

## **DRAFT**

**STREAMLINED SALES TAX PROJECT  
SSUT AGREEMENT DEFINITION ANALYSIS**

**STATE OF CALIFORNIA  
BOARD OF GOVERNANCE**

**Section:** Library of Definitions (Exhibit I provides the language of Appendix C, Library of Definitions, Part I, Administrative Definitions, Streamlined Sales and Use Tax Agreement (SSUTA))

**Title:** Direct Mail

### **Summary**

California's adoption of the SSUTA Library of Definitions' (Library) meaning for direct mail would not require a change to California's current statutes, regulations, or administrative policies related to mass mailings of advertising materials, other printed material, or related tangible personal property. Nor would it require California to change its current taxing policies related to the sale or use of "printed sales messages."

### **Description**

The SSUTA Library definition for direct mail generally provides that the term means printed material distributed to a mass audience or addressees on a mailing list provided by the purchaser or as directed by the purchaser when the cost of the items are not billed directly to the recipients. The term also includes tangible personal property included in the package containing the printed material. The term does not include multiple items delivered to a single address.

The SSUTA includes both core and product term definitions. Core terms are for administrative purposes such as the sourcing of tax revenues. Product terms are intended for use by member states when imposing tax or providing an exemption for items that come within the defined term. If the SSUTA has a definition for a product or for a term that includes the product, a member state may exempt all items within the definition but shall not exempt only part of the items included within the definition unless the SSUTA sets out the exemption for part of the items as an acceptable variation.

Since direct mail is not a defined product term, member states may provide an exemption for the sale or use of items that fall within the definition without exempting the sale or use of all items that meet the definition.

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Reference: SSUTA Section 316 and SSUTA Appendix C, Library of Definitions, Part I; Administrative Definitions

### **Related SSUTA Sections**

Section 104: Defined Terms

Section 204: Entity-Based Exemption

Section 209: Product-Based Exemption

Section 214: Use-Based Exemption

Section 313: Direct Mail Sourcing

Section 316: Enactment of Exemptions

Section 327: Library of Definitions

Appendix C: Library of Definitions, Part I, II, and III

### **Related California Revenue and Taxation Code Sections and Code of Regulations, Title 18 Sections**

Section 6379.5      Printed sales messages for goods and services printed to the special order of the purchaser

Regulation 1541.5   Printed Sales Messages

### **Evaluation**

The SSUTA provides uniform product definitions that member states are required to use when authorizing exemptions from sales or use tax and exclusions to the exemptions. As provided by SSUTA Section 327, when a term is defined in the SSUTA Library of Definitions and the term appears in a member state's statutes or administrative rules or regulations, the term must be consistent with the meaning of the term provided in the SSUTA Library of Definitions. Member states may not use or define a term contained in the Library or other provisions within the SSUTA that is contrary to the meaning provided by the SSUTA.

Except as specifically provided in SSUTA Section 316 and the Library of Definitions, member states must impose a sales or use tax on, or exempt from sales or use tax *all* products or services within each defined product term. Member states may not provide an exemption or exclusion for a specific product or service that comes within the defined term without also providing an exemption or exclusion for all products or services that fall within the term. However, the provisions of Section 316 apply only to the product definitions contained within Appendix C, Part II of the Library of Definitions, not the core or

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administrative definitions contained within Part I. Accordingly, member states may limit exemptions to specific items that fall under a defined administrative term, as in the case of direct mail.

Reference: SSUTA Sections 316, 327 and Appendix C, Library of Definitions

### **Impact**

Conforming to the SSUTA Library definition for direct mail would not have an impact on California's current laws and administrative policies. Since the term direct mail is a core or administrative term, not a product term, California would be able to retain its current exemption for the sale or use of printed sales messages without also authorizing an exemption for all items that qualify as direct mail products in general.

However, when the sale or use of items that qualify as direct mail do not qualify for exemption, California would be required to follow the sourcing rules of SSUTA Section 313, Direct Mail Sourcing, that provides exceptions to the general sourcing rules of SSUTA Section 310.

**“Direct mail”** means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. “Direct mail” includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. “Direct mail” does not include multiple items of printed material delivered to a single address.