

PTU

Streamlined Sales Tax Project

First Report September 20, 2000

Issues in this Report:

Tax Rates

Exemption Administration

Bad Debts

Rounding

Uniform Sourcing Rule

**Technology Models Available to Vendors Participating
In the System**

Structure for the Streamlined Sales Tax System

**(The issues listed above will be the subject of the first public hearing of
the Project on September 29, 2000 in Chicago, Illinois.)**

EXECUTIVE SUMMARY

The Streamlined Sales Tax Project is an effort created by state governments, with input from local governments and the private sector, to simplify and modernize sales and use tax administration. The project incorporates uniform definitions within tax bases, simplified audit and administrative procedures, and emerging technologies to substantially reduce the burdens of tax collection. The Streamlined Sales Tax System is focused on improving sales and use tax administration systems for both Main Street and remote sellers for all types of commerce.

Thirty-nine states are currently involved in the project. Twenty-seven states are voting participants in the project because their legislatures have enacted enabling legislation or their governors have issued executive orders or a similar authorization. Twelve states are non-voting participants in the work of the project because they do not have the formal commitment of the state executive or legislative branches.

The project has addressed its issues through a steering committee and four work groups: Tax Base and Exemption Administration; Tax Rates, Registration, Returns and Remittances; Technology, Audit, Privacy and Paying for the System; and Sourcing and Other Simplifications. Work groups have invited businesses to participate in their meetings, review their work products, and provide feedback. The steering committee has actively engaged national retailers and retail organizations, state tax organizations, and other interested businesses in discussions and project strategy.

The key features of the Streamlined Sales Tax System include:

- Uniform definitions within tax bases. Legislatures still choose what is taxable and exempt but will use the common definitions.
- Simplified exemption administration for use- and entity-based exemptions. Sellers are relieved of the "good faith" requirements that exist in current law and will not be liable for uncollected tax. Purchasers will be responsible for incorrect exemptions claimed.
- Rate simplification. States will be responsible for the administration of all state and local taxes and the distribution of the local taxes to the local governments. State and local governments will use common tax bases and accept responsibility for notice of rate and boundary changes. States will be encouraged to simplify their own state and local tax rates.
- Uniform sourcing rules. The states will have uniform sourcing rules for all property and services.

- **Uniform audit procedures.** Sellers who participate in one of the certified Streamlined Sales Tax System technology models will either not be audited or will have a limited scope audit, depending on the technology model used.
- **Paying for the system.** To reduce the financial burdens on sellers, states will assume the responsibility for implementing the Streamlined Sales Tax System.

The Streamlined Sales Tax System will provide sellers the opportunity to use one of three technology models. A seller may select Model 1 where a Certified Service Provider performs all of the seller's sales tax functions. A seller may select Model 2, a Certified Automated System, to perform only the tax calculation function. A larger seller with nationwide sales that has developed its own proprietary sales tax software may select Model 3 and have its own system certified by the states. However, some sellers may choose to continue to use their current systems and still enjoy the benefits of simplification.

Phase 1 of the Streamlined Sales Tax Project will produce model legislation by December 2000 to be considered in year 2001 legislative sessions. The draft model legislation will be drafted by the project and reviewed by a group of legislative attorneys not working on the project before finalization by the participating states.

Phase 2 of the Streamlined Sales Tax Project will be completed by the end of year 2001. This phase will include additional uniform tax base definitions, a uniform tax return, and any model legislation resulting from conducting the technology pilot.

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STREAMLINED SALES TAX PROJECT SUMMARY DRAFT PROPOSALS

The following list contains draft proposals on which the Streamlined Sales Tax Project is seeking public comment. Additional information on the proposals is contained in the work group reports located in the back of this document.

RESTRICTIONS ON STATE AND LOCAL GOVERNMENTS

- Local Rate Changes Effective Only on First Day of Calendar Quarter with 60 Days Notice
- Local Governments Required to Report Rate and Boundary Changes to State
- The Application of Boundary Changes for Sales and Use Tax Purposes would be Limited to First Day of Calendar Quarter with 60 Days Notice
- States Cannot Hold Retailers Liable if State Provided Information is Incorrect (Rates, Boundaries, Zip +4 Assignment)
- States Would be Prohibited from Placing Caps on the Tax Amount that could be Charged on Individual Products or Transactions.

UNIFORMITY/SIMPLIFICATION MEASURES

- States Develop Uniform Coding System for All Taxing Jurisdictions (based on FIPS)
- States Adopt Uniform Method for Applying Effective Date of Rate Changes
- All States will Allow for the Mathematical Calculation of Rates and will Adopt Uniform Rounding Rules

- States Having Different Rates on Certain Products Must Utilize Uniform Tax Base Definitions and Follow Requirements Regarding Rate Changes

SHIFT OF ADMINISTRATIVE BURDEN

- States Provide Databases for Use by Retailers (Eventually available at Central Location)
 - All State and Local Rates
 - Assignment of All Zip +4 Areas to Taxing Jurisdictions
 - Boundary Changes

USE OF TECHNOLOGY

- State Certification of Rate Assignment Systems Used by Retailers and Service Providers
 - Based on Zip +4 with Default to Lowest Rate
 - Default to 5-Digit Zip if Unable to Determine Zip +4
 - As Technology and Information Improves, Move to Address Based System

DEVELOPMENT OF A SIMPLE, ELECTRONIC REGISTRATION PROCESS FOR THOSE VOLUNTEERING FOR STREAMLINED SYSTEM

- Will Register Retailer in Each Project State Where Retailer Has No Physical Presence
- No Registration or Renewal Fees
- Will Not Require Signatures
- Will Allow Registration by Agent

USE OF TECHNOLOGY TO ASSIST WITH REGISTRATION FOR STATES WHERE A BUSINESS HAS A PRESENCE

- Online Registration System
- Allow for the Updating of Information Electronically

**ESTABLISH A SIMPLE ELECTRONIC FILING SYSTEM FOR RETAILERS
USING CERTIFIED SYSTEM TO FILE ONE RETURN PER STATE**

- Available to Retailers Using a Certified Provider for Return Preparation, Rate Calculation and Information Maintenance
- Available to Retailers with In-house Systems that are Certified
- Returns Required No Earlier than 20th of the Following Month
- Any Additional Payments or Prepayments Will not Require the Filing of Return and Must be Based on Calculated Amount Rather than Current Months Collections
- De minimis Threshold will be Established Regarding Additional Payments or Prepayments
- Electronic Submission that Accompanies Remittance will include Only the Information Required for the Proper Allocation of the Funds
- Encourage States to Allow Filing of Consolidated Returns for Reporting Purposes
- Data Fields Required
 - Taxpayer Identification Number
 - Period
 - State Sales Tax Amount
 - State Use Tax Amount
 - Local Sales Tax Amount - By Jurisdiction
 - Local Use Tax Amount - By Jurisdiction
 - Gross Receipts
 - Exemptions/Deductions
- Additional Reports may be Required
 - States will Request no more than Every Six Months
 - States will Stagger when Reports are Requested

**RELAXED RETURN (ONE RETURN PER STATE) REQUIREMENTS FOR
RETAILERS THAT CHOOSE NOT TO USE CERTIFIED SYSTEM BUT HAVE
NO PRESENCE IN A STATE**

- States Send Returns Upon Registration

- Return Must Be Filed Annually or in Month Following the Accumulation of \$1,000 in Tax Funds for any State
- Can be Filed Electronically

DEVELOPMENT OF A MORE UNIFORM RETURN THAT WOULD BE AVAILABLE TO ALL RETAILERS

- One Return Per State
- Modeled After the Motor Fuel Return - Uniform in Most Respects but Would allow States to Require Additional Information Necessary to Accommodate their Tax Structure
- Can be Filed Electronically

REMITTANCES SHALL FOLLOW EXISTING STATE LAWS SUBJECT TO THE FOLLOWING LIMITATIONS

- Remittances that Accompany Returns May Not Be Required More Frequently than Monthly and Not Before the 20th of the Following Month
- Prepayments Must be Based on a Known Level of Payment from Prior Period

DATA ACCOMPANYING EFT REMITTANCES

- Shall be Formatted to NACHA Approved TXP Standard Using Uniform Tax Type and Payment Type Codes
- Participating States Will Promote Uniformity in the Application of TXP Standard

STATES REQUIRING ELECTRONIC PAYMENTS WILL ALLOW OPTION OF BOTH ACH DEBIT AND ACH CREDIT

STATES REQUIRING ELECTRONIC PAYMENTS WILL PROVIDE METHOD FOR MAKING "SAME DAY" PAYMENT IF EFT PAYMENT FAILS

UNIFORM TREATMENT OF BANKING HOLIDAYS

SIMPLIFIED EXEMPTION ADMINISTRATION SYSTEM

- Purchasers should be required to provide identifying information and the reason for claiming a tax exemption at the time of purchase.
- Purchasers should not be required to provide their signature to claim an exemption from tax unless a paper certificate is used.
- The form used to claim an exemption electronically should have a standard format but can include customized information needed by taxing authorities.
- The good faith requirement for sellers should be relaxed. A seller will be held harmless for the tax if they obtain all information required for a purchaser to claim exemption for tax.
- Purchasers claiming exemption from tax would need to provide the same information whether the sale was made over the Internet, by phone or in person.

UNIFORM BAD DEBT PROVISION

UNIFORM ROUNDING RULE

UNIFORM SOURCING PROVISIONS

DEVELOP NEW TECHNOLOGY MODELS FOR TAX ADMINISTRATION

- Certified service provider
Handles sales tax administration functions for retailers.
- Certified automated system (CAS)
Seller selects CAS to perform part of sales tax functions.
- Certification of proprietary system
Allows existing retailer to have system certified.
- Allow continuation of existing systems
 - Taxpayer has choice
 - Benefits from uniformity features

ESTABLISH STRUCTURE FOR STREAMLINED SALES TAX SYSTEM

Work Group Report Tax Rates, Registration, Returns and Remittances

Executive Summary

RATES

The most significant issues faced by retailers in complying with state and local sales and use tax levies can be summarized as follows: (1) knowing what rates are in effect at any given time and location; (2) being able to easily apply the rates at the time of a transaction in a variety of retail settings (over-the-counter sales, internet sales, catalog sales, etc.); and (3) liability for tax, penalties and interest when the retailer is unable to accurately collect the tax because of difficulty in assigning the correct rate.

Four ways of trying to resolve these difficulties were identified:

- 1) Placing restrictions on state and local governments' ability to have sales and use tax rates. This may include restrictions on the number of rates or jurisdictions that are allowed, as well as restrictions on what liabilities can be placed on retailers;
- 2) Requiring states to adopt more uniform and simple ways of administering sales and use tax rates. Having all states provide information in a uniform and simple manner makes it much easier for retailers that operate in more than one state;

3) Having the states accept more of the administrative burden created by varying rates, thereby relieving retailers of this responsibility; and,

4) Utilizing technology to reduce the burden retailers face in collecting sales and use taxes.

Restrictions on State and Local Governments

Restrictions would be placed on the timing of rate changes to allow retailers and service providers time to update their systems. Local rate changes could be effective only on the first day of each calendar quarter with 60 days advance notice.

Retailers who utilize the proposed system would be held harmless if the rate information provided to the retailer is inaccurate or if additional liability exists because a default rate is used. It was felt that the retailers should not be held responsible if state provided information is not accurate.

To address concerns over the changing of local boundaries restrictions on the timing of those changes are recommended. As to their effectiveness for sales and use tax purposes, local boundary changes would be limited to first day of each calendar quarter with 60 days advance notice. Additionally, local jurisdictions would be required to make boundary change information available to the states. Retailers utilizing this boundary information would again be held harmless for any tax rate errors created by relying on the information.

Uniformity/Simplification Measures

The development of a uniform coding system for all taxing jurisdictions based on the Federal Information Processing Standards (FIPS) codes is being proposed. This coding system will have to be expanded to accommodate special taxing jurisdictions. These codes will be used to identify taxing jurisdictions for calculation and allocation purposes.

It is recommended that all states participating in the project allow for the mathematical calculation of rates and adopt uniform rounding rules. Any state which has different rates on specific products would be required to utilize the uniform tax base definitions established and follow the requirements for rate changes stated earlier. States would also be required to adopt a uniform method of applying the effective date of rate changes.

Shift of Administrative Burden

The states would provide a central database of the rates for all taxing jurisdictions. Initially, each state would be required to provide the information in a common format only but the ultimate goal of the project would be to develop a central data base of all rates.

The states will be required to provide a database which assigns each Zip+4 to the proper tax jurisdiction for remote transactions. For any transactions

which produce exceptions to the general rule the following defaults apply: If a Zip+4 designation produces more than one taxing jurisdiction the system will default to the lowest rate. Should a Zip+4 designation not be available the system will default to the lowest rate in the 5 digit zip code area.

Use of Technology

Retailers and service providers are currently using systems to assign tax rates and jurisdictions. With the changes outlined above, these systems will be able to accurately calculate the sales and use tax due without placing any undue burden on retailers. The states will certify that these private systems are accurately performing this function. As technology improves and more accurate information becomes available, a greater degree of accuracy will be required.

REGISTRATION

The most significant registration issues identified in discussions with retailers include the requirement in some states to register with local jurisdictions in addition to registering at the state level, the difficulties associated with each state having a different registration form, and the inability of the states to utilize technology in the registration process.

A centralized electronic registration process for retailers volunteering for the streamlined system will be developed. The system will register the retailer in each project state where the retailer has no physical presence. The entire

application will be filed electronically with no registration fees required. Signatures will not be required and the retailer will be allowed to register through an agent.

RETURNS

One of the main concerns raised by industry was the large volume of different returns required to be filed by the various states. In some cases 400 returns were filed during one filing period. It is recommended that a simple electronic filing system for retailers using certified systems be developed. In order to allow adequate time to prepare the returns, it is recommended that return deadlines be no earlier than the 20th day of the month following collection. Any additional payments or prepayments will not require the filing of a tax return and must be based on a calculated amount rather than current months collections. No additional payments will be required of retailers with less than \$1,000 in tax due.

To simplify the reporting requirements the electronic submission that accompanies the remittance will include only the information required to properly distribute the funds to the proper tax jurisdiction. The data fields which will be reported electronically are; Taxpayer Identification Number, Filing Period, Gross Receipts, Exemptions/Deductions, State Sales Tax Amount, State Use Tax Amount, Local Sales Tax Amount - by Jurisdiction, and Local Use Tax Amount - by Jurisdiction. States that require additional detailed information will only be

allowed to request this information every 6 months. The states must stagger these requests so that the retailers are not required to file them all at once.

For retailers that choose not to use a certified system but have no presence in a state the states would require an annual return. Additional tax returns and remittances would be required in any month when the retailer accumulates \$1,000 in tax funds for any state.

It is recommended that a more uniform return that could be made available to all retailers and would allow for the filing of a single return for each state be developed. While the return would allow states to require additional information it would be uniform in most respects.

REMITTANCES

The most significant remittance issues raised by retailers include the number of remittances required each month, not enough time to accurately calculate payment or prepayment amounts, and concerns over the methods by which payments can be sent.

It is recommended that remittances that accompany returns may not be required more frequently than monthly and not before the 20th of the following month. Any required prepayments of tax must be based on a known level of payment from a prior period such as the same month of the previous year.

The data accompanying EFT remittances should follow a standard format. It should conform to the NACHA approved TXP standard using a uniform tax type and payment type codes. The participating states will promote uniformity in the application of the TXP standard.

The system must allow flexibility in payment options by allowing for both an ACH debit and ACH credit option for anyone paying electronically. States that require electronic payments must provide a method for making same day payment should the EFT option fail. The states will treat banking holidays uniformly.

Work Group Report

Tax Rates, Registration, Returns And Remittances

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Introduction

Since the early 1970s, state and local governments have dramatically increased their reliance on sales and use taxes in order to maintain or increase the level of services they provide to their citizens. As can be seen in Appendix 1, 46 states and the District of Columbia levy sales and use taxes at the state level, the local level or both. In 36 of the states, local jurisdictions are permitted to enact their own taxes. However, only 30 states authorize local use taxes. Tax rates among the local jurisdictions vary widely. In most of the states that allow local taxes, the state administers the local taxes (29) and the locals rely on periodic allocations of revenue. However, in 7 states the local jurisdictions administer some if not all of their own taxes. Some local jurisdictions have different tax bases and require separate filing of tax returns, while others allow their respective taxes to be reported on the states' tax returns. These variables create a number of challenges for the establishment of the rate, registration, return and remittance aspects of a "Streamlined Sales Tax System." This report will identify the key issues related to these topics, present options as to how the system could address them, and make recommendations as to the options that best serve

taxpayers', states' and local jurisdictions' interests in simplification, compliance and federalism.

The task of simplifying the rate, registration, return and remittance practices of the individual states will be very difficult. For the most part, state tax laws are the way they are for specific reasons. In some states, constitutional provisions have dictated how sales and use taxes are levied. In all states, the evolution of the fiscal relationship between state and local government has been impacted by each state's unique political climate and culture.

Any proposal for rate, registration, return and remittance simplification that can ultimately be adopted in only a handful of states, accomplishes very little. The difficulties retailers have in properly calculating and remitting use taxes are not with the 18 states where a single use tax rate is used, but with the 29 states which have multiple rates. The states that have local administration of their sales and use taxes or require separate returns to be filed for local jurisdictions present the greatest challenges to simplification. If these most complex situations are not addressed, or a system is proposed that these states are unable to participate in, this opportunity for providing meaningful simplification could be lost.

In trying to develop a system to simplify processes, it is recognized that different retailers may choose to participate at different levels. While some may choose to contract with a third party for all of their registration, calculation, and remittance functions, others may choose to keep some or all of these functions in house.

Also, the needs of a truly remote seller may be different than those of a retailer with locations in all states or a company that pays use tax on its purchases rather

than collecting it from customers. It may be necessary to differentiate between remitters that collect both sales and use tax from those that only collect use tax. It is intended that changes proposed for registration, returns and remittances be beneficial to all types of remitters.

RATES

Background

The number of jurisdictions with the ability to levy sales and use taxes, the frequency and timing of rate changes, difficulties in knowing district boundaries and keeping up with boundary changes, and problems with accurately assigning the appropriate jurisdictions to a specific location make the administration of tax rates difficult for all involved. There are approximately 7,500 jurisdictions with existing sales tax levies and many more that have the authority to adopt such levies. There are 12 states with a single sales and use tax rate. An additional 6 states have a single use tax rate and multiple sales tax rates. This leaves 29 states with multiple use tax rates (See Table 1).

**TABLE 1
STATE SALES AND USE TAX RATES AND ADMINISTRATION¹**

<u>Characteristics</u>	<u>No. of States</u>	<u>Total</u>	<u>States</u>
No local option sales and use taxes (single sales/use tax rate)	10	10	Connecticut, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Jersey, Rhode Island, West Virginia
Allow local option sales and use taxes (single rate).	2	12	District of Columbia, Hawaii

¹ 4 States have no state or local sales or use taxes: Delaware, Montana, New Hampshire, Oregon

<p>Allow local option sales tax (multiple rates).</p> <p>No local option use tax (single rate).</p>	6	18	Idaho, Illinois, Iowa, Kansas, New Mexico, Vermont
<p>Allow local option sales and use taxes (multiple rates).</p>	29	47	Alabama, Alaska ² , Arizona, Arkansas, California, Colorado, Florida, Georgia, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia ³ , Washington, Wisconsin, Wyoming

In addition to rates that vary by jurisdiction, some states have different rates for different products or use specific criteria for the application of rates.

Identification of Issues

The following is a listing of the rate issues identified in discussions with retailers.

Local Rate Issues

- Difficulty in Obtaining Correct Tax Rates for Local Jurisdictions
- Keeping up with Tax Rate Changes
- Liability for Tax, Penalties and Interest, for Incorrect Application of Rates
- Potential Liability from Taxpayer Suits for Overcharges
- Time Needed to Incorporate Rate Changes into Billing and Rate Calculation Systems
- No Uniform Coding System for Taxing Jurisdictions
- Difficulty in Assigning Appropriate Rate at the Time of a Transaction

Local Boundary Issues

- Knowing Tax Jurisdiction Boundaries

² No state sales or use tax

³ Lower state rate on food

- Keeping up with Boundary Changes
- Incorporating Boundary Changes into Rate Calculation/Billing Systems

Other Issues

- Different Rates Charged in Some States for Different Products
- Requirements in Some States Regarding the Use of Rate Brackets
- Tax Caps that are Used in Some States

Options for Addressing Issues

There are four primary alternatives in trying to simplify local option rates.

These are:

- 1) Place restrictions on the latitude state and local governments have in using local option rates.
- 2) Have state and local governments adopt uniformity or simplification measures that make local option rates easier for retailers to comply with.
- 3) Shift some of the administrative burden associated with local option rates from the retailers to the states.
- 4) Use technology to reduce the administrative difficulties associated with local option rates.

The following is a discussion of some of the issues involved in placing restrictions on state and local governments.

One Rate Per State - In evaluating the option of allowing only a single sales and use tax rate per state, the following conclusions were reached:

- The current rate system creates difficulties for retailers and the Project is committed to identifying and understanding specific concerns and trying to address them.

- Local option sales and use taxes are a very important component of many states' fiscal systems and it would be very difficult to fundamentally change this structure.
- Local governments provide many critical services and in many states the trend is toward increased reliance on sales and use taxes to fund these services.
- While this proposal sounds like a "simple" solution to the rate issue, for many states it creates a multitude of political, administrative and revenue issues that will be extremely difficult to resolve (such as what rate to set, how to allocate funds to local jurisdictions, and what to do about local taxes that are dedicated to the repayment of bonds).

Given these conclusions, effort was focused on trying to solve the problems created by local option rates rather than expending effort on resolving the problems created by a one rate per state solution. If the other alternatives considered cannot significantly address the problems faced by retailers, then the one rate per state option will need to receive further consideration.

One Rate Per State for Certain Transactions - An alternative to the one rate per state proposal discussed above is to allow local options taxes for most sales, while adopting a single rate for certain transactions. These would be sales for which local rates create additional problems (either because of administrative difficulties in determining whether the tax is due, how much is due, and where it is to be sent, or because of legal difficulties in enforcing the collection of taxes that are due). Two options were identified for segregating sales which would be subject to a single rate per state. The first option would be to apply a single use tax rate for vendors that did not have nexus in any given state. The second option would be to apply a single use tax rate to "remote" sales, while still

allowing local option sales tax rates for "in state" sales. There are six states that have this type of tax structure (allow local option sales taxes but not use taxes).

The following is a discussion of the issues associated with adopting a limited one rate per state proposal. Where the issues differ between the nexus/non-nexus and remote/in-state proposals, they will be discussed separately.

Legal Issues

Restriction on Rates - There are no federal constitutional restraints on a state's adopting a single use tax rate for certain sales that are higher than the lowest sales tax rate in the state. However, the Supreme Court has ruled that it is unconstitutional to apply a single use tax rate in any locality that imposes a sales tax at a lower rate than the use tax. (*Associated Industries of Missouri v. Lohman*, 511 U.S. 641 (1994)) Therefore, the states must decide whether to set the single use tax rate at the lowest sales tax rate in the state and thereby achieve a true single rate throughout the state. Alternatively, a state might elect to set the single use tax rate at a rate higher than the lowest sales tax rate, in order to encourage localities with higher sales tax rates to participate in the system. Of course, under the latter option, any locality whose sales tax rate is lower than the single use tax rate would be barred from imposing the local use tax.

Equal Protection Issues - Preliminary research reveals that the federal Equal Protection Clause should not be a barrier to implementing the states' local use tax rate proposal. With respect to making classifications among taxpayers,

the United States Supreme Court has given the states wide latitude under the Fourteenth Amendment's Equal Protection Clause. (See *Lenhausen v. Lake Shore Auto Parts, Co.*, 410 U.S. 356 (1973); *Ohio Oil Co. v. Conway*, 281 U.S. 146 (1929)). Establishing a single use tax rate for remote sellers, where remote sellers would be treated more favorably than in-state sellers, should pass federal equal protection scrutiny. It appears that the majority of states would interpret their state constitutional equal protection or uniformity clauses in a similarly permissive manner. However, several state court interpretations of state constitutional equal protection clauses are less lenient than the Supreme Court's interpretation of the federal counterpart. A state with a strict uniformity or equality constitutional provision could face a significant barrier to the adoption of a differing local rate for remote sellers versus in-state sellers. Each state would need to carefully review its state constitutional equal protection standards.

Taxes Used to Support Bonds - With respect to the potential impact of the states' and localities' loss of sales and use tax revenue, it is possible that the credit ratings of outstanding bonds could be jeopardized should restrictions be placed on governments' ability to collect sales and use taxes. With such restrictions in place, some states and local governments may be required to increase other taxes in order to adequately back their bonds, although it is unlikely that state or local governments would default on their bonds, smaller local governments could be forced to defer some interest payments. Restrictions on state and local governments to collect sales taxes on internet commerce would not affect new bond issues because they would back new bonds with other

revenue sources. Other issues to consider include whether loss of sales/use tax revenue may result in a default or breach if a jurisdiction's revenues decrease by a certain percentage; how would states and localities make up revenue losses and what impact would loss of revenue have on bond holders who may pledge the bonds for obtaining loans, for example.

Revenue Issues

In many states, the adoption of a single use tax rate for certain sales will impact revenues for local taxing jurisdictions and possibly the state as well. Potential revenue implications from such a proposal will complicate the ability of some states to participate in the system. As discussed above, there are restrictions on the level at which a statewide rate could be set.

Potential Gains - Under either the nexus/non-nexus or remote/instate options there is a potential revenue gain. Vendors that don't currently collect sales and use taxes may voluntarily elect to collect. It will be very difficult to quantify the potential for such revenue gains.

Potential Losses - There are currently vendors that do not have nexus or have questionable nexus in certain states that choose to voluntarily collect sales and use taxes. If these vendors choose to use the statewide rate (under either option), there will be loss in revenue for those local option states with a statewide rate that is lower than the rate currently being used.

Administrative Costs - States will need to consider the administrative costs in establishing the system (both the internal costs necessary to change current practices and the costs of compensating retailers).

Administrative Issues

This section discusses the practical issues involved with adopting the one rate for certain transactions proposal. The nexus/non-nexus and remote/in-state options will be discussed separately.

Nexus/Non-Nexus Option - The nexus/non-nexus distinction, in the context of a voluntary system, creates administrative problems for the states. This distinction falsely assumes that there is general agreement, both among the states and between the states and remote sellers, as to which activities create nexus in most circumstances. In a voluntary system, remote sellers will participate if and only if the perceived benefits of doing so outweigh the perceived risks of an adverse nexus determination. Remote sellers will not participate if the cost of their participation includes the possibility of the very adverse nexus determination they seek to avoid. Additionally, in a voluntary system as contemplated, the need for nexus determination for sales and use tax purposes would not exist unless required as part of this rate proposal. Eliminating the need for nexus determination for sales and use tax purposes would be beneficial to both the states and remitters.

Remote/In-State - There appear to be two types of administrative issues that could arise in a system that provided for varying local option sales tax rates but a single local use tax rate, and the local use tax rate was lower than the local sales tax rate (or potentially zero). First, such a system could inhibit or complicate the adoption of direct pay programs. In a direct pay program, a taxpayer (usually a large taxpayer with a high volume of purchases) does not pay

tax to vendors when an item is purchased; instead, the taxpayer accrues the tax and pays it directly to the state. This approach is well suited to certain types of business and business processes and is increasingly being requested by some types of entities. One effect of direct pay, however, is to convert a sales tax liability to a use tax liability. If the use tax rate is lower than the sales tax rate, there could be a revenue impact on localities if the state becomes aggressive in promoting or allowing direct pay permits. Such a tax rate arrangement might also cause some entities to be interested in direct pay permits when they are otherwise not well suited for them.

Second, differentials between sales and use tax rates could create some complexities in audit situations. It will require not only a determination of whether the transaction was taxable, but also whether it was rightly a sales tax transaction or a use tax transaction. There may also be issues of interest rates, allocation of revenues, penalties, collection, etc. that would enter in, depending on the transaction. If the use tax and sales tax rate are the same, the attention is generally focused solely on whether the transaction in question was taxable or not.

Allocation Issues

Existing local sales and use tax structures are in place in many states to fulfill the particular fiscal needs of the local jurisdictions. If the states choose to enact a single rate use tax in lieu of existing local taxes, allocation of those taxes back to the local jurisdictions must be addressed. An allocation methodology would have to be provided for by individual states' statutes and the methodology must

consider the amount and share of revenues yielded by existing sales and use tax levies. Allocating to the local jurisdictions strictly on the bases of population may, in some cases, be appropriate. In other cases, however, such an allocation may be detrimental to some jurisdictions that have chosen to rely more heavily on sales tax in comparison with jurisdictions that have depended more on other revenue sources.

Not only must a distribution methodology address adequacy and simplicity, so must it provide prospective funding flexibility. Without this flexibility as local jurisdictions fiscal needs change, they may be handcuffed by old funding formulae, forced to compete for a bigger piece of the pie or have to turn to alternative funding mechanisms.

Equity Issues

A significant issue embedded into the debate on whether or not internet or mail order transactions should be subject to use taxes is that of equity. Should retailers who chose this method of selling their products be allowed to have a price advantage over retailers that are required to charge sales or use tax? While the one rate options discussed here would eliminate this advantage for participating retailers for sales into some states (those that don't allow local option use taxes) it would remain, although at a reduced level, in other states (those where the statewide rate would be lower than the rate charged in many jurisdictions).

The inequity that currently exists between traditional retailers and internet/mail order retailers is the result of the inability of states to collect taxes that are legally

due (under the Quill decision). In most instances, it is not an advantage that has been enacted into state statutes. It may be very difficult in some states to enact a system that creates this disparity between types of retailers.

State Specific Participation Issues

While an objective of this project is to develop a system that encourages as many vendors to voluntarily remit as possible, it is also important to have as many states participate as possible. Many states will have specific constitutional, policy or political difficulties in changing their state structures.

Uniformity/Simplification Measures, Shift of Administrative Burden, Use of Technology - States would be required to adopt certain simplification/uniformity provisions and agree to accept more of the administrative responsibilities so that the technology solutions that are currently in use or are under development could address the problems faced by retailers. The following is a discussion of the issues that states will need to address so that retailers and third-party software developers will be able to utilize technology to remedy the issues now making it difficult to collect and remit the correct tax amount.

Taxing Jurisdiction Boundaries

There are currently about 7,500 taxing jurisdictions that have sales or use tax levies. These include states, counties, cities and special taxing jurisdictions (such as transportation districts). For some districts the boundaries are well defined and do not change (states and counties). For others, the boundaries are often hard to identify and can change frequently and without much notice.

There have been several options identified to address the difficulty retailers have in identifying the appropriate taxing jurisdictions at the time of an individual transaction. These are discussed below.

Use of Zip Code Boundaries - There are two options in using zip code boundaries to aid in rate determination. The first is to use the zip code (either 5-digit or zip plus 4) as an identifier from which to assign a taxing jurisdiction. Since zip code boundaries and taxing jurisdiction boundaries are often not the same, it is not possible to match a zip code with all of the appropriate taxing jurisdictions for every address. While the zip plus 4 boundaries may be able to match a fairly large percentage of the transactions correctly, there could be legal, administrative and political issues with a system that incorrectly assigned customers into taxing jurisdictions where they didn't actually live. Some accommodation would need to be made to correct improperly assigned addresses. The second option would be to require taxing jurisdictions to conform their boundaries to zip code boundaries. This would be a very difficult task for many jurisdictions. Also, zip code boundaries (especially for the plus 4 extensions) are subject to change.

GIS Coding or Other Electronic Mapping - Advancements in mapping and Geographic Information Systems technology make it easier to accurately assign addresses to taxing jurisdictions. The state of Washington has developed an address look-up system tied to taxing jurisdictions. Other states and local units of governments are developing digital maps of boundaries or actually geo-

coding individual buildings to street addresses and latitude and longitude coordinates.

The wireless communications industry and state and local taxing jurisdictions have been working for over two years on addressing problems associated with sourcing calls from cellular phones. The product of this work is the Mobile Telecommunications Act. Under this act, calls would be sourced to the residence or business address of the customer. Two methods for linking this address to taxing jurisdictions are proposed.

The first option would be for states to provide vendors with a database matching addresses to taxing jurisdictions. Vendors using the database would be held harmless from any liability that is due to an error in the database. States could provide the database directly or through a designated database provider.

If the state did not provide the database, vendors would be allowed to use a 9-digit zip code system to assign the appropriate taxing jurisdiction. Use of such a system with "due diligence" in assigning the appropriate jurisdiction would also provide the vendor with the held harmless protection.

Boundary Changes - The first step for the states that have local taxing jurisdictions will be to make sure that the boundaries of these districts are accurately defined. Secondly, the states must ensure that boundary information can be incorporated into tax calculation software so that individual transactions can be assigned the proper rates. States may choose to limit the frequency or increase the notification period of boundary changes. As an alternative, states

could be responsible for maintaining the boundary information and hold retailers harmless if that information is incorrect.

Tax Rates

Retailers often have a difficult time knowing the current tax rate for the multitude of taxing jurisdictions that exist. Many states have attempted to mitigate this problem by limiting the frequency of rate changes, requiring that rate changes be effective only on certain dates, and requiring a minimum notification period before changes can be effective. These restrictions on changes can be standardized for all participating states.

An alternative would be to require each local option state to maintain a database of current rates for all of their taxing jurisdictions. Retailers that utilized this information would be held harmless if the rates were not correct. Restrictions on the frequency, timing and notification of changes may still be appropriate.

The Mobile Telecommunications Sourcing Act places requirements on the format of the information that is to be provided by the states. Jurisdictions are to be identified by Federal Information Processing Standards (FIPS) codes.

Exception Rules

While technology may be able to provide accurate tax calculation for the vast majority of transactions, there will still be times the appropriate rate cannot be determined. This could occur if the purchaser provides an address in a format that cannot be recognized, or if for some reason the calculation software is not working. The states will need to develop exception rules to handle this occasion.

Retailers that properly follow these rules will not be liable if the exception rate that is applied is later determined to be an improper rate.

Catalog/Mail Order/Phone Sales

While many of the technology solutions described above will be helpful in the proper collection of use taxes for internet sales, they may not be as useful for other types of remote commerce. However, with the simplifications proposed, ways of properly calculating use taxes for these types of transactions can be developed. The following are some preliminary ideas on how this can be done.

Phone Sales - When an order is placed over the phone to an operator, that operator is inputting the same information from the customer that would be available from an internet transaction. Any automated calculation system could be easily incorporated into these transactions.

Catalog/Mail Order/Sales - While these transactions pose additional challenges, there are ways of providing information to the customer that makes proper tax calculation possible. For the 18 single use tax rate states, printed material on the rates could be provided to the customer. As an alternative to this and as a way of accommodating local option states, a toll free telephone system could be developed. The customer would be required to input information through their phone and the tax amount would be provided to them.

Traditional Retail Sales/Other Remitters

The states are committed to simplifying the sales and use tax for traditional retailers and for entities which pay use tax on their purchases. The simplification

measures discussed here should be helpful to these entities (such as databases of local rates and boundary changes).

Evaluation Criteria

The following criteria were identified for evaluating the options for addressing the rate issues.

- 1) Impact on the States
 - What are the potential revenue losses/gains for participating states?
 - What is the likelihood that individual states will be able to enact the changes necessary to participate in the system?
- 2) Impact on Technology Providers
 - What are the costs/difficulties of developing systems to properly calculate tax amounts under each option?
- 3) Impact on Internet Sellers
 - How easily and accurately can tax amounts be calculated for internet transactions under each option?
- 4) Impact on Mail Order/Catalog Sellers
 - How easily and accurately can tax amounts be calculated for mail order/catalog transactions under each option?
- 5) Impact on Traditional Retailers
 - How easily and accurately can tax amounts be calculated for over-the-counter transactions under each option?
- 6) Impact on other Sales and Use Tax Remitters
 - How easily and accurately can tax amounts be calculated on purchases made by business under each option?

Conclusions/Recommendations

The following is a listing of the recommendations for addressing the problems caused by local option rates.

1) Restrictions on State and Local Governments

- Local Rate Changes Effective Only on First Day of Calendar Quarter with 60 Days Notice
- Local Governments Required to Report Rate and Boundary Changes to State
- The Application of Boundary Changes for Sales and Use Tax Purposes would be Limited to First Day of Calendar Quarter with 60 Days Notice
- States Cannot Hold Retailers Liable if State Provided Information is Incorrect (Rates, Boundaries, Zip +4 Assignment)
- States Would be Prohibited from Placing Caps on the Tax Amount that could be Changed on Individual Products or Transactions.

2) Uniformity/Simplification Measures

- States Develop Uniform Coding System for All Taxing Jurisdictions (based on FIPS)
- States Adopt Uniform Method for Applying Effective Date of Rate Changes
- All States will Allow for the Mathematical Calculation of Rates and will Adopt Uniform Rounding Rules
- States Having Different Rates on Certain Products Must Utilize Uniform Tax Base Definitions and Follow Requirements Regarding Rate Changes

3) Shift of Administrative Burden

- States Provide Databases for Use by Retailers (Eventually available at Central Location)

- All State and Local Rates
- Assignment of All Zip +4 Areas to Taxing Jurisdictions
- Boundary Changes

4) Use of Technology

- State Certification of Rate Assignment Systems Used by Retailers and Service Providers
 - Based on Zip +4 with Default to Lowest Rate
 - Default to 5-Digit Zip if Unable to Determine Zip +4
 - As Technology and Information Improves, Move to Address Based System

It would be both costly and difficult to apply technology to the current sales and use tax structure in a way that significantly addresses the problems created by local option rates. However, if the above restrictions on state and local governments, uniformity, measures, and acceptance by states of more of the administrative burden are adopted, it will be much easier to use technology to help solve the problems faced by retailers. These recommendations will make it significantly easier for all types of businesses to comply with state and local sales and use tax levies.

REGISTRATION

Background

The states have been working to simplify the sales and use tax registration process. The development of Internet technology now offers the states the opportunity to design a uniform, electronic, "one-stop" registration system for multi-state businesses. This project is working to design a new, uniform and simplified registration system for businesses that volunteer for the simplified system. A critical component of this effort is the elimination of data fields that are not essential to the simplified registration process.

Identification of Issues

The following is a list of the registration issues identified in discussions with retailers.

- Multiple Registrations (State and Local)
- Differences in Registration Forms
- Lack of Electronic Registration System
- Availability and Use of Electronic Signatures
- Allowing Registration by Agent
- Registration Fees
- Concerns Over Nexus Determination for Other Taxes
- Allowing Retailers to Register Subsidiaries Under Parent
- Updating Registration Information
- Requirements in Some States for Notarized Signatures

Discussion of Registration Issues

The following is a more detailed discussion of some of the above issues.

Signature Requirement - The signature requirement can be addressed in one of three ways.

- 1) States can modify their laws to waive the signature requirement for taxpayers that participate in the simplified system.
- 2) States can modify their laws to allow for an electronic signature, submitted at the time the taxpayer completes the registration form; or

3) The system can allow the taxpayer to download a brief signature card for submission to any state that requires a written signature. The registration process would not be complete in that state until the state received the completed card.

Options 1 and 2 appear to be satisfactory ways to address this issue. Option 1 imposes no additional burden on taxpayers. Option 2 is an acceptable alternative in states that are reluctant to give up the signature requirement entirely, while imposing a minimal burden on taxpayers. Option 3 is less desirable because it would require a taxpayer to complete an additional document before the registration process would be complete. In addition, several states might require the taxpayer to sign and file that document, thereby increasing the burden on the taxpayer.

Use of Agent - The simplified registration system can accommodate taxpayers outsourcing all of their tax responsibilities in one of three ways.

- 1) The taxpayer can be required to personally submit the registration form, designating the agent on that form and explicitly authorizing that agent to provide subsequent tax calculation and return and remittance services.
- 2) The agent can submit the registration form, subject to subsequent verification;
or
- 3) The agent can submit the registration form, without any requirement of subsequent verification.

All of these options raise potential issues. Option 1 may be legally insufficient if the third party is to assume liability for the accurate and timely payment of the tax

and submittal of returns. Option 2 requires a subsequent verification process, and therefore increases complexity. Option 3 may be legally insufficient if it becomes necessary to hold the taxpayer liable for any reason. These options require further study, especially if the third party is to assume liability. If liability under the simplified system remains with the taxpayer, option 1 appears to be satisfactory.

Conclusions

In addressing these issues, it is recognized that a distinction exists between retailers that have a physical presence in a state and those that don't. Presumably, a retailer that has a presence (locations, employees, etc.) in a state has previously met all of the registration requirements of that state. These requirements will likely go beyond sales and use taxes (withholding, franchise tax, income tax, etc.). While attempting to simplify the registration difficulties faced by these retailers, the first priority is to develop an easy way for those retailers without a presence to voluntarily remit sales and use taxes.

Recommendations

- 1) Development of a Simple, Electronic Registration Process for Those Volunteering for Streamlined System
 - Will Register Retailer in Each Project State Where Retailer Has No Physical Presence
 - No Registration or Renewal Fees
 - Will Not Require Signatures
 - Will Allow Registration by Agent

2) Use of Technology to Assist with Registration for States Where a Business

Has a Presence

- Online Registration System
- Allow for the Updating of Information Electronically

RETURNS

Background

The rate issue is only one factor making the streamlining of sales and use tax returns a challenge. The level of detail required by the states in the calculation of the net tax due varies widely from state to state.

Most states use the same general formula to calculate the amount of sales tax due. They start with gross receipts and subtract permitted deductions to arrive at the amount taxable. The applicable tax rate is applied to this amount in order to calculate the tax due. Then, any credits, discounts, or vendor's compensation amounts are subtracted from the tax due. Any penalties, interest or other additions are then added to arrive at a net tax due.

The states vary as to how much detail is reflected in arriving at gross receipts. Some states separate this figure into sales, use and services. Others do not break the figure down at all, having only one line item. Other states are extremely detailed in arriving at gross receipts and include line items for the sales of specific items. Some even break the calculation down by county or municipality.

The states also vary as to how much detail is reflected in the deductions allowed. Some states list all the deductions separately, while 22 states do not delineate

deductions at all. There is also variance among those states that list the deductions separately. Some list numerous, detailed deductions, while others list major categories of deductions.

When applying the tax rate to the amount taxable, some states have multiple tax rates that are listed separately. Some states go further and break the calculation down by counties and municipalities. The appropriate tax rate is then applied to the amount taxable for that particular county or municipality.

Once the tax due is calculated, credits, discounts and vendor's compensation amounts are subtracted. Once again, the states vary on the amount of detail associated with these items. Some states simply have one line item for credits, while others specify the type of credits. An example of the credits allowed is a credit for prepayments. The same is true of discounts and vendor's compensation.

Finally, any penalties, interest or other additions are added to arrive at the net tax due. Some states include penalties and interest on one line, while others have two separate line items. Some states do not even list these, but rather include a line item for "other additions."

A review of the returns used by states found that some states use many line items to arrive at the net tax due. The average number of line items is approximately sixteen. However, some states are able to arrive at the net tax due in as few as five or six lines. By using this approach, the states forego detail included by other states, but in return gain simplicity.

The following is a summary of the information required on the tax returns of the forty-six states collecting sales and use tax:

Common Entry Lines on State Sales and Use Tax Returns			
Tax Reporting and Calculation Lines		Deduction Lines	
Line Text	No. of States	Line Text	No. of States
Gross Sales or Gross Receipts	46	No Delineation	22
Total (Net) Tax Due	44	Sales for Resale	24
Amount Taxable	42	Sales to U.S. or State Governments	18
Tax Due	42	Exempt Food Sales, Food Stamps, WIC	18
Penalties/Interest	38	Sales of Gasoline and Use Fuel	17
Tax Rate	35	Sales in Interstate Commerce	17
Gross Sales: Use	34	Exempt Drugs	15
Discount or Vendor's Compensation	25	Discounts, Refunds, or Returns	12
Credits	24	Exempt Machinery and Equipment	11
Total Gross Sales	18	Nontaxable Services	9
Estimated Payments or Pre-Payments	13	Bad Debts	9
Gross Sales: Services	12	Exempt or Educational Organizations	9
Local Sales Tax	11	Repair or Installation Labor	8
Excess Tax	9	Trade-ins for Taxable Resale	8
Local Use Tax	5	Feed, Seed, and Fertilizer	8
		Motor Vehicles	8
		Sales to Hospitals, etc.	5
		Magazines or Newspapers	5
		Direct Pay Permit Holders	5

There are vast differences in the amount of data required by the various states. Streamlining the process will require compromise on the states' part. In addition to the streamlining forms at the state level there are six states which have local jurisdictional processing and collection of tax. These states are Alabama, Alaska, Arizona, Colorado, Louisiana and Minnesota. A requirement for a single reporting and collection entity per state would require local jurisdictions in these states to relinquish some of their autonomy if they were to participate in the system.

Identification of Issues

In discussions with retailers, the following issues regarding the streamlining of sales and use tax returns were identified.

- Each State Requiring a Different Form
- Some States Requiring Filings for Local Taxing Jurisdictions
- Some States Requiring Filings for Each Store Location
- Complexity of Returns
- Inability of States to Accept Electronic Returns
- Requirements for Filing of Returns When No Tax is Due
- Some States Requiring More than One Return Per Month
- Differences in How States Treat Bad Debt Claims, Returned Merchandise, Refund Claims, Amended Returns
- Capping - Maximum Tax Per Transaction

Options for Addressing Issues

The following is a discussion of the options to address the issues.

Standardized Return Form - One option reviewed was to create a standardized return which would meet the most common reporting requirements of the 46 states collecting the tax. This would provide most of the data currently captured by the states but may omit some data elements. The return would have to be structured to provide a distribution of the sales figures and the tax due by local entity so the states would know where the tax should be allocated. The following is a list of the common data elements focused on the returns currently in use.

Sales

- Gross Receipts
- Taxable Purchases
- Gross Taxable Amount

Deductions

- Discounts, Sales Returns, and Allowances
- Sales to Other Dealers for Resale and to Direct Pay Permit Holders

- Sales in Interstate Commerce
- Sales of Gasoline, Diesel, Other Fuels
- Sales of Electricity, Natural Gas and Water
- Sales of Food
- Sales to United States, State and Local Governments
- Sales of Prescription Drugs and Medical devices
- Sales of Exempt Equipment
- Sales to Exempt Organizations
- Other Deductions Authorized by State Law

Net Taxable Amount

Tax Due at ___ Rate

Excess Tax

Vendor's Compensation

Credits

Net Tax Due

A separate section of the return could be devoted to the distributional reporting of the tax to local jurisdictions. This could be done by breaking out "*Net Tax Due*" by jurisdictional code.

Filing Dates - Unifying the current filing dates for each state was not a big priority for retailers. Having the due date early in the month following the month of collection was difficult for the retailers, but they did not mind having the dates staggered. It allowed them to spread out their workload.

One option would be to require due dates no earlier than a specified day of the following month while still allowing states to set individual deadlines.

Electronic Filing - Electronic filing should be an option for remote filers of the sales and use tax. The potential for using 2D bar code technology is also being pursued. Retailers expressed some concern over the security of data if internet

filing is adopted. One vendor stated that they would only accept an ACH Credit as a payment option. This allows them to initiate the payment rather than the state initiating the payment. Maintaining the option of the traditional paper return was necessary to accommodate smaller retailers.

Conclusions

In developing recommendations for return simplification, three categories of taxpayers were identified. The first includes retailers that are using a rate calculation, return preparation and data maintenance systems that have been certified by the project. This can be either a proprietary system of the retailers or a third party system. The second category includes retailers that volunteer to collect and remit in states in which they have no physical presence, and which do not choose to use a certified system. The final category includes retailers that have a presence in a state and are not using a certified system.

The recommendations outlined below are based on the following conclusions:

- 1) The first priority is to develop a simple return for those participating in the certified system and a return process that is easy for those volunteering to remit.
- 2) After discussion with remitters that are familiar with the complexities of state tax structures, it was determined that any single return that was able to accommodate the fundamental differences among the states would be much more complicated than many of the returns in use today. Requiring states to replace their current returns with a return that is more complex is not simplification.

Recommendations

- 1) Establish a Simple Electronic Filing System for Retailers Using Certified System to File One Return Per State
 - Available to Retailers Using a Certified Provider for Return Preparation, Rate Calculation and Information Maintenance
 - Available to Retailers with In-house Systems that are Certified
 - Returns Required No Earlier than 20th of the Following Month
 - Any Additional Payments or Prepayments Will not Require the Filing of Return and Must be Based on Calculated Amount Rather than Current Months Collections
 - De minimis Threshold will be Established Regarding Additional Payments or Prepayments
 - Electronic Submission that Accompanies Remittance will include Only the Information Required for the Proper Allocation of the Funds
 - Encourage States to Allow Filing of Consolidated Returns for Reporting Purposes
 - Data Fields Required
 - Taxpayer Identification Number
 - Period
 - State Sales Tax Amount
 - State Use Tax Amount
 - Local Sales Tax Amount - By Jurisdiction
 - Local Use Tax Amount - By Jurisdiction
 - Gross Receipts
 - Exemptions/Deductions
 - Additional Reports may be Required
 - States will Request no more than Every Six Months
 - States will Stagger when Reports are Requested
- 2) Relaxed Return (One Return Per State) Requirements for Retailers that Choose Not to Use Certified System But Have No Presence in a State
 - States Send Returns Upon Registration

- Return Must Be Filed Annually or in Month Following the Accumulation of \$1,000 in Tax Funds for any State
 - Can be Filed Electronically
- 3) Development of a More Uniform Return that would be Available to all Retailers
- One Return Per State
 - Modeled After the Motor Fuel Return - Uniform in Most Respects but Would allow States to Require Additional Information Necessary to Accommodate their Tax Structure
 - Can be Filed Electronically

REMITTANCES

Background

As with many areas of sales and use tax administration, remittance requirements and practices vary among the states. The general pattern, however, is as follows:

- States determine the frequency with which a seller must remit tax on a graduated scale based on the volume of sales tax collected, with high-volume collectors being required to remit more frequently.
- The most frequent remitters are generally required to remit funds on a monthly basis, but a few states require more frequent remittances such as twice a month or on a weekly basis.
- A number of states require pre-payments or estimates (for the current month) as part of the remittance.
- Remittances are generally due between the 20th and end of the month following the month of the transaction.

- Most states require high-volume remitters to remit funds by electronic funds transfer (EFT); most states also allow a taxpayer to volunteer to remit funds by EFT.

Discussions with retailers and practitioners indicate the following types of complexities arise in the current system. In some states, the remittance date is too early to have an accurate, reconciled total tax due computed, particularly for multi-location, multi-state taxpayers. In addition, small retailers that use a practitioner for completing returns and remittances also have difficulty in meeting some of the earlier due dates, e.g., before the 20th of the month. It was further noted that where pre-payments or estimates are used, it is easiest and simplest if the estimated amount is based on the prior year's actual tax due, rather than being an actual estimate of activity in the current month. Most sales systems are such that there is little or no data on which to make a reliable forecast of sales tax liability before the books are closed. Using prior year results, simplifies matters and adds certainty to the process.

Identification of Issues

Issues identified in discussions with retailers are:

- Multiple Remittances Required Each Month
- Prepayments or Estimated Payments Difficult to Calculate
- Some Remittances Required too Early in the Month
- Differing EFT Formats
- No Back-up Payment Mechanisms
- Differing Treatment of Banking Holidays
- States Adopting Uniform Treatment of Reporting and Payment Deadlines

Options for Addressing Issues

Frequency of Remittances - With respect to the frequency of remittances, the

options include:

- Use current laws and practices.
- Establish a separate requirement for non-nexus sellers that would provide that remittances could not be required to remit tax more frequently than monthly.
- Establish a separate requirement for all sellers participating in the system that would provide that a participant would not be required to remit tax more frequently than monthly.

Date of Remittances - With respect to the due date of the remittance, the

options include:

- Use current laws and practices.
- Establish a separate requirement for non-nexus sellers that could include a uniform date, a staggered set of dates or a "not sooner than a specified date," (e.g., 20th of month).
- Establish a separate requirement for all sellers in the system that could include a uniform date, a staggered set of dates or a "not sooner than a specified date," (e.g., 20th of month).

Payment Methods - With respect to the forms of payment, the options include:

- Use current laws and practices
- Establish a requirement for all participants to remit taxes electronically.
- Establish a uniform format for electronic payments

- Establish a utility for making electronic payments (ACH debit) to multiple states through a single contact with a payment processing firm.

Issue Discussion

Revenue Issues - In evaluating the implications of changing remittance practices, the "float" (i.e., availability of cash for interest-earning purposes) and possibly cash flow considerations are potentially important to both retailers and to states. To the extent that current remittance dates are altered in a simplified system, either the state or the retailers will be advantaged in terms of investment availability. From a state perspective, the greatest difficulty in changing a remittance date would be if it caused revenue receipts to be moved from one fiscal year into the next.

Administrative Issues - On the administrative side, the greatest potential burden of changing remittance dates is likely to rest with retailers. If remittance dates are moved to a date that is too early to provide an accurate, reconciled tax due amount, there will be errors, re-work, and complexity for retailers. In addition, estimate or pre-payment approaches can also create complexity for retailers.

From a state perspective, there are likely to be few permanent administrative issues associated with changing remittance dates unless an option that calls for distinguishing between nexus and non-nexus sellers is chosen. In this case, there would likely be a premium to a retailer to be classified as a non-nexus seller which could create issues for states on audit.

Conclusions and Recommendations

- 1) Remittances Shall Follow Existing State Laws Subject to the Following Limitations

- Remittances that Accompany Returns May Not Be Required More Frequently than Monthly and Not Before the 20th of the Following Month
 - Prepayments Must be Based on a Known Level of Payment from Prior Period
- 2) Data Accompanying EFT Remittances
- Shall be Formatted to NACHA Approved TXP Standard Using Uniform Tax Type and Payment Type Codes
 - Participating States Will Promote Uniformity in the Application of TXP Standard
- 3) States Requiring Electronic Payments will Allow Option of Both ACH Debit and ACH Credit
- 4) States Requiring Electronic Payments will Provide Method for Making "Same Day" Payment if EFT Payment Fails
- 5) Uniform Treatment of Banking Holidays