

Upon review of the proposed language, we noticed a glaring issue that needs to be addressed with the definition of "seller".

The model legislation provides that "each state should include 'offering or sale or lease' in its definition of seller." The drafter's note explains that this is to make clear that: (1) the reference to "seller" in the definition of the model's "referrer" includes persons who offer to sell or lease, even if the referrer does not know whether a sale is consummated; and (2) sales and leases of tangible personal property that a seller offers on a marketplace must be reported, even if finalized by the marketplace facilitator and not the seller.

However, Utah and (probably the other SST states) defines the term "seller" in accordance with the Streamlined Sales and Use Tax Agreement ("Agreement") as a person that makes a sale, lease, or rental of tangible personal property. Thus there is a possible conflict between the model language and the Agreement.

It is our recommendation that this language be reviewed by the Streamlined Sales Tax Governing Board.

*John L. Valentine*  
*Chairman*  
*Utah State Tax Commission*