

By Representative Gannon

1 A bill to be entitled
2 An act relating to the Simplified Sales and Use
3 Tax Administration Act; creating said act;
4 providing definitions; providing legislative
5 findings; authorizing the state to enter into
6 multistate discussions to review and/or amend
7 the Streamlined Sales and Use Tax Agreement;
8 providing for appointment of delegates;
9 directing the Department of Revenue to enter
10 into the agreement and act jointly with other
11 states to establish certain standards;
12 specifying relationship of the agreement to
13 state law; providing requirements for the
14 agreement; specifying that the agreement is an
15 accord among individual cooperating sovereigns;
16 specifying the effect of the agreement with
17 respect to individual persons; providing
18 liabilities of sellers, certified service
19 providers, and providers of certified automated
20 systems; providing an effective date.

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22 Be It Enacted by the Legislature of the State of Florida:

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24 Section 1. Short title.--This act may be cited as the
25 "Simplified Sales and Use Tax Administration Act."

26 Section 2. Definitions.--As used in this act:

27 (1) "Agreement" means the Streamlined Sales and Use
28 Tax Agreement as amended and adopted on January 27, 2001, by
29 the Executive Committee of the National Conference of State
30 Legislatures.

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1 (2) "Certified automated system" means software
2 certified jointly by the states that are signatories to the
3 agreement to calculate the tax imposed by each jurisdiction on
4 a transaction, determine the amount of tax to remit to the
5 appropriate state, and maintain a record of the transaction.

6 (3) "Certified service provider" means an agent
7 certified jointly by the states that are signatories to the
8 agreement to perform all of the seller's sales tax functions.

9 (4) "Person" means an individual, trust, estate,
10 fiduciary, partnership, limited liability company, limited
11 liability partnership, corporation, or any other legal
12 entity.

13 (5) "Sales tax" means the tax levied under chapter
14 212, Florida Statutes.

15 (6) "Seller" means any person making sales, leases, or
16 rentals of personal property or services.

17 (7) "State" means any state of the United States and
18 the District of Columbia.

19 (8) "Use tax" means the tax levied under chapter 212,
20 Florida Statutes.

21 Section 3. Legislative findings.--The Legislature
22 finds that a simplified sales and use tax system will reduce
23 and, over time, eliminate the burden and cost for all vendors
24 to collect this state's sales and use tax. The Legislature
25 further finds that this state should participate in multistate
26 discussions to review and/or amend the terms of the agreement
27 to simplify and modernize sales and use tax administration in
28 order to substantially reduce the burden of tax compliance for
29 all sellers and for all types of commerce.

30 Section 4. Authority to participate in multistate
31 negotiations.--For the purposes of reviewing and/or amending

1 the agreement embodying the simplification requirements as
2 contained in section 7, the state shall enter into multistate
3 discussions. For purposes of such discussions, the state shall
4 be represented by four delegates, one appointed by the
5 Governor, one appointed by the President of the Senate, one
6 appointed by the Speaker of the House of Representatives, and
7 one appointed by the executive director of the Department of
8 Revenue.

9 Section 5. Authority to enter agreement.--

10 (1) The Department of Revenue is authorized and
11 directed to enter into the Streamlined Sales and Use Tax
12 Agreement with one or more states to simplify and modernize
13 sales and use tax administration in order to substantially
14 reduce the burden of tax compliance for all sellers and for
15 all types of commerce. In furtherance of the agreement, the
16 department is authorized to act jointly with other states that
17 are members of the agreement to establish standards for
18 certification of a certified service provider and certified
19 automated system and establish performance standards for
20 multistate sellers.

21 (2) The department is further authorized to take other
22 actions reasonably required to implement the provisions set
23 forth in this act. Other actions authorized by this section
24 include, but are not limited to, the adoption of rules and the
25 joint procurement, with other member states, of goods and
26 services in furtherance of the cooperative agreement.

27 (3) The department is authorized to represent this
28 state before the other states that are signatories to the
29 agreement.

30 Section 6. Relationship to state law.--No provision of
31 the agreement authorized by this act in whole or in part

1 invalidates or amends any provision of the law of this state.
2 Adoption of the agreement by this state does not amend or
3 modify any law of this state. Implementation of any condition
4 of the agreement in this state, whether adopted before, at, or
5 after membership of this state in the agreement, must be by
6 the action of this state.

7 Section 7. Agreement requirements.--The Department of
8 Revenue shall not enter into the Streamlined Sales and Use Tax
9 Agreement unless the agreement requires each state to abide by
10 the following requirements:

11 (1) SIMPLIFIED STATE RATE.--The agreement must set
12 restrictions to limit over time the number of state rates.

13 (2) UNIFORM STANDARDS.--The agreement must establish
14 uniform standards for the following:

15 (a) The sourcing of transactions to taxing
16 jurisdictions.

17 (b) The administration of exempt sales.

18 (c) Sales and use tax returns and remittances.

19 (3) CENTRAL REGISTRATION.--The agreement must provide
20 a central, electronic registration system that allows a seller
21 to register to collect and remit sales and use taxes for all
22 signatory states.

23 (4) NO NEXUS CONTRIBUTION.--The agreement must provide
24 that registration with the central registration system and the
25 collection of sales and use taxes in the signatory states will
26 not be used as a factor in determining whether the seller has
27 a nexus with a state for any tax.

28 (5) LOCAL SALES AND USE TAXES.--The agreement must
29 provide for reduction of the burdens of complying with local
30 sales and use taxes through the following:

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- 1 (a) Restricting variances between the state and local
2 tax bases.
- 3 (b) Requiring states to administer any sales and use
4 taxes levied by local jurisdictions within the state so that
5 sellers collecting and remitting these taxes will not have to
6 register or file returns with, remit funds to, or be subject
7 to independent audits from local taxing jurisdictions.
- 8 (c) Restricting the frequency of changes in the local
9 sales and use tax rates and setting effective dates for the
10 application of local jurisdictional boundary changes to local
11 sales and use taxes.
- 12 (d) Providing notice of changes in local sales and use
13 tax rates and of changes in the boundaries of local taxing
14 jurisdictions.
- 15 (6) MONETARY ALLOWANCES.--The agreement must outline
16 any monetary allowances that are to be provided by the states
17 to sellers or certified service providers. The agreement must
18 allow for a joint public and private sector study of the
19 compliance cost on sellers and certified service providers to
20 collect sales and use taxes for state and local governments
21 under various levels of complexity to be completed by July 1,
22 2002.
- 23 (7) STATE COMPLIANCE.--The agreement must require each
24 state to certify compliance with the terms of the agreement
25 prior to joining and to maintain compliance, under the laws of
26 the member state, with all provisions of the agreement while a
27 member.
- 28 (8) CONSUMER PRIVACY.--The agreement must require each
29 state to adopt a uniform policy for certified service
30 providers that protects the privacy of consumers and maintains
31 the confidentiality of tax information.

1 (9) ADVISORY COUNCILS.--The agreement must provide for
2 the appointment of an advisory council of private sector
3 representatives and an advisory council of nonmember state
4 representatives to consult with in the administration of the
5 agreement.

6 Section 8. Cooperating sovereigns.--The agreement
7 authorized by this act is an accord among individual
8 cooperating sovereigns in furtherance of their governmental
9 functions. The agreement provides a mechanism among the member
10 states to establish and maintain a cooperative, simplified
11 system for the application and administration of sales and use
12 taxes under the duly adopted law of each member state.

13 Section 9. Limited binding and beneficial effect.--

14 (1) The agreement authorized by this act binds and
15 inures only to the benefit of this state and the other member
16 states. No person, other than a member state, is an intended
17 beneficiary of the agreement. Any benefit to a person other
18 than a state is established by the law of this state and the
19 other member states and not by the terms of the agreement.

20 (2) Consistent with subsection (1), no person shall
21 have any cause of action or defense under the agreement or by
22 virtue of this state's approval of the agreement. No person
23 may challenge, in any action brought under any provision of
24 law, any action or inaction by any department, agency, or
25 other instrumentality of this state, or any political
26 subdivision of this state on the ground that the action or
27 inaction is inconsistent with the agreement.

28 (3) No law of this state, or the application thereof,
29 may be declared invalid as to any person or circumstance on
30 the ground that the provision or application is inconsistent
31 with the agreement.

1 Section 10. Seller and third-party liability.--
2 (1)(a) A certified service provider is the agent of a
3 seller, with whom the certified service provider has
4 contracted, for the collection and remittance of sales and use
5 taxes. As the seller's agent, the certified service provider
6 is liable for sales and use tax due each member state on all
7 sales transactions it processes for the seller except as set
8 out in this section.

9 (b) A seller that contracts with a certified service
10 provider is not liable to the state for sales or use tax due
11 on transactions processed by the certified service provider
12 unless the seller misrepresented the type of items it sells or
13 committed fraud. In the absence of probable cause to believe
14 that the seller has committed fraud or made a material
15 misrepresentation, the seller is not subject to audit on the
16 transactions processed by the certified service provider. A
17 seller is subject to audit for transactions not processed by
18 the certified service provider. The member states acting
19 jointly may perform a system check of the seller and review
20 the seller's procedures to determine if the certified service
21 provider's system is functioning properly and the extent to
22 which the seller's transactions are being processed by the
23 certified service provider.

24 (2) A person that provides a certified automated
25 system is responsible for the proper functioning of that
26 system and is liable to the state for underpayments of tax
27 attributable to errors in the functioning of the certified
28 automated system. A seller that uses a certified automated
29 system remains responsible and is liable to the state for
30 reporting and remitting tax.

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1 (3) A seller that has a proprietary system for
2 determining the amount of tax due on transactions and has
3 signed an agreement establishing a performance standard for
4 that system is liable for the failure of the system to meet
5 the performance standard.

6 Section 11. This act shall take effect upon becoming a
7 law.

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10 HOUSE SUMMARY

11 Creates the Simplified Sales and Use Tax Administration
12 Act. Authorizes the state to enter into multistate
13 discussions to review and/or amend the Streamlined Sales
14 and Use Tax Agreement and provides for appointment of
15 delegates. Directs the Department of Revenue to enter
16 into the agreement and act jointly with other states to
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