STREAMLINED SALES AND USE TAX COMMISSION

**REPORT FROM NOVEMBER 13, 2014 MEETING**

The Streamlined Sales and Use Tax (SST) Commission came back together in November 2014 to prepare for the apparent shift in focus by Congress away from the Streamlined Sales and Use Tax Agreement legislation and toward the Marketplace Fairness Act as the legislative “vehicle” for enacting federal law aimed at proper collection of sales and use tax on interstate consumer sales.

**Current Legislative Status**

At the time the SST Commission meeting was held, there was still some hope that this issue would be addressed by the “lame duck” session of Congress following the 2014 election. That did not happen and there has been little movement in the new Congress. Nonetheless, the Commission developed a good plan of action should Alabama need to come into compliance with federal law based upon the Marketplace Fairness Act legislation.

**Preparing Alabama for the Marketplace Fairness Act**

In anticipation that Congress might move the Marketplace Fairness Act legislation, the SST Commission felt it important that there be a review of Alabama’s law to determine what changes might be necessary in the event this proposal became federal law. This had been the same approach taken when the belief was that the Streamlined Sales and Use Tax Act might become law.

In preparation for the November 2014 meeting, the Commission had requested that staff at the Alabama Department of Revenue (ADOR) develop an outline of issues that would need to be addressed legislatively, and much of the meeting was devoted to explanation and discussion of those issues identified by ADOR as set out below:

1. Identify a single point of filing and administration, including registration.

-- Recommendation that ADOR be the administrative entity with appropriate input from localities.

1. Identify a single entity to conduct audits and adjustments, including amended returns and refunds.

-- Recommendation that ADOR be the administrative entity with appropriate input from localities.

1. Determine a uniform, statewide sales tax base for all remote sales transactions as established for state sales taxes.

D. Identify a central database of rates and location boundaries, including 90 days’ notice period for rate changes and only future adjustments to correct rates and localities.

-- Recommendation that ADOR create and maintain the database using input from localities.

E. Establish certification for certified software providers (CSPs) with indemnification for errors or omissions.

-- Recommendation that ADOR establish certification criteria and procedures and that indemnification be in place as long as CSPs report data provided by localities using central database.

F. Provide for indemnification of remote sellers as defined in the Act.

-- Recommendation that indemnification be in place as long as remote sellers provide correct data to the system.

**Specific Items to Address in Legislation**

Based upon the recommendations from ADOR, the Commission identified several matters that should be addressed by the Alabama Legislature during the 2015 Regular or another future legislative session.

-- Establish the intent for Alabama to be in compliance with the federal act once it becomes law by authorizing collections from remote sellers, authorizing ADOR to have broad administrative authority to implement the intent of the federal act as provided in state statute and with advice of the SST Commission as reconstituted by the Act.

-- Reconstitute and rename the SST Commission as the “Remote Sales Tax Committee” with the same members and appointing authorities, setting out the committee’s duties, and providing for same review and appeal procedures as set out in the law creating the original commission.

-- Require the reconstituted Remote Sales Tax Committee to meet and determine that the federal act meets the requirements of Alabama’s law authorizing remote sales tax collections to begin once federal law is in place.

-- Provide for ADOR to issue an administrative rule in conformity with the Administrative Procedures Act after action by the Remote Sales Tax Committee, which rule shall provide each of the following:

1. Establish the effective date for remote sales tax collection to begin
2. Establish which sellers are included or excluded from the law
3. Establish filing and payment procedures, including rates, locations, names and contact information of CSPs
4. Establish contact point for information and instructions

-- Provide that that the Act repeals and supersedes specific sections of law related to tax collection and administration for remote sellers only and only to the extent necessary to effect the intention of the Act.

-- Provide that the changes in state law apply only to tax collections and payments by remote sellers and that in-state sellers are not affected by these changes in the law.

-- Provide that filing and paying sales tax by a remote seller does not create a presumption of owing other taxes, and does not enlarge or decrease other taxes owed by businesses operating with the state.

**Statutory Duties of the “Remote Sales Tax Committee”**

The Commission also considered what statutory duties should be set out in the law for the newly-constituted Remote Sales Tax Committee.

-- To meet when called by the chair, or upon petition of 50% of the appointed members, for the purpose of reviewing any enacted federal law and determining whether it meets the requirements of Alabama’s law for beginning remote sales collections, and to consider other matters related to remote sales transactions as necessary.

-- To work to ensure appropriate steps are taken to implement the Act, as well as to take other steps necessary to continue appropriate collections of remote sales taxes.

-- To recommend administrative rules to be promulgated by ADOR related to remote sales transactions.

**Simplified Sellers Use Tax Remittance**

**The meeting of the Commission concluded with discussion of whether the state should consider legislation aimed at encouraging remote sellers to voluntarily remit use tax by establishing a uniform rate for such sales and providing a discount for participating sellers. Proceeds from the “simplified sellers use tax” would be distributed between the state and all localities with counties and municipalities each receive one-fourth (1/4) of the proceeds from the tax.**

**This discussion (and subsequent discussions between interested parties and the legislative leadership) led to the introduction and passage of legislation which has come to be known as “the Amazon bill”. *See, Act 2015-448, which takes effect on October 1, 2015.***