WEST VIRGINIA CODE: §11-15B-35

§11-15B-35. Local rate and boundary changes.

(a) General. -- Local tax rate changes shall be effective only on the first day of a calendar quarter after a minimum of sixty days' notice to the sellers, except as provided in subsection (b) of this section.

(b) Printed catalogs. -- Local tax rate changes shall apply to purchases from printed catalogs where the purchaser computed the tax based upon the local tax rate published in the catalog only on and after the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the sellers.

(c) Local boundary changes. -- A local jurisdiction boundary change shall first apply for purposes of computation of a local sales and use tax on the first day of a calendar quarter after a minimum of sixty days' notice to sellers.

(d) Database of local jurisdiction boundaries. --

(1) The state shall provide and maintain a database that describes boundary changes for all taxing jurisdictions. This database shall include a description of the change and the effective date of the change for sales and use tax purposes.

(2) The state shall provide and maintain a database of all sales and use tax rates for all of the jurisdictions levying taxes within the state. For the identification of states, counties and cities, codes corresponding to the rates must be provided according to federal information processing standards (FIPS) as developed by the National Institute of Standards and Technology. For the identification of all other jurisdictions, codes corresponding to the rates must be in the format determined by the governing board.

(3) The state shall provide and maintain a database that assigns each five-digit and nine-digit zip code within the state to the proper tax rates and jurisdictions. The state must apply the lowest combined tax rate imposed in the zip code area if the area includes more than one tax rate in any level of taxing jurisdictions. If a nine-digit zip code designation is not available for a street address or if a seller or certified service provider is unable to determine the nine-digit zip code designation applicable to a purchase after exercising due diligence to determine the designation, the seller or certified service provider may apply the rate for the five-digit zip code area. For the purposes of this section, there is a rebuttable presumption that a seller or certified service provider has exercised due diligence if the seller has attempted to determine the nine-digit zip code designation by utilizing software approved by the governing board that makes this designation from the street address and the five-digit zip code applicable to a purchase.

(4) This state shall have the option of providing address-based boundary database records

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for assigning taxing jurisdictions and their associated rates which are in addition to the requirements of subdivision (3) of this subsection. The database records must be in the same approved format as the database records pursuant to subdivision (3) of this subsection and shall meet the requirements developed pursuant to the federal Mobile Telecommunications Sourcing Act (4 U.S.C. §119(a)). The governing board may allow the state to require sellers that register under the agreement to use an address-based database provided by the state. If the state develops address-based assignment database records pursuant to the agreement, a seller or certified service provider may use those database records in place of the five- and nine-digit zip code database records provided in subdivision (3) of this subsection. If a seller or certified service provider is unable to determine the applicable rate and jurisdiction using an address-based database record after exercising due diligence, the seller or certified service provider may apply the nine-digit zip code designation applicable to a purchase. If a nine-digit zip code designation is not available for a street address or if a seller or certified service provider is unable to determine the nine-digit zip code designation applicable to a purchase after exercising due diligence to determine the designation, the seller or certified service provider may apply the rate for the five-digit zip code area. For the purposes of this subsection, there is a rebuttable presumption that a seller or certified service provider has exercised due diligence if the seller or certified service provider has attempted to determine the tax rate and jurisdiction by utilizing software approved by the governing board that makes this assignment from the address and zip code information applicable to the purchase.

(5) The Tax Commissioner, after meeting the requirements of subdivision (3) of this subsection, may certify vendor provided address-based databases for assigning tax rates and jurisdictions. The databases must be in the same approved format as the database records pursuant to subdivision (4) of this subsection and must meet the requirements developed pursuant to the federal Mobil Telecommunications Sourcing Act (4 U.S.C. §119(a)). If the state certifies a vendor address-based database, a seller or certified service provider may use that database in place of the database provided for in subdivision (3) or (4) of this subsection. Vendors providing address-based databases may request certification of their databases from the governing board. Certification by the governing board does not replace the requirement that the databases be certified by the state.

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