

Draft Implementation Checklist
 (Based on the Marketplace Fairness Act (S.743))

	IMPLEMENTATION ISSUES	COMMENTS
1	Notice or Publication of Exercise of Authority	<i>Discussion may differ based on whether the state is a SSTP or nonSSTP member.</i>
	Simplification Requirements under the Non-Streamlined option	
2	Enactment of legislation: <ul style="list-style-type: none"> • Specifying the tax or taxes to which authority and the simplification requirements apply; and • Specifying the products and services to which collection authority may not apply. 	
3	(2)(A)(i) Single entity within the State to administer state and local tax, process returns and conduct audits of remote sales sourced to State	
4	(2)(A)(ii) Single audit of remote sellers for all State and Local taxing jurisdictions within State	

Draft Implementation Checklist
(Based on the Marketplace Fairness Act (S.743))

5	(2)(A)(iii) Single return to be used by remote sellers and filed with single entity responsible for administration	
6	(2)(A)(iii) State may not require returns be filed more frequently for remote sellers than for nonremote sellers	<i>Perhaps conduct a survey to determine whether any states have different filing standards currently, especially those states with remote seller legislation on their books.</i>
7	(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 taxes under the bill.	
8	(2)(A)(iii) No Local jurisdiction may require remote seller to submit return or collect taxes except as described above	
9	(2)(B) Uniform sales and use tax base among State and Local taxing jurisdictions within the State	<i>This may be too state specific for uniform language.</i>

Draft Implementation Checklist
 (Based on the Marketplace Fairness Act (S.743))

<p>10</p>	<p>(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, customer 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 and a billing address cannot be obtained, then based on address of the seller from which the remote sale was made.</p>	<p><i>This may be suitable for uniform language.</i></p>
<p>11</p>	<p>(2)(D)(i) Provide information indicating the taxability of products and services along with product and service exemptions</p>	<p><i>This would likely be individual to the states and, rather than being a statute, might be more of a communication issue for the states.</i></p>
<p>12</p>	<p>(2)(D)(i) Provide rates and boundary database</p>	<p><i>This would be individual to the states. It is unclear whether this would need to be statutory. It may be merely a communication issue.</i></p>

Draft Implementation Checklist
 (Based on the Marketplace Fairness Act (S.743))

<p>13</p>	<p>(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</p>	<p><i>There is a lot of uncertainty relating to this topic even under the current language in S. 743. It is unclear whether this would need to be a statutory or administrative change.</i></p>
<p>14</p>	<p>(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</p>	<p><i>This may or may not need to be statutory. It is possible that the group could work on uniform procedure or a due diligence checklist for states to use for these purposes. However, it is too premature to do this given the status of the current legislation.</i></p>
<p>15</p>	<p>(2)(E) Relieve remote sellers from liability to state or locality (tax, interest and penalties) for incorrect collection, remittance, or noncollection of sales and use taxes, if error is result of error or omission made by certified software provider</p>	<p><i>This would need to be statutory. Liability relief may be an issue the workgroup could draft uniform language for.</i></p>
<p>16</p>	<p>(2)(F) Relieve certified software providers from liability to State or locality (tax, interest and penalty) for incorrect collection, remittance, or noncollection of sales and use taxes, if error is result of misleading or inaccurate information provided by remote seller</p>	<p><i>This would need to be statutory. Liability relief may be an issue the workgroup could draft uniform language for.</i></p>

Draft Implementation Checklist
 (Based on the Marketplace Fairness Act (S.743))

<p>17</p>	<p>(2)(G) Relieve remote sellers and certified software providers from liability to State or locality (tax, interest and penalty) for incorrect collection, remittance, or noncollection of sales and use taxes, if error is result of incorrect information or software provided by the State</p>	<p><i>This would need to be statutory. Liability relief may be an issue the workgroup could draft uniform language for.</i></p>
<p>18</p>	<p>(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 sales and use tax at the immediately preceding effective rate during a 90-day notice period if 90 days notice is not provided</p>	<p><i>The notice of rate changes may not need to be statutory.</i></p> <p><i>The relief from liability provision would need to be statutory. Liability relief may be an issue the workgroup could draft uniform language for.</i></p>
<p>19</p>	<p>MFA Section 3(b) States should think about coordinating any new legislation under the MFA or a similar federal bill with any remote seller legislation they may have already enacted.</p>	<p><i>This will be individual to the states. The workgroup could provide some examples of situations where coordination would be necessary/desirable. It is, however, too premature to do this until we have more clarity on the language in the federal legislation.</i></p>

Draft Implementation Checklist
 (Based on the Marketplace Fairness Act (S.743))

<p>20</p>	<p>MFA Section 4 – Definitions States may also need to adopt definitions for terms they may not already have, such as certified software provider etc.</p>	<p><i>Each state can probably comply with this requirement by simply adopting the definitions in the federal legislation.</i></p>
<p>21</p>	<p>Tribal issues</p>	<p><i>Will seek MTC direction.</i></p>

DRAFT