



STATE OF TENNESSEE
DEPARTMENT OF REVENUE
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(615) 741-2348

October 14, 2010

Mr. Scott Peterson
Executive Director
Streamlined Sales Tax Governing Board, Inc.
4219 Hillsboro Pike, Suite 234
Nashville, Tennessee 37215

Dear Mr. Peterson:

This letter is in response to your email, dated September 21, 2011, regarding the Preliminary Report on 2011 Annual Recertification. As an associate member state pursuant to Section 801.3.B., a recertification letter was submitted highlighting areas of compliance and noncompliance with the SSUTA. This letter addresses only those additional potential compliance issues included in the preliminary report that were not duplicated from the recertification letter. The additional items and Tennessee's responses are included below.

1) *The following citation needs to be changed on the taxability matrix: Value of trade-in – change 67-6-102(82)(A)(vi) to 67-6-102(82)(B)(iv).*

The citation has been corrected to 67-6-102(81)(B)(iv). In addition, the taxability matrix has been updated to 2011 citations for subsection 67-6-102.

2) *The following citations need to be added or changed on the certificate of compliance: Section 301, fourth question – change 67-6-1-102(b)(10) to 67-1-102(b)(10); Section 314, paragraph E – 67-6-905(c); Section 318, paragraph B1 – 67-6-504(a); Section 322, paragraph 3 – change 67-6-393(b)(8) to 67-6-393(b)(7); Section 333 – change 67-6-205(b)(3)&(9) to 67-6-205(c)(3)&(9).*

The citations have been corrected. In addition, the certificate of compliance has been updated to 2011 citations for subsection 67-6-102.

3) *The definition of “prepaid wireless calling service” uses the words “units of dollars” instead of “units or dollars.”*

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The type-o in the definition of prepaid wireless calling service appearing in the SSUTA that was duplicated in Tennessee statutes in Tenn. Code Ann. § 67-6-102(67) will be corrected. The type-o was corrected prior to adding the definition of prepaid wireless calling service to the telecommunications sourcing statutes for sourcing prepaid calling services in Tenn. Code Ann. § 67-6-905(d)(12) effective July 1, 2013. Tennessee does not exclude from the definition of prepaid wireless calling services service offers that have been advertised as "unlimited minutes" that expire over a prescribed unit of time such as weeks or months.

4) *The definition of "post-paid calling service" does not exclude prepaid wireless calling service.*

As listed in the recertification letter, Tennessee statutes have been amended to adopt the telecommunications sourcing for prepaid calling services effective July 1, 2013. In addition, the definition of post-paid calling service has been amended in conjunction with the adoption of the telecommunications sourcing for prepaid calling services effective July 1, 2013. The notation on the certificate of compliance has been corrected to properly reflect the following:

2007 PC 602 Sec. 176 amends the definition of post-paid calling services to specify a post-paid calling service includes a telecommunications services, except a prepaid wireless calling service, that would be a prepaid calling service except it is not exclusively a telecommunications service effective 7-1-13 in T.C.A. 67-6-905(d)(10).

5) *There is no written provision allowing 90 days after the sale to obtain an exemption certificate or for 120 days after a request by the state to prove the exemption is valid. This was an issue in the 2010 review.*

The 2010 amendments to SSUTA Section 317 are included in the recertification letter as additional changes the General Assembly will need to address prior to July 1, 2013, and are also noted in the certificate of compliance Section 317.D. questions. However, to properly reflect Tennessee's exemption administration in this area Tennessee has responded to both questions in Section 317.D. in the affirmative on the certificate of compliance. Tennessee's 2010 response to CRIC regarding this question applies to the Tennessee exemption administration for 2011.

Tennessee does not have limitations on the seller's or CSP's relief of liability to 90 days subsequent to the date of sale when the seller and CSP follow the Streamlined exemption administration provided for in Tenn. Code Ann. § 67-6-409 and a purchaser improperly claims an exemption.

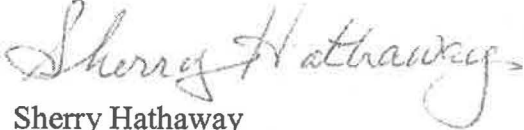
(b)(1) Sellers and certified service providers that follow the requirements of this section are not liable for the tax imposed by this chapter otherwise applicable, if it is determined that the purchaser improperly claimed an exemption, in which case the purchaser shall be liable for the tax.

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Tennessee does not limit the period of time that an audited seller has to substantiate a transaction^{with} is not subject to tax by either obtaining a fully completed exemption certificate or providing other information.

If you have additional questions, please contact me at (615) 532-6021.

Sincerely,



Sherry Hathaway
Senior Tax Policy Analyst