HB 1421

Department of Legislative Services

Maryland General Assembly
2000 Session

FISCAL NOTE
Revised

House Bill 1421 (Delegate Hixson)
Ways and Means

Streamlined Sales Tax System for the 21st Century

This bill requires the Comptroller to enter into discussions with other states regarding development of a multistate, voluntary, streamlined system for sales and use tax collection and administration. These discussions must focus on a system that would have the capability to determine whether a transaction is taxable or tax exempt, the appropriate tax rate applied to the transaction, and the total tax due on the transaction, and would provide a method for collecting and remitting sales and use taxes to the State. The system may provide compensation for the costs of collecting and remitting sales and use taxes.

The bill takes effect July 1, 2000 and sunsets June 30, 2002.

Fiscal Summary

State Effect: No impact on the State from participation in the joint project. If a pilot program for multistate sales tax collection is developed, any effect on State revenues would depend on the scope of the program. Expenditures would not be affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The discussions between the Comptroller and other states could include:

- the development of a "Joint Request for Information" from potential public and private parties governing the specifications for a streamlined sales and use tax collection and administration system;

- the mechanism for compensating parties for the development and operation of the system;

- establishment of minimum statutory simplification measures necessary for state participation in the system; and

- measures to preserve confidentiality of taxpayer information and privacy rights of consumers.

Following the discussions, the Comptroller may proceed to issue a Joint Request for Information. The bill allows the Comptroller to participate in a sales and use tax pilot project with other states and selected businesses to test means for simplifying sales and use tax administration and may enter into joint agreements for that purpose. Agreements to participate in the pilot program must establish provisions for the administration, imposition, and collection of sales and use taxes resulting in revenues paid that are the same as would be paid under State sales and use tax law. Parties to the agreements are excused from complying with the provisions of State sales and use tax law to the extent a different procedure is required by the agreements, except for confidentiality of taxpayer information.

Any agreements authorized under this section must terminate no later than December 31, 2001. Return information submitted to any party or parties acting for and on behalf of the State must be treated as confidential taxpayer information. Disclosure of confidential taxpayer information as necessary could only be pursuant to a written agreement between the Comptroller and the party or parties. The party or parties would be bound by the same requirements of confidentiality to which the Comptroller is currently bound.

The Comptroller must provide semi-annual reports to the Governor and to the Legislative Policy Committee and the fiscal committees on the progress of multistate discussions. By March 1, 2001, the Comptroller must report to the Governor and the Legislative Policy Committee and the fiscal committees on the status of multistate discussions and, if a proposed system has been agreed upon by participating states, must also recommend whether the State should participate in the system.

Current Law: There is currently no joint mechanism for states to collect and remit sales and use taxes. Under the Supreme Court decisions in *National Bellas Hess* and *Quill*, a state or local government cannot require businesses without a nexus to the state (e.g., physical presence within its borders) to collect sales or use taxes. Remote sellers (via Internet, phone, and mail order catalogs) are therefore protected from sales tax collection obligations. If the seller is not required to collect and remit the sales tax, then the buyer is required to pay the use tax, but such collections from individual taxpayers are minimal.

Background: The issue of tax noncollection from out-of-state sellers exists with the present system of collecting sales and use taxes on phone and mail order sales; however, the exponential growth of e-commerce has magnified this phenomenon. Recognizing that the world of e-commerce presents even more complications, Congress passed the Internet Tax Freedom Act (ITFA) in 1998 with the objective of developing a new tax system that would satisfy both government revenue needs and business' desire for a simple, fair tax structure that does not stifle the Internet's growth. The Act's provisions include a three-year moratorium on imposing new taxes on Internet services, grandfathering all state taxes that were in effect prior to October 1, 1998, and creating a 19-member Advisory Commission on Electronic Commerce to study the issue and to make recommendations to Congress. ITFA, however, does not supersede state laws that were in place prior to its implementation. Maryland's sales and use tax on sales of tangible goods was therefore not affected by ITFA, so purchases by Marylanders via the Internet are subject to the sales and use tax, even though collections are low as noted above.

This bill is based on model legislation adopted by the National Conference of State Legislatures (NCSL) in January 2000. The model legislation incorporates the Streamlined Sales Tax System for the 21st Century proposal that has been developed by NCSL and the National Governor's Association. NCSL's Executive Committee Task Force on State and Local Taxation of Telecommunications and Electronic Commerce has worked for the last year to address how states can modernize their state-local sales and use tax systems to accommodate the rapid changes in technology and the explosion of Internet commerce.

In recent years, the Comptroller's Office has participated in discussions regarding the development of a multistate sales tax system with other states and with the National Governors' Association, the Federation of Tax Administrators, the Multistate Tax Commission, and the North Eastern State Tax Officials Association. The Comptroller's Office advises that it intends to continue its participation in these discussions.

State Revenues: While this legislation would permit the Comptroller to participate in a joint sales and use tax pilot project and to enter into agreements to do so, the bill does not require or recommend a specific program.
If a pilot program is developed, any impact on State revenues would depend on the number

of businesses that volunteer to participate.

State Expenditures: Any expenditures associated with participation in the joint project could be absorbed within existing budgeted resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office (Bureau of Revenue Estimates), Department of Legislative Services

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