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Streamlined Sales Tax Project in Nevada

EXHIBIT D Committee on Taxation
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Streamlined Sales Tax Project

FACT SHEET

This Is....

About simplification - SSTP would streamline the country's more than 7,500 diverse sales tax jurisdictions, each of which has different definitions of what is taxable. States must enact legislation to simplify their sales tax systems as a first step to congressional passage of legislation permitting states to require collection of sales tax by remote sellers.

About fairness – All commercial transactions should be treated the same way – whether the goods are purchased in a store on "Main Street" or remotely – in a catalog or on the Internet.

About need – Financially strapped local and state governments nationwide are losing billions in uncollected sales tax each year due to remote sales. This loss is projected to reach as much as $54 billion by 2011.

This Is Not....

A new tax – SSTP enables the collection of sales and use taxes already owed to state and local governments through existing tax laws.

A tax on the Internet – SSTP is an agreement about collection of owed taxes on purchases made online and via catalog – not the use of the Internet itself.

A tax prohibited by Congress – The Internet Tax Freedom Act of 1998 prohibits the creation of any *new* or discriminatory taxes on the Internet. SSTP does not create new or discriminatory taxes.

Other Important Facts:

- States are facing their worst fiscal crisis since World War II. According to the National Governors Association (2002), state budget shortfalls will reach $50 billion in 2003—and climb to $60-$70 billion in 2004.
- According to the Institute for State Studies (2001), local and state governments will lose as much as $54.8 billion by 2011 in uncollected remote sales taxes.
- According to the U.S. Census Bureau (2002), 33 percent of state revenues come from sales taxes.
- According to eMarketer (2000) consumer e-commerce sales in the US will grow from $19.4 billion in 1999 to $125.6 billion by 2004, a 47 percent annual growth rate.
- Holiday online orders were up by 36 percent during the 2002 holiday season, according to BizRate.com (2002).

Provided by: Orquirrh Institute
703-299-8268

Streamlined Sales Tax Project

MYTHS & FACTS

MYTH: Supporters of remote sales tax collection are pushing legislation to create new taxes on the Internet.

FACT: We oppose creating any new access taxes or discriminatory taxes on the Internet. We support the collection of sales and use taxes already owed to state and local governments through existing tax laws. We support collection in a fair and equitable manner for all transactions, whether consumers shop at a store on "Main Street" or through remote means.

MYTH: State and local governments are attempting to tax the Internet.

FACT: The Streamlined Sales Tax Project (SSTP) does not create a new tax. Currently, consumers are legally required to pay a use tax on online purchases that are not taxed by the seller. Compliance with the use tax payment requirements is very low. Therefore, most remote shoppers are in violation of the law. We advocate taking the burden of paying the use tax off of the consumer and providing all merchants with equal sales tax collection responsibilities.

MYTH: Congress has already prohibited Internet taxes.

FACT: The Internet Tax Freedom Act of 1998 prohibits the creation of any new or discriminatory taxes on the Internet. SSTP does not create new or discriminatory taxes. Congress has not passed laws to prevent states from charging and collecting existing sales and use taxes.

MYTH: SSTP can result in taxation without representation.

FACT: A Congressional mandate for collection of sales taxes on multi-state sellers with no physical presence in a state does not constitute taxation without representation. The sales tax is a tax on consumers and not sellers. These consumers use the services provided by local and state governments, such as roads, schools and public safety, which are funded in part by state and local sales taxes.

MYTH: State funded programs like education, law enforcement and transportation will not be affected if online transactions remain untaxed.

FACT: According to the U.S. Census Bureau, 33 percent of state revenues come from sales taxes. If online and mail order sellers are not required to collect sales taxes, state and local governments stand to lose as much as $54.8 billion in revenues by 2011, according to an Institute for State Studies report (2001). Sales tax revenues fund essential government services including education, law enforcement and transportation. If sales and use taxes are not collected on remote transactions, state and local governments will have to find other ways to offset their losses. Alternative financing could include increasing property taxes and sales tax rates.

MYTH: E-commerce needs preferential tax treatment because it is a new industry.

FACT: The Internet has reached 50 million people in four years, compared to its technological counterparts: radio and TV, which took 38 and 13 years respectively, to reach the same number of users, according to Nokia Telecommunications (1999). Growing at a meteoric rate, the Internet's development has been nothing short of phenomenal. According to eMarketer (2000) consumer e-commerce sales in the U.S. will grow from $19.4 billion in 1999 to $125.6 billion by 2004, a 47 percent annual growth rate. Requiring online sellers to collect sales taxes will not harm the growth of the Internet economy.

MYTH: Taxing E-commerce will slow the growth of the Internet.

FACT: A level playing field is best for the new economy. A Jupiter Research report released in 2002 states that collection of sales tax on Internet purchases "will not be a significant impediment to the growth of the online retail channel." The bottom line: collection of sales tax on online purchases would have little impact on "virtual" business.

Streamlined Sales Tax Project

QUESTIONS & ANSWERS

Q: What is the Streamlined Sales Tax Project?

A: The Project is a proactive approach by states, with input from local governments and the private sector, to design, test and implement a radically simplified sales and use tax system for the 21st century. The goal of the Project is to substantially reduce or eliminate the costs and burdens of sales tax compliance for businesses through a combination of simplified laws and administrative policies and the implementation of a system that would be paid for by states. Project participants embarked on their mission to create a new, improved and simpler system in February 2000 and have agreed to a plan – the Streamlined Sales Tax Project (SSTP). This reform in sales and use tax policies will provide remote sellers that do business in multiple states an easier way to calculate, collect and remit existing use taxes.

Q: Didn't Congress already prohibit Internet taxes?

A: The Internet Tax Freedom Act (ITFA), passed by Congress in 1998, placed a three-year moratorium on any new and discriminatory taxes on the Internet, such as Internet access fees. The legislation also created the Advisory Commission on Electronic Commerce to consider issues associated with the taxation of sales purchased on the Internet. The Commission completed its work in April of 2000 and issued a report to Congress. Unfortunately, the Commission was not able to reach the two-thirds vote required by Congress to make any official "findings or recommendations" on the subject of the collection of sales and use taxes on sales made over the Internet. On November 28, 2001, this moratorium was extended two more years, giving states time to work toward sales tax simplification. The states have completed the simplification agreement called the Streamlined Sales Tax Project (SSTP).

Q: Doesn't applying the sales tax to online purchases constitute a new tax?

A: No. Requiring online merchants to collect sales tax does not create a new tax. Forty-five states currently impose sales and use taxes on the purchase of products and goods. Main Street retailers are required to collect these taxes on behalf of the states. However, some states are not allowed to mandate sales tax collection from out-of-state remote sellers. In this instance, consumers are required to pay, or remit, a comparable use tax directly to his or her state. These use taxes currently exist in all 45 states that impose sales tax. Most consumers are unaware of or often ignore this use tax requirement, thereby depriving states of much needed revenue.

Q: Why is collecting sales taxes on remote purchases such a big issue?

A: The number of sales made over the Internet is growing at a phenomenal rate. According to eMarketer (2000) consumer e-commerce sales in the US will grow from $19.4 billion in 1999 to $125.6 billion by 2004, a 47 percent annual growth rate. The success of the New Economy is important, but increasing online sales - on which sales taxes are not uniformly paid - is unfair to Main Street merchants who must collect. Also at a disadvantage are state and local governments who have a significant loss of sales tax revenue. Sales tax revenue funds one-quarter to one-half of these governments' services, ranging from parks and recreation to police and fire, and from education to transportation. Without this essential revenue, governments have choices ranging from cutting services to increasing other taxes, such as property and income taxes.

Q: Just how big an issue is this for state and local government?

A: Several studies have been conducted to examine the revenue lost by state and local governments in uncollected sales tax due to remote sales. The studies show local and state governments are losing billions each year during the past three years in uncollected sales tax. The Institute for State Studies (2001) study estimates the loss could reach as much as $54.8 billion by 2011.

Q: Do sales and use tax laws really need to be streamlined?

A: Yes. With some 7,500 state and local taxing jurisdictions across the nation, America's sales and use tax system is antiquated, complex and cumbersome to administer. A major problem with so many taxing jurisdictions is the variety of definitions of what is taxable. For example, a marshmallow might be defined as a food in one state - and therefore not taxed - but as a taxable candy in another state. Harmonization of sales tax laws, allowing for some local variations, is necessary to alleviate the collection burden.

Q: How will the new, simplified system work?

A: Participation will be voluntary. To take part, states will be required to conform to the Streamlined Sales Tax Project agreement by enacting certain simplification measures. Under the new system, small and medium sized multi-state retailers would be able to use state-certified, specially designed software (at no expense to them) to calculate, collect and remit use taxes for transactions in states in which they do not have a physical presence. Larger multi-state businesses would ask states to certify their existing tax software. Participating sellers would not be held liable for system errors.

Q: Will consumers benefit by a level playing field between remote sellers and brick-and-mortar retailers?

A: Definitely. Consumers will be treated the same, regardless of whether they choose to shop in a store, online or through a catalog. Consumers also benefit when states will not have to supplant the revenues they receive from sales tax to fund essential community services.

Q: How much does revenue generated from sales and use taxes account for a state's overall budget?

A: According to U.S. Census Bureau (2002), 33 percent of states' revenues come from the collection of sales and use taxes.

Q: How are Americans who are part of the "Digital Divide" affected?

A: A "digital divide" in access to the Internet exists between more affluent and lower-income households. According to the U.S. Department of Commerce (2001), personal computers are present in 88 percent of homes in which families make $75,000 a year or more, but in fewer than 38 percent of families making less than $15,000. Even where access is available through public facilities, credit is not readily available to all low-income families. Any increases in sales tax to offset the lack of revenue resulting from by uncollected taxes on remote sales will fall disproportionately on those making less than $15,000 per year.

Q: Will uniformity as proposed by the Streamlined Sales Tax Project reduce autonomy of states and their legislatures?

A: States rights will not be affected. State legislatures still determine what is taxable or exempt and what is the rate of tax in their state. Uniformity in the Streamlined Sales Tax System requires uniform definitions and uniform administrative procedures-not uniform taxes. This is in response to the U.S. Supreme Court decision (*Quill versus North Dakota*, 1992), which said the complicated state and local sales tax systems across this country have created an undue burden on interstate commerce. If states are unwilling to be a participating state and accept harmonization in definitions to reduce or eliminate burdens on sellers, they will not be eligible to collect remote sales taxes.

Q: Do the simplifications go far enough to overcome past U.S. Supreme Court decision (*Quill versus North Dakota*, 1992), which said that sales tax systems across the country are complex and an undue burden on interstate commerce and therefore sellers with no physical presence in a state do not have to collect sales taxes?

A: Congress will determine if the simplifications are enough to allow state sales tax collection on remote sales. However, the Streamlined Sales Tax Project Agreement includes dramatic simplifications in exemption processing, uniform definitions, state level administration of local taxes, reducing the number of sales tax rates, determining the appropriate tax rate, and reducing audit burdens for sellers using the state-certified technology. The Agreement provides dramatic simplification in almost every aspect of sales and use tax collection and administration, especially for multi-state sellers.

Q: If Congress mandates collection of sales taxes on multi-state sellers with no physical presence in a state, is this taxation without representation.

A: No. The sales tax is a tax on consumers and not sellers and benefits the consumers home community. Also, Congress will not mandate collection unless and until a state has taken the necessary steps to reduce the sales tax collection burden on sellers.

Q: Will states expand their tax bases through the uniform definitions?

A: No. Business and government representatives jointly developed the uniform definitions to simplify tax collection and administration, not increase taxes. The definitions harmonize current tax bases to the extent possible so that increases or decreases in taxes will be minimized. To achieve the uniform definitions, some states may choose to make changes to their tax base, but the decision to do so lies solely in the hands of state legislatures.

Q: How does SSTP and related legislation help small businesses?

A: The Streamlined Sales Tax System and related legislation provides the following benefits to small businesses:

- Simplifies exemption processing with protection for sellers that accept exemption certificates.
- Provides one uniform tax return for all states with the elimination of local tax returns.
- Allows a small business the option to use state-certified software or a Certified Service Provider to reduce or eliminate sales tax administration burdens.
- Makes it easier for smaller businesses to expand to markets in other states via the Internet or catalog because all states will use the uniform definitions and administrative procedures.
- With Congressional action, levels the playing field between (1) small Main Street businesses who must collect sales taxes and (2) large, multi-state businesses that are not required to collect sales taxes because they have no physical presence in a state.

Q: Why don't some of the Streamlined Sales Tax System provisions take effect until January 1, 2006?

A: Current sales tax laws and systems are complex. Simplification requires time for state and local governments to implement the changes and provide adequate notice to sellers. The Streamlined Sales Tax System allows states to simplify immediately but gives them time to absorb provisions that might affect their revenue sources.

Q: Should business activity taxes be addressed at the same time as we are simplifying sales taxes?

A: Some are suggesting that states and Congress clarify business activity tax nexus standards (e.g., corporation income or franchise taxes) at the same time they are enacting sales tax simplifications. Business activity tax issues and sales tax simplification are separate and unrelated issues. Both taxes are complex and need more uniformity. The Streamlined Sales Tax System provides a model methodology that should be used in simplifying other taxes. This cooperative effort between multiple governments and businesses is unprecedented. It would not be wise to hold up state and Congressional action on the Streamlined Sales Tax System to address business activity taxes. Business activity taxes require a deliberate effort similar to what has been done in streamlining sales taxes.

Q: What are the costs to sellers if they use state certified software or a Certified Service Provider for their tax collection functions?

A: The Streamlined Sales Tax System provides new technology options to sellers for sales tax administration. A seller can use a Certified Service Provider (CSP) or acquire state certified software. If a seller uses a CSP, the states agree to work together to pay for the costs of the CSPs that will be selected through a combined contract. The CSPs are responsible for developing software that determines the tax application, rate and jurisdiction. The CSPs will provide the necessary software to integrate with the seller's order processing and accounting systems. The CSPs will file applicable tax returns for the sellers. Most importantly, a seller's tax collection burden is eliminated under this option.

The states will also collectively certify software for use by sellers. This is called a Certified Automated System (CAS). The seller obtains the CAS and will receive a compensation allowance from the states for two years for acquiring the CAS. The amount of the allowance will be based on the cost of the CSPs. The seller remains liable for filing returns and remitting the tax with a CAS.

Q: What other technology features are included in the Streamlined Sales Tax System?

A: The Streamlined Sales Tax System includes new technology to make tax collection easier including:

- Uniform returns that can be filed electronically.
- Central registration system to provide one-stop service for voluntary collectors. The system will be eventually expanded to all businesses.
- State-approved data bases matching rates with jurisdictions. Sellers using the databases will not be held responsible for errors in tax collection.
- A state-by-state taxability matrix that will list items and services and the taxability determination for each state. Sellers using the matrix will not be held responsible for errors in tax collection.