Research Report

October 2003

Twenty States Have Now Simplified Their Sales Tax Laws to Promote the Streamlined Sales Tax Project; Florida Must Get on Board

With the recent enactment of a law in North Carolina, the coalition of states in the Streamlined Sale Tax Project (SSTP) have reached an important threshold. The SSTP is a multi-state effort to examine the problems posed by e-commerce and other remote sales methods—such as mail order—and work toward solutions.

On November 12, 2002 lawmakers and tax officials from Florida and 29 other "Implementing States" ratified the Streamlined Sales and Use Tax Agreement, a proposal to simplify their tax laws and enter into a voluntary pact to collect sales and use taxes online. This voluntary multi-state program will take effect when at least 10 states, representing 20 percent of the population of all states that impose a sales tax, (1) have amended their sales and use laws to be in substantial compliance with the agreement, (2) have petitioned for membership, certifying substantial compliance, and (3) have been admitted by three-fourths vote of the other petitioning states. The North Carolina law (the 20th in the nation) appears to bring the coalition to the population threshold.

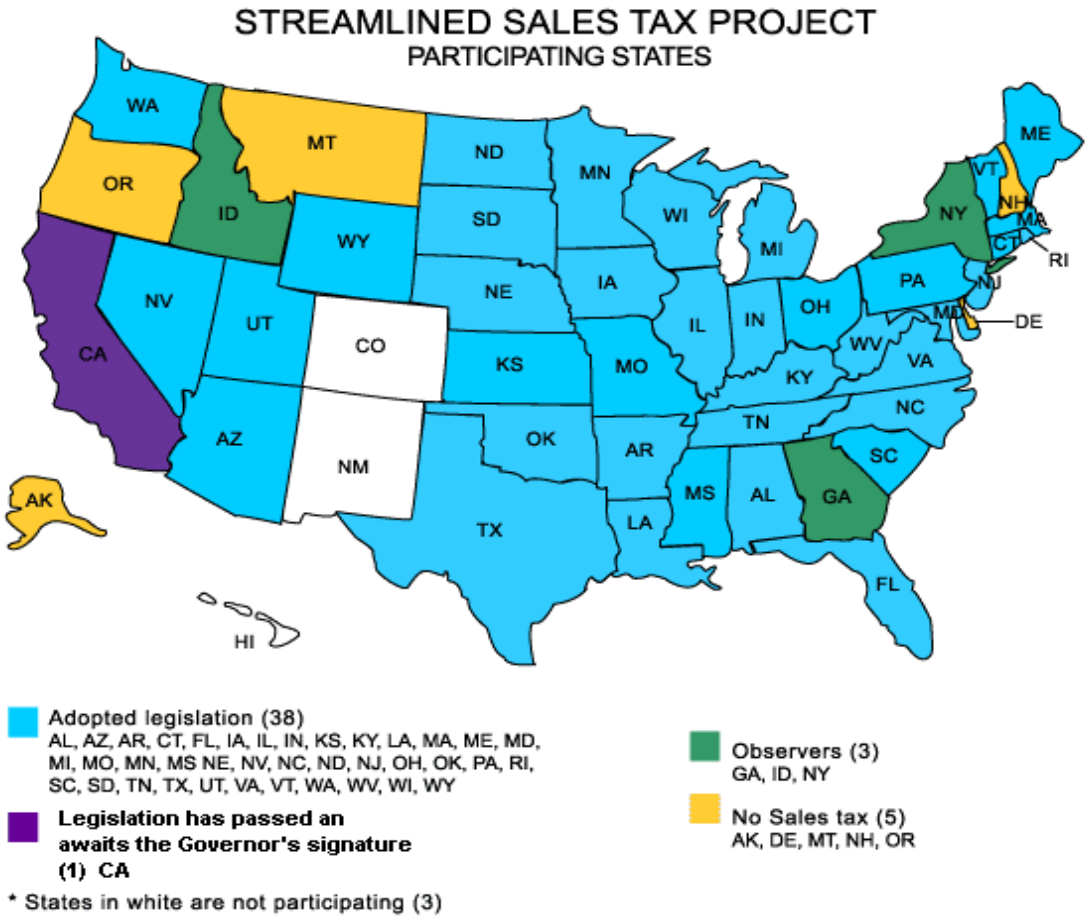
Now, the SSTP's Governing Board must certify whether each state is in compliance with the agreement. States will convene in November 2003 to verify compliance with the requirements of the Agreement.

Even when the agreement takes effect, participation by retailers is voluntary until Congress takes action to require remote sellers to collect and remit sales and use taxes.

In 1992, the U.S. Supreme Court ruled that states must first simplify their sales tax laws in order to require out-of-state retailers to collect and remit taxes. Congressional action or a decision by the high court would be needed to give states that authority.

Congress will likely address this issue when the federal moratorium on state and local taxes on Internet access (the Internet Tax Freedom Act) expires in November 2003. With 20 states having now simplified their tax laws, the coalition will have a better argument when it asks Congress to require remote sellers to collect sales and use taxes.

Florida, however, failed to pass conforming legislation during the 2003 legislative session.



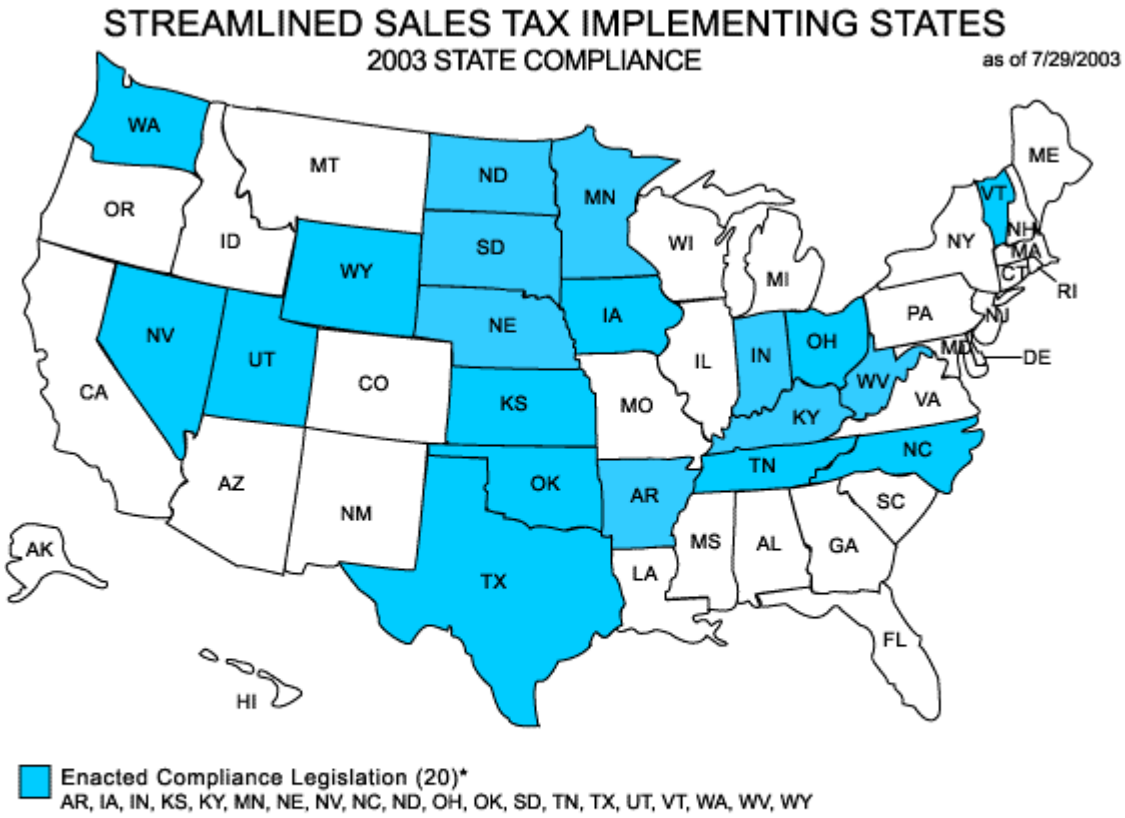
Source: The National Governor's Association

Streamlined Sales Tax is the Only Solution to Remote Sales Tax Administration

The inconsistencies in state and local sales and use tax laws create a complex burden for retailers doing business in multiple states. State's routinely define and tax the same products differently. Orange juice can be defined as a fruit and taxed or as a beverage and not taxed. Marshmallow can be either exempt food or taxable candy. The current 7,500 different sales tax laws date back to the 1930's and increasingly interfere with the world's new borderless economy.

The streamlined sales tax system could save businesses millions of dollars by removing the burden of complying with a wide array of existing laws, rules and regulations. It will also level the playing field between "remote" sellers which are not required to collect sales taxes and traditional, bricks-and-mortar retailers, which must.

Forty states and the District of Columbia are now involved in the SSTP. Thirty-eight states are voting participants, meaning that they have enacted enabling legislation or gubernatorial authorization. California recently passed legislation to make the state a participant in SSTP but it has not yet been signed by the governor. Two states are non-voting participants because they do not have formal commitment from their legislatures or governors. (see charts above and below)



* Shaded states reflect those that have passed legislation to modernize and simplify their sales tax laws to conform to the model interstate agreement proposed by the Streamlined Sales Tax Project. It is up to these "member" states to determine whether they are in compliance with the agreement. The interstate agreement becomes effective once 10 states representing 20 percent of the population of the states with sales taxes pass compliance legislation.

Source: The National Governor's Association

The Fiscal Cost of Not Acting

Florida's tax system is particularly vulnerable to the growth of remote sales (including Internet, mail order, and telephone) because it relies on sales and use taxes for 73 percent of its general revenue. Even if the seller is located outside the state, a Florida resident making a remote purchase is still liable for paying the sales and use tax on that item.

Currently, remote sellers are not required to collect these taxes even though the transaction is taxed on a use tax basis, which is nearly impossible for the State to collect.

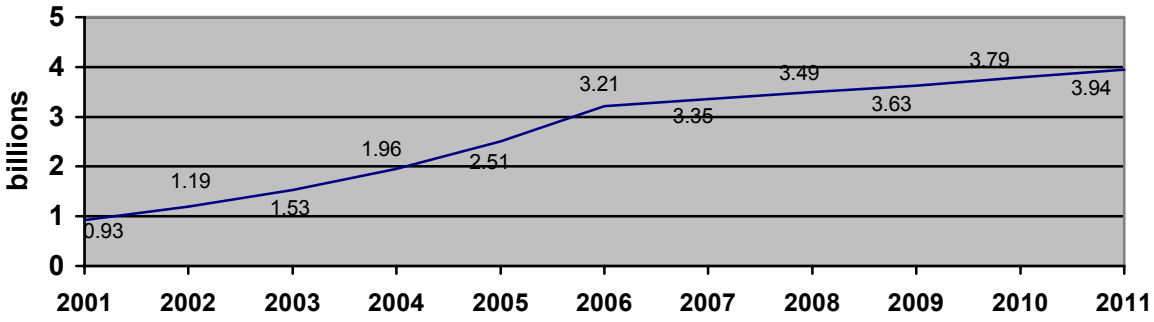
A University of Tennessee study estimates that e-commerce cost Florida state and local governments $932.2 million in uncollected sales and use tax revenues in 2001. It projects that cost to escalate to $3.214 billion by 2006 and to $3.944 billion by 2011. This means total ten-year losses (2002-2011) of $28.6 billion. Estimates by the U.S. General Accounting Office (GAO) show Florida losing up to $1.3 billion from all remote sales in 2003.

Florida became a voting participant in June 2001 when Governor Bush signed the Simplified Sales and Use Tax Administration Act into law. However, Florida has not joined the 20 states in full compliance with the Streamlined Sales and Use Tax Agreement (SSUTA). In the 2003 regular session, legislation to bring the state into compliance with the SSUTA passed without opposition in the Senate. However, the legislature adjourned before the House took any action on the bill.

Florida Sales and Use Taxes Lost By E-Commerce

Annual losses in billion $

Total Ten Year Losses (2002-2011) - $28.6 billion



Source: Florida TaxWatch and University of Tennessee, March 2003.
Note: UT study provided estimates for 2001, 2006 and 2011.
Data points between those years assume average growth rates.

Key features of the Streamlined Sales Tax System:

• **Uniform definitions within tax laws.** Legislatures still choose what is taxable or exempt in their state. However, participating states will agree to use the common definitions for key items in the tax base.

• **Rate simplification.** States will be allowed one state rate and a second state rate in limited circumstances (food and drugs). Each local jurisdiction will be allowed one local rate. State and local governments will accept responsibility for notice of rate and boundary. States will provide an on-line rate/jurisdiction database to simplify rate determinations.

• **State level tax administration of all state and local sales and use taxes.** Businesses will no longer file tax returns with each local government within which it conducts business in a state.

• **Uniform sourcing rules.** The states will have uniform and simple rules for how they will source transactions to state and local governments.

• **Simplified exemption administration for exemptions.** Purchasers will be responsible for paying the tax, interest and penalties for claiming incorrect exemptions. States will have a uniform exemption certificate in paper and electronic form.

• **Uniform audit procedures.** Sellers who participate in one of the certified Streamlined Sales Tax System technology models will either not be audited or will have limited scope audits, depending on the technology model used. The states may conduct joint audits of large multi-state businesses.

• **State funding of the system.** To reduce the financial burdens on sellers, states will assume responsibility for funding some of the technology models. The states are also participating in a joint business—government study of the costs of collection on sellers.

Source: The Streamlined Sales Tax Project

Conclusion

Equity and compliance considerations make Florida's involvement in the Streamlined Sales Tax Project imperative. In addition, it is simply wrong for the State of Florida to make it difficult, if not impossible for citizens to pay and meet their tax obligations under current law. To ignore the problem and do nothing is to make thousands of law-abiding citizens tax cheats, and this is simply unacceptable. Also, not collecting these sales and use tax revenues means less money for many of Florida's highest priorities— new schools, more classrooms and teachers, higher teacher salaries, more textbooks

This issue is the single most important compliance issue that can be addressed by the Florida Legislature. By adopting implementing legislation, the State of Florida would simplify its sales tax code and at the same time put Florida in a leadership role among the other States for the continued development of model legislation. Once this is accomplished, the U.S. Congress will be requested to pass Federal Legislation which would clear the way for the collection of sales taxes on purchases made over the Internet, through catalogues and from television home shopping networks. When fully implemented it is estimated that the collection of these taxes could mean from $1 to $3.5 billion in additional revenues being collected through improved compliance.

Not requiring Internet sellers to collect sales tax erodes Florida's tax base and creates an unfair advantage over bricks-and-mortar retailers. Faced with the uncertainties of the post-9/11 era, Florida cannot afford to continue losing sales and use taxes from remote sales. Florida's sales and use tax system needs to be modernized to resolve this problem in a manner that is fair, workable and not burdensome to Florida's taxpayers. The current sales and use tax system will work if the necessary steps are taken now to modernize it.

The Legislature must pass the simplification legislation and take whatever actions necessary to promote rapid implementation of the Streamlined Sales and Use Tax Agreement.

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