

**STREAMLINED SALES TAX PROJECT  
AND  
PROPOSAL FOR NEW MEXICO PARTICIPATION**

The Streamlined Sales Tax Agreement stems from a multi-state effort to get the states together in what is called the Streamlined Sales Tax Project. The main purpose of the project is to facilitate applying state sales and gross receipts taxes to transactions across state boundaries. Vendors have vociferously complained that the quirky and complicated patchwork of sales and gross receipts taxes makes compliance on cross-border transactions nearly impossible and certainly expensive. Hence, they have successfully blocked state efforts to persuade the U.S. Congress to let states tax out-of-state vendors selling products to in-state customers. The project aims to mute those objections.

State sales taxes are to be much more uniform than in the past. Terms for product groups, like "food" and "drugs", will be standardized. The welter of special rates and partial exemptions is to be removed; if an item is to be taxed, it will be taxed just like everything else. New uniform administrative procedures, employing the capabilities of the Internet and other telecommunications capabilities, will make registering, reporting and complying a lot easier.

Here are some specifics regarding compliance issues:

- State and local taxes must be state-administered. New Mexico conforms now.
- State and local tax bases must be identical. New Mexico conforms, with one relatively minor exception: some transportation services are taxed by the state but are excluded from the local tax base.
- A state may impose only one rate, that is, one rate applies to all goods and services taxed. New Mexico nearly conforms to this requirement. The state has a basic five percent rate, but there are a few partial deductions (e.g., for hospitals and agricultural implements). Partial deductions are mathematically equivalent to differences in rates and so are barred by the agreement.
- A local government must impose the same rate on everything in its base. Since the local tax base has the same issues as the state tax base, New Mexico is close to conforming.
- The ultimate goal is to match a single combined state-local rate with each nine-digit ZIP code in each state levying sales tax. Hence, different combined rates may exist in different localities around a state.
- The buyer is viewed as the ultimate taxpayer. New Mexico's system is directly opposite. In New Mexico, the seller is the taxpayer. This is the biggest hurdle New Mexico faces because it is potentially the costliest.

Whether New Mexico should join the project is not exactly a straightforward proposition. There are a number of considerations on whether to conform.

- Not conforming will make New Mexico, a small market state, even less attractive to national and regional firms.
- Conforming will help erase the perception (to the extent such a perception actually exists) that New Mexico's unique tax is intended to trap unwary businesses.
- If Congress looks on the new system as a good faith compromise, then it may be persuaded to exercise its Commerce Clause powers to end the ability of remote sellers to avoid sales taxation. Significant revenues would then be made available to each state.
- Conforming potentially will release some resources used in routine administrative functions to more productive employment.
- Changing from a seller-based tax to a buyer-based tax risks the revenues derived from federal contractors. Perhaps ways can be found to work around this.
- Converting also changes the location some sales will be attributed to. Distributions among local governments will be affected, perhaps significantly for some.
- Joining means accepting some limitations on the treatment of some taxpayers and products. Partial exemptions/deductions are banned because they are equivalent to differential tax rates. For similar reasons, dollar floors and ceilings are out. Basically, the rule is: if someone or something is to be taxed, it is taxed at 100 percent. This does restrict somewhat each legislature's ability to accommodate particular taxpayers.
- Joining means committing to some joint administrative systems that, although they may reduce compliance costs for taxpayers, will be new territory for New Mexico.

Certainly these issues are serious enough that the legislature needs to examine them thoroughly over the next year or two before it commits to conforming New Mexico law to the agreement's standards.

*That is NOT the question before this commission.*

### **OPTION 1: Joining the Streamlined Sales Tax Project.**

What the commission is being called upon to decide is whether to recommend that New Mexico give itself a voice in the process of forming the streamlined sales tax organization and its administrative mechanisms.

In itself, joining the group has no immediate consequences for the gross receipts and compensating taxes. If one assumes, however, that New Mexico will eventually fully participate

and conform its taxes to the agreement's standards, it does limit some of the commission's options in recommending solutions to today's problems.

#### *FISCAL IMPACT*

Minimal; some travel and meeting costs.

#### *PROS*

- It will cost very little to participate in the discussions.
- Having had no say in the basic legal design, it makes little sense to get shut out on the administrative set-up as well.
- Participation may vastly improve the state's ability to gather the information it needs on exactly what conforming will mean. Other states have similar problems.
- If, in the end, New Mexico really has no option but to conform to the agreement's rules, then the sooner New Mexico jumps in, the less traumatic the change-over will be.

#### *CONS*

- Taking this first step implies some limits on our ability to structure our tax code.
- If New Mexico decides not to conform, it will be largely a waste of time and effort to participate at all.
- Congress may refuse to compel remote sellers to pay tax or to pay tax under this scheme, causing it to collapse. We could be getting all worked up over nothing.