



**MULTISTATE TAX COMMISSION**

*Maximizing the synergies of multi-state tax cooperation*

**MEMO**

To: Robynn Wilson, Chair  
And Members of the Income and Franchise Tax Uniformity Subcommittee

From: Lila Disque

Re: Implementation of MFA

Date: June 12, 2013

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**ISSUE**

In the event the Marketplace Fairness Act becomes law, what will be required of SSUTA-member states and non-SSUTA-member states to become compliant and collect sales and use tax from online sellers; what roles might the MTC play in helping the states to do that?

**FACTS**

On May 6, 2013, the Senate approved S. 743, the Marketplace Fairness Act (MFA). The act now faces an uncertain future in the House. If the bill is passed in its current form, it will allow states to collect sales and use tax on remote sales. However, in order to collect, states must take certain steps. Non-SSUTA member states must enact legislation and implement minimum simplification requirements. Member states to the Streamlined Sales and Use Tax Agreement (SSUTA) must provide notice of intent to exercise their taxing authority, and may not subsequently enact laws that conflict with the minimum simplification requirements. The steps for each are outlined in the following section.

**ANALYSIS**

The Streamlined Sales and Use Tax Agreement provides uniform sales tax rules and definitions, with the goal of simplifying tax administration and enabling sales and use tax collection on remote sales. Twenty-four states have already adopted the simplification measures in the Agreement.

In both member and non-member states, the taxing authority applies to all sellers not qualifying for the small seller exception laid out in Section 2 of the Act.

Non-SSUTA-member states are permitted to begin taxing no earlier than the first day of the calendar quarter that is at least 6 months after the date the state implements each of the simplification

requirements and enacts legislation. This means states could implement the legislation and simplification requirements and start the 6-month clock ticking *before* the Act passes – in fact, Colorado has already done so. The full requirements for compliance with the MFA are laid out in Appendix A. Essentially, a state must (1) Enact legislation to exercise the authority granted by the Act (Sec. 2(b)(1)); (2) Implement each of the minimum simplification requirements (Sec. 2(b)(2)(A)(i) -(iii)); (3) Relieve remote sellers from liability (Sec. 2(E)); and (4) Relieve certified software providers from liability (Sec. 2(F)).

Member states must provide notice of their intent to exercise the authority under the act. They may begin taxing 180 days after publication of the notice, but “but no earlier than the first day of the calendar quarter that is at least 180 days after the date of the enactment of the Act.” Any changes to the state’s version of SSUTA subsequent to enactment of the MFA may not be in conflict with the minimum simplification requirements in MFA subsection (b)(2).

### *Notice*

As part of the simplification provisions, non-member states must provide 90 days’ notice of rate changes and accordingly update the information indicating taxability of products and services, along with exemptions and rates and boundaries. SSUTA member states must provide initial notice of their intent to tax remote sales and must also give “as much advance notice as practicable of a rate change.” However, the manner of notice is unspecified both in SSUTA and by the MFA, and the issue may be entangled with individual state laws. Proper notice could range from publication online to much more formal procedures. For member states, the most certain means of notice may be to have the state House and Senate pass, and the governor sign, an order directing the tax department to start taxing remote sales under the state’s MFA authority. However, state legislatures are not always in session, and this might complicate or delay the start of taxing.

The SSUTA Governing Board refers to Sec. 2(c)(2) of the Marketplace Equity Act of 2011 for background on notice as previously contemplated. However, it provides only for content, not for means of notice:

(2) NOTICE REQUIREMENTS- The public notice required in paragraph (1) must include the following information for remote sellers:

(A) The title and reference to the legislation that the State has enacted requiring remote sellers to collect sales and use tax.

(B) The criteria under which remote sellers are required to collect sales and use tax under the State legislation.

(C) The rate or rates at which affected remote sellers will be required to collect sales and use tax.

(D) The date upon which affected remote sellers will be required to begin collecting sales and use tax.

(E) References to compliance information and the form to be filed by remote sellers.

For now, there is no specified manner of notice, nor does it appear that any entity would oversee notice to make sure it was adequate. With no oversight, it would likely be determined by the courts. One state has recommended the MTC consider being a “notice clearinghouse” of sorts to help draft and maintain adequate notice.

### *Language*

Member states are not required to adopt minimum simplification provisions as laid out in the MFA, but they will already have enacted similar provisions under Sections 300 and 500 of the Agreement. Some representative language is laid out in Appendix B. In this case, the complexity arises in trying to maintain some uniformity among the states. Non-member states are not subject to oversight by any administrative body. This means that no central body would confirm the adequacy of the legislation and the simplification measures, or ensure they stay in place. The logical conclusion is that the adequacy of each state’s legislation would be determined in court – and in a worst case scenario, with varying results by state. With that in mind, it may be helpful for the states to discuss the requirements, and to consider developing model uniform legislation which would meet those requirements.

### **CONCLUSION**

In its present form, conformity with the MFA is relatively simple; the complexity arises due to the lack of direction given in the Act. The drafters of the Act have not provided guidance as to what constitutes adequate notice and what language suffices for simplification. Given the situation, these issues may be settled in court. However, the states may wish to discuss the notice and simplification requirements and consider developing model uniform legislation.

**APPENDIX A**  
**COMPLIANCE UNDER THE MFA**

**SSUTA Member States**

- **Taxing Authority Applies To:**
  - All sellers not qualifying for the small seller exception (Section 2(c) of the Act: gross receipts  $\leq$  \$1 million)
- **Time Frame for Taxing:**
  - 180 days after the state publishes notice of its intent to exercise the authority under the Act, but no earlier than the first day of the calendar quarter that is at least 180 days after the date of the enactment of the Act
- **Steps to Implementation:**
  - Existing status as SSUTA member state (as long as SSUTA includes the minimum simplification requirements below)
  - Publish notice of intent to exercise authority

**Non-SSUTA Member States**

- **Taxing Authority Applies To:**
  - All sellers not qualifying for the small seller exception (Section 2(c) of the Act: gross receipts  $\leq$  \$1 million)
- **Time Frame for Taxing:**
  - No earlier than the first day of the calendar quarter that is at least 6 months after the date the state:
    - Enacts legislation *and*
    - Implements each of the simplification requirements
- **Steps to Implementation:**
  - **Legislation:**
    - Specify the taxes to which the authority and minimum simplification requirements apply
    - Specify the products and services to which the authority and minimum simplification requirements will not apply
  - **Simplification requirements:**
    - Single entity in the State responsible for all State and local sales and use tax administration, return processing, and audits for remote sales sourced to the state
    - Single audit of a remote seller for all state and local taxing jurisdictions within the state
    - Single sales and use tax return
    - Uniform sales and use tax base
    - Sourcing in compliance w/sourcing definition in Section 4(7)
    - Provide info indicating taxability of product and services, along with exemptions and a rates and boundary database
    - Provide free software for remote sellers that:
      - calculates sales and use tax due on each transaction at the time the transaction is completed
      - Files sales and use tax returns
      - Is updated to reflect rate changes

- Provide certification procedures for persons to be approved as certified software providers (must be capable of calculating and filing sales and use taxes in all states qualified under the Act)
- Relieve remote sellers from liability to state/locality for incorrect collection, remittance, or noncollection of sales and use taxes, including penalties or interest, if the liability results from error/omission by certified software provider
- Relieve certified software providers from liability to the state/locality for incorrect collection, remittance, or noncollection of sales and use taxes, including any penalties or interest, if the liability is the result of misleading or inaccurate info provided by the remote seller.
- Relieve remote sellers and certified software providers from liability to the state/locality for incorrect collection, remittance, or noncollection of sales and use taxes, including any penalties or interest, if the liability is the result of incorrect information or software provided by the state
- Provide remote sellers and certified software providers with 90 days' notice of rate change by state/locality and accordingly update the information indicating taxability of product and services, along with exemptions and rates and boundary database; relieve any remote seller or certified software provider from liability for collecting sales and use taxes at the immediately preceding effective rate during the 90-day notice period if the required notice is not provided

**APPENDIX B  
STATE SIMPLIFICATION PROVISIONS**

Simplification Requirement	SSUTA section	SSUTA MEMBER STATES				NON-MEMBER STATES
		Nebraska	North Dakota	Rhode Island	West Virginia	Colorado
(2)(A)(i) Single entity within the State to administer tax, process returns and conduct audits of remote sales sourced to State	301	<p>Neb. Rev. Stat. §77-2712.05: By agreeing to the terms of the streamlined sales and use tax agreement, this state agrees to abide by the following requirements:</p> <p>...</p> <p>(6)(b) Statewide administration of all sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions... (see also Neb. Rev. Stat. §77-27,143, Neb. Rev. Stat. §13-324)</p>	<p>N.D. Cent. Code §11-09.1-05(2): After December 31, 2005, sales and use taxes, farm machinery gross receipts taxes, and alcoholic beverage gross receipts taxes levied under this chapter:</p> <p>...</p> <p>(d) Must be subject to collection by the tax commissioner under an agreement under section 57-01-02.1 and must be administered by the tax commissioner in accordance with the relevant provisions of chapter 57-39.2, including reporting and paying requirements, correction of errors, payment of refunds, and application of penalty and interest. (see also N.D. Cent. Code §40-05.1-06(16)(d), N.D. Cent. Code §57-01-02.1(1), N.D. Cent. Code §57-39.4-02)</p>	<p>R.I. Gen. Laws §.44-18.1-1: Rhode Island adopts the Streamlined Sales And Use Tax Agreement as created on November 12, 2002 and amended, by the member states of the Streamlined Sales Tax Project. The entire Agreement is adopted by reference with the exception of articles III, IV and VI which are adopted as set out in this chapter. The tax administrator shall promulgate rules and regulations necessary to be in compliance with the provisions of this Agreement.</p>	<p>W. Va. Code §11-10-11a: Any municipality or county commission which, pursuant to section twelve, article twenty-two, chapter seven of this code, section eleven, article thirteen-b, chapter eight of this code or section twelve, article thirty-eight, chapter eight of this code imposes a special district excise tax shall, by express provision in the order or ordinance imposing that tax, authorize the state tax commissioner to administer, assess, collect and enforce that tax on behalf of and as its agent. (see also W. Va. Code §11-15B-33, W. Va. Code §7-22-12(d), W. Va. Code §8-38-12(d), W. Va. Code §8-13C-4, W. Va. Code §8-13C-5)</p>	<p>Co. Rev. Stat. 39-26-122.7(2)(a) The collection, administration, and enforcement of the local taxing jurisdiction sales tax under section 39-26-104(2) shall be performed by the executive director of the department of revenue in the same manner as the collection, administration, and enforcement of the Colorado state sales tax.</p>
(2)(A)(ii) Single audit of remote sellers for all State and Local taxing jurisdictions within State	301	<p>Neb. Rev. Stat. §77-2712.05(6)(b)...Statewide administration of all sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions... (see also Neb. Rev. Stat. §77-27,143, Neb. Rev. Stat. §13-324)</p>	<p>N.D. Cent. Code §57-01-02.1.4.:A person required to collect and remit sales or use taxes may not be required to register with, file returns with, or remit funds to anyone other than the tax commissioner or the tax commissioner's authorized agent. A city or county may not conduct an independent sales or use tax audit of a seller registered under the agreement adopted under chapter 57-39.4. (see also N.D. Cent. Code §57-39.4-02)</p>	<p><i>Same as above</i></p>	<p>W. Va. Code §W. Va. Code §8-13C-4(e): State level administration required.—Any municipality that imposes a municipal sales and service tax pursuant to this section may not administer or collect the tax, but shall use the services of the tax commissioner to administer, enforce and collect the tax. (see also, W. Va. Code §11-10-11a, W. Va. Code §8-13C-5(e), W. Va. Code §11-15B-33)</p>	<p>Co. Rev. Stat. 39-26-122.7(2)(b) A remote seller may only be subject to audit by the department of revenue. The department of revenue shall audit all sales tax imposed or collected under section 39-26-104(2). Notwithstanding any other provision of law, no local taxing authority shall have the authority to audit any remote seller.</p>

Simplification Requirement	SSUTA section	SSUTA MEMBER STATES				NON-MEMBER STATES
		Nebraska	North Dakota	Rhode Island	West Virginia	Colorado
(2)(A)(iii) Single return to be used by remote sellers and filed with single entity responsible for administration	318	Neb. Rev. Stat. §77-27,144(1): The Tax Commissioner shall collect the tax imposed by any incorporated municipality concurrently with collection of a state tax in the same manner as the state tax is collected. The Tax Commissioner shall remit monthly the proceeds of the tax to the incorporated municipalities levying the tax, after deducting the amount of refunds made and three percent of the remainder to be credited to the Municipal Equalization Fund.	N.D. Cent. Code §57-39.4-19(1):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.(see also N.D. Cent. Code §57-39.2-11(1))	R.I. Gen. Laws §.44-18.1-19. Each member state shall:(A) Require that only one tax return for each taxing period for each seller be filed for the member state and all the taxing jurisdictions within the member state.	W. Va. Code 11-15B-25(a);General.—A seller who registers with this state is required to file a single sales and use tax return with the Tax Commissioner for each taxing period.	Co. Rev. Stat. §39-26-122.7(5) The Executive Director of the Department of Revenue shall adopt, by regulation, a standard sales tax reporting form for remote sales. Such form shall be separate from the state form and shall be the only sales tax reporting form required to be used by any remote seller. Such form shall allow a remote seller to report all sales and use taxes collected for a local government on such form.
(2)(A)(iii) State may not require returns be filed more frequently for remote sellers than for nonremote sellers	Not expressly addressed in SSUTA					Co. Rev. Stat. 39-26-105(b) (I) Except as provided in subparagraph (ii) of this paragraph (b), every retailer shall, before the twentieth day of each month, make a 1 return to the Executive Director of the Department of Revenue for the preceding calendar month. The Executive Director shall determine what information the returns must contain, how the returns must be made, and the type of forms that must be used. (II) Every remote seller shall make a return to the Executive Director of the Department of Revenue as specified in section 39-26-122.7.  Co. Rev. Stat. 39-26-122.7 (1) Every remote seller shall, before the twentieth day of each month, make a return to the executive director of the department of revenue for the preceding calendar month and include such remittance as specified in section 39-26-105(1) (c) (I)(B).

Simplification Requirement	SSUTA section	SSUTA MEMBER STATES				NON-MEMBER STATES
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(2)(A)(iii) State may not impose any other requirement on remote sellers that the state does not impose on non-remote sellers with respect to the collection of sales and use tax.	Not expressly addressed in SSUTA					
(2)(A)(iii) No Local jurisdiction may require remote seller to submit return or collect taxes except as described above	301, 318	See Neb. Rev. Stat. §77-2712.05(6)(b), above.	N.D. Cent. Code §57-39.4-021: 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... (see also N.D. Cent. Code §57-01-02.1(2))	N/A (no local sales or use tax)	W. Va. Code §11-10-11a(c): All special district excise tax moneys collected by the tax commissioner under this section shall be paid into the state treasury to the credit of each county commission's subaccount in the economic opportunity development district fund ... The special district excise tax moneys shall be credited to the subaccount of each particular county commission or municipality levying a special district excise tax being administered under this section. The credit shall be made to the subaccount of the county commission or municipality for the economic opportunity development district in which the taxable sales were made and services rendered as shown by the records of the tax commissioner and certified by him or her monthly to the state treasurer, namely, the location of each place of business of every vendor collecting and paying the tax to the tax commissioner without regard to the place of possible use by the purchaser. (see also W. Va. Code §7-22-12(e), W. Va. Code §8-38-12(e))	Co. Rev. Stat. §39-26-104(2)(b): Notwithstanding any provision of law, a local taxing jurisdiction may not collect a sales tax on remote sales except as provided in this subsection (2).

Simplification Requirement	SSUTA section	SSUTA MEMBER STATES				NON-MEMBER STATES
		Nebraska	North Dakota	Rhode Island	West Virginia	Colorado
(2)(B) Uniform tax base among State and Local taxing jurisdictions within the State	302	Neb. Rev. Stat. 77-27,142(1): Any incorporated municipality by ordinance of its governing body is hereby authorized to impose a sales and use tax of one-half percent, one percent, or one and one-half percent upon the same transactions that are sourced under the provisions of sections 77-2703.01 to 77-2703.04 within such incorporated municipality on which the State of Nebraska is authorized to impose a tax pursuant to the Nebraska Revenue Act of 1967, as amended from time to time. No sales and use tax shall be imposed pursuant to this section until an election has been held and a majority of the qualified electors have approved such tax pursuant to sections 77-27,142.01 and 77-27,142.02.(see also Neb. Rev. Stat. §13-319)	N.D. Cent. Code §11-09.1-05(2)(a): [After December 31, 2005, sales and use taxes, farm machinery gross receipts taxes, and alcoholic beverage gross receipts taxes levied under this chapter:] Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of 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. (see also N.D. Cent. Code §40-05.1-06(16)(a), N.D. Cent. Code §57-39.4-03)	N/A (no local sales or use tax)	W. Va. Code §7-22-12(b):The base of a special district excise tax imposed pursuant to this section shall be identical to the base of the consumers sales and service tax imposed pursuant to article fifteen, chapter eleven of this code on sales made and services rendered within the boundaries of the district. Sales of gasoline and special fuel are not subject to special district excise tax but remain subject to the tax levied by article fifteen, chapter eleven of this code. Except for the exemption provided in section nine-f of that article, all exemptions and exceptions from the consumers sales and service tax also apply to the special district excise tax. (see also W. Va. Code §8-38-12(b), W. Va. Code §8-13C-4(c), W. Va. Code §8-13C-5(c), W. Va. Code § 11-14c-2(57), W. Va. Code §11-15B-34(a))	Co. Rev. Stat. 39-26-104(2)...In addition, every remote seller shall collect and remit, as provided in section 39-26-122.7, the sales tax at the general sales tax rate levied by a local taxing jurisdiction; except that such sales tax shall only be collected on every incident subject to tax as set forth in subsection (1) of this section, but not including the incidents set forth in paragraph (e) of this subsection (2). Any exemptions with respect to part 1 of this article as set forth in this title are applicable.

Simplification Requirement	SSUTA section	SSUTA MEMBER STATES				NON-MEMBER STATES
		Nebraska	North Dakota	Rhode Island	West Virginia	Colorado
(2)(C)Uniform sourcing of all remote sales:(a) Where item is received by purchaser based on instructions furnished by purchaser;(b) If (a) does not apply, then based on customer's address known by seller;(c) If address not known by seller in advance, address obtained during consummation of the transaction, including address on payment instrument if no other address available; or(d) If (a), (b) and (c) do not apply, then based on address of the seller from which the remote sale was made.	309, 310, 310.1, 311, 313, 314	Neb. Rev. Stat. §77-2703.01: (2) When the property or service is received by the purchaser at a business location of the retailer, the sale is sourced to that business location.(3) When the property or service is not received by the purchaser at a business location of the retailer, 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 retailer.(4) When subsection (2) or (3) of this section does not apply, the sale is sourced to the location indicated by an address or other information for the purchaser that is available from the business records of the retailer that are maintained in the ordinary course of the retailer's business when use of this address does not constitute bad faith.(5) When subsection (2), (3), or (4) of this section does 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.(6) When subsection (2), (3), (4), or (5) of this section does not apply, including the circumstance in which the retailer is without sufficient information to apply the rules in any such subsection, then the location will be determined by the address from which property was shipped, from which the digital good was first available for transmission by the retailer, or from which the service was provided disregarding for these purposes any location that merely provided the digital transfer of the product sold.	N.D. Cent. Code §57-39.4-11(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.	R.I. Gen. Laws §.44-18.1-11(A): The retail sale, excluding lease or rental, of a product shall be sourced as follows:(1) When the product is received by the purchaser at a business location of the seller, the sale is sourced to that business location.(2) 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.(3) When subsections (A)(1) and (A)(2) 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.(4) When subsections (A)(1), (A)(2) and (A)(3) 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.(5) When none of the previous rules of subsections (A)(1), (A)(2), (A)(3), or (A)(4) 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).	W. Va. Code §11-15B-15(a): General rule.—For purposes of articles fifteen and fifteen-a of this chapter, the retail sale, excluding lease or rental, of a product shall be sourced as follows:(1) When the product is received by the purchaser at a business location of the seller, the sale is sourced to that business location.(2) 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 designated donee occurs, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller.(3) When subdivisions (1) and (2) of this subsection 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.(4) When subdivisions (1), (2) and (3) of this subsection 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, provided use of this address does not constitute bad faith.(5) When none of the previous subdivisions of this subsection 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 or computer software was shipped, from which the digital goods delivered electronically was first available for transmission by the seller or from which the service was provided : Provided, That any location that merely provided the digital transfer of the product sold is disregarded for these purposes.	Co. Rev. Stat. §39-26-102(9): For items delivered by the retailer, a retail sale occurs at the location where the item sold is received by the purchaser, based on the location indicated by instructions for delivery that the purchaser furnishes to the retailer. When no delivery location is specified, the remote sale is sourced to the customer's address that is either known to the retailer or, if not known, obtained by the retailer during the consummation of the transaction, including the address of the customer's payment instrument if no other address is available. If an address is unknown and a billing address cannot be obtained, the remote sale is sourced to the address of the retailer from which the remote sale was made.

Simplification Requirement	SSUTA section	SSUTA MEMBER STATES				NON-MEMBER STATES
		Nebraska	North Dakota	Rhode Island	West Virginia	Colorado
(2)(D)(i) Provide information indicating the taxability of products and services along with product and service exemptions	328	Neb. Rev. Stat. §77-2712.05(7): [...this state agrees to abide by the following requirements:] Complete a taxability matrix approved by the governing board.(a) Notice of changes in the taxability of the products or services listed will be provided as required by the governing board.(b) The entries in the matrix shall be provided and maintained in a data base that is in a downloadable format approved by the governing board.	N.D. Cent. Code §57-39.4-29(1): To ensure uniform application of terms defined in part II and part III(B) of the library of definitions, each member state shall complete a taxability matrix adopted by the governing board. The member state's entries in the matrix shall be provided and maintained in a data base 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.	R.I. Gen. Laws §.44-18.1-29: To ensure uniform application of terms defined in the Library of Definitions each member state shall complete a taxability matrix adopted by the governing board. 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.	No citation given	Co. Rev. Stat. §39-26-105.3(6.5) (a) The department of revenue shall provide information to remote sellers that indicates the taxability of products and services along with any product and service exemptions from sales tax in the state. The department of revenue shall also provide to remote sellers a sales tax rate database and a database of local taxing jurisdiction boundaries.
(2)(D)(i) Provide rates and boundary database	305	Neb. Rev. Stat. §77-27,143(4): The state shall provide and maintain a data base that describes boundary changes for all local taxing jurisdictions. This data base shall include a description of any change and the effective date of the change for sales and use tax purposes. Neb. Rev. Stat. §77-27,143(5): The state shall provide and maintain a data base of all sales and use tax rates for all of the local jurisdictions levying taxes within the state. For the identification of counties, cities, and villages, codes corresponding to the rates shall be provided according to Federal Information Processing Standards as developed by the National Institute of Standards and Technology.	N.D. Cent. Code §57-39.4-06(4): [Each member state shall...] Provide and maintain a data base that describes boundary changes for all taxing jurisdictions. This data base shall include a description of the change and the effective date of the change for sales and use tax purposes. 57-39.4-06(5): Provide and maintain a data base 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.	N/A (no local sales or use tax)	W. Va. Code § 11-15B-35(d) Database of local jurisdiction boundaries.— (1) The state shall 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. (2) The state shall 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 and cities, codes corresponding to the rates must be provided according to federal information processing standards (FIPS) as developed by the National Institute of Standards and Technology. For the identification of all other jurisdictions, codes corresponding to the rates must be in the format determined by the governing board.	39-26-105.3(6.5) (a) The department of revenue shall provide information to remote sellers that indicates the taxability of products and services along with any product and service exemptions from sales tax in the state. The department of revenue shall also provide to remote sellers a sales tax rate database and a database of local taxing jurisdiction boundaries.

Simplification Requirement	SSUTA section	SSUTA MEMBER STATES				NON-MEMBER STATES
		Nebraska	North Dakota	Rhode Island	West Virginia	Colorado
(2)(D)(ii) Provide software free of charge for remote sellers that:(a) Calculates tax dues on each transaction at time the transaction is completed(b) Files sales and use tax returns(c) Updated to provide rate changes	203, 205, 328, 501, 502, 601	Neb. Rev. Stat. 77-2712.03(1): The streamlined sales and use tax agreement, as adopted by the streamlined sales tax implementing states on November 12, 2002, including amendments through December 31, 2010, is hereby ratified by the Legislature. The Governor shall enter into the agreement with one or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. In furtherance of the agreement, the Department of Revenue is authorized to act jointly with other states that are members under Articles VII or VIII of the agreement to establish standards for certification of a certified service provider and certified automated system and establish performance standards for multistate sellers. The department is further authorized to take other actions permissible under law reasonably required to implement the provisions set forth in the agreement. Other actions authorized by this section include, but are not limited to, the adoption and promulgation of rules and regulations and the joint procurement, with other member states, of goods and services in furtherance of the agreement.	N. D. Cent. Code § 57-39.4-04: Each member state shall participate in an online sales and use tax registration system in cooperation with the other member states. Under this system: ...  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.	R.I. Gen. Laws §.44-18.1-1: Rhode Island adopts the Streamlined Sales And Use Tax Agreement as created on November 12, 2002 and amended, by the member states of the Streamlined Sales Tax Project. The entire Agreement is adopted by reference with the exception of articles III, IV and VI which are adopted as set out in this chapter. The tax administrator shall promulgate rules and regulations necessary to be in compliance with the provisions of this Agreement.	<i>No citation given</i>	Co. Rev. Stat. §39-26-105.3(6.5)(c)(l) The department of revenue shall provide free of charge, or shall contract with certified software providers to provide on its behalf free of charge, software to remote sellers that:(A) Calculates sales taxes due on each transaction at the time the transaction is completed;(B) Files sales tax returns; and(C) Updates to reflect any tax rate changes for the state or any local taxing jurisdiction.
(2)(D)(iii) Provide certification procedures for certified software providers. The software must be able to calculate and files sales and use taxes in all the States qualified under the Act	203, 205, 328, 501, 502, 601	<i>See above</i>	N.D. Cent. Code § 57-39.4-34(1): The governing board shall certify automated systems and service providers to aid in the administration of sales and use tax collections.	<i>See above</i>	W. Va. Code, § 11-15B-37(a): The Tax Commissioner shall review software submitted to the governing board for certification as a certified automated system under the agreement. The Tax Commissioner's review shall include a review to determine that the program adequately classifies the State of West Virginia's product-based exemptions. Upon completion of the review, the Tax Commissioner shall certify to the governing board its acceptance of the classifications made by the system	Co. Rev. Stat. §39-26-105.3(6.5)(b) The department of revenue shall establish certification procedures for persons to be approved as certified software providers, which procedures shall include a requirement that software provided by certified software providers be capable of calculating and filing sales and use taxes in all states qualified under the proposed federal legislation known as the "marketplace fairness act of 2013" that, as of the introduction of house bill 13-_____, is being considered in Congress.

Simplification Requirement	SSUTA section	SSUTA MEMBER STATES				NON-MEMBER STATES
		Nebraska	North Dakota	Rhode Island	West Virginia	Colorado
(2)(E) Relieve remote sellers from liability to state (tax, interest and penalties) if error is result of error or omission made by certified software provider	Member states' conformity with SSUTA satisfies per 2(a)					105.3(6.5)(c)(II) Remote sellers are relieved from liability to the state or local taxing jurisdiction for the incorrect collection, remittance, or noncollection of sales taxes, including any penalties or interest, if the liability is the result of an error or omission made by a certified software provider.
(2)(F) Relieve certified software providers from liability (tax, interest and penalty) if error is result of misleading or inaccurate information provided by remote seller	Member states' conformity with SSUTA satisfies per 2(a)					105.3(6.5)(c)(III) Certified software providers are relieved from liability to the state local taxing jurisdiction for the incorrect collection, remittance, or noncollection of sales taxes, including any penalties or interest, if the liability is the result of misleading or inaccurate information provided by a remote seller.

Simplification Requirement	SSUTA section	SSUTA MEMBER STATES				NON-MEMBER STATES
		Nebraska	North Dakota	Rhode Island	West Virginia	Colorado
(2)(G) Relieve remote sellers and certified software providers from liability (tax, interest and penalty) if error is result of incorrect information or software provided by the State	306, 328, 502	Neb. Rev. Stat. §77-27,143(9): Pursuant to the streamlined sales and use tax agreement, the state shall relieve retailers and certified service providers using data bases pursuant to subsection (6) or (7) of this section from liability to the state and local jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from the retailer 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 determined by the governing board, a member state that provides an address-based boundary data base for assigning taxing jurisdictions pursuant to subsection (7) or (8) of this section may cease providing liability relief for errors resulting from the reliance on the data base provided by the member state under the provisions of subsection (6) of this section. If a seller demonstrates that requiring the use of the address-based boundary data base would create an undue hardship, the state and the governing board may extend the relief of liability to such seller for a designated period of time.	N.D. Cent. Code §57-39.2-31: A seller or certified service provider is immune from civil liability for charging and collecting the incorrect amount of sales or use tax in reliance on incorrect information provided by the tax commissioner regarding tax rates, boundaries, or taxing jurisdiction assignments. The tax commissioner will not be required to provide liability relief for errors resulting from the reliance on an address-based system for assigning tax jurisdictions as provided under chapter 57-39.4.(see also N.D. Cent. Code §57-39.4-07)	R.I. Gen. Laws §.44-18.1-7: Each member state shall relieve sellers and CSPs using databases pursuant to subsections (F), (G) and (H) of Section 44-18.1-6 from liability to the member state and local jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from the seller or CSP relying on erroneous data provided by a member state on tax rates, boundaries, or taxing jurisdiction assignments. After providing adequate notice as determined by the governing board, a member state that provides an address-based database for assigning taxing jurisdictions pursuant to Section 44-18.1-6, subsection (G) or (H) may cease providing liability relief for errors resulting from the reliance on the database provided by the member state under the provisions of Section 44-18.1-6, subsection (F). If a seller demonstrates that requiring the use of the address-based database would create an undue hardship, a member state and the governing board may extend the relief from liability to such seller for a designated period of time.	W. Va. Code §11-15B-36:(a) General.—Sellers and certified service providers registered under the streamlined sales and use tax agreement to collect sales and use taxes imposed by this state or a political subdivision of this state who charged and collected the incorrect amount of sales or use taxes resulting from the seller or the certified service provider relying on erroneous data provided by this state on tax rates, boundaries or taxing jurisdiction assignments shall be held harmless by the Tax Commissioner and the local taxing jurisdiction.(b) Exception.—After providing adequate notice as determined by the governing board, if the state provides an address-based database for assigning taxing jurisdictions pursuant to subdivision (4) or (5), subsection (d), section thirty-five of this article, the state may cease providing liability relief for errors resulting from reliance on the database provided by the Tax Commissioner under subdivision (3) of said subsection. If a seller demonstrates that requiring the use of the address-based database would create an undue hardship, the Tax Commissioner and the governing board may extend the relief from liability to that seller for a designated period of time.	105.3(6.5)(c)(IV) Remote sellers and certified software providers are relieved from liability to the state or local taxing jurisdiction for incorrect collection, remittance, or noncollection of sales taxes, including any penalties or interest, if the liability is the result of incorrect information or software provided by the department of revenue.

		SSUTA MEMBER STATES				NON-MEMBER STATES
Simplification Requirement	SSUTA section	Nebraska	North Dakota	Rhode Island	West Virginia	Colorado
(2)(H) Provide remote sellers and certified software providers with 90 days notice of rate changes by State or Local government and relieve remote sellers and certified software providers from liability for collecting the tax at the immediately preceding effective rate during a 90-day notice period if 90 days notice is not provided	Member states' conformity with SSUTA satisfies per 2(a)					105.3(6.5)(c)(V) The department of revenue shall notify remote sellers and certified software providers of any state or local sales tax rate change at least 1 ninety days before the effective date of such a change. Subsequent to any sales tax rate change, the department of revenue shall update the information described in paragraph (a) of this subsection (6.5) accordingly. Remote sellers and certified software providers are relieved from liability for collecting sales taxes at the immediately preceding effective state and local rates during the ninety-day notice period if the required notice is not provided.