not remitted such taxes to the Contractor as applicable under each state’s laws.

The Member States, Contingent Member States and Associate Member States, and each of them, shall have the full rights to defend, pay or settle any and all claims resulting from actions against a Bankrupt Seller on their behalf without notice to the Contractor and with full rights to recourse against a Bankrupt Seller for all fees, costs, expenses and payments made or agreed to be paid to discharge said claim(s).

**E.6. Relief of Liability: Contractor Not Compensated for Providing CSP Services**

The Contractor shall not be liable to the extent determined by each state for Seller Taxes or for any additional charges or amounts that the laws of the Member State, Contingent Member State or Associate Member State impose for the nonpayment of sales and use taxes that are due as the result of an audit of the transactions the Contractor processed for a Seller, if the Seller is not a Volunteer Seller in such Member State, Contingent Member State or Associate Member State, from the date the Contractor notified the Executive Director in writing that the Contractor is not providing CSP services for that Seller for such state. The Executive Director shall notify each Member State, Contingent Member State and Associate Member State of any Sellers to whom a Contractor has indicated they are not providing CSP services. The notification may be through Testing Central by setting the allowance indicator.

**E.7. Relief of Liability: Seller Out of Business**

The Contractor shall notify the Executive Director upon notice that a seller or former seller for whom it provided CSP Services has gone out of business. The Contractor shall not be liable to the extent determined by each state for Seller Taxes or for any additional charges or amounts that the laws of the Member State, Contingent Member State or Associate Member State impose for the nonpayment of sales and use taxes that are due as the result of an audit of the transactions the Contractor processed for a Volunteer Seller, provided the Volunteer Seller from whom the taxes are due (i) has gone out of business prior to the date the Member State, Contingent Member State or Associate Member State notified the Contractor of the amount of taxes due, (ii) has not paid such amounts to the Contractor, and (iii) the amount of taxes due as a result of the audit are not due to the Contractor’s failure to gather and maintain the information required under this Contract or the SSUTA. The Executive Director shall notify the Member States, Contingent Member States and Associate Member States, of any seller or former seller that has gone out of business based on information received from the Contractor.

(a) This provision does not apply to a Seller that has sold its business or assets, is the subject of a merger, consolidation, reorganization, acquisition or other combination. In addition, this provision does not apply to any Seller that can otherwise be located by the Contractor, Member State, Contingent Member State or Associate Member State.

(b) Nothing in this Contract relieves a Seller from these sales and use tax obligations to a Member State, Contingent Member State or Associate Member State to the extent that the Seller has not remitted such taxes to the Contractor as applicable under each state’s laws.

(c) The Member States, Contingent Member States and Associate Member States, and each of them, shall have the full rights to defend, pay or settle any and all claims resulting from actions against an Out of Business Seller on their behalf without notice to the Contractor and with full rights to recourse against an Out of State Seller for all fees, costs, expenses and payments made or agreed to be paid to discharge said claim(s).