



## Memo: Code Compliance – January 14.2020

The Uniform Code is administrative in substance and tone. It does not set sales tax rates, exemptions, or any other policy element of a local government’s current sales tax code or practice. What follows is a high-level summary of the various sections of the Uniform Code:

XX.XX.010 – Interpretation	Taxability broadly construed
XX.XX.020 – Title to Collected Sales Tax	Tax receipts property of the Commission/Member
XX.XX.030 – Imposition – Rate	Remote sellers must impose sales tax
XX.XX.040 – Obligation to Collect Tax	Threshold for collection is \$100,000 or 200 transactions
XX.XX.050 – No Retroactive Application	No retroactivity
XX.XX.060 – Payment and Collection	Seller must collect taxes and hold in trust
XX.XX.070 – Registration Requirement	Timing for registration if collection thresholds are met
XX.XX.080 – Tax Filing Schedule	Monthly or quarterly return filing
XX.XX.090 – Estimated Tax	Estimated tax may be assessed on non-filers
XX.XX.100 – Returns – Filing Contents	Returns include gross, nontaxable, and taxable amounts
XX.XX.110 – Refunds	Commission may issue refunds
XX.XX.120 – Amended Returns	Sellers may file amended returns
XX.XX.130 – Extension for Return	Commission may allow extensions
XX.XX.140 – Audits	Sellers subject to audit by the Commission
XX.XX.150 – Audit protest	Sellers may protest to the Commission
XX.XX.160 – Penalties/Interest for Late Filing	Sets penalties and interest for late filing
XX.XX.170 – Repayment Plans	Commission may allow payment plans
XX.XX.180 – Record Retention	Sellers must keep records for six years
XX.XX.190 – Cessation/Transfer of Business	Terms for business cessation/transfer
XX.XX.200 – Use of Information	Confidentiality of tax return information
XX.XX.210 – Violations	Terms for violations of this code
XX.XX.220 – Penalties for Violations	Penalties for violations (ranging from \$25 to \$500)
XX.XX.230 – Physical presence	Delineates how sellers file (locally or with Commission)
XX.XX.240 – Hold Harmless	Sellers protected for misfiling due to Commission errors
XX.XX.250 – Definitions	Common definitions
XX.XX.260 – Supplemental Definitions	Definitions that apply to exemptions used by members

If you are not yet a signatory to the Intergovernmental Agreement, this is simply done by resolution, a model of which is on our website at <https://www.akml.org/member-services/online-sales-tax/>.

Upon becoming a signatory, and for those who have already taken this step, the Agreement then sets out these terms, “Within one hundred twenty (120) days, adopts, by reference or otherwise, the Remote Seller Sales Tax Code in its entirety as it pertains to collection of sales tax from remote sellers and marketplace facilitators.”



**The Commission recommends, then, that you take the following set of steps:**

- Review the uniform Remote Seller Sales Tax Code and Supplemental Definitions
- Review your own Code as it applies to Sales Tax
- If your Code currently exempts the collection of sales tax on remote sales, then you must remove that exemption
- In comparing your Code with the uniform Code, consider the extent to which you are able to align the two. The Commission strongly recommends aligning the two codes on:
  - Definitions
    - For the Code’s definitions, the greater alignment the better, but the Commission respects the individual integrity of each local government’s authority
    - For supplemental definitions, you only need to align the definitions that apply to your current exemptions
  - Penalties and fees – these are generally consistent with best practice and State Statutes
  - Timing of compliance – these are generally consistent with best practice and State Statutes
- Contact the Commission with any significant deviation between the two, or to present an argument for parity
  - Parity within the Codes should 1) reduce the burden on remote sales tax collection, and 2) seek to avoid discriminating against remote sellers
- Adopt the uniform Remote Seller Sales Tax Code, alongside any revisions to the rest of your Code that you are able
- Where there are sections of your local sales tax Code that remain unaligned, the Commission will work with you to develop a work plan toward alignment. Essentially, the Commission may allow a grace period of one year in which the local government and Commission may come to agreement on significant differences.
  - This action may result in changes to the uniform Code, which will see updates in any event as the Commission identifies needs
  - This action should also result in a negotiation that address any local concerns of changes at that level
- This process is not dissimilar from the SSUTA, wherein many states have yet to adopt all of the provisions therein
- The Commission is committed to working with local governments to see successful implementation of local sales tax collection on remote sales while preserving to the greatest extent possible local control.