

HOUSE BILL REPORT

HB 2608

As Reported by House Committee On:

Finance

Title: An act relating to authorizing the simplified sales and use tax administration act.

Brief Description: Adopting the simplified sales and use tax administration act.

Sponsors: Representatives Sullivan, Gombosky, Conway, Cairnes, Roach, McIntire, Ogden and Kenney; by request of Department of Revenue.

Brief History:

Committee Activity:

Finance: 1/29/02, 2/11/02 [DP].

Brief Summary of Bill

- Adopts a modified form of the Simplified Sales and Use Tax Administration Act, as proposed by the National Conference of State Legislatures.
- Authorizes the Department of Revenue, in consultation with a Legislative and local advisory group, to represent the state as a voting member in negotiations of a multi-state sales and use tax agreement.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 9 members: Representatives Gombosky, Chair; Berkey, Vice Chair; Cairnes, Ranking Minority Member; Conway, Morris, Nixon, Santos, Van Luven and Veloria.

Minority Report: Do not pass. Signed by 2 members: Representatives Orcutt and Roach.

Staff: Mark Matteson (786-7145).

Background:

An effort was started in early 2000 by the Federation of Tax Administrators (FTA), the Multistate Tax Commission (MTC), the National Conference of State Legislatures (NCSL), and the National Governors Association (NGA) to simplify and modernize sales

and use tax collection and administration. The effort is known as the Streamlined Sales Tax Project (SSTP). The project seeks to incorporate uniform definitions within tax bases, simplify audit and administrative procedures, and explore emerging technologies to reduce the burdens of tax collection, for both main street and remote sellers. Among the features of the proposed system is a simplified exemption administration system, where "good-faith" requirements for sellers would be relaxed if the seller obtains all information required for a purchaser to claim exemption from sales tax. Purchasers claiming exemption would be required to provide the same information whether the sale was in-person or remote. With respect to compliance, one of the underlying purposes of the project in making the sales tax administration less burdensome is to compel mail order and remote sellers to collect sales and use taxes, thus minimizing tax avoidance issues. Washington, represented by the Department of Revenue, has been one of 40 states participating in the simplification effort discussions.

In December 2000 SSTP participants proposed and adopted a model Sales and Use Tax Administration Act and a Streamlines Sales and Use Tax Agreement. In January 2001 an NCSL Task Force voted to adopt a modified form of the SSTP act and agreement. In each case, the model act is a model state statute that includes conditions for member states to participate in discussions and approve the final form of the agreement. In each case, the agreement is a progress-in-work road map of statutory changes ultimately required in order for the state to actually participate in the simplified system. The NSCL version of the model act differs from the SSTP version in terms of governance of the agreement and the requirements that the agreement must include.

In terms of commonalities, both model acts include provisions that:

- Authorize the state (through the state revenue department) to join the multistate agreement once a list of statutory conformity measures are adopted;
- authorize the state (through the state revenue department) to enter into joint procurement contracts;
- hold that no part of the agreement (to be ultimately adopted) invalidates or amends state law and that implementation of any condition of the agreement must be pursuant to state action;
- require the agreement, as approved by the reviewing states to include certain provisions pertaining to uniform sourcing and administration standards, central registration, consumer privacy, and other matters before any state revenue department can enter into the agreement;
- hold that the agreement is a compact-like accord between states and inures benefits to only member states; and

- establish third-party certified service providers as agents of the sellers for the purposes of collecting and remitting sales and use taxes and assign liability to these providers for the collection and remittance.

The NCSL Model Act differs from the SSTP version in several significant areas. The NCSL version allows a state to designate up to four delegates for the purposes of reviewing and/or amending the final form of the agreement. (Under the SSTP version, the state revenue department is the sole designee.) The NCSL version provides that the agreement must include a more limited set of requirements before the state can enter into discussions. (While the SSTP version includes provisions that require the ultimate form of the agreement to include uniform definitions, uniform state rates, and allowances for bad debts, the NCSL version is silent on these matters).

A state is required to adopt either the SSTP or the NCSL version of the model act by January 1, 2003 for the state to remain as a voting participant in the discussions on the final form of the agreement. As of January 9, 2002, there were 21 states that had enacted either the SSTP model proposal or the NCSL proposal.

Summary of Bill:

In a modified form of the NCSL model Sales and Use Tax Administration Act, the Department of Revenue is authorized to join a multistate sales and use tax simplification agreement once a list of statutory conformity measures are adopted by the state pursuant to the agreement. The department is also authorized to enter into joint procurement contracts with other member states involved in the sales tax simplification effort under the agreement.

For the purposes of reviewing and/or amending the final form of the agreement, the department will represent Washington. In representing the state, the department will regularly consult with an advisory group composed of representatives designated by the House of Representatives, the Senate, retailers, large and small businesses, and cities and counties. Each will be represented by a single person in the advisory group.

The sales and use tax simplification agreement will in no measure invalidate or amend state law. The implementation of any condition of the ultimate agreement must be pursuant to state law and/or regulation.

The final form of the sales and use tax simplification agreement must include certain provisions pertaining to uniform sourcing and administration standards, central registration, consumer privacy, and other matters before the department can enter into the agreement.

The sales and use tax simplification agreement will be a compact-like accord between

states that inures benefits to only member states.

Third-party certified service providers are authorized as agents of sellers for the purposes of collecting and remitting sales and use taxes under the simplification agreement. These providers will be liable for the collection and remittance of taxes under the agreement.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill lets Washington be part of the negotiations on the final form of the Sales Tax Simplification Agreement. The agreement could be very important in terms of simplifying the administration of sales and use taxes. National coffee chains, for example, have to worry not only about different rates in different jurisdictions, but also about how their products might be defined differently from state to state. The idea behind the Streamlined Sales Tax Project is that there would be common definitions, uniform sourcing rules, provisions that would relieve sellers of administrative burdens, and other simplification measures.

Sales and use taxes have become relics of the depression era. These worked fine when sales taxes applied to tangible goods that were produced locally. Now goods are produced all over the world and intellectual property is easily created anywhere. Sales and use taxes need to be updated to keep up with the times.

This is a model act that was developed by the National Conference of State Legislatures. Basically, adoption of this model act provides no substantive change in state tax law. It simply gives the state authority through the Department of Revenue to continue discussions and be a voting member on the agreement document. Any ultimate changes to state law and participation in the simplification project would have to be authorized and approved by the Legislature.

It is important to the e-commerce industry that Washington State be at the table as discussions continue. We have agreed with the department on their approach to stakeholder involvement.

Testimony Against: None.

Testified: Terry Byington, ACA; and Tremaine Smith, Department of Revenue.