Streamlined Sales Tax Project

"E-retail puts together back-to-back double-digit growth quarters"

- "The U.S. Commerce Department reported that e-commerce sales grew 14.3% in the first quarter, following the fourth's quarter 14.6% gain."
- "E-commerce grew 14.3% compared to the first quarter of 2009, after adjusting for seasonal variations, total retail sales grew only 6.3%."
- "Counting retail sales of all types, the web accounted for 4.0% of total sales in the first quarter of 2010 versus 3.7% a year earlier."
- Source: **Internet Retailer's Daily News Service (May 18, 2010)**

Remote sales: What is at stake?

- "State and Local Government Sales Tax Revenue Losses from Electronic Commerce," April 2009 update to report by professors Bill Fox, Don Bruce and LeAnn Luna at Univ. of Tennessee: State and local governments will fail to collect **$6.9 billion** in sales ax in 2009 **just** from electronic commerce
- Trend increases: By 2012 the projected loss for state and local governments is **$23.3 billion,** including **$11.4 billion** from remote commerce, **$6.8 billion** from business-to-consumer catalog sales, and **$5 billion** from business-to-business catalog sales

State Tax Revenues

- State tax revenues dropped for the fifth straight quarter in the fourth quarter of 2009, the longest decline on record, according to the latest update from the Rockefeller Institute of Government
- Preliminary data shows all three major tax types dipped, with individual income dropping 4.5 percent, sales dropping 4.2 percent and corporate income dropping 5.8 percent
- Averaged and adjusted for inflation, the total drop was 4.8 percent
- Revenues dropped in 39 of the 46 states

Effect of the sales tax gap
(in millions – source NCSL)

- California:
  - 2010 budget deficit - $19,500.0
  - Uncollected use tax - $3,624.0
- National total:
  - 2010 budget deficit - $68,167.9
  - Uncollected use tax - $23,300.0

Why doesn't seller always collect sales tax?

- For decades, states have sought to require out-of-state retailers to collect their tax
- 1992 Supreme Court decision in Quill Corp. v. North Dakota held: requiring collection of tax by out-of-state retailers **with no physical presence** in a state would be burden on interstate commerce and would therefore violate Commerce Clause of U.S. Constitution

Remote sales: What is at stake?

- Compliance with sales tax laws by multi-state corporations is too complex
- Local merchants suffer from lack of level playing field
- Significant losses of revenue expected due to growth in electronic commerce and inability of states to administer use tax with consumers

What retailer's say makes the system complex

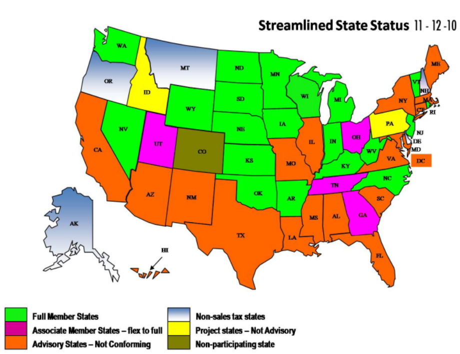
- State and local tax administration in some state
- Unclear rules on who has the right to tax a transaction
- Too many tax rates within each state and locality
- State and locals tax different items
- Too many definitions for the same product
- The retailer is liable when a buyer lies or fails to provide proof of an exempt sale

Goals of the Streamlined Effort:

- Create a simpler system for administering the various state and local sales taxes
- Make processes uniform if they cannot be made simple
- Balance the interests of a state's sovereignty. with the interests of simplicity and uniformity
- Leverage the use of technology to ease the retailer's tax collection
- Balance simplicity with state sovereignty

Streamlined Sales and Use Tax Agreement (SSUTA)

- SSUTA effective December 1, 2010
- Current membership:
  - 20 Full members
    - ✓ Arkansas, Kansas, Kentucky, Indiana, Iowa, Michigan, Minnesota, Nebraska, New Jersey, Nevada, North Carolina, North Dakota, Oklahoma, Rhode Island, South Dakota, Vermont, Washington, West Virginia, Wisconsin, Wyoming
  - 4 Associate members
    - ✓ Ohio, Tennessee, Utah. Georgia



SSUTA: Key Features

- State level administration of local sales and use taxes
- Rate simplification:
  - One general state rate per state, with a second rate (which could be zero) on food and drugs
  - One single local rate per jurisdiction
- No caps and thresholds

SSUTA: Key Features

- Common state and local tax bases within a state
- Uniform sourcing rule for goods and services:
  - Destination based, but states can choose origin sourcing for intrastate delivered products and direct mail
- Uniform sourcing rule for:
  - Telecommunications
  - Lease or rental of property
  - Direct mail

SSUTA: Key Features

Uniform Definitions

- Food and food ingredients
- Prepared food
- Candy
- Soft drinks
- Dietary supplement
- Clothing
- Lease or rental
- Tangible personal property
- Bundled Transaction
- Drugs
- Durable Medical Equipment
- Computer Software
- Prewritten Computer Software
- Delivered Electronically
- Load and Leave
- Sales Price
- Specified digital products

SSUTA: Key Features

- Uniform treatment of bank holidays
- Uniform rules for sales tax holidays:
  - limited to defined products and within administrative guidelines
- Uniform drop shipment rule
- Uniform rule for bad debt credits

SSUTA: Key Features

- Simplified electronic tax return
- Uniform exemption certificate and simplified exemption processing
- Uniform rounding rule

SST Agreement Key Features: Amnesty Provisions

- Sellers who register to collect tax receive amnesty against liability for prior sales regardless of nexus
- The state must offer the amnesty from date it joins the Governing Board until one year after it has been a full Member State
- The amnesty is not available:
  - To any seller that has received an audit notice from a state
  - To any seller who was registered with state during preceding year
  - To any seller that is being audited
- Sellers must remain registered and collect sales tax for 36 months
- The amnesty only applies to the seller's sales tax liability
- Currently available in Ohio, Tennessee, Utah, and Wisconsin

Taxability matrix

- A state database that tells sellers what is and what is not taxable
- A list of uniformly defined products and services, but will eventually include more
- Sellers are not liable for errors in how something is taxed if they follow what is in the taxability matrix

SST Technology: The "Certified Service Provider" (CSP)

- CSP is a third party that provides "cradle to grave" tax service that includes liability determination, return filing and tax remittance
- CSP software applications must apply certification standards and must receive approval by the Governing Board:
  - Calculation accuracy standards
  - Technology standards (e.g., ISO 17799, SAS70)
- Six CSPs have contract with Governing Board:
  - Accurate Tax
  - Avalara
  - Fed-Tax
  - Exactor
  - ADP Taxware
  - Speedtax
- Businesses who volunteer to collect tax in state may use CSP's at no cost – states pay CSP for services to volunteer sellers

CSP - Responsibilities & Liabilities

- Integration of software with seller's order processing system
- Applied data & tax calculations
- Tax liability & statistical reporting
- Funds transfers
- System performance & security

CAS - Responsibilities & Liabilities

- Integration of software with seller's order processing system
- Applied data & tax calculations
- Tax liability & statistical reporting
- System performance & security

Central Registration System

- As of July 1, 2010 there were 1,249 companies registered on the central registration system
- As of July 1, 2010 those companies had collected $592.8 million in sales tax for the Streamline states