

Streamlining State and Local Sales Taxes

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Introduction and Background:

- 45 states plus District of Columbia impose sales and use taxes
- Over 7,000 local jurisdictions impose sales and use taxes...administered by the state except in AL, CO and LA
- Retailers required to collect and remit sales tax to states where retailer has physical presence
- Use tax is owed by consumer when retailer does not collect the sales tax

Why doesn't seller always collect sales tax?

- For decades, states have sought to require out-of-state retailers to collect their tax
- 1992 Supreme Court decision in Quill Corp. v. North Dakota held: requiring collection of tax by out-of-state retailers **with no physical presence** in a state would be burden on interstate commerce and would therefore violate Commerce Clause of U.S. Constitution

Remote sales: What is at stake?

- Compliance with sales tax laws by multi-state corporations is too complex
- Local merchants suffer from lack of level playing field
- Significant losses of revenue expected due to growth in electronic commerce and inability of states to administer use tax with consumers

Remote sales: What is at stake?

- "State and Local Sales Tax Revenue Losses from E-Commerce," July 2004 update to report by Dr. Bill Fox at Univ. of Tennessee: State and local governments lost between **\$15.5 billion and \$16.1 billion** in 2003 as states are unable collect sales taxes from online sales.
- Trend increases: By 2008 revenue projected loss for state and local governments range between \$21.5 billion and \$33.7 billion, with the greatest losses occurring in states that rely most heavily on the sales tax as a revenue source.

History of Streamlined Sales Tax Effort

- 1999: National Governors' Association and National Conference of State Legislatures requested tax administrators to assist in addressing sales tax system issues:
 - ◆ Make system less complex
 - ◆ Address unlevel playing field for merchants
 - ◆ Address loss of revenue from states unable to collect taxes already imposed

Who's Involved:

- 44 States, DC and Puerto Rico
 - Legislative Branch
 - Executive Branch
- Local Governments
- Tax Practitioners
- Business community

What makes the system complex? Ask the people trying to comply:

- One level of tax administration per state ...no locally administered sales taxes
- Have one rule that establishes who has the right to tax a transaction
- Do not have so many different tax rates within each state and locality
- Do not have different state and local tax bases
- Work on common definitions of the same term
- Do not make the retailer be the policeman to determine if an exempt sale is valid

Goals of the Streamlined Effort:

- Create a simpler system for administering the various state and local sales taxes
- Where something could not be made more simple, make it uniform
- Balance the interests of a state's sovereignty with the interests of simplicity and uniformity
- Leverage the use of technology to ease tax collection

Results: Streamlined Sales and Use Tax Agreement (SSUTA)

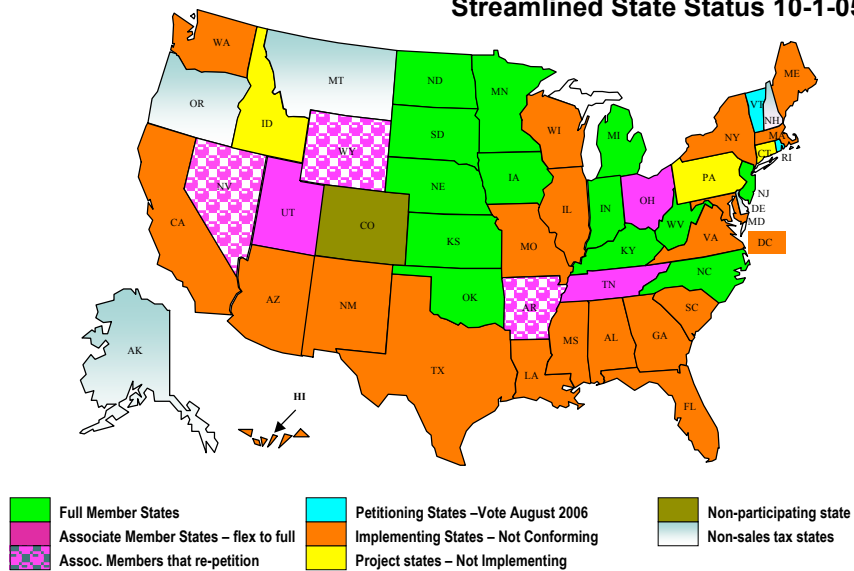
- SSUTA approved November 2002 by the states, and amended since
- Provisions are based on simplification, uniformity and technology principles
 - ◆ Simplification (e.g., state-level administration of tax)
 - ◆ Uniformity (e.g., uniform definition of "lease," lease sourcing rule)
 - ◆ Technology (e.g., certification of tax calculation software)
 - ◆ Balancing interests of state sovereignty

Results: Streamlined Sales and Use Tax Agreement (SSUTA)

➤ SSUTA effective October 1, 2005

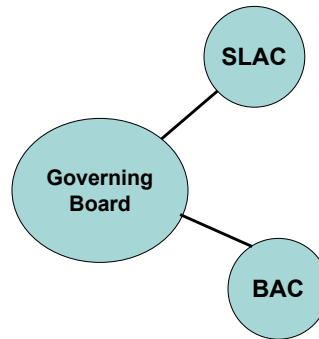
- ◆ 13 full member states
 - Full member status:
 - ✓ Full member state has made all changes to statutes and rules to comply with the provisions of the SSUTA
- ◆ 6 associate member states
 - Associate member status:
 - ✓ Changes to state's statutes, rules, regulations or other authorities necessary for compliance take effect on or before January 1, 2008 or
 - ✓ state has achieved substantial compliance with the terms of the Agreement taken as a whole, but not necessarily each provision as required by Section 805, and there is a reasonable expectation that the state will achieve compliance by January 1, 2008
 - No state may be an Associate Member after December 31, 2007

Streamlined State Status 10-1-05

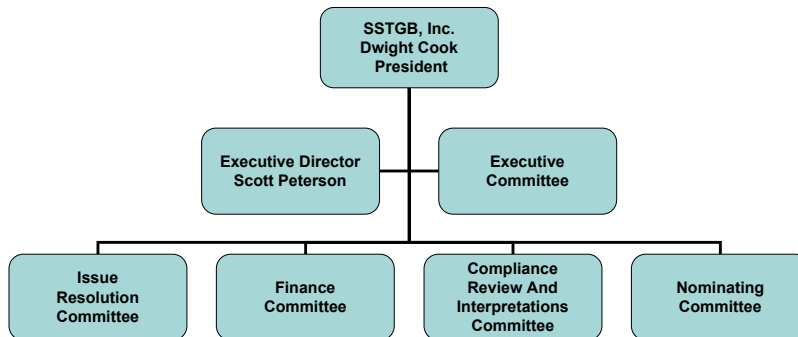


Governance of SSUTA

- All member states have seat on the Governing Board
- Governing Board formed non-profit entity: Streamlined Sales Tax Governing Board, Inc.
- Governing Board advised by:
 - ◆ **State and Local Advisory Council**
 - ◆ **Business Advisory Council**



Governance of SSUTA



Governing Board

- Interpretations of and Amendments to SSUTA
 - ◆ ¾ vote requirement
- Certifies tax technology systems and service providers
- Reviews state compliance with SSUTA
- Implements of Administrative mechanisms
 - ◆ Vendor compensation
 - ◆ Multi-state audit procedures
- Handles dispute resolution

State and Local Advisory Council

- Provides means by which states and local governments not on the Governing Board have input into the process
- Ex officio membership on Governing Board:
 - ◆ Chair – Diane Hardt (WI)
 - ◆ Vice Chair – Marshall Stranburg (FL)
- Develops new definitions and analyzes proposed amendments
- Develops rules and advises on requests for interpretations
- Works with Business Advisory Council (“BAC”)

Business Advisory Council

- Voice of business community members
- Provides input to Governing Board and State and Local Advisory Committee related to administration, interpretation, compliance with and amendments to the agreement
- Members include businesses, associations, and practitioners
- Two ex officio seats on Governing Board
 - ◆ Stephen Kranz, COST
 - ◆ Richard Prem, Amazon.com

SSUTA: Key Features

- State level administration of local sales and use taxes
- Rate simplification
 - ◆ Allows one general state rate per state
 - ◆ Allows second rate on food and drugs, electricity delivered by the seller; rate could be zero
 - ◆ Allows single local rate per jurisdiction
- No caps and thresholds

SSUTA: Key Features

- Common state and local tax bases within a state
- Common tax base for local jurisdictions
- Uniform sourcing rule for goods and services
 - ◆ Destination based
- Uniform sourcing rule for:
 - ◆ Telecommunications
 - ◆ Lease or rental of property
 - ◆ Direct mail

SSUTA: Key Features

Uniform Definitions

- | | |
|------------------------------|--------------------------------|
| ➤ Food and food ingredients | ➤ Drugs |
| ➤ Prepared food | ➤ Durable Medical Equipment |
| ➤ Candy | ➤ Computer Software |
| ➤ Soft drinks | ➤ Prewritten Computer Software |
| ➤ Dietary supplement | ➤ Delivered Electronically |
| ➤ Clothing | ➤ Load and Leave |
| ➤ Lease or rental | ➤ Sales Price |
| ➤ Tangible personal property | |
| ➤ Bundled Transaction | |

SSUTA: Key Features

- Uniform treatment of bank holidays
- Uniform rules for sales tax holidays
 - ◆ limited to defined products and within administrative guidelines
- Uniform drop shipment rule
- Uniform rule for bad debt credits

SSUTA: Key Features

- Simplified electronic tax return
- Uniform exemption certificate and simplified exemption processing
- Multiple Points of Use Certificate
 - ◆ For goods and services that can be used concurrently in more than one jurisdiction
- Uniform rounding rule

SSUTA: Key Features

- Central Registration System:
 - ◆ www.sstregister.org/sellers
 - ◆ Must register for all full member states
 - ◆ May register for associate member states
- When new states are added as full members, sellers receive notice from the Governing Board and automatically become registered to collect taxes in those states
- Must register on Central Registration System to be eligible for AMNESTY

SST Agreement Key Features: Amnesty Provisions

- Sellers who voluntarily register to collect tax receive amnesty against liability for prior sales regardless of nexus
- Not available to any seller that has received an audit notice from a state
- Available from date state joins Governing Board until one year after it has been a full Member State
- Unavailable to sellers who are registered with state during preceding year or who are being audited
- Must remain registered for 36 months
- Sales tax liability only

Amnesty

- Available from date state joins Governing Board until one year after it has been a full Member State
- Must register for all full Member States
- Unavailable to sellers who are registered with state during preceding year or who are being audited or have received notice of intent to audit
- Must remain registered for 36 months
- Applies to sales tax liability only

Technology Implementation

States must provide:

- Database matching tax rates to local jurisdictions
- Database of boundary information for local jurisdictions
- Taxability matrix that identifies whether defined products are exempt or taxable under the state's laws

Technology Implementation

- Model 1 Sellers use services of a Certified Service Provider (CSP)
- Model 2 Sellers use a Certified Automated System (CAS)
- Model 3 sellers have an in-house (Proprietary) System

SSTP Technology Model One: The “Certified Service Provider” (CSP)

- CSP is a third party that provides “cradle to grave” tax service that includes liability determination, return filing and tax remittance
- CSP software applications must apply certification standards and must receive approval by the Governing Board
 - ◆ Calculation accuracy standards
 - ◆ Technology standards (e.g., ISO 17799, SAS70)
- Three CSPs have contract with Governing Board:
 - ◆ Avalara
 - ◆ Exactor
 - ◆ Taxware
- Businesses who volunteer to collect tax in state may use CSP's at no cost – states pay CSP for services to volunteer sellers

CSP - Responsibilities & Liabilities

- Integration of software with seller's order processing system
- Applied data & tax calculations
- Tax liability & statistical reporting
- Funds transfers
- System performance & security

SSTP Technology Model Two: The "Certified Automated System" (CAS)

- CAS is a third party that provides liability determination tax administration service
- CAS software applications must apply certification standards and must receive approval by the Governing Board
 - ◆ Calculation accuracy standards
 - ◆ Technology standards (e.g., ISO 17799, SAS70)
- One CAS has contract with Governing Board:
 - ◆ Taxware
- Businesses who use CAS pay the CAS for services

CAS - Responsibilities & Liabilities

- Integration of software with seller's order processing system
- Applied data & tax calculations
- Tax liability & statistical reporting
- System performance & security

Central Registration System

- The Streamlined Sales Tax Registration System (SSTR) is a web-based system that enables taxpayers to volunteer to register to participate in Streamlined Sales Tax.
- Taxpayers can use SSTR for both new voluntary registrations and updates to previously submitted registration information.
- This system is a pass-through system in that the states will incorporate the data into their state system.

Central Registration System

- Updates to taxpayer information can be submitted by taxpayers using SSTR.
- SSTR maintains all taxpayer information for specific business processes.
- The SSTR is web based and a relational database is used as a back-end for the storage and retrieval of the data thus providing dynamic information anytime, anywhere.
- An XML file schema is used to exchange data between the SSTR system and the states.

Streamlined Sales Tax

Questions?