



MULTISTATE TAX COMMISSION

To:	Sales and Use Tax Subcommittee
From:	Roxanne Bland, MTC Counsel
Date:	February 24, 2012
Subject:	Telecommunications—Administrative Procedures for Protection from Class Action Lawsuits Related to Sales Tax Collection

In 2007, representatives from the telecommunications industry addressed the Executive Committee with three potential projects for the Uniformity Committee: (1) model statutes for communications sales tax administration, (2) model statutes for communications sales tax definitions and sourcing along the lines of those contained in SSUTA, and (3) model statutes for protecting communications companies from class action lawsuits related to sales tax collection. The Executive Committee asked the Uniformity Committee to consider these projects. The Uniformity Committee began with the model statutes for communications sales tax administration, which it finalized at its last meeting. The Subcommittee may now wish to consider taking up a project for the possible development of administrative procedures for protection from class action lawsuits related to sales tax collection.

Attached to this memorandum for the subcommittee's information are the SSUTA customer refund provisions.

## **Streamlined Sales and Use Tax Agreement**

### **Section 325: CUSTOMER REFUND PROCEDURES**

A. These customer refund procedures are provided to apply when a state allows a purchaser to seek a return of over-collected sales or use taxes from the seller.

B. 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.

C. These customer refund procedures provide 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.

D. 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: i) uses either a provider or a system, including a proprietary system, that is certified by the state; and ii) has remitted to the state all taxes collected less any deductions, credits, or collection allowances.