



STATE OF NORTH DAKOTA
OFFICE OF STATE TAX COMMISSIONER
Cory Fong, Commissioner

Memorandum

To: Interim Taxation Committee
From: Myles Vosberg, Director Tax Administration
Date: September 15, 2010
Subject: Streamlined Sales Tax Update

1. Quill Corp. v. North Dakota (1992)
 - a. States may not require an out-of-state business with no physical presence to collect sales/use tax
 - b. Burden of collecting tax for thousands of state and local jurisdictions is too great and interferes with interstate commerce
 - c. Congress has ability to require all business to collect use tax
2. Streamlined sales tax project created in 2001
 - a. Simplify and more uniformity among states
 - b. Use technology to reduce burden
 - c. Compensate retailers for remaining burden
 - d. Currently 20 full member states
3. Will be SST legislation in 2011
 - a. Sourcing direct mail
 - i. Advertising and promotional materials sourced to point of delivery
 - ii. Other direct mail (usually a service not taxed in North Dakota) sourced where generated.
 - b. Uniform tax returns and payments – adopt standard format for electronic returns and payments (SER – simplified electronic returns).
 - c. Retailer compensation
4. Compensation for all retailers
 - a. Current compensation
 - i. Compensation to retailers that report \$333,000 taxable sales and purchases in the previous calendar year.
 - ii. Rate of compensation is 1½ percent of tax reported with \$85 maximum
 - iii. Cities and counties provide separate compensation in ordinance
 1. Ranges from no compensation to 5 percent of tax with \$167 maximum
 2. Approximately 70 – 75 percent of locals do not compensate
 3. Most common rate is 3 percent of tax with \$83 maximum

- b. Proposed compensation under Streamlined Sales Tax Agreement
 - i. Pay $\frac{3}{4}$ percent of total sales tax collections in compensation
 - ii. Applies to both state and local taxes
 - iii. Three tiers of compensation
 - iv. Calculated each month on return based on amount of tax remitted.
 - 1. First \$6,250 tax = 1.5%
 - 2. Greater than \$6,250, and up to \$62,500 = 0.65 %
 - 3. Greater than \$62,500, and up to \$750,000 = 0.33%
 - 4. No compensation on more than \$750,000 tax.
 - 5. New remote sellers required to collect tax under federal legislation will be compensated at 3% on tier 1, 1.5% on tier 2, and .75% on tier 3 for first six months to help defray start of costs
 - c. Fiscal impact
 - i. Actual compensation for FY2008 = \$4.05 million
 - ii. Estimated compensation FY2012
 - 1. under current method = \$4.3 million
 - 2. Under proposed method = \$5.7 million
 - 3. Increased compensation \$1.4 million
 - d. Summary of compensation changes
 - i. Provide compensation to all retailers (currently > \$333K)
 - ii. Same compensation for state and local taxes (prorate between state and local)
 - iii. Change in rate of compensation (three tiers)
 - iv. Overall rate of $\frac{3}{4}$ percent will remain constant, but tier rates will adjust annually to reflect volume of tax remitted in each tier.
 - v. Compensation calculated by business entity (one return for each entity)
5. Main Street Fairness Act H.R. 5660
- a. Introduced July 1, 2010 by Representatives Delahunt - Massachusetts
 - b. Provide collection authority for Streamlined Sales Tax member states
 - i. Require all sellers to collect sales/use tax on sales delivered into member states
 - 1. Small seller exception
 - a. Determined by Governing Board
 - ii. Member states must be in compliance with SST agreement
 - iii. States must pay "reasonable compensation" to all sellers for administering, collecting, and remitting sales and use taxes.
 - 1. Determined by SST Governing Board
 - iv. Member states shall apply simplification to sales and use taxes on communication services
 - 1. Previous versions of federal legislation required simplification of other taxes on communication services (911 fees, gross receipts taxes, local telecom/franchise fee, telecom relay service fee)
 - v. No action to date on HR 5660