CHAPTER 57-39.4
STREAMLINED SALES AND USE TAX AGREEMENT

57-39.4-01. Adoption of streamlined sales and use tax agreement.

North Dakota adopts the streamlined sales and use tax agreement as adopted November 12, 2002, and as may be amended by the member states of the streamlined sales tax project. The entire agreement is adopted by reference with the exception of articles III and V, which are adopted as set out in this chapter.

57-39.4-02. (301) State level administration.

1. Each member state shall provide state level administration of sales and use taxes subject to the agreement. The state level administration may be performed by a member state's tax commission, department of revenue, or any other single entity designated by state law. Sellers and purchasers are only required to register with, file returns with, and remit funds to the state level authority. The state level authority of a member state shall provide for collection of any local taxes and distribution of them to the appropriate taxing jurisdictions. The state level authority shall conduct, or others may be authorized to conduct on its behalf, subject to the provisions of subsection 2, all audits of the sellers and purchasers for that state's tax and the tax of its local jurisdictions. Except as provided in this chapter local jurisdictions shall not conduct independent sales or use tax audits of sellers and purchasers.
2. If authorized by statute, nothing in this section prohibits the state level authority from authorizing audits of taxpayers to be conducted or performed by others on behalf of the state level authority provided:
   a. The person is conducting the audit for all taxes due and not only for taxes due to a specific local taxing jurisdiction;
   b. The person is subject to the same confidentiality provisions and other protections afforded to a taxpayer as a person working for the state level authority;
   c. Absent fraud, a refund claim filed subsequent to the audit that covers part of the audit period or mutual consent, the audit does not cover an audit period already conducted by the state level authority or another person acting on its behalf; and
   d. The audit is subject to the same administrative and appeal procedures granted to audits conducted by the state level authority.

57-39.4-03. (302) State and local tax bases.

The tax base for local jurisdictions shall be identical to the state tax base unless otherwise prohibited by federal law. This section does not apply to sales or use taxes levied on 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 and the retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.

57-39.4-04. (303) Seller registration.

Each member state shall participate in an online sales and use tax registration system in cooperation with the other member states. Under this system:

1. A seller registering under the agreement shall be registered in each of the member states.
2. A model 2, model 3, or model 4 seller may elect to be registered in one or more states as a seller which anticipates making no sales into the state or states if it has not had sales into the state or states for the preceding twelve months. This election does not relieve the seller of its agreement under section 401(B) to collect taxes on all sales into the states or its liability for remitting to the proper states any taxes collected.
3. The member states agree not to require the payment of any registration fees or other charges for a seller to register in a state in which the seller has no legal requirement to register.
4. A written signature from the seller is not required.

5. An agent may register a seller under uniform procedures adopted by the member states.
6. A seller may cancel its registration under the system at any time under uniform procedures adopted by the governing board. Cancellation does not relieve the seller of its liability for remitting to the proper states any taxes collected.
7. Nothing in this section shall be construed to relieve a seller of any legal obligation it may have under a state's laws to register in that state or its obligation to collect and remit taxes for at least thirty-six months in a state and meet all other requirements for amnesty set out in section 402 of the agreement in order to be eligible for amnesty in the state.
8. Whenever a state joins the agreement, sellers registered under the agreement shall be registered in the new state as follows:
   a. Model 1 sellers will be automatically registered in such state.
   b. Model 2, model 3, and model 4 sellers will be automatically registered in the new state but may elect to be registered as a seller which anticipates making no sales into the new state.
9. Upon registration, the governing board shall provide to the seller information regarding the requirements and options for filing a simplified electronic return and for filing remittances in any member state. Member states may provide information to sellers concerning other tax return filing options in that state.
10. The governing board shall cause the system for registering under the agreement to include a feature that allows sellers registered under the agreement to update relevant registration data in the system and have such updated data provided to all member states. The governing board shall establish conditions and procedures to allow states which are not members of the agreement to participate in the registration system.

57-39.4-05. (304) Notice for state tax changes.

1. Each member state shall lessen the difficulties faced by sellers when there is a change in a state sales or use tax rate or base by making a reasonable effort to do all of the following:
   a. Provide sellers with as much advance notice as practicable of a rate change.
   b. Limit the effective date of a rate change to the first day of a calendar quarter.
   c. Notify sellers of legislative changes in the tax base and amendments to sales and use tax rules and regulations.
2. Failure of a seller to receive notice or failure of a member state to provide notice or limit the effective date of a rate change shall not relieve the seller of its obligation to collect sales or use taxes for that member state.
3. 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 effective rate if:
   a. The seller collected tax at the immediately preceding effective rate; and
   b. 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.
4. Notwithstanding subsection 3, if the member state establishes that 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.
5. 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 3.

57-39.4-06. (305) Local rate and boundary changes.

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

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.
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.

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.
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.
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 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 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 or certified service provider is unable to determine the nine-digit zip code designation applicable to a purchase after exercising due diligence to determine the designation, the seller or certified service provider 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 certified service provider 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 applicable to a purchase.
7. Have the option of providing address-based boundary database records for assigning taxing jurisdictions and their associated rates which shall be in addition to the requirements of subsection 6. The database records must be in the same approved format as the database records under subsection 6 and must meet the requirements developed pursuant to the federal Mobile Telecommunications Sourcing Act [4 U.S.C. 119(a)]. The governing board may allow a member state to require sellers that register under this agreement to use an address-based database provided by that member state. If any member state develops address-based assignment database records pursuant to the agreement, a seller or certified service provider may use those database records in place of the five-digit and nine-digit zip code database records provided for in subsection 6. If a seller or certified service provider is unable to determine the applicable rate and jurisdiction using an address-based database record after exercising due diligence, the seller or certified service provider may apply the nine-digit zip code designation applicable to a purchase. If a nine-digit zip code designation is not available for a street address or if a seller or certified service provider is unable to determine the nine-digit zip code designation applicable to a purchase after exercising due diligence to determine the designation, the seller or certified service provider 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 certified service provider has exercised due diligence if the seller or certified service provider has attempted to determine the tax rate and jurisdiction by utilizing software approved by the governing board that makes this assignment from the address and zip code information applicable to the purchase.
8. States which have met the requirements of subsection 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 under subsection 7 and must meet the requirements developed under the federal Mobile Telecommunications Sourcing Act [4 U.S.C. 119(a)]. If a state certifies a vendor-provided address-based database, a seller or certified service provider may use that database in place of the database provided for in subsection 6 or 7. 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.

9. Make databases provided under subsections 5, 6, 7, and 8 available to a seller, or certified service provider 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.

57-39.4-07. (306) Relief from certain liability.

Each member state shall relieve sellers and certified service providers using databases under subsections 6, 7, and 8 of section 57-39.4-06 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 certified service provider 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 under subsection 7 or 8 of section 57-39.4-06 may cease providing liability relief for errors resulting from the reliance on the database provided by the member state under subsection 6 of section 57-39.4-06. 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.

57-39.4-08. (307) Database requirements and exceptions.

1. The electronic databases provided for in subsections 4, 5, 6, and 7 of section 57-39.4-06 shall be in a downloadable format approved by the governing board. The databases may be directly provided by the state or provided by a vendor as designated by the state. A database provided by a vendor as designated by a state shall be applicable to and subject to all provisions of sections 57-39.4-06 and 57-39.4-07 and this section. These databases must be provided at no cost to the user of the database.
2. The provisions of subsections 6 and 7 of section 57-39.4-06 do not apply when the purchased product is received by the purchaser at the business location of the seller.
3. The databases provided by subsections 4, 5, 6, and 7 of section 57-39.4-06 are not a requirement of a state prior to entering into the agreement. A seller that did not have a requirement to register in a state prior to registering under this agreement or a certified service provider shall not be required to collect sales or use taxes for the state until the first day of the calendar quarter commencing more than sixty days after the state has provided the databases required by subsections 4, 5, and 6 of section 57-39.4-06. Provided, for the initial implementation of the agreement, a certified service provider shall be required to collect sales and use taxes for each member state, subject to the provisions of the agreement, under the terms of the operating agreement entered into between the certified service provider and the governing board in order to provide adequate time for testing and loading of the databases.

57-39.4-09. (308) State and local tax rates.

1. 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 under 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 the product, provided the rate achieves tax parity for similar products.
2. A 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.

3. The provisions of this section do not apply to sales or use taxes levied on 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.

57-39.4-10. (309) Application of general sourcing rules and exclusions from the rules.

1. Each member state shall agree to require sellers to source the retail sale of a product in accordance with section 57-39.4-11 or 57-39.4-11.1. Except as provided in section 57-39.4-11.1, the provisions of section 57-39.4-11 apply to all sales regardless of the characterization of a product as tangible personal property, a digital good, or a service. Except as otherwise provided in the agreement, the provisions of sections 57-39.4-11 and 57-39.4-11.1 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.
2. Sections 57-39.4-11 and 57-39.4-11.1 do not apply to sales or use taxes levied on the following:
   a. 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.
   b. The retail sale, excluding lease or rental, of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment, as defined in subsection 4 of section 57-39.4-11. 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 subsection 3 of section 57-39.4-11.
   c. Telecommunications services and ancillary services, as set out in section 57-39.4-16, and internet access service shall be sourced in accordance with section 57-39.4-15.
   d. Florist sales as defined by each member state. These sales must be sourced according to the requirements of each member state.
   e. The retail sale of products and services qualifying as direct mail must be sourced in accordance with section 57-39.4-14.

57-39.4-11. (310) General sourcing rules.

1. Except as provided in section 57-39.4-11.1, a retail sale, excluding lease or rental, of a product shall be sourced as follows:
   a. When the product is received by the purchaser at a business location of the seller, the sale is sourced to that business location.
   b. 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.
   c. When subdivisions a and b 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.
   d. When subdivisions a, b, and c 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.
   e. When none of the previous rules of subdivisions a, b, c, and d 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.

2. The lease or rental of tangible personal property, other than property identified in subsection 3 or 4, shall be sourced as follows:
   a. 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 1. 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.
   b. 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 1.
   c. 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.
3. The lease or rental of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment, as defined in subsection 4, shall be sourced as follows:
   a. 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.
   b. 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 1.
   c. 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.
4. 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 1, notwithstanding the exclusion of lease or rental in subsection 1. "Transportation equipment" means any of the following:
   a. Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce.
   b. Trucks and truck-tractors with a gross vehicle weight rating of 10,001 pounds [4535.92 kilograms] or greater, trailers, semitrailers, or passenger buses that are:
      (1) Registered through the international registration plan; and
      (2) Operated under authority of a carrier authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.
   c. Aircraft that are operated by air carriers authorized and certificated by the United States department of transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce.
   d. Containers designed for use on and component parts attached or secured on the items set forth in subdivisions a, b, and c.

57-39.4-11.1. (310.1) Election for origin-based sourcing.

1. A member state that has local jurisdictions that levy or receive sales or use taxes may elect to source the retail sale of tangible personal property and digital goods under the

provisions of this section in lieu of the provisions of subdivisions b, c, and d of subsection 1 of section 57-39.4-11 if the state complies with subsection 3 of this section and the only exception to section 57-39.4-11 is in subsection 2 of this section.

2. A member state may source retail sales, excluding lease or rental, of tangible personal property or digital goods to the location where the order is received by the seller if:
   a. The order is received in the same state by the seller where receipt of the product by the purchaser or the purchaser's designated donee occurs;
   b. The location where receipt of the product by the purchaser occurs is determined under subdivisions b, c, and d of subsection 1 of section 57-39.4-11; and
   c. At the time the order is received, the recordkeeping system of the seller used to calculate the proper amount of sales or use tax to be imposed captures the location where the order is received.
3. A member state electing to source sales under this section shall comply with all of the following:
   a. When the location where the order is received by the seller and the location where the receipt of the product by the purchaser or the purchaser's designated donee occurs as determined under subdivisions b, c, and d of subsection 1 of section 57-39.4-11 are in different states, the sale must be sourced under the provisions of section 57-39.4-11.
   b. When the sale is sourced under this section to the location where the order is received by the seller, only the sales tax for the location where the order is received by the seller may be levied. No additional sales or use tax based on the location where the product is delivered to the purchaser may be levied on that sale. The purchaser shall not be entitled to any refund if the combined state and local rate at the location where the product is received by the purchaser is lower than the rate where the order is received by the seller.
   c. A member state may not require a seller to use a recordkeeping system that captures the location where the order is received to calculate the proper amount of sales or use tax to be imposed.
   d. A purchaser shall not have an additional liability to the state for tax, penalty, or interest on a sale for which the purchaser remits tax to the seller in the amount invoiced by the seller if the invoice amount is calculated at either the rate applicable to the location where receipt by the purchaser occurs or at the rate applicable to the location where the order is received by the seller. A purchaser may rely on a written representation by the seller as to the location where the order for the sale was received by the seller. When the purchaser does not have a written representation by the seller as to the location where the order for the sale was received by the seller, the purchaser may use the seller's business address that is available from the purchaser's business records maintained in the ordinary course of the purchaser's business to determine the rate applicable to the location where the order was received.
   e. The location where the order is received by or on behalf of the seller means the physical location of a seller or third party such as an established outlet, office location, or automated order receipt system operated by or on behalf of the seller, where an order is initially received by or on behalf of the seller and not where the order may be subsequently accepted, completed, or fulfilled. An order is received when all of the information from the purchaser necessary to determine whether the order can be accepted has been received by or on behalf of the seller. The location from which a product is shipped must not be used in determining the location where the order is received by the seller.
   f. A member state must provide for direct pay permits under section 57-39.4-27 and the requirements of this subsection. Purchasers that remit sales and use tax under a direct pay permit shall remit tax at the rate in effect for the location where receipt of the product by the purchaser occurs or the product is first used as determined by state law. A member state may establish reasonable thresholds at which the member state will consider direct pay applications, provided the

threshold must be based upon purchases with no distinction between taxable and nontaxable purchases. The member state shall establish a process for application for a direct pay permit as provided in this chapter. The member state may require the direct pay permit applicant to demonstrate:

(1) An ability to comply with the sales and use tax laws of the state;

(2) A business purpose for seeking a direct pay permit and how the permit will benefit tax compliance; and

(3) Proof of good standing under the tax laws of the state. The member state shall review all permit applications in a timely manner. Notification of authorization or denial must be received by applicants within one hundred twenty days of application. The member state may not limit direct pay permit applicants to businesses engaged in manufacturing or businesses that do not know the ultimate use of the product at the time of the purchase.

g. When taxable services are sold with tangible personal property or digital products under a single contract or in the same transaction, are billed on the same billing statement, and because of the application of this section, would be sourced to different jurisdictions, a member state shall elect either origin sourcing or destination sourcing to determine a single situs for that transaction. The member state election is required until the governing board adopts a uniform methodology to address these sales.

h. A member state that elects to source the sale of tangible personal property and digital goods under the provisions of this section shall inform the governing board of the election.

57-39.4-12. (311) General sourcing definitions.

For the purposes of subsection 1 of section 57-39.4-11, the terms "receive" and "receipt" mean:

1. Taking possession of tangible personal property;
2. Making first use of services; or
3. Taking possession or making first use of digital goods, whichever comes first. The terms "receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser.

57-39.4-13. (312) Multiple points of use.

Repealed by S.L. 2007, ch. 528, § 24.

57-39.4-14. (313) Direct mail sourcing.

1. For purposes of this section:
   a. "Advertising and promotional direct mail" means:
      (1) Printed material that meets the definition of direct mail, in appendix C, part I of the agreement; and
      (2) The primary purpose of which is to attract public attention to a product, person, business, or organization, or to attempt to sell, popularize, or secure financial support for a product, person, business, or organization. As used in this subsection, the word "product" means tangible personal property, a product transferred electronically, or a service.
   b. "Other direct mail" means any direct mail that is not advertising and promotional direct mail regardless of whether advertising and promotional direct mail is included in the same mailing. The term includes:
      (1) Transactional direct mail that contains personal information specific to the addressee, including invoices, bills, statements of account, and payroll advices;
      (2) Any legally required mailings, including privacy notices, tax reports, and stockholder reports; and

(3) Other nonpromotional direct mail delivered to existing or former shareholders, customers, employees, or agents, including newsletters and informational pieces.

Other direct mail does not include the development of billing information or the provision of any data processing service that is more than incidental.

2. Notwithstanding sections 57-39.4-11 and 57-39.4-11.1, the following provisions apply to sales of advertising and promotional direct mail:
   a. A purchaser of advertising and promotional direct mail may provide the seller with either:
      (1) A direct pay permit;
      (2) A streamlined sales and use tax agreement certificate of exemption claiming direct mail or other written statement approved, authorized, or accepted by the state; or
      (3) Information showing the jurisdictions to which the advertising and promotional direct mail is to be delivered to recipients.
   b. If the purchaser provides the permit, certificate, or statement referred to in this subsection, the seller, in the absence of bad faith, is relieved of all obligations to collect, pay, or remit any tax on any transaction involving advertising and promotional direct mail to which the permit, certificate, or statement applies. The purchaser shall source the sale to the jurisdictions to which the advertising and promotional direct mail is to be delivered to the recipients and shall report and pay any applicable tax due.
   c. If the purchaser provides the seller information showing the jurisdictions to which the advertising and promotional direct mail is to be delivered to recipients, the seller shall source the sale to the jurisdictions to which the advertising and promotional direct mail is to be delivered and shall collect and remit the applicable tax. In the absence of bad faith, the seller is relieved of any further obligation to collect any additional tax on the sale of advertising and promotional direct mail where the seller has sourced the sale according to the delivery information provided by the purchaser.
   d. If the purchaser does not provide the seller with any of the items listed in this subsection, the sale shall be sourced according to subdivision e of subsection 1 of section 57-39.4-11. The state to which the advertising and promotional direct mail is delivered may disallow credit for tax paid on sales sourced under this subdivision.
3. Notwithstanding sections 57-39.4-11 and 57-39.4-11.1, the following provisions apply to sales of other direct mail:
   a. Except as otherwise provided in this subsection, sales of other direct mail are sourced in accordance with subdivision c of subsection 1 of section 57-39.4-11.
   b. A purchaser of other direct mail may provide the seller with either:
      (1) A direct pay permit; or
      (2) A streamlined sales and use tax agreement certificate of exemption claiming direct mail or other written statement approved, authorized, or accepted by the state.
   c. If the purchaser provides the permit, certificate, or statement referred to in this subsection, the seller, in the absence of bad faith, is relieved of all obligations to collect, pay, or remit any tax on any transaction involving other direct mail to which the permit, certificate, or statement applies. Notwithstanding subdivision a, the sale shall be sourced to the jurisdictions to which the other direct mail is to be delivered to the recipients and the purchaser shall report and pay any applicable tax due.
4. a. This section applies to a transaction characterized under state law as the sale of services only if the service is an integral part of the production and distribution of printed material that meets the definition of direct mail.
   b. This section does not apply to any transaction that includes the development of billing information or the provision of any data processing service that is more

than incidental regardless of whether advertising and promotional direct mail is included in the same mailing.

c. If a transaction is a "bundled transaction" that includes advertising and promotional direct mail, this section shall apply only if the primary purpose of the transaction is the sale of products or services that meet the definition of advertising and promotional direct mail.

d. Nothing in this section shall limit any purchaser's:
   (1) Obligation for sales or use tax to any state to which the direct mail is delivered;
   (2) Right under local, state, federal, or constitutional law, to a credit for sales or use taxes legally due and paid to other jurisdictions; or
   (3) Right to a refund of sales or use taxes overpaid to any jurisdiction.

e. This section applies for purposes of uniformly sourcing direct mail transactions and does not impose requirements on states regarding the taxation of products that meet the definition of direct mail or to the application of sales for resale or other exemptions.

57-39.4-14.1. (313.1) Election for origin-based direct mail sourcing.

1. Notwithstanding sections 57-39.4-11, 57-39.4-11.1, and 57-39.4-14, a member state may elect to source the sale of all direct mail delivered or distributed from a location within the state and delivered or distributed to a location within the state under this section.
2. If the purchaser provides the seller with a direct pay permit or a streamlined sales and use tax agreement certificate of exemption claiming direct mail or other written statement approved, authorized, or accepted by the state, the seller, in the absence of bad faith, is relieved of all obligations to collect, pay, or remit the applicable tax on any transaction involving direct mail. The purchaser must report and pay any applicable tax due. A streamlined sales and use tax agreement certificate of exemption claiming direct mail shall remain in effect for all future sales of direct mail by the seller to the purchaser until it is revoked in writing.
3. Except as provided in subsections 2, 3, and 4, the seller shall collect the tax according to subdivision e of subsection 1 of section 57-39.4-11. To the extent the seller knows that a portion of the sale of direct mail will be delivered or distributed to a location in another state, the seller shall collect the tax on that portion according to section 57-39.4-14.
4. Notwithstanding subsection 3, a seller may elect to use the provisions of section 57-39.4-14 to source all sales of advertising and promotional direct mail.
5. Nothing in this section limits a purchaser's obligation for sales or use tax to any state to which the direct mail is delivered, except that a purchaser whose direct mail is sourced under subsection 3 shall owe no additional sales or use tax to that state based on where the purchaser uses or delivers the direct mail in the state.
6. A member state that elects to source the sale of direct mail under the provisions of this section shall inform the governing board in writing at least sixty days prior to the beginning of the calendar quarter this election begins.

57-39.4-15. (314) Telecommunications sourcing.

1. Except for the defined telecommunications services in subsection 3, the sale of telecommunications services sold on a call-by-call basis shall be sourced to each level of taxing jurisdiction where the call originates and terminates in that jurisdiction or each level of taxing jurisdiction where the call either originates or terminates and in which the service address is also located.
2. Except for the defined telecommunications services in subsection 3, a sale of telecommunications services sold on a basis other than a call-by-call basis is sourced to the customer's place of primary use.
3. The sale of the following telecommunications services shall be sourced to each level of taxing jurisdiction as follows:

a. A sale of mobile telecommunications services, other than air-to-ground radiotelephone service and prepaid calling service, is sourced to the customer's place of primary use as required by the Mobile Telecommunications Sourcing Act.
b. A sale of post-paid calling service is sourced to the origination point of the telecommunications signal as first identified by either the seller's telecommunications system, or information received by the seller from its service provider, if the system used to transport such signals is not that of the seller.
c. A sale of prepaid calling service or a sale of a prepaid wireless calling service is sourced in accordance with section 57-39.4-11. However, in the case of a sale of prepaid wireless calling service, the rule provided in subdivision e of subsection 1 of section 57-39.4-11 shall include as an option the location associated with the mobile telephone number.
d. A sale of a private communication service is sourced as follows:
   (1) Service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which such customer channel termination point is located.
   (2) Service where all customer termination points are located entirely within one jurisdiction or levels of jurisdiction is sourced in such jurisdiction in which the customer channel termination points are located.
   (3) Service for segments of a channel between two customer channel termination points located in different jurisdictions and which segment of channel are separately charged is sourced fifty percent in each level of jurisdiction in which the customer channel termination points are located.
   (4) Service for segments of a channel located in more than one jurisdiction or levels of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in such jurisdiction by the total number of customer channel termination points.

4. The sale of internet access service is sourced to the customer's place of primary use.
5. The sale of an ancillary service is sourced to the customer's place of primary use.

57-39.4-16. (315) Telecommunications sourcing definitions.

For the purpose of section 57-39.4-15, the following definitions apply:

1. "Air-to-ground radiotelephone service" means a radio service, as that term is defined in 47 CFR 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.
2. "Ancillary services" means services that are associated with or incidental to the provision of telecommunications services, including detailed telecommunications billing, directory assistance, vertical service, and voice mail services.
3. "Call-by-call basis" means any method of charging for telecommunications services in which the price is measured by individual calls.
4. "Communications channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.
5. "Customer" means the person or entity that contracts with the seller of telecommunications services. If the end user of telecommunications services is not the contracting party, the end user of the telecommunications services is the customer of the telecommunications services, but this sentence only applies for the purpose of sourcing sales of telecommunications services under section 57-39.4-15. "Customer" does not include a reseller of telecommunications services or for mobile telecommunications services of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area.
6. "Customer channel termination point" means the location where the customer either inputs or receives the communications.
7. "End user" means the person who utilizes the telecommunications services. In the case of an entity, "end user" means the individual who utilizes the services on behalf of the entity.

8. "Home service provider" means the same as that term is defined in section 124(5) of Public Law 106-252, Mobile Telecommunications Sourcing Act.
9. "Mobile telecommunications service" means the same as that term is defined in section 124(7) of Public Law 106-252, Mobile Telecommunications Sourcing Act.
10. "Place of primary use" means the street address representative of where the customer's use of the telecommunications services primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, "place of primary use" must be within the licensed service area of the home service provider.
11. "Post-paid calling service" means the telecommunications services obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to which a telephone number which is not associated with the origination or termination of the telecommunications services. A post-paid calling service includes telecommunications services, except a prepaid wireless calling service, that would be a prepaid calling service except it is not exclusively telecommunications services.
12. "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.
13. "Prepaid wireless calling service" means a telecommunications service that provides the right to utilize mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content and ancillary services, which must be paid for in advance that is sold in predetermined units or dollars of which the number declines with use in a known amount.
14. "Private communication service" means telecommunications services that entitle the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels.
15. "Service address" means:
    a. The location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid.
    b. If the location in subdivision a is not known, service address means the origination point of the signal of the telecommunications services first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.
    c. If the location in subdivisions a and b are not known, the service address means the location of the customer's place of primary use.

57-39.4-17. (316) Enactment of exemptions.

A member state shall enact entity-based, use-based, and product-based exemptions in accordance with the provisions of this section and utilize common definitions in accordance with the provisions of section 57-39.4-28 and the agreement.

1. A member state may enact a product-based exemption without restriction if the agreement does not have a definition for the product.
    a. A member state may enact a product-based exemption for a product if the agreement has a definition for such product and the member state utilizes in the exemption the product definition in a manner consistent with the agreement and section 57-39.4-28.
    b. A member state may enact a product-based exemption exempting all items included within a definition in the agreement but shall not exempt specific items

included within the product definition unless the product definition sets out an exclusion for such item.

2. A member state may enact an entity-based or a use-based exemption for a product without restriction if the agreement does not have a definition for the product.
   a. A member state may enact an entity-based or a use-based exemption for a product if the agreement has a definition for such product and the member state utilizes in the exemption the product definition in a manner consistent with the agreement and section 57-39.4-28.
   b. A member state may enact an entity-based exemption for an item if the agreement does not have a definition for such items but has a definition for a product that includes such item.
   c. A member state may not enact a use-based exemption for an item which effectively constitutes a product-based exemption if the agreement has a definition for a product that includes such item.
   d. A member state may enact a use-based exemption for an item if the agreement has a definition for a product that includes such item, if not prohibited in subdivision c and if consistent with a definition in the agreement.

For purposes of complying with the requirements in this section, the inclusion of a product within the definition of tangible personal property is disregarded.

57-39.4-18. (317) Administration of exemptions.

1. Each member state shall observe the following provisions when a purchaser claims an exemption:
   a. The seller shall obtain identifying information of the purchaser and the reason for claiming a tax exemption at the time of the purchase as determined by the governing board.
   b. A purchaser is not required to provide a signature to claim an exemption from tax unless a paper exemption certificate is used.
   c. The seller shall use the standard form for claiming an exemption electronically as adopted by the governing board.
   d. The seller shall obtain the same information for proof of a claimed exemption regardless of the medium in which the transaction occurred.
   e. A member state may utilize a system in which the purchaser exempt from the payment of the tax is issued an identification number that shall be presented to the seller at the time of the sale.
   f. The seller shall maintain proper records of exempt transactions and provide them to a member state when requested.
   g. A member state shall administer use-based and entity-based exemptions when practicable through a direct pay permit, an exemption certificate, or another means that does not burden sellers.
   h. In the case of drop shipment sales, member states must allow a third-party vendor, drop shipper, to claim a resale exemption based on an exemption certificate by its customer or reseller or any other acceptable information available to the third-party vendor evidencing qualification for a resale exemption, regardless of whether the customer or reseller is registered to collect and remit sales and use tax in the state where the sale is sourced.
2. 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 the 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 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 the state in which that location resides provides an exemption certificate that clearly and affirmatively indicates that the claimed exemption is not

available in that state. Graying out exemption reason types on the uniform form and posting it on a state's website is an indicator.

3. Each member 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 ninety days subsequent to the date of sale. A member state may provide for a period longer than ninety days for the seller to obtain the necessary information.
4. If the seller has not obtained an exemption certificate or all relevant data elements as provided by this section, a member state shall provide the seller with one hundred twenty days subsequent to a request for substantiation by a member state, to either obtain:
    a. A fully completed exemption certificate from the purchaser, taken in good faith which means that the seller obtain a certificate that claims an exemption that was statutorily available on the date of the transaction in the jurisdiction where the transaction is sourced, could be applicable to the item being purchased, and is reasonable for the purchaser's type of business; or
    b. Other information establishing that the transaction was not subject to the tax. A member state may provide for a period longer than one hundred twenty days for sellers to obtain the necessary information.
    c. If the seller obtains the information described in this subsection, the member state shall relieve the seller of any liability for the tax on the transaction unless it is discovered through the audit process that the seller had knowledge or had reason to know at the time such information was provided that the information relating to the exemption claimed was materially false or the seller otherwise knowingly participated in activity intended to purposefully evade the tax that is properly due on the transaction. The state must establish that the seller had knowledge or had reason to know at the time the information was provided that the information was materially false.
    5. Nothing in this section shall affect the ability of member states to require purchasers to update exemption certificate information or to reapply with the state to claim certain exemptions.
    6. Each member state shall relieve a seller of the tax otherwise applicable if it obtains a blanket exemption certificate from a purchaser with which the seller has a recurring business relationship. Notwithstanding the provisions of subsection 5, a member state may not request from the seller renewal of blanket certificates or updates of exemption certificate information or data elements when there is a recurring business relationship between the buyer and seller. For purposes of this section, a recurring business relationship exists when a period of no more than twelve months elapses between sales transactions.
7. Each member state shall post on its website the uniform paper exemption certificate, streamlined sales and use tax exemption certificate, as revised and adopted by the governing board, with any applicable graying out of nonapplicable exemption types under subsection 2.

57-39.4-19. (318) Uniform tax returns.

Each member state shall:

1. Require that only a single tax return for each taxing period for each seller be filed for the member state to include all the taxing jurisdictions within the member state.
2. a. Require that returns be due no sooner than the twentieth day of the month following the month in which the transaction occurred.
    b. When the due date for a return falls on a Saturday or Sunday or legal holiday in the subject member state, the return shall be due on the next succeeding business day. If the return is filed in conjunction with a remittance and the remittance cannot be made under subdivision b of subsection 5 of section 57-39.4-20, the return shall be accepted as timely filed on the same day as the remittance under that subsection.

3. Make available to all sellers, whether or not registered under the agreement, except sellers of products qualifying for exclusion from the provisions of section 57-39.4-09 of this agreement, a simplified return that is filed electronically as follows:
   a. The simplified electronic return hereinafter SER shall be in a form approved by the governing board and shall contain only those fields approved by the governing board. The SER shall contain two parts. Part 1 shall contain information relating to remittances and allocations and part 2 shall contain information relating to exempt sales.
   b. Each member state must notify the governing board if it requires the submission of the part 2 information provided no state may require the submission of part 2 information from a model 4 seller which has no legal requirement to register in the state.
   c. Returns shall be required as follows:
      (1) Certified service providers must file an SER in all member states on behalf of model 1 sellers. Certified service providers, on behalf of these sellers, shall file the audit reports provided for in article V of the rules and procedures of the agreement for the states, and in addition, shall be required to file part 1 of the SER each month for each member state. A state shall allow a model 1 seller to file both part 1 and part 2 of the SER. A model 1 seller which chooses to file both part 1 and part 2 of the SER shall still be required to file the audit reports provided for in article V of the rules and procedures of the agreement.
      (2) Model 2 and model 3 sellers must file an SER in all member states other than states for which they have indicated that they anticipate making no sales. These sellers shall file part 1 of the SER every month for all states in which they anticipate making sales. These sellers need not file part 2 information until January 1, 2012. After this date, they shall have the following options for meeting their obligation to furnish part 2 information:
         (a) File part 2 of the SER together with part 1 of the SER every month; or
         (b) File part 2 of the SER at the same time part 1 of the SER for the month of December is due. Part 2 information filed under this option shall cover the month of December and all previous months of the same calendar year and shall only require annual and not monthly totals. The sellers shall only be required to file part 2 of the SER for any state which has notified the governing board that it will require the submission of the part 2 information under subdivision b.
      (3) Every member state shall allow model 4 sellers to file an SER. The sellers shall file part 1 of the SER every month unless a state allows less frequent filing. Model 4 sellers which have a legal requirement to register in the state shall have the following options for meeting their obligation to furnish part 2 information:
         (a) File part 2 of the SER together with part 1 of the SER; or
         (b) File part 2 of the SER at the same time part 1 of the SER for the month of December is due. Part 2 information filed under this option shall cover the month of December and all previous months of the same calendar year and shall only require annual and not monthly totals.

         These sellers shall only be required to file part 2 of the SER for any state which has notified the governing board that it will require the submission of the part 2 information under subdivision b.

         Model 4 sellers which elect not to file an SER shall file returns in the form under schedules afforded to sellers not registered under the agreement according to the requirements of each member state.
      (4) No later than January 1, 2013, every member state shall allow sellers not registered under the agreement that are registered in the state to file an SER. These sellers shall file part 1 of the SER every month unless a state

allows less frequent filing and shall have the following options for meeting their obligation to furnish part 2 information:

(a) File part 2 of the SER together with part 1 of the SER; or

(b) File part 2 of the SER at the same time part 1 of the SER for the month of December is due. Part 2 information filed under this option shall cover the month of December and all previous months of the same calendar year and shall only require annual and not monthly totals.

These sellers shall only be required to file part 2 of the SER for any state which has notified the governing board that it will require the submission of the part 2 information under subdivision b.

d. A state which requires the submission of part 2 information under paragraph 2 may provide an exemption from this requirement to a seller under terms and conditions set out by the state.

e. A state may require a seller which elects to file an SER to give at least three months' notice of the seller's intent to discontinue filing an SER.

4. Not require the filing of a return from a seller registered under the agreement which has indicated at the time of registration that it anticipates making no sales which would be sourced to the state under the agreement. A seller shall lose this exemption upon making any taxable sales into the state and shall file a return in the month following the sale. A state may, but is not required to, allow a seller to regain such filing exemption upon such terms and conditions as the state may impose.

5. Adopt a standardized transmission process to allow for receipt of uniform tax returns and other formatted information as approved by the governing board. The process must provide for the filing of separate returns for multiple legal entities in a single transmission for each state and will not include any requirement for manual entry or input by the seller of any of the aforementioned information. This process will allow a certified service provider, tax preparer, or any other authorized person to file returns for more than one seller in a single electronic transmission. However, sellers filing returns for multiple legal entities may only do so for affiliated legal entities.

6. Give notice to a seller registered under this agreement which has no legal requirement to register in the state, of a failure to file a required return and a minimum of thirty days to file thereafter prior to establishing a liability amount for taxes based solely on the seller's failure to timely file a return provided a member state may establish a liability amount for taxes based solely on the seller's failure to timely file a return if such seller has a history of nonfiling or late filing.

7. Nothing in this section shall prohibit a state from allowing additional return options or the filing of returns less frequently.

57-39.4-20. (319) Uniform rules for remittance of funds.

Each member state shall:

1. Require only one remittance for each return except as provided in this subsection. If any additional remittance is required, it may only be required from sellers that collect more than thirty thousand dollars in sales and use taxes in the member state during the preceding calendar year as provided in the agreement. The state shall allow the amount of any additional remittance to be determined through a calculation method rather than actual collections. Any additional remittances shall not require the filing of an additional return.

2. Require, at each member state's discretion, all remittances in payment of taxes reported on the approved simplified return format to be remitted electronically.

3. Allow for electronic payments by all remitters by both automated clearinghouse credit and automated clearinghouse debit.

4. Provide an alternative method for making same day payments if an electronic funds transfer fails.

5. a. Provide that if a due date for a payment falls on a Saturday, Sunday, or legal holiday in a member state, the payment, including any related payment voucher information, is due to that state on the next succeeding business day.
   b. Additionally, if the federal reserve bank is closed on a due date that prohibits a person from being able to make a payment by automated clearinghouse debit or credit, that payment shall be accepted as timely if made on the next day the federal reserve bank is open.
6. Require that any data that accompanies a remittance be formatted using uniform tax type and payment type codes approved by the governing board.
7. Adopt a standardized transmission process approved by the governing board that allows for the remittance in an SER of a single bulk payment for taxes reported on multiple SERs by affiliated entities, certified service providers, or preparers. Each state shall comply with this provision no later than two years after the governing board approves such a standardized transmission process.

57-39.4-21. (320) Uniform rules for recovery of bad debts.

Each member state shall use the following to provide a deduction for bad debts to a seller. To the extent a member state provides a bad debt deduction to any other party, the same procedures will apply. Each member state shall:

1. Allow a deduction from taxable sales for bad debts. Any deduction taken that is attributed to bad debts shall not include interest.
2. Utilize the federal definition of "bad debt" in 26 U.S.C. 166 as the basis for calculating bad debt recovery. However, the amount calculated pursuant to 26 U.S.C. 166 shall be adjusted to exclude financing charges or interest, sales or use taxes charged on the purchase price, uncollectible amounts on property that remain in the possession of the seller until the full purchase price is paid, expenses incurred in attempting to collect any debt, and repossessed property.
3. Allow bad debts to be deducted on the return for the period during which the bad debt is written off as uncollectible in the claimant's books and records and is eligible to be deducted for federal income tax purposes. For purposes of this subsection, a claimant who is not required to file federal income tax returns may deduct a bad debt on a return filed for the period in which the bad debt is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant was required to file a federal income tax return.
4. Require that, if a deduction is taken for a bad debt and the debt is subsequently collected in whole or in part, the tax on the amount so collected must be paid and reported on the return filed for the period in which the collection is made.
5. Provide that, when the amount of bad debt exceeds the amount of taxable sales for the period during which the bad debt is written off, a refund claim may be filed within the member state's otherwise applicable statute of limitations for refund claims. However, the statute of limitations shall be measured from the due date of the return on which the bad debt could first be claimed.
6. When filing responsibilities have been assumed by a certified service provider, allow the certified service provider to claim, on behalf of the seller, any bad debt allowance provided by this section. The certified service provider must credit or refund the full amount of any bad debt allowance or refund received to the seller.
7. Provide that, for the purposes of reporting a payment received on a previously claimed bad debt, any payments made on a debt or account are applied first proportionally to the taxable price of the property or service and the sales tax thereon and secondly to interest, service charges, and any other charges.
8. When the books and records of the party claiming the bad debt allowance support an allocation of the bad debts among the member states, permit the allocation.

57-39.4-22. (321) Confidentiality and privacy protections under model 1.

1. The purpose of this section is to set forth the member states' policy for the protection of the confidentiality rights of all participants in the system and of the privacy interests of consumers who deal with model 1 sellers.
2. As used in this section, the term "confidential taxpayer information" means all information that is protected under a member state's laws, regulations, and privileges, the term "personally identifiable information" means information that identifies a person, and the term "anonymous data" means information that does not identify a person.
3. The member states agree that a fundamental precept in model 1 is to preserve the privacy of consumers by protecting their anonymity. With very limited exceptions, a certified service provider shall perform its tax calculation, remittance, and reporting functions without retaining the personally identifiable information of consumers.
4. The governing board may certify a certified service provider only if that certified service provider certifies that:
   a. Its system has been designed and tested to ensure that the fundamental precept of anonymity is respected;
   b. Personally identifiable information is only used and retained to the extent necessary for the administration of model 1 with respect to exempt purchasers and for proper identification of taxing jurisdictions;
   c. It provides consumers clear and conspicuous notice of its information practices, including what information it collects, how it collects the information, how it uses the information, how long, if at all, it retains the information and whether it discloses the information to member states. Such notice shall be satisfied by a written privacy policy statement accessible by the public on the official website of the certified service provider;
   d. The collection, use, and retention of personally identifiable information will be limited to that required by the member states to ensure the validity of exemptions from taxation that are claimed by reason of a consumer's status or the intended use of the goods or services purchased and for documentation of the correct assignment of taxing jurisdictions; and
   e. It provides adequate technical, physical, and administrative safeguards so as to protect personally identifiable information from unauthorized access and disclosure.
5. Each member state shall provide public notification to consumers, including their exempt purchasers, of the state's practices relating to the collection, use, and retention of personally identifiable information.
6. When any personally identifiable information that has been collected and retained is no longer required for the purposes set forth in subdivision d of subsection 4, such information shall no longer be retained by the member states.
7. When personally identifiable information regarding an individual is retained by or on behalf of a member state, such state shall provide reasonable access by such individual to the individual's own information in the state's possession and a right to correct any inaccurately recorded information.
8. If anyone other than a member state, or a person authorized by that state's law or the agreement, seeks to discover personally identifiable information, the state from which the information is sought should make a reasonable and timely effort to notify the individual of such request.
9. This privacy policy is subject to enforcement by member states' attorneys general or other appropriate state government authority.
10. Each member state's laws and regulations regarding the collection, use, and maintenance of confidential taxpayer information remain fully applicable and binding. Without limitation, the agreement does not enlarge or limit the member states' authority to:
    a. Conduct audits or other review as provided under the agreement and state law.

b. Provide records pursuant to a member state's freedom of information act, disclosure laws with governmental agencies, or other regulations.
c. Prevent, consistent with state law, disclosures of confidential taxpayer information.
d. Prevent, consistent with federal law, disclosures or misuse of federal return information obtained under a disclosure agreement with the internal revenue service.
e. Collect, disclose, disseminate, or otherwise use anonymous data for governmental purposes.

11. This privacy policy does not preclude the governing board from certifying a certified service provider whose privacy policy is more protective of confidential taxpayer information or personally identifiable information than is required by the agreement.

57-39.4-23. (322) Sales tax holidays.

1. If a member state allows for temporary exemption periods, commonly referred to as sales tax holidays, the member state shall:
   a. Not apply an exemption unless the items to be exempted are specifically defined in part II or part III(B) of the library of definitions and the exemptions are uniformly applied to state and local sales and use taxes.
   b. Provide notice of the exemption period at least sixty days prior to the first day of the calendar quarter in which the exemption period will begin.
   c. Not apply an entity-based or use-based exemption except a member state may limit a product-based exemption to items purchased for personal or nonbusiness use.
   d. Not require a seller to obtain an exemption certificate or other certification from a purchaser for items to be exempted during a sales tax holiday.
2. A member state may establish a sales tax holiday that utilizes price thresholds set by such state and the provisions of the agreement on the use of thresholds shall not apply to exemptions provided by a state during a sales tax holiday. In order to provide uniformity, a price threshold established by a member state for exempt items shall include only items priced below the threshold. A member state shall not exempt only a portion of the price of an individual item during a sales tax holiday.
3. The following procedures are to be used by member states in administering a sales tax holiday exemption:
   a. Layaway sales. A sale of eligible property under a layaway sale qualifies for exemption if:
      (1) Final payment on a layaway order is made by, and the property is given to, the purchaser during the exemption period; or
      (2) The purchaser selects the property and the retailer accepts the order for the item during the exemption period, for immediate delivery upon full payment, even if delivery is made after the exemption period.
   b. Bundled sales. Member states will follow the same procedure during the sales tax holiday as agreed upon for handling a bundled sale at other times.
   c. Discounts and coupons. A discount by a seller reduces the sales price of the property and the discounted sales price determines whether the sales price is within a sales tax holiday price threshold of a member state. A coupon that reduces the sales price is treated as a discount if the seller is not reimbursed for the coupon amount by a third party. If a discount applies to the total amount paid by a purchaser rather than to the sales price of a particular item and the purchaser has purchased both eligible property and taxable property, the seller shall allocate the discount based on the total sales prices of the taxable property compared to the total sales prices of all property sold in that same transaction.
   d. Splitting of items normally sold together. Items that are normally sold as a single unit must continue to be sold in that manner and cannot be priced separately and sold as individual items in order to obtain a sales tax holiday.

e. Rainchecks. A raincheck is a means to allow a customer to purchase an item at a certain price at a later time because the particular item was out of stock. Eligible property that is purchased during the exemption period with use of a raincheck qualifies for the exemption regardless of when the raincheck was issued. Issuance of a raincheck during the exemption period does not qualify eligible property for the exemption if the property is purchased after the exemption period.

f. Exchanges. The procedure for an exchange of eligible property purchased during a sales tax holiday is as follows:
   (1) If a customer purchases an item of eligible property during the exemption period, and later exchanges the item for a similar eligible item, even if a different size, different color, or other feature, no additional tax is due if the exchange is made after the exemption period.
   (2) If a customer purchases an item of eligible property during the exemption period, and returns the item and receives credit on the purchase of a different item after the exemption period, the appropriate sales tax is due on the sale of the newly purchased item.
   (3) If a customer purchases an item of eligible property before the exemption period, returns the item, and receives credit on the purchase of a different item of eligible property during the exemption period, no sales tax is due on the sale of the new item if the new item is purchased during the exemption period.

g. Delivery charges. Delivery charges, including shipping, handling, and service charges, are part of the sales price of eligible property unless a member state defines "sales price" to exclude such charges. For the purpose of determining a sales tax holiday price threshold, if all the property in a shipment qualifies as eligible property and the sales price for each item in the shipment is within the sales tax holiday price threshold, the seller does not have to allocate the delivery charge to determine if the price threshold is exceeded and the shipment will be considered a sale of eligible products. If the shipment includes eligible property and taxable property, including an eligible item with a sales price in excess of the price threshold, the seller should allocate the delivery charge by using:
   (1) A percentage based on the total sales prices of the taxable property compared to the total sales prices of all property in the shipment; or
   (2) A percentage based on the total weight of the taxable property compared to the total weight of all property in the shipment. The seller must tax the percentage of the delivery charge allocated to the taxable property but is not required to tax the percentage allocated to the eligible property.

h. Order date and back orders. For the purpose of a sales tax holiday, eligible property qualifies for exemption if:
   (1) The item is both delivered to and paid for by the customer during the exemption period; or
   (2) The customer orders and pays for the item and the seller accepts the order during the exemption period for immediate shipment, even if delivery is made after the exemption period. For purposes of this subsection, the seller accepts an order when the seller has taken action to fill the order for immediate shipment. Actions to fill an order include placement of an "in date" stamp on a mail order or assignment of an "order number" to a telephone order. An order is for immediate shipment when the customer does not request delayed shipment. An order is for immediate shipment notwithstanding that the shipment may be delayed because of a backlog of orders or because stock is currently unavailable to or on back order by the seller.

i. Returns. For a sixty-day period immediately after the sales tax holiday exemption period, when a customer returns an item that would qualify for the exemption, no credit for or refund of sales tax shall be given unless the customer provides a

receipt or invoice that shows tax was paid, or the seller has sufficient documentation to show that tax was paid on the specific item. This sixty day period is solely for the purpose of designating a time period during which the customer must provide documentation that shows that sales tax was paid on returned merchandise. The sixty-day period does not require the seller to change the seller's policy on the time period during which the seller will accept returns.

j. Different time zones. The time zone of the seller's location determines the authorized time period for a sales tax holiday when the purchaser is located in one time zone and a seller is located in another.

57-39.4-24. (323) Caps and thresholds.

1. No member state may have caps or thresholds on the application of state sales or use tax rates or exemptions that are based on the value of the transaction or item or have caps that are based on the application of the rates unless the member state assumes the administrative responsibility in a manner that places no additional burden on the retailer.
2. No member state that has local jurisdictions that levy a sales or use tax may place caps or thresholds on the application of local rates or use tax rates or exemptions that are based on the value of the transaction or item.
3. The provisions of this section do not apply to sales or use taxes levied on the retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes or to instances when the burden of administration has been shifted from the retailer.
4. For states that have a cap or threshold on clothing before January 1, 2006, the provisions of this section do not apply to sales or use tax thresholds for exemptions that are based on the value of "essential clothing" except as provided in the library of definitions.

57-39.4-25. (324) Rounding.

1. After December 31, 2005, each member state shall adopt a rounding algorithm that meets the following criteria:
   a. Tax computation must be carried to the third decimal place; and
   b. The tax must be rounded to a whole cent using a method that rounds up to the next cent whenever the third decimal place is greater than four.
2. Each state shall allow sellers to elect to compute the tax due on a transaction on an item or an invoice basis and shall allow the rounding rule to be applied to the aggregated state and local taxes. No member state shall require a seller to collect tax based on a bracket system.

57-39.4-26. (325) Customer refund procedures.

1. This section applies when a state allows a purchaser to seek a return of over-collected sales or use taxes from the seller.
2. Nothing in this section shall either require a state to provide, or prevent a state from providing, a procedure by which a purchaser may seek a refund directly from the state arising out of sales or use taxes collected in error by a seller from the purchaser. Nothing in this section shall operate to extend any person's time to seek a refund of sales or use taxes collected or remitted in error.
3. This section provides the first course of remedy available to purchasers seeking a return of over-collected sales or use taxes from the seller. A cause of action against the seller for the over-collected sales or use taxes does not accrue until a purchaser has provided written notice to a seller and the seller has had sixty days to respond. Such notice to the seller must contain the information necessary to determine the validity of the request.
4. In connection with a purchaser's request from a seller of over-collected sales or use taxes, a seller shall be presumed to have a reasonable business practice, if in the

collection of such sales or use taxes, the seller uses either a provider or a system, including a proprietary system, which is certified by the state and has remitted to the state all taxes collected less any deductions, credits, or collection allowances.

57-39.4-27. (326) Direct pay permits.

Each member state shall provide for a direct pay authority that allows the holder of a direct pay permit to purchase otherwise taxable goods and services without payment of tax to the supplier at the time of purchase. The holder of the direct pay permit will make a determination of the taxability and then report and pay the applicable tax due directly to the tax jurisdiction. Each state can set its own limits and requirements for the direct pay permit. The governing board shall advise member states when setting state direct pay limits and requirements and shall consider use of the model direct payment permit regulation as developed by the task force on EDI audit and legal issues for tax administration.

57-39.4-28. (327) Library of definitions.

Each member state shall utilize common definitions as provided in this section. The terms defined are set out in the library of definitions, in appendix C of the agreement adopted by section 57-39.4-01. A member state shall adhere to the following principles:

1. If a term defined in the library of definitions appears in a member state's sales and use tax statutes or administrative rules or regulations, the member state shall enact or adopt the library definition of the term in its statutes or administrative rules or regulations in substantially the same language as the library definition.
2. A member state shall not use a library definition in its sales or use tax statutes or administrative rules or regulations that is contrary to the meaning of the library definition.
3. Except as specifically provided in sections 57-39.4-17 and 57-39.4-33.1, and the library of definitions, a member state shall impose a sales or use tax on all products or services included within each part II or part III(B) definition or exempt from sales or use tax all products or services within each definition. The requirements of this section shall only apply to part III(B) definitions to the extent such definitions are used in the administration of a sales tax holiday.

57-39.4-29. (328) Taxability matrix.

1. a. To ensure uniform application of terms defined in part II and part III(B) of the library of definitions as adopted by the governing board under section 57-39.4-28, each member state shall complete, to the best of its ability, section 1 of the taxability matrix.
   b. To inform the general public of its practices regarding certain products, procedures, services, or transactions adopted by the governing board under section 57-39.4-33.4, each member state shall complete, to the best of its ability, section 2 of the taxability matrix.
2. The member state's entries in the matrix shall be provided and maintained in a database that is in a downloadable format approved by the governing board. A member state shall provide notice of changes in the taxability of the products or services listed in the taxability matrix as required by the governing board.
3. A member state shall relieve sellers and certified service providers 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 certified service provider relying on erroneous data provided by the member state in the taxability matrix. If a member state amends an existing provision of its taxability matrix, the member state shall, to the extent possible, relieve sellers and certified service providers from liability to the member state and its local jurisdictions until the first day of the calendar month that is at least thirty days after notice of change to a member state's taxability matrix is submitted to the governing board, provided the seller or certified service provider relied on the prior version of the taxability matrix.

4. If a state levies sales and use tax on a specified digital product and provides an exemption for an item within the definition of such specified digital product under subsection 8 of section 57-39.4-33.1, such exemption must be noted in the taxability matrix.
5. Each state that provides for a sales tax holiday under section 57-39.4-23 shall, in a format approved by the governing board, give notice in the taxability matrix of the products for which a tax exemption is provided.

57-39.4-30. (329) Effective date for rate changes.

Each member state shall provide that the effective date of rate changes for services covering a period starting before and ending after the statutory effective date shall be as follows:

1. For a rate increase, the new rate shall apply to the first billing period starting on or after the effective date.
2. For a rate decrease, the new rate shall apply to bills rendered on or after the effective date.

57-39.4-31. Membership of streamlined sales tax governing board.

1. Two members of the house of representatives and two members of the senate, to be appointed by the chairman of the legislative management, shall represent this state on the streamlined sales tax governing board.
2. The tax commissioner shall designate a member of the tax commissioner's staff to accompany and advise the members appointed under this section with regard to multistate discussions to review or revise the agreement or to conduct such other business as comes before the board.

57-39.4-32. (330) Bundled transactions.

1. A member state shall adopt, and utilize to determine tax treatment, the core definition for a "bundled transaction" in the agreement.
2. Member states are not restricted in their tax treatment of bundled transactions except as otherwise provided in the agreement. Member states are not restricted in their ability to treat some bundled transactions differently from other bundled transactions.
3. In the case of a bundled transaction that includes telecommunications service, ancillary service, internet access, or audioprogramming or videoprogramming service:
   a. If the price is attributable to products that are taxable and products that are nontaxable, the portion of the price attributable to the nontaxable products may be subject to tax unless the provider can identify by reasonable and verifiable standards such portion from its books and records that are kept in the regular course of business for other purposes, including, but not limited to, nontax purposes.
   b. If the price is attributable to products that are subject to tax at different tax rates, the total price may be treated as attributable to the products subject to tax at the highest tax rate unless the provider can identify by reasonable and verifiable standards the portion of the price attributable to the products subject to tax at the lower rate from its books and records that are kept in the regular course of business for other purposes, including, but not limited to, nontax purposes.
   c. The provisions of this section shall apply unless otherwise provided by federal law.
4. In the case of a transaction that includes an "optional computer software maintenance contract" for prewritten computer software and the state otherwise has not specifically imposed tax on the retail sale of computer software maintenance contracts, the following provisions apply:
   a. If an optional computer software maintenance contract only obligates the vendor to provide upgrades and updates, it will be characterized as a sale of prewritten computer software.

b. If an optional computer software maintenance contract only obligates the vendor to provide support services, it will be characterized as a sale of services.
c. If an optional computer software maintenance contract is a bundled transaction in which both taxable and nontaxable or exempt products that are not separately itemized on the invoice or similar billing document, the contract shall be characterized as all taxable.

57-39.4-33. (331) Relief from certain liability for purchasers.

1. A member state shall relieve a purchaser from liability for penalty to that member state and its local jurisdictions for having failed to pay the correct amount of sales or use tax in the following circumstances:
   a. A purchaser's seller or certified service provider relied on erroneous data provided by that member state on tax rates, boundaries, taxing jurisdiction assignments, or in the taxability matrix completed under section 57-39.4-29.
   b. A purchaser holding a direct pay permit relied on erroneous data provided by that member state on tax rates, boundaries, taxing jurisdiction assignments, or in the taxability matrix completed by that member state under section 57-39.4-29.
   c. A purchaser relied on erroneous data provided by that member state in the taxability matrix completed by that member state under section 57-39.4-29.
   d. A purchaser using databases under subsections 6, 7, and 8 of section 57-39.4-06 relied on erroneous data provided by that 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 under subsection 7 or 8 of section 57-39.4-06 may cease providing liability relief for errors resulting from the reliance on the database provided by the member state under the provisions of subsection 6 of section 57-39.4-06.
2. Except when prohibited by a member state's constitution, a member state shall also relieve a purchaser from liability for tax and interest to that member state and its local jurisdictions for having failed to pay the correct amount of sales or use tax in the circumstances described in subsection 1, provided that with respect to reliance on the taxability matrix completed by that member state under section 57-39.4-29, such relief is limited to the state's erroneous classification in the taxability matrix of terms included in the agreement as "taxable", "exempt", "included in sales price", "excluded from sales price", "included in the definition", or "excluded from the definition".
3. For purposes of this section, the term "penalty" means an amount imposed for noncompliance that is not fraudulent, willful, or intentional which is in addition to the correct amount of sales or use tax and interest.
4. A member state may allow relief on terms and conditions more favorable to a purchaser than the terms required by this section.

57-39.4-33.1. (332) Specified digital products.

1. A member state shall not include "specified digital products", "digital audiovisual works", "digital audio works", or "digital books" within its definition of "ancillary services", "computer software", "telecommunication services", or "tangible personal property". This restriction applies whether the "specified digital product" is sold to a purchaser who is an end user or to a purchaser with less than the right of permanent use granted by the seller, or use by the purchaser which is conditioned upon continued payment from the purchaser. Until January 1, 2010, the exclusion of "specified digital products" from the definition of "tangible personal property" does not affect the classification of products transferred electronically that are not included within the definition of "specified digital products" as being included in, or excluded from, the definition of "tangible personal property".
2. For purposes of subsection 3 of section 57-39.4-28 and the taxability matrix, "digital audiovisual works", "digital audio works", and "digital books" are separate definitions.

3. If a state imposes a sales or use tax on products transferred electronically separately from its imposition of tax on "tangible personal property", the state will not be required to use the terms "specified digital product", "digital audiovisual works", "digital audio works", or "digital books", or enact an additional or separate sales or use tax on any "specified digital product".
4. For purposes of the agreement:
    a. A statute imposing a tax on "specified digital products", "digital audiovisual works", "digital audio works", or "digital books" and, after January 1, 2010, a tax on any other product transferred electronically must be construed as only imposing the tax on a sale to a purchaser who is an end user unless the statute specifically imposes and separately enumerates the tax on a sale to a purchaser who is not an end user. For purposes of this section, an "end user" includes any person other than a person who receives by contract a product transferred electronically for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution, or exhibition of the product, in whole or in part, to another person or persons. A person who purchases products transferred electronically, or the code for specified digital products for the purpose of giving away such products or code shall not be considered to have engaged in the distribution or redistribution of such products or code and shall be treated as an end user.
    b. A statute imposing a tax on "specified digital products", "digital audiovisual works", "digital audio works", or "digital books" and, after January 1, 2010, on any other product transferred electronically must be construed as only imposing tax on a sale with the right of permanent use granted by the seller unless the statute specifically imposes and separately enumerates the tax on a sale with the right of less than permanent use granted by the seller. For purposes of this section "permanent" means perpetual or for an indefinite or unspecified length of time. A right of permanent use shall be presumed to have been granted unless the agreement between the seller and the purchaser specifies or the circumstances surrounding the transaction suggest or indicate that the right to use terminates on the occurrence of a condition subsequent.
    c. A statute imposing a tax on "specified digital products", "digital audiovisual works", "digital audio works", or "digital books" and, after January 1, 2010, on any other product transferred electronically shall be construed as only imposing tax on a sale which is not conditioned upon continued payment from the purchaser unless the statute specifically imposes and separately enumerates the tax on a sale which is conditioned upon continued payment from the purchaser.
    d. A member state which imposes a sales or use tax on the sale of a product transferred electronically to a person other than the end user or on a sale with the right of less than permanent use granted by the seller or which is conditioned upon continued payment from the purchaser shall so indicate in its taxability matrix in a format approved by the governing board.
5. Nothing in this section or the definition of "specified digital products" shall limit a state's right to impose a sales or use tax or exempt from sales or use tax any products or services that are outside the definition of "specified digital products".
6. A state may treat a subscription to products transferred electronically differently than a nonsubscription purchase of such product. For purposes of this section, "subscription" means an agreement with a seller that grants a consumer the right to obtain products transferred electronically from within one or more product categories having the same tax treatment, in a fixed quantity or for a fixed period of time, or both.
7. The tax treatment of a "digital code" shall be the same as the tax treatment of the "specified digital product" or product transferred electronically to which the "digital code" relates. The retail sale of the "digital code" shall be considered the transaction for purposes of the agreement. For purposes of this section, "digital code" means a code, which provides a purchaser with a right to obtain one or more such products having the same tax treatment. A "digital code" may be obtained by any means,

including electronic mail or by tangible means regardless of its designation as "song code", "video code", or "book code".

8. Notwithstanding the provisions of section 57-39.4-17, a member state may provide a product-based exemption for specific items within the definition of "specified digital products", provided the items which are not transferred electronically must also be granted a product-based exemption by the member state.
9. For purposes of this section and section 57-39.4-33.2, the term "transferred electronically" means obtained by the purchaser by means other than tangible storage media.

57-39.4-33.2. (333) Use of specified digital products.

A member state shall not include any product transferred electronically in its definition of "tangible personal property". "Ancillary services", "computer software", and "telecommunication services" are excluded from the phrase "products transferred electronically".

57-39.4-33.3. (334) Replacement tax prohibited.

No member state may have a prohibited replacement tax on any product defined in part II or part III(B) of the library of definitions which has the effect of avoiding the intent of this agreement.

57-39.4-33.4. Best practices.

1. For purposes of this section, "best practices" means those practices adopted by the governing board as the best practices in administration of the sales and use taxes in the member states regarding certain identified products, procedures, services, or transactions.
2. A majority vote of the entire governing board is required to approve a motion to adopt a best practices standard. The governing board shall provide public notice and opportunity for comment prior to voting on a motion to adopt a best practice.
3. Best practices adopted by the governing board must be maintained in an appendix to the agreement.
4. Conformance by a member state to best practices adopted by the governing board is voluntary and a state may not be found to be out of compliance with the agreement because the effect of the state's laws, rules, regulations, and policies do not follow each of the best practices adopted by the governing board.
5. A state shall complete the best practice matrix by the first day of the calendar month that is at least thirty days after the date the governing board approves a best practice and submits it to the executive director for posting on the governing board's website. For subsequent best practices approved by the governing board, a state shall update its best practice matrix by the first day of the calendar month that is at least thirty days after the date the governing board approves a new best practice and submits it to the executive director for posting on the governing board's website.

57-39.4-34. (501) Certification of service providers and automated systems.

1. The governing board shall certify automated systems and service providers to aid in the administration of sales and use tax collections.
2. The governing board may certify a person as a certified service provider if the person meets all of the following requirements:
   a. The person uses a certified automated system;
   b. The person integrates its certified automated system with the system of a seller for whom the person collects tax so that the tax due on a sale is determined at the time of the sale;
   c. The person agrees to remit the taxes it collects at the time and in the manner specified by the member states;
   d. The person agrees to file returns on behalf of the sellers for whom it collects tax;

e. The person agrees to protect the privacy of tax information it obtains in accordance with section 57-39.4-22; and
f. The person enters into a contract with the member states and agrees to comply with the terms of the contract.

3. The governing board may certify a software program as a certified automated system if the governing board determines that the program meets all of the following requirements:
   a. It determines the applicable state and local sales and use tax rate for a transaction, in accordance with sections 57-39.4-10 through 57-39.4-17, inclusive;
   b. It determines whether an item is exempt from tax;
   c. It determines the amount of tax to be remitted for each taxpayer for a reporting period;
   d. It can generate reports and returns as required by the governing board; and
   e. It can meet any other requirement set by the governing board.

   The governing board may establish one or more sales tax performance standards for model 3 sellers that meet the eligibility criteria set by the governing board and that developed a proprietary system to determine the amount of sales and use tax due on transactions.

57-39.4-35. (502) State review and approval of certified automated system software and certain liability relief.

1. Each member state shall review software submitted to the governing board for certification as a certified automated system as provided for in this chapter. 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 system determination of the taxability of the product categories included in the program.
2. Each member state shall relieve certified service providers and model 2 sellers from liability to the member state and local jurisdictions for not collecting sales or use taxes resulting from the certified service provider or model 2 seller relying on the certification provided by the member state.
3. Each member state shall provide relief from liability to certified service providers for not collecting sales and use taxes in the same manner as provided to sellers under the provisions of section 57-39.4-18.
4. 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 certified service provider or model 2 seller that has incorrectly classified an item or transaction into a product category certified by a member state. This subsection shall not apply to the individual listing of items or transactions within a product definition approved by the governing board or the member states.
5. If a member state determines that an item or transaction is incorrectly classified as to its taxability, it shall notify the certified service provider or model 2 seller of the incorrect classification. The certified service provider or model 2 seller shall have ten days to revise the classification after receipt of notice from the member state of the determination. Upon expiration of the ten days, the certified service provider 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.