

**Halverson, Vicky**

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*Save  
and file  
with bill*

**From:** Hardt, Diane L  
**Sent:** Friday, August 08, 2003 7:52 AM  
**To:** Rep. LehmanM; Sen. Jauch  
**Subject:** FW: Streamlined Implementing States Meet

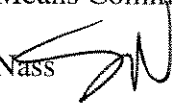
The states are meeting on November 19 to inventory who has enacted the Streamlined compliance legislation and to organize the Streamlined Governing Board for the future. I would expect that only states who have enacted the legislation (even if they have a future effective date) will have a say in any amendments to the Agreement after that day. I'm hoping we are there.

*Diane L. Hardt  
Administrator, Division of Income, Sales & Excise  
Wisconsin Department of Revenue  
P.O. Box 8933  
Madison, WI 53708-8933  
(608) 266-6798  
Fax (608) 261-6240  
E-mail: dhardt@dor.state.wi.us*



**Stephen L. Nass**  
Wisconsin State Representative

TO: Representative Michael Lehman  
Chairman, Ways and Means Committee

FROM: Representative Steve Nass 

DATE: October 14, 2003

RE: Public Hearing and Executive Session on 10/15/2003

I am writing to request an excused absence for the public hearing and executive session of the Ways and Means Committee on Wednesday, October 15, 2003. I scheduled Air National Guard duty prior to receiving the notice of the committee meeting.

Per the Assembly Manual on Committee Procedures and Powers (Page 7, Item 10 (c)), I request that the committee report show that my vote on passage of AB 547 would have been "no." If you have any questions on this request, please contact me.

## Vote Record Committee on Ways and Means

Date: 10/15/03

Moved by: Young

Seconded by: Lothian

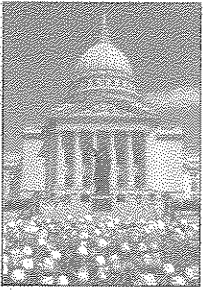
AB 547 SB \_\_\_\_\_ Clearinghouse Rule \_\_\_\_\_  
 AJR \_\_\_\_\_ SJR \_\_\_\_\_ Appointment \_\_\_\_\_  
 AR \_\_\_\_\_ SR \_\_\_\_\_ Other \_\_\_\_\_

A/S Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_  
 A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

- Be recommended for:
- Passage       Adoption       Confirmation       Concurrence       Indefinite Postponement
  - Introduction       Rejection       Tabling       Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Michael Lehman, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jeffrey Wood	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Stephen Nass	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Representative Eugene Hahn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Frank Lasee	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Suzanne Jeskewitz	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Representative Samantha Kerkman	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Thomas Lothian	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Wayne Wood	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Leon Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Terese Berceau	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Robert Ziegelbauer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Johnnie Morris	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Tom Hebl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Totals:</b>	<u>9</u>	<u>3</u>	<u>2</u>	_____

Motion Carried       Motion Failed



Michael (Mickey)  
**Lehman**

State Representative  
99th Assembly District

Committee Chair: Ways and Means

AB547

## Memorandum

To: Ways & Means Committee Members  
From: Rep. Michael "Mickey" Lehman  
Date: September 25, 2003  
Re: Copy of LRB 2028/8 for 10/6/03 Joint Public Hearing

Please find enclosed a copy of the Streamlined Sales Tax Project draft, LRB 2028/8.

The draft will be circulated for co-sponsorship this morning, and we hope to have it introduced by next Thursday.

relating to: the Uniform Sales and Use Tax Administration Act, granting rule-making authority, making an appropriation, and providing a penalty.

Introduced by Representative M. Lehman (PRINCIPAL AUTHOR) Cosponsored by Senator Brown

(BY REQUEST OF)

(CONTINUE HERE FOR ADDITIONAL REPRESENTATIVES)

(CONTINUE HERE FOR ADDITIONAL SENATORS)

W. Wood	Hines	Jauch	
Musser		Roessler	
J. Lehman		Erpenbach	
Ainsworth		Chvala	
Gielow		*Schultz (added to SB)	
Jeskewitz			
Van Ray			
Kaufert			
Olsen			
Bies			
Miller			
Richards			
Pettis			
Hahn			
Krawczyk			
Montgomery			
Ziegelbauer			
McCormick			
Schoof			

✓ Musser    ✓ Ainsworth    ✓ Olsen    ✓ M. Miller  
 ✓ Chvale    ✓ Van Roy -    ✓ Bies  
 ✓ J. Lehman    ✓ Kaufert    ✓ Erpenbach -  
 ✓ Gielow    ✓ J. Richards  
 ✓ Jeskewitz

Memorandum

To: All Legislators  
 From: Senator Ron Brown  
       Representative Michael Lehman  
       Senator Bob Jauch  
       Representative Wayne Wood  
 Date: September 25, 2003  
 Re: Co-Sponsorship of LRB 2028/8, related to the Streamlined Sales Tax  
       \*October 1st Deadline\*

~~20650~~  
 ✓ Pettis    ✓ Montgomery  
 ✓ Hahn  
 ✓ Krawczyk  
 ✓ Roessler

Brown

The Streamlined Sale Tax Project is a national effort by state governments to simplify and modernize sales and use tax collection and administration. The project includes tax law simplifications, more efficient administrative procedures, and emerging technologies to substantially reduce the burden of tax collection.

With LRB 2088/8, Wisconsin will become the 21st state to enter into this national agreement to simplify sales tax collections. The proposal has been crafted carefully over the last three years with bi-partisan support, close guidance by the Department of Revenue, and significant input from the business community. Thus far, the plan has enjoyed a wide range of support from the private sector, with a large cross section of main street merchants and large retailers represented.

**If you wish to sign onto this LRB 2088/8, please contact either Rep. Lehman's office at 267-2367 or Sen. Brown's office at 266-8546 by 5:00 p.m. on Wednesday, October 1st. Companion bills will be introduced in the Senate and Assembly. Co-sponsors will be listed on both bills unless otherwise requested.**

(Draft/analysis by the Legislative Reference Bureau included in PDF file below)



03-20288.pdf

Please see the attached fact sheet.

## **Streamlined Sales Tax: *What It Does & Why It's Important***

- Leveling the Playing Field: Equity between businesses that now collect sales tax (small main street businesses or any business with physical presence in many states) and those who don't (large Internet or mail-order businesses without physical presence in most states).
- Making Tax Administration & Collection Easier: The project's goal is to make it easy for merchants to calculate and remit sales and use tax to the states. The administrative and cost burdens on merchants will be substantially reduced or eliminated under SST. New technology will make many improvements possible. Merchants will even have the option of using private, state-sanctioned providers to collect and remit sales taxes.
- Developing Common Definitions: SST has developed common definitions for key items in the tax base like food and clothing; states are being asked to adopt those definitions in their statutes. Legislatures would still decide what's taxable, but states would use common definitions for items (for example, what percentage of fruit juice a drink can contain and still be considered soft drink --- and thus taxable). The goal is some measure of uniformity among states, making tax collection more simple for merchants nationwide.

## ***What's In It For Businesses***

- Uniform sales tax returns nationwide that can be filed electronically. Requirements for filing separate tax returns for local sales and use taxes will be eliminated.
- A central registration system that will provide one-stop service for sellers who voluntarily collect sales tax.
- New technology options for sellers who collect sales tax. State-certified tax collection software will be available as well as new Certified Service Providers (CSPs). These CSPs will act as a tax processing entity for sellers (including filing all sales tax returns) at no charge to sellers.
- States will assume liability for errors in tax collection related to two new state-certified data bases: (1) matching tax rates to tax jurisdictions, and (2) matching items and services taxable in each tax jurisdiction. Sellers who use these state-certified data bases will not be held responsible for errors in tax collection.
- Simplified tax exemption processing with protection for sellers that accept exemption certificates or exemption information.

Easier expansion into markets in other states or via the Internet because all states will use the uniform definitions and administrative procedures.

**Halverson, Vicky**

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**From:** WMF [WMF@supranet.net]  
**Sent:** Thursday, September 25, 2003 1:09 PM  
**To:** Rep. Mickey Lehman  
**Subject:** Fw: The National Retail Federation Press Release on Single Sales Tax

Dear Mickey:

Attached is the press release from the National Retail Federation regarding the Internet/Mail-Order Sales Tax Bill which was just introduced.

Please give us a call with any questions.

Chris Tackett / Doug Johnson

<http://www.nrf.com/content/default.asp?folder=press/release2003&file=salestax-2003.htm&bhcp=1>

09/25/2003





ARTS  
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IRF

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NRF Foundation

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More

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Publications  
More

**Information**  
**Store Operations**  
**Diversity**

**National Retail Federation**  
325 7th St NW 1100  
Washington DC 20004  
1-800-NRF-HOW2  
Fax: 202-737-2849  
Contact Us Email

[Print Version](#)



## NATIONAL RETAIL FEDERATION NEWS RELEASE

**THE VOICE OF RETAIL WORLDWIDE**

Liberty Place, 325 7th Street, NW, Suite 1  
Washington, DC 20004

Phone: 202.783.7971 Fax: 202.737.2849

For Immediate Release  
Contact: J. Craig Shearman (202) 626-8134  
[shearmanc@nrf.com](mailto:shearmanc@nrf.com)

### Retailers Welcome Internet/Mail-Order Sales Tax Bill

WASHINGTON, D.C., September 25, 2003 - The National Retail Federation today welcomed the introduction of legislation that would require Internet and mail-order merchants to collect sales tax from both in-state and out-of-state customers.

"On-line and other mail-order merchants benefit from an unfair price advantage when they do not have to collect sales tax," NRF Vice President and State and Government Relations Committee Chair Maureen Riehl said. "NRF supports a level playing field for all merchants, regardless of where they sell their merchandise from a storefront, through a catalog or over the Internet. All merchants should be required to play by the same rules, and tax policy should not be allowed to create artificial winners and losers in our industry."

"The majority of the states involved have passed legislation to simplify their sales tax collection. There's no longer any excuse for a merchant in one state not to know how much sales tax to collect from a customer in another state," Riehl said. "The Streamlined Sales and Use Tax Agreement has given all retailers the clarity and certainty to know what to collect and how to remit those tax dollars with a minimum of administrative burden and cost. Federal legislation is the final piece in the puzzle and will bring sales tax fairness to all states."

"This is about more than fairness among merchants," Riehl said. "The sales tax that is currently uncollected is the revenue that supports police and fire departments, schools and other public services. When sales tax isn't collected, it's taking cops off the streets and books out of the hands of schoolchildren."

Riehl noted that consumers are already required to report untaxed out-of-state purchases on their state income tax returns and pay the sales tax as "use" tax instead.

Representative Ernest Istook, R-Okla., and Senator Michael Enzi, R-Wyo., today announced the introduction of the Simplified Sales and Use Tax Act of 2003. The legislation would allow states that have implemented the Streamlined Sales and Use Tax Agreement to require that all retailers collect sales tax when selling to their residents. The bill would require that states provide "reasonable and uniform compensation" to retailers for collecting the sales tax and meet other standards for administration and court jurisdiction. Retailers doing less than \$5 million in annual sales would be exempt.

The Streamlined Sales and Use Tax Agreement was approved by 31 states in November, and a majority of those states have since passed legislation to implement the agreement. The agreement establishes uniform definitions and sets other standards to make it easier for a merchant in one state to collect sales tax from a customer in another state. The pact allows participating states to begin voluntary collection of sales tax by out-of-state retailers, but Istook-Enzi legislation is required before the collection can become mandatory.

The Streamlined Sales and Use Tax Agreement was developed in response to a 1992 Supreme Court ruling that said "remote sellers" could not be required to collect sales tax from out-of-state customers because state sales tax laws were too complex to know how much to collect. Under the ruling, Internet, mail-order and telephone merchants can currently be required to collect sales tax only from customers in states where they have a physical presence, such as a store or distribution center. NRF, which represents bricks-and-mortar, mail order and online retailers, played a leading role in developing the agreement.

NRF is the world's largest retail trade association with membership that comprises all major retail formats and channels of distribution including department, specialty, discount, catalog and independent stores. NRF members represent an industry that encompasses more than 20 million U.S. retail establishments, employs more than 20 million people - about one in 10 American workers - and registered 2002 sales of \$3.6 trillion. NRF's international members operate stores in more than 50 nations. In its role as the retail industry's umbrella group, NRF represents 32 national and 50 state associations in the United States as well as 36 international associations representing retailers abroad. For more information, visit our web site at [www.nrf.com](http://www.nrf.com).

- # # -

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## Halverson, Vicky

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**From:** Gates-Hendrix, Sherrie  
**Sent:** Wednesday, October 01, 2003 3:30 PM  
**To:** Mnuk, Katie; Halverson, Vicky  
**Subject:** Streamlined hearing appearances

Katie, Vicky --

Here's who we've talked to so far about appearing at the hearing on Monday -- please let us know if you have other specific groups or individuals in mind that you want us to contact. Thanks.

Michael Tobin from Banta (printer)  
Niall Powers from Printing Industries of Wisconsin  
--they are checking on Quadgraphics

Wisconsin Counties Association  
Wisconsin Grocers Association (Brandon) and maybe a grocer  
Wisconsin Merchants Federation--checking on Kohls, Lands End, a jeweler, Ward Brodt  
Midwest Hardware Association and some hardware store representatives

Deborah Bierbaum from AT&T  
EDS

General Electric & RR Donnelley are sending letters

Wal-Mart has their lobbyist working on the issue

*Per Sherrie -*

*Definition changes effective as of July 1, 2004.*



# WISCONSIN LEGISLATURE

P. O. Box 7882 Madison, WI 53707-7882

For Immediate Release  
Thursday, October 2, 2003

For More Information, Contact:  
**Rep. Lehman: (608) 267-2367**  
**Sen. Brown: (608) 266-8546**

## **Main Street Equity Bill Introduced**

### *Streamlined Sales Tax Proposal Promotes Simplicity and Compliance*

(Madison) Wisconsin's Main Street businesses would benefit from a modernized and simplified sales tax system under legislation introduced by Representative Michael "Mickey" Lehman (R-Hartford) and Senator Ron Brown (R-Eau Claire). The bipartisan bills join Wisconsin to a nationwide effort to streamline states' sales tax systems.

"These bills are the culmination of years of work by legislators, tax administrators, businesses and other groups to improve sales tax administration," Lehman said. "Under this proposal, Wisconsin will use the same definitions as other states, but state legislatures will continue to determine tax rates and decide what is taxed."

"This legislation levels the playing field for Wisconsin's main street businesses and will ease their administrative burden of collecting sales taxes," Brown said.

Retailers are required to collect and remit sales taxes from customers living in states in which they are physically located, meaning that businesses not physically located in Wisconsin often do not collect Wisconsin sales taxes. This may give those out-of-state companies a competitive advantage over Wisconsin businesses because most consumers are not aware that tax is due regardless where the purchase is made. Tax on out-of-state purchases, known as "use" tax, is supposed to be reported and paid on Wisconsin income tax forms.

Over 7,500 tax jurisdictions nationwide use different rates, bases and definitions, making collecting sales taxes burdensome and time consuming because disparities in what is taxed and how the taxable category is defined often result in differing treatment of very similar items. Under the Brown/Lehman legislation, Wisconsin will join other states using uniform definitions of goods, making tax treatment easier to determine.

The legislation also modernizes tax administration by creating uniform tax forms and processing guidelines for participating states. "Wisconsin's current sales and use tax system was devised in the 1960's," Brown noted. "The kinds of commerce in use today were not envisioned then. It's time to bring Wisconsin's system into the 21<sup>st</sup> century."

Thirty-nine states are involved in the streamlined sales tax effort. With passage of this legislation, Wisconsin would become the 21<sup>st</sup> state nationwide to adopt the uniform standards and procedures.

(more)

Brown and Lehman have scheduled a joint public hearing of the Senate Homeland Security, Veterans and Military Affairs and Government Reform and the Assembly Ways and Means Committees to hear testimony on the bills at 9 a.m. on October 6, 2003, in Room 412 East of the State Capitol.

**Halverson, Vicky**

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**From:** Joan Hansen [jhansen@wmc.org]  
**Sent:** Thursday, October 02, 2003 10:45 AM  
**To:** vicky.halverson@legis.state.wi.us  
**Subject:** FW: Streamlined sales tax legislation

Vicky,

I had your name spelled incorrectly... sorry!

Joan

-----Original Message-----

**From:** Joan Hansen  
**Sent:** Thursday, October 02, 2003 9:19 AM  
**To:** 'vicki.halvorson@legis.state.wi.us'; 'katie.mnuk@legis.state.wi.us'  
**Subject:** Streamlined sales tax legislation

Katie and Vicki,

Can you let Micky and Ron know WMC will testify for information on AB 547 (what is the # on the Senate companion bill?) on Monday. There are a lot of pieces we support, but there are some technical issues we have concerns over. The definitional change to pre-written software will represent a tax increase for many of our members and we will discuss that point. I believe there may be some sourcing issues also and I will follow up on that. I will bring a technical person with me because this is very technical statutory language. Thanks. Let me know if you have questions.

Joan



**DEWITT  
ROSS & STEVENS<sup>SC</sup>**  
LAW FIRM

Capitol Square Office  
Two East Mifflin Street  
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Madison, WI 53703-2865  
Tel 608-255-8891  
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Madison, WI 53717-1914  
Tel 608-831-2100  
Fax 608-831-2106

[www.dewittross.com](http://www.dewittross.com)

Please respond to: Capitol Square Office  
Direct Line: 608-252-9338

October 3, 2003

Representative Michael Lehman  
Chairperson, Committee on Ways and Means  
State Capitol, Room 103 West  
Madison, WI 53703

Dear Representative Lehman:

Please review the attached letter from AT&T's Tax Director, Deborah Bierbaum. AT&T has been extensively involved in the streamlining discussions on a national basis and feels strongly that AB 547/SB 267 is good policy for Wisconsin. Since I represent AT&T in the state, I would be happy to field any questions that you may have and get answers for you.

Your support is appreciated.

Sincerely,

DEWITT ROSS & STEVENS<sup>SC</sup>

  
James L. Leonhart

JLL:mb  
Enclosure



Deborah R. Bierbaum  
Director External Tax Policy  
Email: bierbaum@att.com

One AT&T Way, 4A2211  
Bedminster, NJ 07921  
Voice: (908) 234-8323

October 6, 2003

Wisconsin Assembly Ways and Means Committee

Re: AB 547

Dear Committee Members:

Thank you for filing AB 547, which would conform Wisconsin Sales and Use Tax Law to the Streamlined Sales Tax Agreement. The Streamlined Sales Tax Agreement is part of a national effort to simplify state and local tax administration. AT&T pledges its full support for swift enactment of your bill.

On behalf of AT&T I would like to also thank you for the opportunity to submit comments on the Streamlined Sales Tax Project (SSTP) reflected in AB547. AT&T applauds the efforts of the SSTP, the National Conference of State Legislatures (NCSL), and all participating states to simplify sales and use tax compliance and administrative burdens through increased uniformity and more efficient compliance processes.

Recent studies and reports have documented the excessive burdens of complying with state and local taxes imposed on telecommunications services.<sup>1</sup> AT&T files over 59,000 state and local transaction tax returns a year, which equates to almost 1.2 returns being filed every minute during an average work week. AT&T spends over \$15 million annually in complying with state and local tax laws. These costs include filing of returns, defending on audit, maintenance of billing systems for tax rate and tax base changes, implementation of new taxes and changes in tax jurisdiction boundaries. The high level of compliance costs provide no benefit to the state or to AT&T and other businesses operating in the State.

#### Benefits of SSTP

The Streamlined Sales Tax Agreement contains a number of provisions that will make sure that multi-state businesses will have the information they need to properly comply with the sales and use tax law and will go a long way in easing compliance burdens. The project has worked closely with members of the telecommunications industry and included in the agreement provisions that focus on some of the unique burdens faced by telecommunications providers. In particular the agreement provides for uniform rules for determining the proper tax jurisdiction for telecommunications services. For example, the uniform rules provide that a call purchased by using a calling card, debit card or by inserting coins into a phone should all be taxed at the same location – that is where the caller is when they make the call. Currently, the state where the caller is located at the time of the call and the state

<sup>1</sup> See Committee on State Taxation, 50-State Study and Report on Telecommunications Taxation, Washington D.C., February 22, 2002, BNA.



where the caller's account is located may both tax the same call. The uniform rules will prevent the taxation of the same transaction by multiple taxing jurisdictions.

Other provisions of particular interest to AT&T, beyond those unique to telecommunications services, include state administration of local taxes, address databases with hold harmless provisions, uniformity in definitions, simplified exemption certificate administration, and clear customer refund procedures. These changes will allow us to streamline our corporate tax module and more efficiently comply with the sales and use tax laws around the country. For example, a uniform definition for "pre-written computer software" will allow us to code a new product offering and know that it means the same thing in all participating states. Each state can still maintain its tax policy of exempting or taxing "pre-written computer software". The uniform definitions do not impact the State's ability to set its tax policy. However, they do allow vendors such as AT&T to improve their compliance systems.

#### Additional Issues To Address

AT&T and other telecommunications companies are working with the Streamlined Sales Tax Project on other compliance issues. These issues include the tax rules applicable to sales of bundled communications services sold for one aggregate price and uniform definitions of terms commonly used in the taxation of telecommunications. AT&T appreciates the efforts of the Project to continue to work with businesses to address additional concerns. Is there more to do – yes. However there will always be more to do as industries develop new technologies and new issues arise. Despite the need to address additional issues the simplifications addressed so far in the agreement need to take place now. The Streamlined Sales Tax Project is about simplification for existing taxpayers and making it easier for new companies to enter the market. Lower administrative costs for business can only help the economic conditions for businesses.

#### Summary

The combination of state and local taxes and fees on communications services imposes significant administrative costs on providers and results in higher costs of service for consumers without any corresponding benefit to state or local governments.

The implementing states along with the other participating states have shown a sincere effort to address many of the concerns expressed by members of the business community in developing the agreement. AT&T commends the States for their efforts. Thank you once again for the opportunity to provide comments on this important topic, and we look forward to working with you on AB 547 and all other tax simplification efforts in Wisconsin.

Sincerely,



Deborah R. Bierbaum



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**Merle R. Buff**  
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**Frances B. Sewell**  
*Waste Management, Inc.*

**R. Paul Weatherford**  
*Sears, Roebuck and Co.*

**Michael J. Woo**  
*Levi Strauss & Co.*

October 7, 2003

The Honorable Michael A. Lehman  
Chair, Ways and Means Committee  
Wisconsin State Assembly  
Room 103 West, State Capitol  
P.O. Box 8952  
Madison, WI 53708

VIA Facsimile

**Re: Assembly Bill 547 – Sales Tax Simplification**

Dear Chairman Lehman:

I am writing to you on behalf of the 560 corporate members of the Council On State Taxation in response to legislation pending before your Ways and Means Committee—Assembly Bill 547—which would enact the Streamlined Sales Tax. COST strongly supports efforts to simplify the currently complex state and local sales and use tax system.

**About COST**

The Council On State Taxation (COST) is a nonprofit trade association based in Washington, DC. COST was formed in 1969 as an advisory committee to the Council of State Chambers of Commerce and today has an independent membership of 560 major corporations engaged in interstate and international business. COST's objective is to preserve and promote the equitable and nondiscriminatory state and local taxation of multijurisdictional business entities.

The majority of COST members conduct business in Wisconsin—contributing to its commerce, employing its citizens, and paying a significant portion of the taxes collected from multistate corporations. As good corporate citizens, they are concerned that without a tax climate designed to encourage corporate growth, Wisconsin's corporate taxpayers will be laboring unfairly under burdens not borne by corporations operating in other states.

**The Streamlined Sales Tax**

Under the leadership of Diane Hardt, Wisconsin Department of Revenue, delegates from over 40 states have spent the past year reviewing the recommendations of the Streamlined Sales Tax Project (SSTP) and have approved a voluntary multistate agreement for a simpler sales tax system. COST and numerous other business community representatives have participated over the last three years in the deliberations of the SSTP. Legislative enactment of the provisions of this voluntary agreement would represent a significant step towards a more simpler and uniform sales and use tax system.

**Benefits to Business and the State**

Assembly Bill 547 not only greatly simplifies Wisconsin's sales tax system, but it would also make it more uniform with other states considering similar legislation. Indiana, Minnesota, North Carolina, Ohio and many others have already enacted the Streamlined Sales Tax, and many more are poised to do so. The simplifications in AB 547—from the single vendor registration process to uniform exemption administration and reduced audit burden—will benefit all sellers, whether large or small. For sellers operating in multiple states, the uniformity of these administrative provisions among the states will represent a dramatic improvement over the existing sales and use tax system.

The simplified sales tax system will likewise benefit Wisconsin by simplifying the administration of the tax and could result in increased compliance on the part of businesses already subject to the system. Perhaps most importantly, many sellers not currently collecting the sales tax for Wisconsin will be induced to do so under a voluntary simplified sales tax collection system.

Thank you for your leadership on this issue. Please contact me if I can be of any assistance as you move AB 547 through the legislative process.

Sincerely,



Kevin P. Thompson  
Legislative Associate



## MIDWEST HARDWARE ASSOCIATION

2801 Dixon Street ■ PO Box 8033 ■ Stevens Point, WI 54481-8033

October 6, 2003

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*Managing Director*

Senator Ron Brown, Chair  
Senate Committee on Homeland Security  
Veterans and Military Affairs & Government Reform  
104 South  
State Capitol  
Madison, WI 53702

State Representative Mickey Lehman, Chair  
Assembly Committee on Ways and Means  
103 West  
State Capitol  
Madison, WI 53702

RE: Support Streamlined Sales Tax  
SB 267 and AB 547

Honorable Chairmen and Committee Members:

On behalf of over 500 family-owned and operated retail hardware stores across Wisconsin, the Midwest Hardware Association endorses Senate Bill 267 and Assembly Bill 547 and the continuing efforts to standardize and streamline sales tax regulations in Wisconsin and other states.

Throughout their long history Wisconsin's hardware stores have never shied away from a fair fight among competitors in an open market place. Just as MHA members from years ago found ways to successfully compete first against catalog sellers, and then chain stores and most recently mass merchandise discounters, they will find creative ways to compete in "the new retail economy" But, government should not have rules which provide pricing advantages to certain channels of distribution while disadvantaging others. It is unfair to require brick and mortar retailers to charge, collect and remit state and local taxes on the sale of their products, while Internet and other remote sellers are allowed to advertise and sell the exact same merchandise tax free.

The members of the Midwest Hardware Association believe that Wisconsin's Main Street retailers, the same retailers who provide thousands of jobs to Wisconsin residents, pay real estate taxes, remit personal property taxes, pay income taxes on the profits of their business, fund state unemployment benefits and pump millions of dollars into the state's economy each year; should not also be subject to a government mandated competitive disadvantage which has existed for over 20 years. It's time to "level the playing field" among all types of retailers.

Senate Bill 267 and Assembly Bill 547 are critical "next steps" in the process to change an unfair system which currently exists. Hardware store owners from across Wisconsin ask for your proactive support in the passage of this legislation.

Sincerely,

John J. Haka  
Managing Director

*Serving  
Hardware  
Retailers in  
Wisconsin and  
Illinois Since 1896*

715/341-7100 ■ 800/888-1817 ■ Fax 715/341-4080

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**GENERAL ELECTRIC COMPANY COMMENTS**  
**SUBMITTED AT THE JOINT HEARING OF THE ASSEMBLY WAYS &**  
**MEANS COMMITTEE AND THE SENATE HOMELAND SECURITY,**  
**VETERAN & MILITARY AFFAIRS AND GOVERNMENT REFORM**  
**COMMITTEE**

**OCTOBER 6, 2003**

General Electric Company appreciates the opportunity to submit comments on AB 547 and its companion SB 267. GE has a special interest in Wisconsin's legislative effort to simplify sales tax administration because its Medical Systems business is headquartered in the State and employs approximately 6,000 people statewide. GE sells goods throughout the United States and is impacted by the costs of attempting to comply with the varying administrative requirements of the over 7,000 U.S. jurisdictions imposing sales and use taxes.

For these reasons, GE supports administrative simplification that will encourage remote vendors to voluntarily collect tax; reduce the costs of multistate sellers in collecting this tax on behalf of the states; reduce audit expenses; and reduce the costs to the state in auditing taxpayers and collecting unremitted taxes. Both the private and public sectors can be winners if this effort succeeds.

Most of the provisions included in the Streamline Sales Tax Implementing Agreement go to the heart of the issue of administrative simplification and will go far in reaching the goal of a less burdensome sales tax system. Such provisions, which GE wholeheartedly supports, include:

- Simplified seller registration;
- Uniformity in effective dates;
- Development of a state monitored database of rates and jurisdictions;
- Uniform sourcing rules;
- Uniform rules for tax returns and tax remittance; and
- Independent state authority with regard to bad debts.

However, GE believes that provisions related to the Governance of the Streamline Sales Tax Project require continued modification. Therefore, it is important for Wisconsin to enact this legislation so it can continue to play a critical role in further developing how the Governing board will operate with regard to state and taxpayer disputes and rights of both parties.

In closing, GE supports the development of a simplified sales tax administration regime that restricts its focus to those administrative provisions that directly impact the ability of multistate sellers to accurately and efficiently comply with state sales tax requirements.

Thank you for your consideration.

**For more information, contact:**

**Scott Roberti, State Tax Policy Director**

**General Electric Company**

**(203) 373-3413**

**or**

**Suzanne Kelley, Manager**

**GE Government Relations**

**(262) 548-5035 – WI Office**



**Memo**

**TO: Members of the Assembly Committee on Ways and Means and Senate Committee on Homeland Security, Veterans and Military Affairs and Government Reform**

**FROM: Joan Hansen, Director, Tax & Corporate Policy**

**DATE: October 6, 2003**

**RE: Streamlined Sales Tax Legislation: AB 547/SB 267**

Wisconsin Manufacturers & Commerce is appearing for information today with Art McDermott on AB 547 and SB 267 pertaining to the streamlined sales tax legislation that is being spearheaded by the Department of Revenue. Art is with Alliant Energy and is a Senior Tax Analyst. He is also an attorney and a member of the WMC Tax Steering Committee.

WMC supports many provisions of the legislation intended to administrate the sales and use tax more effectively and efficiently in Wisconsin and across the country. Many of the provisions allow for modernization and streamlining including:

- The overall simplification of returns, remittances and registration with the one year amnesty provision for voluntary sellers.
- Filing of sales tax returns electronically, nationwide and eliminating separate tax returns for local sales and use taxes.
- The adoption of the uniform tax procedures and uniform customer refund procedures.
- The use of manufacturing exemption certificates.
- The provisions included in Assembly Bill 24 sponsored by Representative Ziegelbauer – the drop shipment language, which is strongly supported by the business community and was supported by the Assembly Committee on Ways and Means and by the entire Assembly earlier this year.

**The following comments represent some areas of technical concern, as well as policy issues to consider:**

**First**, the theory of creating substantially similar definitions for food and other tangible items seems to be a positive move, but it is definitely a significant change in the structure of sales/use tax collection; and the Wisconsin Legislature is relinquishing some future legislative authority and flexibility in determining the sales taxability of tangible personal property. Currently, no elected Wisconsin officials are part of the "Project" that defines tangible personal property.

The adoption of this legislation means that there will virtually be no flexibility to modify or change definitions, which could become problematic as markets change and new products are developed. It is also probable



that in the future, there will be an attempt to define services, which are currently not subject to the sales tax unless specifically enumerated in the statutes in Wisconsin.

This approach essentially becomes the "all or nothing" method of taxation -- and with Wisconsin's historically high overall tax rankings, we do not want to be on the side of "all".

Certainly, the uniform definitions are the foundation of the legislation and it is understandable why this approach is being pursued with the erosion of the sales tax base, but it is also a move to carefully consider. At this point, only twenty states have adopted this legislation and three are already out of compliance. Congress has not adopted the approach at this point.

**Secondly and most significantly**, the legislation changes the statutory language related to computer software. Under current law "computer software, except custom software" is subject to the sales tax. As written in AB 547/SB 267, "pre-written" software is subject to the sales tax. Although this may seem like a subtle and insubstantial change, in practice, it will represent a tax increase for the majority of businesses that use custom computer software.

The effect of this subjects businesses to a sales tax increase that they otherwise would not or should not incur at the retail level. Currently, if a business is customizing software everything related to that customization is not subject to the sales tax, including modification, future enhancements, consultant work and work by third parties, programmers, IT, installation, maintenance and repair. The legislation allows for the initial purchase of original software to be subject to the sales tax even though it will be customized and could not BY ITSELF be used prior to customization for the purchaser.

This unfortunately also poses an administrative concern for businesses that contract for these services because the initial part of the purchase is rarely, if ever, itemized on the bill because the entire project is considered a custom computer software project.

**WMC's suggestion would be to remove this item completely from the legislation, assuming Wisconsin could continue to be in substantial compliance with the overall project.**

**The final concern** for WMC is sourcing for software programs. In cases of businesses installing software on a server, the sales tax is currently collected at the main location of the server. Under the legislation, depending on where the software is being accessed, it may trigger a multiple point-of-use test and an apportionment method of sales tax would need to be determined. This will pose an administrative nightmare for some businesses.

Thank you for the opportunity to appear before the committee today. Art McDermott from Alliant Energy will discuss these technical issues in more detail.



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October 6, 2003

State Senator Ronald Brown, Chair  
Senate Committee on Homeland Security,  
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104 South  
State Capitol  
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State Representative Mickey Lehman, Chair  
Assembly Committee on Ways and Means  
103 West  
State Capitol  
Madison, WI 53702

RE: Support Streamlined Sales Tax/SB 267 & AB 547

Dear Senator Brown and Representative Lehman and Committee Members:

As a Wisconsin small business owner for over 12 years and an internet enthusiast for about 5 years, I would like to share some thoughts regarding the Streamlined Sales Tax initiative.

As you are aware, more and more people are enjoying the convenience of making purchases over the internet. Even my hardware customers make purchase on line from out of state companies. More than once I have been asked to match a price of an on-line competitor. This I have no problem with. I am perfectly capable of competing with anyone on a level field. The problem for me comes when I am then asked to also lower my price an amount equal to the Wisconsin Sales tax since the internet vendor will not be charging any.



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I know that our law requires these purchases to be declared and a use tax remitted. You obviously know that the vast majority of people do not. This is a direct loss in revenue from Wisconsin sales tax and it is growing every day! The really unfortunate part, is when revenues are sufficiently reduced, someone will be asked to "pick up the slack". I fear that someone will be Wisconsin's small businesses.

There is absolutely no technological reason that remote sellers can not collect sales tax and remit it electronically to the proper jurisdictions. As I see it, the first step and the only major hurdle is the simplifying of sales tax laws from state to state. Wisconsin has been a leader in this effort and I urge you to do everything in your power to make it law.

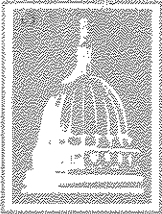
Wisconsin's main street merchants are vitally important in providing jobs and benefits to our neighbors and in supporting all types of local causes. Please help us remain viable, and the State of Wisconsin to remain solvent by taking this first important step. SB 267 & AB 547 are not about additional taxes. They are about the ability to compel remote sellers to do what Wisconsin businesses have been doing faithfully for years.

Thank you for your thoughtful consideration of this measure!

Sincerely,

A handwritten signature in black ink, appearing to read "D. Warren", written over a horizontal line.

David Warren  
President



# Wisconsin Merchants Federation

*"The Voice of Wisconsin Retailing"*

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Madison, Wisconsin 53703

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October 6, 2003

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State Representative Mickey Lehman, Chair  
Assembly Committee on Ways and Means  
103 West  
State Capitol  
Madison, WI 53702

**RE:** Support Streamlined Sales Tax/SB 267 & AB 547

Dear Senator Brown and Representative Lehman and Committee Members:

The Wisconsin Merchants Federation joined by the Midwest Hardware Association has been working for more than three years as part of a national effort to set the stage for states to require out-of-state sellers to collect and remit sales taxes. SB 267 and AB 547 is legislation critical to that goal.

Why is this important? Simple. Does your competition pay taxes? This question cuts across the entire retail industry statewide and nationally. This question cuts across all shapes and sizes of retailers from Land's End to Kohl's Department Stores to hardware, jewelry and music stores. This is truly a main street issue.

Main street retailers should not become "catalog/internet showcases" for consumers to come in, kick the tires and then order merchandise over the internet to save the sales tax. SB 267 and AB 547 don't create a new tax or set the stage for one. The tax liability is already imposed. This is a collection issue. This is a national issue that requires all states to work together to fix this problem.

The National Governor's Association is in strong support and fears that there is only a small window of opportunity to enact uniform sales tax codes now. As internet sales grow stronger and become more established the governors fear that this problem will grow too big to fix.

The devil is truly in the details on this issue. States have to review obscure sales tax codes to uniformly decide if marshmallows should be taxed or not. If peanuts are sold they are considered food but if you put chocolate on them they become candy and taxable.

According to the National Retail Federation, the states' sales tax systems are nearly as complicated as the IRS tax code. It's not just the states that collect sales tax. So do more than 7,000 local jurisdictions. Sales tax simplification should make everyone's life easier but it won't be easy to get this done. Progress has been made but the heavy lifting starts now with the passage of SB 267 and AB 547.

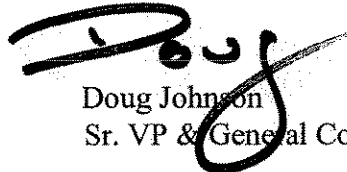
In addition to evening the competitive playing field for state retailers now competing at a disadvantage there are huge tax issues. The WI Department of Revenue estimates that as much as \$300 million biennially could be collected once out-of-state sellers are required to collect and remit sales taxes. Tax fairness underscores this issue. All retailers and consumers should pay their fair share.

According to the New York Times editors, "Most online purchases generate no sales tax, a fact that deprived states of more than \$19 billion last year or more than half of their collective budget shortfalls. One easy way for Congress to help states facing fiscal devastation is to allow them to collect taxes from online retail transactions...Congress must strive to make (collection) possible...the country can not afford to see a vast swath of its retail sector transformed into a duty-free zone."

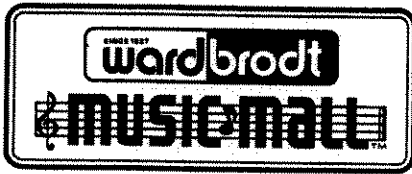
Thank you all for your attention to this matter of state and national significance.

Sincerely,

  
Chris Tackett  
President & CEO

  
Doug Johnson  
Sr. VP & General Counsel

cc: Governor Doyle  
WMF Board



October 6, 2003

State Senator Ronald Brown, Chair.  
Senate Committee on Homeland Security  
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103 West  
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Madison, WI 53702

RE: Support Streamlined Sales Tax/SM 267 & AB 547

Dear Senator Brown and Representative Lehman and Committee Members:

My company, Ward-Brodt Music, is a retailer of musical instrument products, serving those who teach and make music for a profession or as a hobby. We rent musical instruments to beginner students throughout Southern Wisconsin and parts of Northern Illinois. Our print music department has clients in most states and has an international reputation for service and a knowledgeable staff. We have visitors from all over the country due to our reputation as a good citizen within our community and the music products industry. We support most local performing groups with advertising and promotional events to bring culture to the community and schools. We are also a collector of sales taxes, since, in the real world, our company does not pay taxes, but our customers do the prices that we charge.

For us, charging for those taxes is challenging. We have route representatives who assist customers with rentals of band and orchestra instruments through school accounts. We must know each county and track these customers by their address to comply with sales tax legislation. We provide some services that are not taxable, such as musical lessons, yet we sell materials for those lessons that are taxable on the same invoice. We sell products over-the-counter to schools and churches, but also to individuals, again looking at what organization is taxed and who isn't. We have thick files of copies of tax exempt certificates. And, our national turn-key software provider has to make us an exception since Wisconsin is one of two states that charges sales tax on shipping or postage charges. This issue is often contested by customers, thus I carry a copy of the regulation with me to show citizens that we are not over charging them.

We are further challenged by mail order, phone order, and internet marketing where the customer perceives savings by avoiding sales taxes. I have even heard out-of-state sales



persons tell me to buy from them and save sales taxes, thus not informing the consumer of their obligation to pay use tax on the state income tax form. I have heard politicians state that charging sales taxes on mail order hurts senior citizens. With these transactions, Wisconsin loses revenue; thus our citizens are taxed by some other means, or tax payer funded services are cut.

For us, today's retail playing field is not level since all internet providers have a presence in every home that has internet access. Nearly every product that we sell can be found through a search engine with hundreds of sources listed.

Since sales taxes have become such an import means to fund state and local services, and infrastructure, any program that keeps that revenue stream in place should be a high priority. I personally think that the estimated lost revenue from border-hopping, mail order, phone orders, and internet transactions is under stated. The time has come to streamline and standardize the sales tax collection among all states. Small business does a tremendous job in collecting other taxes for our governments, unemployment compensation, social security, workman's comp and personal income taxes. Shouldn't the governments that are receiving the taxes collected by businesses help us to compete and operate more efficiently?

The technology is available for all interstate sellers, including E-bay, to administer and collect these taxes; many large national companies are already doing this. Let's get all businesses to comply and PLEASE make it simpler.

Respectfully submitted by,



Michael C. Faulhaber

Ward-Brodt Music Company, President



**Stephen L. Nass**  
Wisconsin State Representative

TO: Republican Members of the Ways and Means Committee

FROM: Representative Steve Nass

DATE: October 14, 2003

RE: **OPPOSITION TO AB 547 – Streamlined Sales and Use Tax Bill**

I am unable to attend the executive session on AB 547 scheduled for October 15, 2003. I have asked the chairman to include my vote against this bill on the committee report as is permitted under Assembly Rules.

Attached are two articles that shed light on the real issues behind the Streamlined Sales and Use Tax Agreement on a national basis. The first article is from Adam Thierer and Veronique de Rugy of the Cato Institute (October 2003). The second article is from ALEC or the American Legislative Exchange Council and is a section from their guide entitled, *Crisis in State Spending – A Guide for State Legislators* (January 2002).

While there are many positive items built into the Streamlined Sales and Use Tax Agreement and AB 547, it is the hidden agenda of these documents that needs to be debated. That agenda includes:

- 1.) Reversing a 30-year string of U.S. Supreme Court rulings protecting taxpayers and businesses from having to collect/pay sales taxes for state/local governments in states where the business has no physical presence. This area of case law is known as the “nexus” rulings regarding sales tax collections.
- 2.) Improving the chances that Congress will pass federal legislation authorizing states to require collection of sales taxes on Internet transactions and sales of all interstate vendors. The theory goes that if more states voluntarily agree to tax their citizens in this manner, then all states should be required to participate in a streamlined sales and use tax process.

In Wisconsin's case, the Department of Revenue provided committee members with a fiscal analysis on AB 547 that states the revenue impact of this legislation would be a reduction in total sales tax collections of \$5.4 million. The total reduction would be offset by an increase in voluntary collections amounting to \$1.9 million leaving a net fiscal reduction of \$3.5 million.



In testimony on this bill, it was stated that AB 547 would lead to revenue enhancement for the state in the long-term. This is backed up by data in a newspaper editorial suggesting AB 547 will help Wisconsin collect the nearly \$150 million annually in lost sales/use tax revenues.

The \$150 million figure casts serious doubts on the DOR fiscal analysis provided to the committee. **I would even suggest that the department hasn't provided the committee the whole story on how AB 547 and participation in the Streamlined Sales Tax Agreement will lead to significant revenues for the state at the expense of hardworking Wisconsin families.**

Further, the State of Wisconsin doesn't need to pass AB 547 or participate in the Streamlined Sales Tax Agreement in order for businesses to benefit from less bureaucracy and clear definitions on what items should be taxed. Frankly, the DOR should have been doing this for years and their sudden willingness to do the right thing in working with big business on streamlining sales tax collections is more about their ability to gain greater access to the wallets of Wisconsin citizens.

Is it a bad thing that Wisconsin citizens avoid paying \$150 million annually in sales taxes? I believe the answer is a resounding NO! First, the people of Wisconsin are not under-taxed, they are over-taxed. Second, in the 2003-2005 biennial budget, Wisconsin is projected to collect \$8 billion in sales and use tax. At \$150 million a year or \$300 million over the biennium, the people of Wisconsin avoid paying a measly 3.75% in total projected sales tax collections.

Also, consider the recent actions of Governor James Doyle to prevent the DOR from collecting sales taxes from the parking fees collected by homeowners around Lambeau Field and Camp Randall. Even the Governor recognizes that it's not in the best interest of the state to literally squeeze every nickel out of the pockets of his constituents.

**I encourage all Republicans to vote against AB 547 and what the bureaucrats call "revenue enhancement." Their revenue enhancement is really a sales tax increase for the working people we represent.**



## The Coming Internet Tax Quid Pro Quo?

Issue #61  
October 7, 2003

by Adam D. Thierer and Veronique de Rugy

The ongoing debate over the taxation of the Internet—or, more specifically, the application of sales tax collection obligations to all interstate vendors—is coming to a head. The Internet Tax Freedom Act of 1997, which didn't deal directly with sales taxes but imposed a moratorium on taxes on Internet access or "multiple or discriminatory" taxes on electronic commerce, is due to expire on November 1, 2003. The Internet Tax Nondiscrimination Act was introduced in the House (H.R. 49) and in the Senate (S. 150) to make the existing ITFA moratorium permanent. The measure already has already passed the House and is advancing through the Senate.

In the other direction, Rep. Ernest Istook (R-Okla.) and several cosponsors recently introduced H.R. 3184, the Streamlined Sales and Use Tax Act, which would eliminate existing federal barriers to state and local taxation of interstate commerce and Internet sales. Specifically, the Istook bill would give congressional blessing to the Streamlined Sales and Use Tax Agreement (SSUTA), an ongoing effort by many state and local leaders to enter into formal compact that would simplify and harmonize sales tax administration among the states to get around constitutional hurdles to taxing interstate vendors.

Now that the ITFA appears to be sailing toward easy passage, state and local officials are starting to grumble about how it might cut into their future tax revenues if "Internet access" comes to include some of the old telecom services they tax so heavily. But state and local officials have continued to go along with the ITFA extension and kept their eyes squarely focused on the bigger prize: Congressional termination of the 30 years' worth of Supreme Court jurisprudence that has limited their ability to impose sales and use tax collection obligations on interstate activities and vendors. This is what the Istook bill would accomplish.

Thus, despite some complaints about the ITFA's prohibition on Internet access taxes, SSUTA supporters have long understood the benefit of allowing the ITFA to exist, and even be extended. It provides them with a potential legislative *quid pro quo* that roughly reads as follows: We gave you the ITFA moratorium on Internet access taxes, now give us your consent on the SSUTA compact so we can start collecting sales taxes on e-commerce transactions.

By way of background, in a string of Supreme Court decisions over the past 30 years, the Court held that states could only require firms with a physical presence—or "nexus"—in their jurisdictions to collect sales taxes on their behalf. State and local tax officials have worked to eliminate or water down these restrictions on their tax reach but thus far have not been able to get around them or convince Congress to give them the authority to tax interstate vendors. Simply stated, these Supreme Court rulings embodied the timeless principle of "no taxation without representation" and sought to apply sensible Commerce Clause protections to interstate activities since Congress had been silent on the matter.

Section 3 of the new Istook bill would effectively end these protections for interstate vendors by noting, "It is the sense of the Congress that the sales and use tax system established by the Streamlined Sales and Use Tax Agreement... provides sufficient simplification and uniformity to warrant Federal authorization to States that are parties to the Agreement to require remote sellers, subject to the conditions provided in this Act, to collect and remit the sales and use taxes of such States and of local taxing jurisdictions of such States." That language would send a clear message to

the Courts during future interstate tax policy or nexus controversies: Congress now cedes to the States—or, more specifically, the "Governing Board" of the SSUTA—authority over interstate commerce for cross-border sales tax collection activities.

Will SSUTA supporters now demand that the price of their general acceptance of the ITFA extension is the Istook bill's congressional blessing on the creation of a multistate compact and the elimination of existing Supreme Court jurisprudence? That's the proverbial million (or perhaps multibillion) dollar question. But such a quid pro quo is a steep price to pay for the mere extension of the ITFA's ban on Internet access taxes. Congress would be wise to think twice before casually disposing of 30 year's worth of sensible Supreme Court nexus jurisprudence, which not only embodied and extended the Founding Fathers' "no taxation without representation" vision but nurtured a vigorous interstate marketplace free from extraterritorial tax and regulatory meddling by state and local officials.

Supporters of the SSUTA are essentially proposing to abandon true federalism and jurisdictional tax competition in exchange for the power to potentially recoup a small amount of tax revenue from interstate sales via a uniform system of third-party tax collection. Sadly, it appears the many state and local officials would prefer tax collusion over a "laboratories of democracy" model of competition between the states. Real federalism, as envisioned by the Founders is about a friction and tension between competing units of government, not cooperation and harmonization in the name of extending tax burdens. That's the European Union model of federalism, not the U.S. model. Congress should be wary of collusionary tax compacts such as the SSUTA that would grant the states such open-ended tax authority over the channels of interstate commerce. Preserving or enhancing tax competition should be a guiding theme of this ongoing debate.

Finally, some state leaders will claim that they need to tax the Net and interstate sales to curtail their current fiscal policy crisis. But that crisis is of their own doing, brought on by their profligate spending habits particularly at the end of the 1990s. Total state general fund spending grew by 7.7 percent in FY1999, 7.2 percent in FY2000, and 8.3 percent in FY01. Even as economic growth slowed and budget gaps appeared, state spending still increased 1.3 percent in FY02 and will increase further in FY03. And how much money do they really think they're going to squeeze out of the Net sector? Internet business represents a minuscule portion of aggregate retailing activity in the United States. According to the U.S. Department of Commerce, e-commerce activity accounted for just 1.3 percent of all aggregate retail sales in 2002. Some fear the Internet will grow larger, like mail order and catalog, but in reality those sectors represent breadcrumbs compared to the rest of the economy. Do we really want to justify a burdensome and potentially unconstitutional multistate tax compact and taxes on interstate activities on the grounds that the states need more cash in the short term?

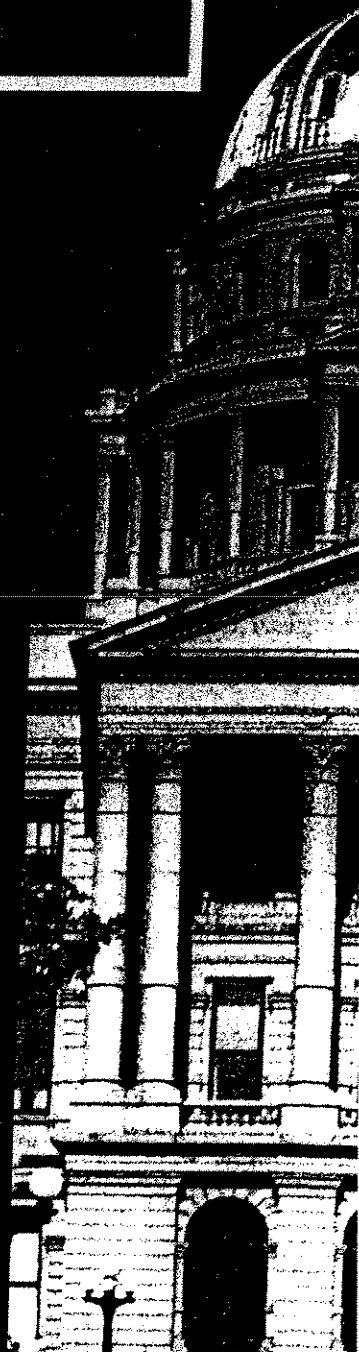
After they cut spending, state and local leaders can explore other tax reform options to solve whatever problems they feel they are experiencing. But in doing so, they must abide by the constitutional protections and sensible nexus guidelines that have protected the channels of interstate commerce in previous decades. It would be foolish for members of Congress to abdicate their responsibility to safeguard the national marketplace by giving the states carte blanche to tax interstate commercial activities via a collusionary multistate tax compact.

*Adam Thierer ([athierer@cato.org](mailto:athierer@cato.org)) is the director of telecommunications studies and Veronique de Rugy ([vderugy@cato.org](mailto:vderugy@cato.org)) is a policy analyst at the Cato Institute in Washington, D.C. ([www.cato.org/tech](http://www.cato.org/tech)). They are the authors of the forthcoming Cato Policy Analysis, "The Internet Tax Solution: Tax Competition, Not Tax Collusion." To subscribe, or see a list of all previous TechKnowledge articles, visit [www.cato.org/tech/tk-index.html](http://www.cato.org/tech/tk-index.html).*

# CRISIS IN STATE SPENDING

A Guide for  
State Legislators

ALEC



By Aaron Thierer and Aaron Lukas, *The Cato Institute*

With almost every state legislature as well as Congress debating the taxation of electronic commerce, it remains one of America's hottest technology policy issues. It appears likely that Congress will renew, at least for two more years, the moratorium it put in place under the Internet Tax Freedom Act of 1998. This moratorium, which has been the subject of intense and often acrimonious debate, merely prohibits state and local government from imposing "multiple or discriminatory" taxes on the Internet as well as taxes on Internet access.

Importantly, however, the ITFA moratorium does not prohibit state and local governments from attempting to collect sales taxes on goods purchased over the Internet. What currently ties the hands of state and local governments is not the ITFA, but rather 30 years of Supreme Court jurisprudence surrounding "remote" (i.e., interstate) commerce.

In *National Bellas Hess v. Illinois* (1967), *Complete Auto Transit, Inc. v. Brady* (1977), and *Quill v. North Dakota* (1992), the Supreme Court ruled that states could only require firms physically present in their jurisdiction to collect taxes on their behalf. Those decisions, which have never been overturned or altered by Congress, provide a sensible guideline for taxing remote sales. In essence, the logic of the Court's jurisprudence can be summarized by the classic phrase used by the Founders: "No taxation without representation." More specifically, a state or local government may only place tax collection obligations on companies or

consumers that receive something in return for those taxes. Forcing companies to collect taxes for jurisdictions they receive few benefits from would be blatantly unfair and massively inefficient given the complexity of the sales tax system in America (currently over 7,000 taxing jurisdictions with a multiplicity of rates and product definitions).

This explains why interstate mail order and catalog companies are not required to pay taxes in states where they have no physical commercial presence, or "nexus" as the Court refers to it. Companies are required to collect taxes only in the states where they have tangible business operations. Their customers, however, are expected to remit taxes to their state or local governments. That compliment to the sales tax is called the "use tax," but enforcement remains problematic, if not impossible, given the difficulty associated with tracking direct-to-the-door sales.

Largely because of use tax collection problems, many state and local officials have undertaken a new effort to collectively "simplify" their sales tax systems. Specifically, they hope to establish a multi-state compact to jointly set sales tax policies such as rates, definitions, and collection obligations. Eventually they hope that simplification will render the Supreme Court nexus requirement moot. The effort has been dubbed the "Streamlined Sales Tax Project" (SSTP) and its promoters say it is the pro-"states' rights" solution to the Net tax debate.

But state and local officials who have a proper understanding of the Constitution will quickly realize that this version of "states' rights" is not consistent with the vision of American federal-

ism that the Founding Fathers conceived of long ago. Their federalism established the world's first free trade agreement by ensuring that different levels of government would rule within different spheres. Those few matters that truly involved a national scope would be administered by the federal government; all other parochial matters were left to state and local governments. The dynamic tension among various levels of government and among the states helped ensure that no level of government would grow too large or encroach the liberties of the citizenry.

By proposing an interstate tax cartel, the supporters of the SSTP project are, in reality, proposing to scrap the constitutional framework and revert back to an Articles of Confederation-style arrangement for interstate commerce. Under the Articles, few barriers existed to prevent state taxation and regulation of interstate commerce. As a result, economic anarchy existed among the states with every commercial dispute having the potential to ignite a full-blown trade war. To remedy that, the Founders abandoned the "anything goes" vision of untrammelled "states' rights" and included several clauses within the Constitution to help keep the commercial peace within the union. Article 1, Section 8, Clause 3, "the Commerce Clause," is the most well-known in this regard, but the Founders also made it clear in Article 1, Section 10, Clause 3, "the Compacts Clause," that states were not to enter into compacts that might unduly burden the free flow of commerce.

The beauty of this constitutional system is that it helps ensure commercial harmony among the states while

also encouraging them to establish distinct policies within their own domain. This allows consumers and companies to "vote with their feet" and find more hospitable tax and regulatory jurisdictions when they feel burdened by their current government.

That model should also be applied to the debate over Internet taxation. Policymakers should not simply drop all barriers on the taxation of the interstate marketplace and allow state and local governments to collude and craft a multi-state tax authority. Such a de facto national sales tax cartel would not only be a slap in the face of the Founding Fathers, it would also have disturbing economic consequences for the future governance of the interstate marketplace. Thus, state and local policymakers who uphold the Jeffersonian and Madisonian vision would do well to consider the proposed ALEC model legislation, *The Interstate Compact Sunshine Act*, which would shine light on current efforts to craft such a system.

Moreover, while some pro-tax state and local officials would have us believe that the Internet and electronic commerce are drastically eroding their sales tax bases, the reality is something much different. Electronic commerce sales constituted only about 0.8 percent of aggregate retail sales in 2000, according to U.S. Department of Commerce data. In fact, the correlation between tax revenues and spending is the opposite of what Internet tax supporters assert: when online retailers were thriving, tax revenues soared; when retailers were hurting, revenues declined. In light of those trends, it's hard to see how the Internet is to blame for revenue short-

falls. The one thing we do know is that more data is needed. ALEC's model bill, the *Electronic Commerce and New Economy Data Collection Act*, will give states the tools to have an informed debate on this issue for a change.

Of course, the most compelling justification given for changing the rules on remote taxation is the "level playing field" argument. It is unfair, tax supporters argue, that when a consumer makes a purchase in a local store, a sales tax is collected at the point of sale. If, however, a consumer goes online, he can mail-order the same product from an out-of-state business that won't collect the tax. Because use taxes are not enforced, the result is a de facto tax advantage for online shopping that, for expensive purchases, may even outweigh shipping charges.

That's not a theoretically ideal state of affairs. All things being equal, there is no reason to purposefully favor out-of-state over local sellers, and so the tax advantage makes for bad policy. Economists worry that such favoritism leads some consumers to make purchases based on tax savings rather than price—a loss of efficiency that may leave society poorer overall. Brick-and-mortar businesses argue that the tax advantage is simply unfair.

Both groups have a point. In a perfect world, tax policy would be absolutely neutral and, while we're musing about perfection, tax rates would only be high enough to fund essential government services. But in the real world, of course, all things *aren't* equal.

First of all, the sales tax is not a neutral tax, so extending it to remote sales won't necessarily lead to greater economic efficiency. Consider, for

example, the fact that few sales taxes in the United States cover services, even though service purchases account for about 60 percent of consumer spending. In addition, states purposefully exempt items like food and clothing from the sales tax base. The result is a tax that arbitrarily favors producers of certain goods—and all services—over others. At best, extending that biased system to online purchases merely trades one inefficiency for another.

Second, the ability of consumers to shop online fosters healthy tax competition among the states. Because sales taxes collect only a few pennies at a time, it is difficult for taxpayers to know how much they have paid over the course of a year. Consequently, it is easier for states to hike sales tax rates than alternatives such as income or property taxes. When sales taxes were first introduced during the Great Depression, rates were extremely low; today, they average over six percent and run as high as ten percent.

While e-commerce is a miniscule component of consumer spending, its mere existence serves to inhibit excessive taxation. Politicians fear that if they raise tax rates too much, consumers can take advantage of low tax rates elsewhere. Just like shoppers that drive from high- to low-tax states, the Internet will induce state and local governments to keep overall tax rates at a more reasonable level.

Third, requiring tax collection on mail-order sales wouldn't just flatten the playing field, it would tilt it in the other direction. Consider the fact that local businesses are forced to collect sales taxes only for a single jurisdiction: the one where they are located. Local

**Electronic  
commerce sales  
constituted only  
about 0.8 percent  
of aggregate retail  
sales in 2000,  
according to U.S.  
Department of  
Commerce data.**



stores don't ask where their customers live and then collect the tax for that jurisdiction. Thus, sales taxes are—rhetoric aside—actually based on where the seller, not the buyer, resides.

To truly level the playing field, states would have to either make local businesses collect background information on all customers (including out-of-state customers) and then remit taxes to the proper revenue agency or, alternatively, instruct Internet-based businesses to collect the local sales tax at the point of sale—an "origin-based" system—ignoring where their customers reside. Although either of those systems would remove the de facto tax advantage for online sellers, the former would be monstrously expensive and complex to administer. The later system is workable and constitutionally sensible, but most pro-tax state officials fear it because tax competition among the states would be strengthened. Unless they are ready to defend one of those options, proponents of expanding sales tax collection authority should stop lecturing about fairness.

In all likelihood, Internet sales will never be a serious drain on state revenues. But even if they eventually are, states would have options that would not upset the constitutional balance. One would be to apply sales taxes at the origin, as discussed above. Another would be to abandon the current sales tax system altogether and move toward a savings-exempt income tax (SEIT) that would tax consumption through the income tax code. Under a SEIT, all of an individual's savings would be exempt from tax leaving only the consumed income portion to be taxed. This would guarantee that 100

percent of individual consumption would be taxed, without all the holes and exemptions that riddle the current system.

One obvious benefit of the SEIT approach is that it obviates the need to track individual commercial transactions to the "destination of sale." In a world where goods and services increasingly cross borders, that is a significant advantage. In addition, a SEIT is economically neutral. No matter where a taxpayer buys a good or service, or who she buys it from, her consumption activity is taxed the same.

The point, of course, is that states have options. They should not be lobbying Congress to authorize a tax cartel, especially when it is far from clear that the Internet is eroding tax revenues. The Streamlined Sales Tax Project aims to reduce healthy tax competition and overturn sensible legal precedent, with no real gains in terms of fairness or efficiency. Thoughtful state and local legislators should not buy the bill of goods that their pro-tax colleagues are selling.





**Halverson, Vicky**

**From:** Mayers/WisPolitics.com [mayers@wispolitics.com]  
**Sent:** Monday, October 06, 2003 4:41 PM  
**To:** platinum List Member  
**Subject:** (WisPolitics) MON PM Update -- 6 Oct. 2003

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**WisPolitics PM Update**

6 Oct. 2003

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***Does the calendar link above provide sufficient notice of meetings?***

***Or would you prefer to see the calendar for the next day copied and pasted into this daily product, realizing it would lengthen the e-mail?***

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\*\*\*\*\*

***From WisPolitics.com ...***

-- The Wisconsin Taxpayers Alliance released a study today on property tax trends in the last decade. From 1992-2002, municipality property taxes levied by the state's largest 220 cities and villages rose an average of 5.4 percent annually, according to the study.

See more results and the release: <http://www.wispolitics.com/1006/wst.pdf>

-- Two legislative committees today held a joint hearing on a large bipartisan proposal aimed at simplifying and modernizing sales and use tax collections and administration. The bill -- AB 547 (and Senate companion SB 267) -- reflects the interstate tax deal agreed to by 36 states, including Wisconsin, and the District of Columbia on Nov. 12, 2002. That agreement now must be transformed into separate proposals by the voting-member states for adoption as part of the 2003 legislative sessions.

The Streamlined Sales Tax Project was organized in March 2000 by state governments who share the private sector's concerns regarding what are characterized as burdensome and sometimes unfair or confusing tax policies. The project's co-chair is Diane L. Hardt, the administrator of the Division of Income, Sales and Excise Taxes in the Wisconsin Department of Revenue.

The November 2002 multi-state deal -- as well as the Wisconsin legislation pending in committee -- also seeks to

10/07/2003

encourage out-of-state retailers to collect the state, county and other sales and use taxes voluntarily. Current federal law does not require retailers who sell goods or services to Wisconsin residents, or those in other states, to collect the sales or use taxes imposed by such sales if the retailer has no physical presence in Wisconsin or the other states where sales are made. Those states which enter into the multi-state arrangement must adopt uniform definitions pertaining to key items in the tax base which caused some concerns among some members of the Senate Homeland Security, Veterans and Military Affairs, and Government Reform, and the Assembly Committee on Ways and Means.

However, members were told while the common definitions would be used by all states, it still is the decision of the individual legislatures as to what is taxed and what is exempt. Democratic Rep. Johnnie Morris of Milwaukee wondered if the agreement would mean Wisconsin could not exercise its creativity to craft tax breaks or holidays to help its citizens. Republican Rep. Michael Lehman of Hartford, the lead sponsor of AB 547, said the state could develop proposals. However, Lehman noted, the federal government is looking at the tax holiday issue. Others questioned whether it was wise for Wisconsin to move ahead on such a massive proposal while the federal government also is working on its own version. Retailers, manufacturers, telecommunications firms, airlines and more have been part of the process.

-- Tomorrow in the Assembly, the Colleges and Universities Committee airs the recent pay raise controversy at the UW System. Some UW regents, meeting last month in a little-advertised meeting, voted to adjust salary ranges in virtual secrecy. David Walsh, vice president of the Board of Regents and a friend of Gov. Jim Doyle, is scheduled to appear before the committee. Before the committee is a bill that would give the Legislature's Joint Finance Committee final approval of any proposal by the board to adjust salaries. The panel is set to meet at 10 a.m. in room 225 northwest of the Capitol. No votes on the bill or other legislation are expected.

Meanwhile, those following the controversy now expect there to be a move to reconsider the pay raise vote at the UW regents' meeting later this week. But that doesn't necessarily mean the matter will be decided up or down. It could go to a committee for more study.

-- The debate concerning Smart Growth will intensify later this week as a bill to repeal the planning law comes up for a hearing. Smart Growth seeks to protect the environment and farmlands from development through land use plans. Supporters say it works; opponents say it is too expensive and unpractical for smaller communities. The Wisconsin Wildlife Federation today came out in support of keeping Smart Growth, saying such planning is critical to maintaining fish and wildlife habitats, water quality and safe hunting.

"There may be a need for fine tuning of the current law, but repealing the law would be very detrimental not only to hunters and anglers today. But more importantly, (it) would lead to the loss of millions of acres of hunting and fishing opportunities for future generations," said George Meyer, the federation's executive director. Assembly Bill 435, introduced by Republican Rep. Mary Williams of Medford, is the subject of public hearing before the Assembly Rural Affairs Committee at 10 a.m. on Thursday in Room 412 East Capitol.

-- U.S. Rep. Mark Green, R-Green Bay, announced details of the new northeastern Wisconsin veterans clinic that is set to open by the end of the year in Green Bay.

See Green's release: <http://www.wispolitics.com/index.html?Article=2596>

See a related AP story: <http://www.startribune.com/stories/568/4138599.html>

-- Dem U.S. Sen. Russ Feingold's re-election campaign today announced the endorsement of Save American Manufacturing (SAMNow). See the release:

[http://www.wispolitics.com/1006/Save\\_American\\_Manufacturing\\_Endorses\\_US\\_Senator\\_Russ\\_Feingold.pdf](http://www.wispolitics.com/1006/Save_American_Manufacturing_Endorses_US_Senator_Russ_Feingold.pdf)

--Doyle is acknowledging the economic impact of the Packers. A new Sports Illustrated story on the Packers contains this passage:

*Doyle grew up in Madison and vividly remembers the Sundays of his youth, hustling home from church to watch the Pack (and the Hamm's beer commercials) on TV with his father. "The Packers are more than just a state team," says Doyle. "They determine the state's mood. They throw this state into a depression if they lose. Productivity is affected. It's been like that forever." (Statewide anxiety levels, which were running high after Green Bay got off to a 1-2 start, came down a bit after the Packers beat the Chicago Bears 38-23 on Monday night.)*

<http://sportsillustrated.cnn.com/magazine/features/si50/states/wisconsin/story/>

--Governing Magazine takes a look at ALEC, an association of conservative lawmakers called the American Legislative Exchange Council ... "What Makes ALEC Smart? You don't hear too much about this right-leaning state pressure group. Maybe that's why it wins so often."

Click here to read more: <http://www.governing.com/archive/2003/oct/alec.txt>

-- Sen. Bob Welch, a Republican candidate for U.S. Senate who was an ALEC leader, released his "first wave" of coordinators in Waukesha County today. Sen. Ted Kanavas of Brookfield, Rep. Dan Vrakas of Hartland, Rep. Ann Nischke of Waukesha, Curt David, a technology consultant and vice chair of the 5th District Republican Party, and Ty Taylor, executive vice president of Waukesha State Bank, will act as county campaign coordinators.

Read the Welch campaign release: <http://www.wispolitics.com/index.iml?Article=2628>

-- Madison Mayor Dave Cieslewicz is due to announce his first budget tomorrow morning at 10 a.m. See announcement details: <http://www.wispolitics.com/index.iml?Article=2599>

**From WisOpinion.com...**

A new "Legislative Voices" column by U.S. Rep. Tammy Baldwin, responding to President Bush's visit here Friday: <http://wisopinion.com/features/commentary/2003/f0310/f03100601.html>

**Other Headlines:**

The Washington Post: 'Old Bull' Democrats Frustrate House GOP (Obey mention)  
<http://www.washingtonpost.com/wp-dyn/articles/A48996-2003Oct5.html>

The Capital Times: DNR battles distrust in working for lakes  
<http://www.madison.com/captimes/news/stories/58232.php>

The Capital Times: Capitol Watch: Recall circus possible but less likely in Wis.  
<http://www.madison.com/captimes/news/stories/58220.php>

The Capital Times: GOP takes aim at local labor law  
<http://www.madison.com/captimes/news/stories/58235.php>

AP: Jury acquits River Falls mayor of battery  
<http://www.startribune.com/stories/568/4138772.html>

AP: Education Department awards Milwaukee \$4 million reading grant  
<http://www.startribune.com/stories/568/4138742.html>

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**Halverson, Vicky**

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**From:** Riley, Neci  
**Sent:** Thursday, October 09, 2003 10:45 AM  
**To:** Halverson, Vicky  
**Subject:** RE: Revised Oct. 15th Ways & Means Notice

Hi Vicky,

I wanted to get back to you about AB 547. At this time Rep. Morris does not know how she will vote.

Thanks,

Neci

Neci Riley  
Office of State Rep. Johnnie E. Morris  
118 North State Capitol  
P.O. Box 8953  
Madison, WI 53708

Phone: (608) 266-3756  
Fax: (608) 282-3611

-----Original Message-----

**From:** Halverson, Vicky  
**Sent:** Thursday, October 09, 2003 10:43 AM  
**To:** \*Legislative Assembly Republicans; \*Legislative Assembly Democrats; \*Legislative Senate Republicans; \*Legislative Senate Democrats  
**Cc:** Dick Wheeler; Ford, William; Gates-Hendrix, Sherrie; Helgerson, Jason; Loiselle, Debbie; Nussbaum, Jody; Pete Christianson; Sewell, Pete; Stigler, Ken  
**Subject:** Revised Oct. 15th Ways & Means Notice

*Revised Notice  
(AJR 42 added to calendar)*

*Assembly*

**PUBLIC HEARING**

**Committee on Ways and Means**

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The committee will hold a public hearing on the following items at the time specified below:

Wednesday, October 15, 2003  
9:30 AM  
415 Northwest

*An Executive Session may be held on AB 547 following the Public Hearing.*

October 10, 2003

Rep. Michael A. Lehman, Chair  
 Room 103 West, State Capitol  
 P.O. Box 8952  
 Madison, WI 53708

Dear Representative Lehman: *M. Lehman*

On October 6, 2003, the Assembly Ways and Means Committee considered AB 547, which adopts the substantive provisions of the Streamlined Sales and Use Tax Agreement. I urge your approval.

As the former Secretary of Revenue under the Thompson administration, I am very familiar with the strengths and weaknesses of the sales tax law. I know there is a lot of room for simplification and uniformity across the states to help retailers comply with the law. I also know about the inequities when main street businesses and large Wisconsin retailers are expected to collect the tax, but large Internet or mail order businesses without a physical presence in the state are not expected to collect the tax. Finally, I know that the typical Wisconsin consumer just does not understand that a use tax is due on their out-of-state, mail order, and Internet purchases.

In 1996-1997, some of my colleagues and I worked to negotiate a voluntary collection agreement with multi-state direct marketers. I did so after Lands End approached Governor Thompson and asked for help in resolving this long time inequity in the sales tax law. I think Lands End foresaw the day when they would be present in every state and would be required to collect the sales tax in every state. Unfortunately, we were not successful in our negotiations. However, because Lands End is now located in Sears stores in every state, Lands End is at a competitive disadvantage to their non-collecting competitors.

There have been many other efforts to address the multi-state problems in sales tax administration. None of them have been successful until now. The national Streamlined Sales Tax Project, as led by Diane Hardt and Vicki Gibbons of the Wisconsin Department of Revenue, has worked with governments and businesses across the country to radically simplify sales tax laws and administrative procedures. They have developed uniform definitions that will substantially reduce the burdens on retailers. They have provided for new technology models to assist businesses. And, the simplifications and uniformity could lead to the level playing field for businesses at a future date if Congress takes action.

I want to emphasize how important this effort is from the national perspective. It is extremely difficult to get the states to agree to anything as significant as sales tax definitions and administrative procedures. It is even more challenging to involve many businesses and industries in crafting the solution and get the widespread support that

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the Streamlined bill has. The Streamlined Sales Tax Project is a model for how states should work together to solve multi-state problems. Wisconsin should be very proud of its leadership role.

This is not a tax increase. In fact, the fiscal effect of AB 547 is a reduction of revenue of about \$3.3 million. There necessarily must be some pluses and minuses to get to uniform definitions. The Legislature will have to take further action if Congress authorizes states to collect taxes from retailers who have no physical presence in a state.

Thank you for your support of AB 547.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Bugher', written over a faint, illegible stamp.

Mark D. Bugher  
Director



## State of Wisconsin • DEPARTMENT OF REVENUE

2135 Rimrock Rd. • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933  
PHONE (608) 266-6798 • FAX (608) 261-6240 • dhardt@dor.state.wi.us

**Date:** October 15, 2003  
**To:** Representative Michael Lehman  
**From:** Diane Hardt  
**Subject:** Two Issues on Streamlined Bill AB 547

I am making you aware of two possible issues in regard to AB 547. I don't think they will be raised before your executive session but they may be raised at later committee hearings.

1. Exemption for catalogs. AB 547 gets nearer to a level playing field in taxing direct mail (e.g., catalogs). Purchasers of catalogs that are printed and shipped by non-nexus printers into Wisconsin will be subject to tax just like if they purchased the catalogs from printers with nexus. Quadgraphics has indicated they appreciate the movement to the level playing field but they would prefer to exempt the purchase of catalogs like some other states do. They mentioned that Minnesota has an exemption. An exemption would not only eliminate the additional \$1.24 million in the fiscal note but it would have a much larger negative fiscal effect. We're investigating the Minnesota exemption and a fiscal effect but we think this exemption should be left for another time.
2. Reversal of J.C. Penney, Inc. AB 547 (Sections 52, 65 and 80) relieves the sellers (printers) of direct mail of their obligations to collect and places the tax payment requirements on the purchasers of direct mail.

These provisions align Wisconsin with the other states in the sourcing of the tax on direct mail. These provisions also eliminate the competitive disadvantage of in-state printers compared to out-of-state, no-nexus printers of catalogs delivered in Wisconsin.





**Stephen L. Nass**  
Wisconsin State Representative

TO: Speaker John Gard  
Majority Leader Mickey Foti

FROM: Representative Steve Nass

DATE: October 16, 2003

RE: **PLEASE DON'T SCHEDULE AB 547/SB267 FOR A FLOOR VOTE**

I respectfully request that the Republican leadership of the Assembly not schedule AB 547 (SB 267), relating to the streamlined sales and use tax project, for a vote in the Assembly. AB 547 is part of a national project to collect state sales taxes on all interstate and Internet transactions.

In Wisconsin's case, our participation in this national project and passage of AB 547 could lead to an increase in sales tax collections reaching nearly \$150 million annually. That's right. Higher tax collections on the overburdened taxpayers of Wisconsin. The timing of this bill could not be worse. This bill is a challenge to the position of Wisconsin Republicans on taxes. **Either we are opposed to squeezing every nickel out of families or we support higher tax collections. AB 547 will put our rhetoric to the test.**

The Department of Revenue is on record in favor of H.R. 3184, congressional legislation that would authorize states to collect sales taxes on all interstate and Internet transactions. President Bush doesn't support forcing citizens to pay more in state sales taxes. Fiscal conservatives in Congress have exposed the national streamlined sales tax project for what it is, the bureaucrats' way to collect more taxes from hardworking citizens.

I am a member of the Assembly Ways and Means Committee that reviewed this bill. The committee voted 9-3 in favor of the bill. I was unable to attend the executive session, but my vote against this bill will be noted on the committee report. Thus, the vote would have been 9-4 for passage. **More importantly, I ask you to consider that majority Republicans on this committee are split 4-4 (Members opposed: J. Wood, Lasee, Kerkman and Nass) on this bill.** It was only with the Democrats voting in favor that AB 547 escaped committee.

I have attached a copy of my memo to the Republican members of the Ways and Means Committee for your review. I encourage you to read the Cato Institute and ALEC articles included with my memo.



**Stephen L. Nass**  
Wisconsin State Representative

TO: Republican Members of the Ways and Means Committee

FROM: Representative Steve Nass

DATE: October 14, 2003

RE: **OPPOSITION TO AB 547 – Streamlined Sales and Use Tax Bill**

I am unable to attend the executive session on AB 547 scheduled for October 15, 2003. I have asked the chairman to include my vote against this bill on the committee report as is permitted under Assembly Rules.

Attached are two articles that shed light on the real issues behind the Streamlined Sales and Use Tax Agreement on a national basis. The first article is from Adam Thierer and Veronique de Ruyg of the Cato Institute (October 2003). The second article is from ALEC or the American Legislative Exchange Council and is a section from their guide entitled, *Crisis in State Spending – A Guide for State Legislators* (January 2002).

While there are many positive items built into the Streamlined Sales and Use Tax Agreement and AB 547, it is the hidden agenda of these documents that needs to be debated. That agenda includes:

- 1.) Reversing a 30-year string of U.S. Supreme Court rulings protecting taxpayers and businesses from having to collect/pay sales taxes for state/local governments in states where the business has no physical presence. This area of case law is known as the “nexus” rulings regarding sales tax collections.
- 2.) Improving the chances that Congress will pass federal legislation authorizing states to require collection of sales taxes on Internet transactions and sales of all interstate vendors. The theory goes that if more states voluntarily agree to tax their citizens in this manner, then all states should be required to participate in a streamlined sales and use tax process.

In Wisconsin's case, the Department of Revenue provided committee members with a fiscal analysis on AB 547 that states the revenue impact of this legislation would be a reduction in total sales tax collections of \$5.4 million. The total reduction would be offset by an increase in voluntary collections amounting to \$1.9 million leaving a net fiscal reduction of \$3.5 million.

In testimony on this bill, it was stated that AB 547 would lead to revenue enhancement for the state in the long-term. This is backed up by data in a newspaper editorial suggesting AB 547 will help Wisconsin collect the nearly \$150 million annually in lost sales/use tax revenues.

The \$150 million figure casts serious doubts on the DOR fiscal analysis provided to the committee. **I would even suggest that the department hasn't provided the committee the whole story on how AB 547 and participation in the Streamlined Sales Tax Agreement will lead to significant revenues for the state at the expense of hardworking Wisconsin families.**

Further, the State of Wisconsin doesn't need to pass AB 547 or participate in the Streamlined Sales Tax Agreement in order for businesses to benefit from less bureaucracy and clear definitions on what items should be taxed. Frankly, the DOR should have been doing this for years and their sudden willingness to do the right thing in working with big business on streamlining sales tax collections is more about their ability to gain greater access to the wallets of Wisconsin citizens.

Is it a bad thing that Wisconsin citizens avoid paying \$150 million annually in sales taxes? I believe the answer is a resounding NO! First, the people of Wisconsin are not under-taxed, they are over-taxed. Second, in the 2003-2005 biennial budget, Wisconsin is projected to collect \$8 billion in sales and use tax. At \$150 million a year or \$300 million over the biennium, the people of Wisconsin avoid paying a measly 3.75% in total projected sales tax collections.

Also, consider the recent actions of Governor James Doyle to prevent the DOR from collecting sales taxes from the parking fees collected by homeowners around Lambeau Field and Camp Randall. Even the Governor recognizes that it's not in the best interest of the state to literally squeeze every nickel out of the pockets of his constituents.

**I encourage all Republicans to vote against AB 547 and what the bureaucrats call "revenue enhancement." Their revenue enhancement is really a sales tax increase for the working people we represent.**