



Multistate Tax Commission Policy Statement 2002-01

2002-01 Improving State Sales Taxes to Achieve Fairness and Simplicity

01.1 Preamble

The Multistate Tax Commission supports state efforts to pursue through negotiation, state legislation and enforcement, the courts and federal legislation, provisions that would require large out-of-state sellers to collect sales and use taxes from their customers. Such action is necessary to restore fairness to competition between local retail store purchases and remote sales transactions and to provide a means for states to collect taxes that are owed under existing law. The recent rapid growth of electronic commerce has underscored the importance of this equitable treatment. The Commission seeks to reduce the burden of collection on sellers and to ensure that these taxes work efficiently and effectively in contemporary markets. The Commission is working to achieve these goals through its own interstate uniformity efforts and through active support of the Streamlined Sales Tax Project and similar efforts. A simplified sales tax system can contribute to neutrality in taxation: the equal tax treatment of all forms of sales into a state regardless if made through stores, mail order or electronic means.

The U.S. Supreme Court in the *Quill* decision explicitly reaffirmed the authority of Congress to address state tax issues that affect interstate commerce. Although state action is needed to simplify the sales tax and to ensure effective enforcement of current nexus standards, federal action will be needed to ensure that sales and use taxes are equitably applied. That federal action could occur through Congress or the Supreme Court revisiting the issue in the context of state efforts to simplify sales and use taxes or a combination of congressional and judicial action.

01.2 Simplified Sales Tax System

The Multistate Tax Commission supports the development and implementation by states, with the active participation of the business community, of measures to simplify the sales and use tax system. The

Commission contributes to this purpose through its own uniformity activities under the Multistate Tax Compact, the National Nexus Program and the Joint Audit Program, and pledges the continuation of those efforts. The Commission supports the efforts of the Streamlined Sales Tax Project and recommends that the states levying sales and use taxes favorably consider the project's recommendations. The Commission commits itself to developing a continuing, cooperative relationship with the states implementing the project's recommendations in support of greater uniformity and simplicity in sales and use tax administration. Sales tax simplification should strive to achieve the following reforms.

01.2.1 Single Administrative Process within a State

A simplified sales tax system should offer sellers a single administrative process within each state for the collection of sales and use taxes, the filing of reports, the conduct of audits and the adjudication of disputes. Such a process can most easily be accomplished through statewide administration of state and local taxes or through a cooperative state-local process developed jointly by a state and its localities.

01.2.2 Use of Modern Technology

A simplified sales tax system should encourage the use of modern information technology by sellers to collect sales and use taxes in a cost-effective manner and to file returns and remit payments electronically. States should provide a framework and incentives for the use of such technology. The technology that has revolutionized business operations and expanded the scope of remote sales can also contribute to ensuring the collection of taxes due and owing in the context of those same remote sales.

01.2.3 One-Stop Registration

A simplified sales tax system should enable an interstate seller to register to collect and remit sales and use taxes with several states at one time and, if already registered, to update its registration records when business operations, store locations or other applicable factors change. The Commission is developing a central registration system to assist the states in accomplishing this purpose.

01.2.4 Tax Rate Simplification

A simplified sales tax system should provide sellers with clear and certain means of applying the correct tax rate at the time of sale. This objective can be accomplished by states providing—in a standardized form widely adaptable by sellers—a database of applicable tax rates within the state and holding harmless from assessment sellers who use the database properly. Local tax rates should change no more frequently than quarterly and with adequate, uniform advance notice of such changes. Any variation in tax rates by product should be strictly limited and eliminated where possible.

01.2.5 Tax Base Simplification

A simplified sales tax system should include uniform definitions for categories of goods and services to be taxed, items commonly exempted from taxation and core administrative or accounting terms used to calculate and report the tax. Because of the diversity of the modern marketplace and business operations, the Commission recognizes that states will develop and implement uniform definitions over time, beginning with those that are most feasible and of greatest benefit to easing administration.

A simplified sales tax system should reduce the role of sellers as enforcers of exemptions by product and use and place greater administrative responsibility on states and/or those who benefit from these exemptions.

01.2.6 Administrative and Enforcement Process Simplification

A simplified sales tax system should reduce the cost of filing tax reports and paying the tax through uniform forms and methods for filing tax returns and making payments, including the expanded use of uniform electronic filing and payment systems. A simplified sales tax system should use joint, multistate audits to improve the efficiency of the audit process and uniformity of results for states, localities and taxpayers.

01.2.7 Governance of a Simplified Sales Tax System

The governance of a simplified sales tax system should vest final authority with the states implementing the system. The governing process should guarantee open meetings and public participation in decision-making. The governing process should also encourage the voluntary resolution of disputes among states and between states and

businesses. Governing Board decisions should preferably be subject to a state-based review process. Further, the Commission supports efforts to establish a state-based review process within the Streamlined Sales Tax Agreement.

01.3 Coordination of the Multistate Tax Compact and the Streamlined Sales Tax Agreement

The Multistate Tax Commission, consistent with its responsibilities under the Multistate Tax Compact to promote equitable and uniform taxation and taxpayer convenience and compliance, will offer continuing support to the states in implementing a simplified sales tax system. The purposes of such a system are consistent with the responsibilities of the Commission. The Commission will offer its services to these states to aid the efficient administration of the system. Such services may include developing a common registration system, supporting the development of uniform rules and regulations, conducting joint audits, and providing a multistate alternative dispute resolution process.

01.4 Equitable Collection of Sales and Use Taxes

The Multistate Tax Commission calls on Congress or the U.S. Supreme Court to re-establish fairness in state sales and use tax systems by requiring remote sellers making sales above a reasonable threshold level to collect sales and use taxes for any state that simplifies its tax system in accordance with the foregoing reforms. The threshold level could be established by either federal legislation or by uniform state legislation approved by Congress or by the U.S. Supreme Court. If states seek U.S. Supreme Court approval for an expanded duty to collect for states with a simplified system, the states should incorporate the threshold level in uniform state legislation implementing a simplified sales tax system. Such a provision would become effective when a favorable Supreme Court decision occurs. The Commission supports exempting small remote sellers whose contacts are limited to making sales by mail order or electronic means and whose sales fall below the threshold level from an expanded duty to collect in the interest of reducing burdens on these sellers.

In the absence of action by Congress or the U.S. Supreme Court to establish a sales threshold standard for collecting sales and use taxes, the Multistate Tax Commission is committed to assisting states in developing uniform guidelines clarifying existing constitutional standards of nexus. The Commission is committed as well to assisting the states and taxpayers in equitable and effective compliance with applicable nexus standards through

its National Nexus Program and the Joint Audit Program. Coordinated, interstate action by the states to apply nexus standards on a uniform basis improves taxpayer convenience, improves equity in the application of the law, and ensures the integrity of state and local tax systems.

01.5 Opposition to Surrender of State Sovereignty

The Multistate Tax Commission is opposed to legislation that would link federal restrictions on state authority to levy business activity taxes to the implementation of an expanded duty for remote sellers to collect sales and use taxes. A trade-off between state business activity tax authority and sales and use tax authority undermines federalism and erodes the equity and effectiveness of business activity taxes. *(See also MTC Policy Statements 2002-02 and 2003-01.)*

Adopted Annual Meeting 2002, Amended Annual Meeting 2004, to be effective through Annual Meeting 2009.