



MATTHEW G. BEVIN
Governor

OFFICE OF SALES AND EXCISE TAXES

DEPARTMENT OF REVENUE
FINANCE AND ADMINISTRATION CABINET
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William M. Landrum III
Secretary

DANIEL P. BORK
Commissioner

RICHARD DOBSON
Executive Director

July 26, 2019

Craig Johnson
Executive Director
Streamlined Sales Tax Governing Board, Inc.
100 Majestic Drive, Suite 400
Westby, WI 54667

Re: Kentucky's 2019 SSUTA Compliance Recertification

Dear Mr. Johnson:

Pursuant to Section 803 of the Streamlined Sales and Use Tax Agreement ("Agreement") and Rule 803.1, on behalf of the state of Kentucky, a Streamlined Sales Tax Governing Board member state, and as Executive Director of the Office of Sales and Excise Taxes, I hereby certify to the Streamlined Sales Tax Governing Board that Kentucky is in substantial compliance with the terms of the Agreement as of August 1, 2019.

No changes have been made to Kentucky's statutes, rules, regulations, or other authorities that could affect Kentucky's compliance with the terms of the Agreement since August 1, 2018.

Some of our business colleagues have opined that HB 354 passed by the 2019 Kentucky General Assembly may contain compliance issues. A *National Law Review* article dated May 24, 2019 states that "Kentucky's inclusion of streamed movies in its tax on multichannel video programming services, a regime outside the sales and use tax, could run afoul of the SSUTA's prohibition on replacement taxes, potentially putting the state out of compliance with the SSUTA and exposing it to the risk of sanctions by the Governing Board."

However, under the provisions of Rule 334, this action does not constitute the imposition of a prohibited replacement tax because these streaming services have never been subject to sales and use tax either at the time Kentucky became a Streamlined Governing Board State or during any subsequent years of membership.

Furthermore, this enactment is to preserve our telecom and school tax bases by addressing a previous court case and a specific delivery platform that Kentucky intends to tax in the same manner as cable and other similar products. These and similar services have historically been taxed outside the sales and use tax regime and contain various components for local and school

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tax funding. This legislative action represents a consistent pattern of tax administration within the Commonwealth that in no way avoids the intent or scope of the Agreement.

As part of this annual recertification, Kentucky updated its Online Certificate of Compliance and Taxability Matrix that reflect Kentucky's laws as enacted through the 2019 Kentucky General Assembly and has approved them to be published on the Streamlined Sales Tax Governing Board website beginning August 1, 2019. They (or links to them) will be posted on the Department of Revenue's website at: <https://revenue.ky.gov/Business/Sales-Use-Tax/Pages/default.aspx>.

If you have any questions regarding Kentucky's compliance with the Streamlined Sales and Use Tax Agreement, please contact me at richard.dobson@ky.gov or (502) 564-9977.

I also declare that the Online Certificate of Compliance and Online Taxability Matrix are true, correct, and complete to the best of my knowledge and belief.

Sincerely,



Richard Dobson
Executive Director
Office of Sales and Excise Taxes
Department of Revenue