**CERTIFICATION OF ADMINISTRATIVE RULES**
**OF THE DEPARTMENT OF REVENUE**
**FILED WITH THE SECRETARY OF STATE**
**BRIAN KEMP**

(Pursuant to O.C.G.A. §§ 50-13-3, 50-13-4 and 50-13-6.)

I do hereby certify that the attached Emergency Rules are correct copies as promulgated and adopted on the 17th day of February, 2011.

Filing Date: February 17, 2011.

The Georgia Department of Revenue has adopted Emergency Rules

- 560-12-1-0.20-.37

The effective date of these Rules shall be February 21, 2011. They will remain in effect for 120 days or until the Department proposes and adopts subsequent Rules, whichever occurs earlier.

Emergency Rule 560-12-1-0.20-.37 is being adopted under the authority of O.C.G.A. §§ 48-2-12, 48-8-2, 48-8-3, 48-8-6, 48-8-30, 48-8-50, 48-8-58, 48-8-59, 48-8-61, 48-8-68 through 48-8-77. .

The adoption of the aforementioned Emergency Rule by the Department is necessary in order to provide guidance concerning changes with respect to certain requirements in the Streamlined Sales and Use Tax Agreement.

Sworn to and subscribed before me this 17th day of February, 2011.

Melanie J. Butler
(Notary Public Seal)

Notary Public, Rockdale County, Georgia
My Commission Expires Nov. 19, 2012

Douglas J. MacGinnitie
Commissioner
Georgia Department of Revenue

# RULES
# OF
# DEPARTMENT OF REVENUE
# SALES AND USE TAX DIVISION

## CHAPTER 560-12-1
## ADMINISTRATIVE RULES AND REGULATIONS

**560-12-1-0.20-.37 Streamlined Sales Tax Agreement – Administration; Streamlined Exemption Certificate; Nexus; Tax Rate Database.**

**(1) Definitions.** For the purposes of this Rule, the following definitions shall apply:

(a) "Agreement" means the multistate Streamlined Sales and Use Tax Agreement, as amended.

(b) "Certified Automated System" means software certified jointly by the states that are signatories to the Agreement that calculates the tax imposed by each jurisdiction on a transaction, determines the amount of tax to remit to the appropriate state, and maintains a record of the transaction.

(c) "CSP" means a "Certified Service Provider" who is an agent certified jointly by the states that are signatories to the Agreement to perform all of the seller's sales tax functions.

**(2) Departmental Certification of Automated System Software.**

(a) The Department will review software submitted to the Streamlined Sales Tax Governing Board for approval as a Certified Automated System under Section 501 of the Agreement.

1. Such review will determine whether the software accurately reflects the taxability of the product categories.

2. Upon approval, the Department will certify its acceptance of the software to the Streamlined Sales Tax Governing Board.

**(3) CSP and Model 2 Seller Relief.**

(a) The Department will relieve CSPs and model 2 sellers from liability to the State and to local jurisdictions in the State for not collecting sales or use taxes resulting from the CSP or model 2 seller relying on the certification provided by the State.

(b) If the Department determines that an item or transaction is incorrectly classified as to the item or transaction's taxability, the Department will notify the CSPs and model 2 sellers of the incorrect classification. CSPs and model 2 sellers shall have ten (10) days to revise the classification after receipt of notice of the correction from the Department before the Department will hold CSPs or model 2 sellers liable for collection of the tax.

(c) The Department will provide such relief from liability for not collecting sales and use taxes in the same manner as provided to sellers under Paragraph (4), below.

**(4) Administration of Exemptions.**

(a) A seller shall use the standard form for claiming an exemption electronically as adopted by the Streamlined Sales Tax Governing Board.

(b) A seller shall obtain the same information for proof of a claimed exemption regardless of the medium in which the transaction occurred.

(c) The Department will relieve a seller of the tax otherwise applicable if the seller obtains a fully completed exemption certificate approved by the Department, the Streamlined Sales Tax Governing Board, or the Multistate Tax Commission, or if the seller captures the relevant data elements required under the Agreement within ninety days after the date of sale.

(d) If the seller has not met any of the requirements for relief in Subparagraph (c), above, the seller shall have 120 days from the date of a subsequent Departmental request for proof of claimed exemption to either:

1. Obtain a fully-completed exemption certificate from the purchaser that claims an exemption that:

(i) Was statutorily available on the date of the transaction in the jurisdiction where the transaction is sourced;
(ii) Could be applicable to the item being purchased; and
(iii) Is reasonable for the purchaser's type of business; or

2. Obtain other information establishing that the transaction was not subject to the tax.

(e) The Department relieves a seller of the tax otherwise applicable if the seller obtains a blanket exemption certificate from a purchaser with which the seller has a recurring business relationship.

**(5) Registration Not Used in a Nexus Determination.** If the State withdraws or is expelled from the Agreement, the State will not use the seller's registration with the central registration system and collection of taxes in member states in determining whether the seller has nexus with the State for any tax at any time.

**(6) Tax Rate Database.** The Department will provide and maintain a database that assigns each five and nine digit zip code within the state to the proper tax rate and jurisdiction. If an area within a five or nine digit zip code includes more than one tax rate, the Department will apply the lowest combined tax rate imposed in that zip code area.

Authority: O.C.G.A. §§ 48-2-12, 48-8-2, 48-8-3, 48-8-6, 48-8-30, 48-8-50, 48-8-58, 48-8-59, 48-8-61, 48-8-68 through 48-8-77.