

1 (f) "Seller" means any person making sales, leases, or
2 rentals of personal property or services.

3 (g) "State" means any state of the United States and the
4 District of Columbia.

5 (h) "Use tax" means the tax levied under the Use Tax Act
6 and the Service Use Tax Act.

7 Section 3. Legislative finding. The General Assembly
8 finds that a simplified sales and use tax system will reduce
9 and over time eliminate the burden and cost for all vendors
10 to collect this State's sales and use tax. The General
11 Assembly further finds that this State should participate in
12 multistate discussions to review or amend or both review and
13 amend the terms of the Agreement to simplify and modernize
14 sales and use tax administration in order to substantially
15 reduce the burden of tax compliance for all sellers and for
16 all types of commerce.

17 Section 4. Authority to participate in multistate
18 negotiations. For the purposes of reviewing or amending or
19 both reviewing and amending the Agreement embodying the
20 simplification requirements as contained in Section 7 of this
21 Act, the State shall enter into multistate discussions. For
22 purposes of such discussions, the State shall be represented
23 by 4 delegates. One delegate shall be appointed by the
24 President of the Senate, one by the Minority Leader of the
25 Senate, one by the Speaker of the House of Representatives,
26 and one by the Minority Leader of the House of
27 Representatives.

28 Section 5. Authority to enter agreement. The Department
29 of Revenue is authorized and directed to enter into the
30 Streamlined Sales and Use Tax Agreement with one or more
31 states to simplify and modernize sales and use tax

1 administration in order to substantially reduce the burden of
2 tax compliance for all sellers and for all types of commerce.
3 In furtherance of the Agreement, the Department of Revenue is
4 authorized to act jointly with other states that are members
5 of the Agreement to establish standards for certification of
6 a certified service provider and certified automated system
7 and establish performance standards for multistate sellers.

8 The Department of Revenue is further authorized to take
9 other actions reasonably required to implement the provisions
10 set forth in this Act. Other actions authorized by this
11 Section include, but are not limited to, the adoption of
12 rules and regulations and the joint procurement, with other
13 member states, of goods and services in furtherance of the
14 cooperative agreement.

15 The Director of Revenue or the Director's designee is
16 authorized to represent this State before the other states
17 that are signatories to the Agreement.

18 Section 6. Relationship to State law. No provision of
19 the Agreement authorized by this Act in whole or part
20 invalidates or amends any provision of the law of this State.
21 Adoption of the Agreement by this State does not amend or
22 modify any law of this State. Implementation of any
23 condition of the Agreement in this State, whether adopted
24 before, at, or after membership of this State in the
25 Agreement, must be by the action of this State.

26 Section 7. Agreement requirements. The Department of
27 Revenue shall not enter into the Streamlined Sales and Use
28 Tax Agreement unless the Agreement requires each state to
29 abide by the following requirements:

30 (a) Simplified state rate. The Agreement must set
31 restrictions to limit over time the number of state rates.

32 (b) Uniform standards. The Agreement must establish

1 uniform standards for the following:

2 (1) The sourcing of transactions to taxing
3 jurisdictions.

4 (2) The administration of exempt sales.

5 (3) Sales and use tax returns and remittances.

6 (c) Central registration. The Agreement must provide a
7 central, electronic registration system that allows a seller
8 to register to collect and remit sales and use taxes for all
9 signatory states.

10 (d) No nexus attribution. The Agreement must provide
11 that registration with the central registration system and
12 the collection of sales and use taxes in the signatory states
13 will not be used as a factor in determining whether the
14 seller has nexus with a state for any tax.

15 (e) Local sales and use taxes. The Agreement must
16 provide for reduction of the burdens of complying with local
17 sales and use taxes through the following:

18 (1) Restricting variances between the State and
19 local tax bases.

20 (2) Requiring states to administer any sales and
21 use taxes levied by local jurisdictions within the state
22 so that sellers collecting and remitting these taxes will
23 not have to register or file returns with, remit funds
24 to, or be subject to independent audits from local taxing
25 jurisdictions.

26 (3) Restricting the frequency of changes in the
27 local sales and use tax rates and setting effective dates
28 for the application of local jurisdictional boundary
29 changes to local sales and use taxes.

30 (4) Providing notice of changes in local sales and
31 use tax rates and of changes in the boundaries of local
32 taxing jurisdictions.

33 (f) Monetary allowances. The Agreement must outline any
34 monetary allowances that are to be provided by the states to

1 sellers or certified service providers. The Agreement must
2 allow for a joint public and private sector study of the
3 compliance cost on sellers and certified service providers to
4 collect sales and use taxes for state and local governments
5 under various levels of complexity to be completed by July 1,
6 2002.

7 (g) State compliance. The Agreement must require each
8 state to certify compliance with the terms of the Agreement
9 prior to joining and to maintain compliance, under the laws
10 of the member state, with all provisions of the Agreement
11 while a member.

12 (h) Consumer privacy. The Agreement must require each
13 state to adopt a uniform policy for certified service
14 providers that protects the privacy of consumers and
15 maintains the confidentiality of tax information.

16 (i) Advisory councils. The Agreement must provide for
17 the appointment of an advisory council of private sector
18 representatives and an advisory council of non-member state
19 representatives to consult with in the administration of the
20 Agreement.

21 Section 8. Cooperating sovereigns. The Agreement
22 authorized by this Act is an accord among individual
23 cooperating sovereigns in furtherance of their governmental
24 functions. The Agreement provides a mechanism among the
25 member states to establish and maintain a cooperative,
26 simplified system for the application and administration of
27 sales and use taxes under the duly adopted law of each member
28 state.

29 Section 9. Limited binding and beneficial effect.

30 (a) The Agreement authorized by this Act binds and
31 inures only to the benefit of this State and the other member
32 states. No person, other than a member state, is an intended

1 beneficiary of the Agreement. Any benefit to a person other
2 than a state is established by the law of this State and the
3 other member states and not by the terms of the Agreement.

4 (b) Consistent with subsection (a), no person shall have
5 any cause of action or defense under the Agreement or by
6 virtue of this State's approval of the Agreement. No person
7 may challenge, in any action brought under any provision of
8 law, any action or inaction by any department, agency, or
9 other instrumentality of this State, or any political
10 subdivision of this State on the ground that the action or
11 inaction is inconsistent with the Agreement.

12 (c) No law of this State, or the application thereof,
13 may be declared invalid as to any person or circumstance on
14 the ground that the provision or application is inconsistent
15 with the Agreement.

16 Section 10. Seller and third party liability.

17 (a) A certified service provider is the agent of a
18 seller, with whom the certified service provider has
19 contracted, for the collection and remittance of sales and
20 use taxes. As the seller's agent, the certified service
21 provider is liable for sales and use tax due each member
22 state on all sales transactions it processes for the seller
23 except as set out in this Section.

24 A seller that contracts with a certified service provider
25 is not liable to the State for sales or use tax due on
26 transactions processed by the certified service provider
27 unless the seller misrepresented the type of items it sells
28 or committed fraud. In the absence of probable cause to
29 believe that the seller has committed fraud or made a
30 material misrepresentation, the seller is not subject to
31 audit on the transactions processed by the certified service
32 provider. A seller is subject to audit for transactions not
33 processed by the certified service provider. The member

1 states acting jointly may perform a system check of the
2 seller and review the seller's procedures to determine if the
3 certified service provider's system is functioning properly
4 and the extent to which the seller's transactions are being
5 processed by the certified service provider.

6 (b) A person that provides a certified automated system
7 is responsible for the proper functioning of that system and
8 is liable to the State for underpayments of tax attributable
9 to errors in the functioning of the certified automated
10 system. A seller that uses a certified automated system
11 remains responsible and is liable to the State for reporting
12 and remitting tax.

13 (c) A seller that has a proprietary system for
14 determining the amount of tax due on transactions and has
15 signed an agreement establishing a performance standard for
16 that system is liable for the failure of the system to meet
17 the performance standard.

18 Section 99. Effective date. This Act takes effect upon
19 becoming law."