



OLR RESEARCH REPORT

August 21, 2012

2012-R-0340

UPDATE ON STREAMLINED SALES AND USE TAX AGREEMENT

By: Judith Lohman, Assistant Director

You asked for an update of our 2006 report ([2006-R-0558](#)) on the multistate [Streamlined Sales and Use Tax Agreement \(SSUTA\)](#). You are especially interested in knowing whether (1) any additional states have joined the agreement, (2) state adoption requirements have changed, (3) there has been any Connecticut legislative activity regarding the agreement since 2006, and (4) changes in Connecticut's sales and use tax would be required to comply with the agreement.

SUMMARY

The SSUTA is a voluntary multistate agreement to simplify state and local sales and use tax laws and administrative procedures to encourage better and less expensive tax collection particularly on electronic and other interstate transactions by remote sellers. The agreement text was ratified by representatives from 30 states in November 2000. It took effect on October 3, 2005, after being adopted by a minimum of 10 states with at least 20% of the national population as the agreement requires.

As of October 1, 2012, the SSUTA will have 22 full and two associate members. Full members are states that (1) have adopted the legislation needed to make their sales tax laws comply fully with the agreement and (2) been accepted as members by a three-fourths vote of the SSUTA governing board. Associate members are states that have achieved substantial, but not total, compliance with the agreement. The SSUTA also has 18 "advisor states." These states do not comply with the

agreement but are represented on the SSUTA governing board without the right to vote. Since 2006, three states, Georgia, Wisconsin, and Utah, have joined the agreement as full members. Connecticut remains an SSUTA advisor state.

The SSUTA requires member states to, among other things, adopt uniform definitions for taxable and exempt products and services; simplify tax rates by limiting themselves generally to one state sales tax rate for all taxable products and services, and eliminating exemptions based on sales price; and adopt uniform rules for sourcing transactions based on where items or services are delivered or used. These basic requirements have not changed since 2006.

Since 2006, Connecticut has made no serious move toward adopting the SSUTA, although, in 2007, the General Assembly established a commission to study whether to join the agreement. The commission determined that Connecticut would have to make extensive changes in its sales tax laws and policies to comply with the agreement, including (1) changing how certain taxable products and services are defined; (2) eliminating special rates for certain transactions, such as hotel room rentals and computer and data processing services; (3) eliminating exemptions based on sales price, such as for clothing costing less than \$50; (4) possibly changing some sourcing rules; and (5) compensating vendors for collecting sales tax on the state's behalf.

Because of uncertainty about the revenue impact of such changes, the commission recommended that the state postpone any decision on SSUTA participation. In 2009, a bill to require the Department of Revenue Services (DRS) to study the issue further was not passed. In 2011, the legislature made changes in the sales tax that move the state away from SSUTA, most notably by applying a 7% luxury tax rate to sales of expensive motor vehicles, boats, clothing, and jewelry (PA 11-6).

STREAMLINED SALES AND USE TAX AGREEMENT

The SSUTA is an effort by state and local governments to simplify and modernize sales and use tax collection and administration to promote compliance by, and reduce costs for, local and remote sellers of all types of goods and services. One of its major goals is to improve tax collection on cross-border sales occurring through electronic and other types of remote commerce, thereby stemming the loss of state and local tax revenue from e-commerce and mail-order sales. Another major goal is to encourage Congress to enact federal legislation to allow states to require out-of-state sellers to collect sales tax on remote sales. The SSUTA seeks to accomplish this goal by mitigating the burden on interstate commerce

cited by the U.S. Supreme Court in its decision invalidating state authority over sellers with no physical presence in a state ([Quill v. North Dakota](#), 504 U.S. 298 (1992)). The burden arises from the multiplicity of sales taxing jurisdictions and the lack of uniformity and consistency in tax application by those jurisdictions.

The SSUTA allows states to participate in the agreement at three levels.

1. **Full members** are states that have adopted laws, rules, regulations, and policies that substantially comply with each provision of the agreement, as determined by a three-fourths vote of the SSUTA governing board. These provisions must either be in effect when a state becomes a member or become effective within 12 months after its proposed entry.
2. **Associate members** are states that have achieved substantial compliance with the agreement, taken as a whole, but not with each of its specific requirements.
3. **Advisor members** are states whose sales tax laws, rules, regulations, and policies do not conform to the SSUTA but that either (1) participated as implementing states before October 1, 2005 or (2) petitioned to become advisor members. Advisor states have representatives on the SSUTA governing board, but they are not allowed to vote, serve on certain of the board's standing committees, or participate in closed meetings of the full board or its committees.

As of October 1, 2012, the SSUTA will have 22 full and two associate members. Georgia, Utah, and Wisconsin are the three newest members. Wisconsin became a full member on October 1, 2009; Georgia on August 1, 2011, and Utah's full membership will take effect October 1, 2012. Eighteen states and the District of Columbia are advisor members. The states in each category are shown in Table 1.

Table 1: States and the Streamlined Sales and Use Tax Agreement

Full Members (as of 10/1/12)	
Arkansas	North Carolina
Georgia	North Dakota
Indiana	Oklahoma
Iowa	Rhode Island
Kansas	South Dakota
Kentucky	Vermont
Michigan	Washington

Full Members (as of 10/1/12)	
Minnesota	West Virginia
Nebraska	Wisconsin
Nevada	Wyoming
New Jersey	Utah
Associate Members	
Ohio	Tennessee
Advisor Members	
Alabama	Maryland
Arizona	Massachusetts
California	Mississippi
Connecticut	Missouri
District of Columbia	New Mexico
Florida	New York
Hawaii	South Carolina
Illinois	Texas
Louisiana	Virginia
Maine	

Sources: [Streamlined Sales Tax.org](http://StreamlinedSalesTax.org), Georgia, Wisconsin, and Utah tax department websites

CONNECTICUT AND THE SSUTA

Legislative Activity Since 2006

In 2007, the General Assembly established a 15-member Streamlined Sales Tax (SST) Commission to study and evaluate the sales and use tax changes needed for Connecticut to become a full SSUTA member. The commission's March 4, 2008 report concluded that joining the SSUTA would require major revisions in Connecticut's sales tax law and recommended that Connecticut "postpone its decision on becoming a participating member until such time as federal legislation [to allow states to collect taxes on remote sales] is enacted" ([Streamlined Sales Tax Commission Report](#), January 2008, p. 11).

In 2009, the Finance, Revenue and Bonding Committee raised a bill ([SB 998](#)) to require the DRS commissioner, by September 1, 2009, to report to the committee chairpersons on the status of the streamlined sales tax project. The bill required the commissioner to:

1. review the current relevance of earlier SST studies,
2. update revenue estimates for the earlier studies,
3. assess federal and other states' actions to further implement the SST, and
4. recommend any further steps for Connecticut.

The committee reported the bill favorably. It passed the Senate, but died on the House calendar.

Connecticut Sales Tax vs. the SSUTA

Connecticut's sales tax law does not currently match key SSUTA requirements. In 2011, the legislature made additional sales tax changes that move state law further away from the SSUTA ([PA 11-6](#)). We summarize differences between Connecticut's law and five key SSUTA requirements below.

Uniform Definitions. Under the SSUTA, state legislatures can determine what is taxable or exempt, but in making those decisions, member states must use uniform definitions for taxable and exempt items and services and other key tax terms and not to deviate from these definitions. Thus, all member states must define such things as "food" and "clothing" in the same way. The SSUTA's uniform definitions apply to such terms as:

Food and food ingredients	Bundled transaction
Prepared food	Drugs
Candy	Durable medical equipment
Soft drinks	Computer software
Dietary supplement	Prewritten computer software
Clothing	Load and leave
Lease or rental	Sales price
Tangible personal property	Specified digital products

SSUTA definitions of many items differ from Connecticut's. For example, the SSUTA's definition of "clothing" includes costumes, insoles for shoes, and athletic uniforms while Connecticut's does not. If Connecticut joined the SSUTA, these items would be subject to the state's 6.35% tax on clothing. Another example is the SSUTA's definition of "candy," which excludes any preparation containing flour. Adopting the SSUTA would exempt many types of candy bars from Connecticut sales tax, according to DRS, because, depending on the situation in which they were sold, they might be considered "food," which is exempt.

A DRS analysis, included as Appendix C in the SST Commission [report](#), provides more detailed examples of differences between Connecticut and SSUTA definitions for clothing, computer-related and digital products, food and food products, and health-care items.

One Tax Rate. SSUTA states may impose only one state sales tax rate for taxable items or services, although a second state rate (which can be zero) is allowed for food and drugs. Connecticut's sales tax is generally 6.35% but it also has the following other rates:

1. 15% for hotel stays of 30 days or less;
2. 4.5% for motor vehicles sold to active duty U.S. military members stationed in Connecticut;
3. 1% computer and data processing services;
4. 7% for most motor vehicles costing more than \$50,000, boats more than \$100,000, real or imitation jewelry more than \$5,000, and clothing more than \$1,000; and
5. 9.35% for short-term car rentals.

Exemptions Based on Sales Price. The SSUTA bars states from exempting items or services from sales taxes based on their price. Although Connecticut eliminated its biggest such exemption, for clothing costing less than \$50, in 2011, it maintains exemptions for:

1. monthly charges of \$150 for electricity not otherwise exempt ([CGS § 12-412 \(3\) \(D\)](#));
2. items costing \$20 or less sold by certain nonprofit organizations and schools ([CGS § 12-412 \(26\)](#));
3. vending machine or honor box sales for 50 cents or less ([CGS § 12-412 \(57\)](#));
4. gold or silver billion or national legal tender and rare or antique coins sold for less than \$1,000 ([CGS § 12-412 \(45\)](#));
5. property used in burial and cremations costing \$2,500 or less for a single funeral ([CGS § 12-412 \(55\)](#)); and
6. items costing \$100 or less sold by a nursing, rest, residential care, or convalescent home or adult day care center ([CGS § 12-412 \(56\)](#)).

Uniform Sourcing Rules. The SSUTA requires member states to have simple delivery- or destination-based sourcing rules for goods and services, although they may choose origin-based sourcing for intrastate deliveries and direct mail. They must also comply with SSUTA's uniform sourcing rules for telecommunications, property rental or lease, and direct mail services. These rules allow vendors to determine which state or local taxing authority governs a particular transaction. The 2008 SST Commission found that because Connecticut, unlike many other states, taxes a broad array of services, the SSUTA's sourcing rules could "pose a problem" for the state (p. 8).

Vendor Compensation and Amnesty. The SSUTA requires member states to agree to compensate vendors for collecting the state's sales taxes. Although many states already do this, Connecticut does not.

In addition, upon joining the SSUTA, states must provide amnesty for sellers who register to collect tax. The amnesty must apply against sales tax liability for prior sales regardless of nexus. If a seller remains registered and collects sales tax for 36 months, its amnesty runs for one year from the date the state joins the agreement. The required amnesty does not apply to sellers who (1) received an audit notice from the state, (2) are being audited, or (3) registered with the state in the preceding year.

JL:ts