

The *Council on State Taxation (COST)* is the premier national tax organization promoting equitable and nondiscriminatory state and local taxation policies. COST's Board of Directors recently adopted the policy position below regarding state and local sales tax reform. COST encourages Congress, should they enact legislation removing the existing limitations on the authority of the States to compel remote vendors to collect and remit sales, to require States to simplify their sales tax systems. The reforms embodied in HB2657 (Lesko) move Arizona closer to the recommendations advocated by COST and required by the Marketplace Fairness Act of 2013 currently being considered by Congress.



## **Simplification of the Sales, Use or Similar Transaction Tax System**

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### **Policy Position**

**Position:** *A sales, use or similar transaction tax should be easily administered, easily understood by consumers, and nondiscriminatory between similarly situated vendors, purchasers, and goods. The Congress is encouraged to enact legislation that: 1) establishes precise standards and a governance mechanism by which the States would simplify and reform the sales, use or similar transaction tax system for all vendors and purchasers; and 2) remove existing limitations on the authority of States to compel remote vendors to collect and remit taxes for those States that simplify their sales, use or similar transaction tax systems. Under a simplified system, the amount of tax collected on taxable transactions should not differ based on the vendor's nexus status.*

**Explanation:** The existing state and local sales, use or similar transaction tax system creates burdensome and unnecessary complexity—this complexity imposes substantial costs on vendors, states, and consumers. A simple tax system offers the potential to promote equitable and nondiscriminatory taxation, reduce tax rates for consumers, reduce administrative burdens for both business and the states, reduce the risk of vendor liability actions, and improve compliance.

Vendors with a physical presence<sup>2</sup> in a state are required to collect and remit sales tax on taxable sales in a state. Vendors without a physical presence are not required to collect sales tax, but consumers are legally liable for use tax on taxable purchases when no sales

tax was collected by the vendor. The Congress has authority to remove this existing limitation and allow states to compel remote vendors to collect and remit sales tax. Collection authority should be provided to States that simplify their sales, use or similar transaction tax system in accordance with requirements established by Congress. Simplification requirements should include the following elements:

- Uniform Tax Base Definitions – A uniform set of simple definitions, including between the state and the local taxing jurisdictions within that state, tailored to avoid imposition provisions that unnecessarily and inappropriately expand or contract the tax base.
- One Tax Base Per State – A single tax base per state (including local taxes) that applies to taxable transactions in the state.
- Multistate Registration and Forms – A centralized, multistate vendor registration system; uniform exemption certificate; and uniform tax return and remittance forms.
- Uniform filing and payment dates timed to allow collection of all relevant information and reduce filings.
- Adequate notice of changes in law (at least 90 days) for taxability, rates and jurisdictional boundary changes.
- Reasonable and uniform audit, appeal and refund procedures. Single statewide administration of all local taxes.
- Simple Rate Structure – Preferably one rate per state.
- Uniform Sourcing Rules –Simple rules for sourcing transactions, designed to prevent multiple taxation, and reliant on information available at the time of the transaction through regular business activities with the consumer.
- Bad Debt Deduction/Refund – Uniform rules allowing a bad debt deduction/refund to vendors, assignees or other third parties.
- Tax Credits – Uniform rules for allowing credit for sales, use and similar transaction taxes paid to other states and localities.
- Uniform Direct Pay Permits and Registration Requirements.
- Technology Implementation – Uniform and technology-neutral procedures for certification of vendor software. Functional databases maintained collectively by the states, providing vendors and purchasers a single point of access to information necessary to administer tax collection properly, including rate, base, taxability matrix, jurisdictional boundary, and exemption information.

- Hold Harmless – Elimination of vendor tax liability for collection errors resulting from reliance on state provided data, state-certified software, and customer exemption certificates as well as protection from civil suits alleging over- or under-collection of tax. Consumers should also not be subject to penalties and interest based on such errors.
- Vendor Allowance – Reasonable compensation for expenses incurred by a vendor in administering, collecting, and remitting sales, use or similar transaction taxes (other than use taxes on goods and services purchased for the consumption of the vendor).
- Funding – Adequate state funding of the technological and administrative functions.
- Oversight – Meaningful federal review of state adherence to the simplification features, state membership in the system, and conflicts of interpretation between participating states.
- Confidentiality and Privacy – Protections on use of data collected from business and consumers.
- Public Input – Business must have a meaningful voice in any designated multistate governance process.

A federal grant of tax collection authority to States meeting the simplification requirements shall not be construed as subjecting a vendor to franchise taxes, income taxes, or other licensing requirements or affecting the application of such taxes or requirements. Furthermore, no obligation imposed by virtue of the federal grant of authority shall be considered in determining whether a vendor has a nexus with any State for any other tax purpose.

<sup>1</sup> "Similar transaction tax" could include an excise tax or other consumption tax.

<sup>2</sup> *Quill Corporation v. North Dakota*, 504 U.S. 298 (1992).