

# Sales-tax bill hits the mark

*States consider a plan to collect sales and use taxes on sales of goods over the Internet, while Congress considers allowing states to collect taxes on Internet purchases.*

BY KRISTIN CORMIER ROBINSON

*Kristin Cormier Robinson is policy and legislation director at the CSG office in Washington, D.C.*



Congress and state legislatures are considering how to simplify the collection of sales tax on items bought over the Internet. Because the federal moratorium on Internet taxes will end in October 2001, lawmakers are working to ensure that state and local governments can collect sales taxes for online purchases. At stake are portions of the state and local sales-tax base that funds vital services such as education.

The current moratorium on the Internet Tax Freedom Act (P.L. 105-277), enacted in 1998, prohibits states and local governments from charging Internet access fees. While states have clamored to protect their authority to tax Internet purchases, other proposals would al-

low state and local government to retain that authority while extending the moratorium for a short time.

Sales and use taxes are the primary sources of revenue in 45 states and comprise about 40 percent of all state revenues. States are seeing tougher economic times, so protecting their sovereignty and revenue streams is key.

### State landscape

In response to the complexity of sales-tax systems and the moratorium on Internet sales tax, state tax administrators began the Streamlined Sales Tax Project last year. They hope to create a voluntary and less burdensome system so that businesses can help states collect sales taxes online. The project, currently in its second phase, includes 29 states.

Project members met in 2000 to develop a plan and model legislation. To simplify state tax systems and set up a multistate compact to give states the authority to have out-of-state Internet merchants collect and remit sales and use taxes. The Streamlined Sales Tax Project is co-chaired by Charles Collins and Diane Hardt, who represent revenue departments in North Carolina and Wisconsin respectively. Congress needs to authorize the Interstate Sales and Use Tax Compact for taxes to be collected under this voluntary system. At least 18 states were considering the model legislation in 2001. Bills already have been passed and signed into law in Kentucky, South Dakota, Utah and Wyoming. Project leaders hope that as many as 20 states will enact the legislation in the next year.

The National Governors' Association, the National Conference of State Legislatures, the Multistate Tax Commission, and the Federation of Tax Administrators were all essential in forming and facilitating the project. Earlier this year, NCSL endorsed the model legislation.

The project's plan seeks to ensure

that participation by states and retailers is voluntary. The plan also aims to simplify auditing procedures, reporting requirements, and exemptions, and reduce burdens for retailers responsible for collecting and remitting sales taxes. The project's model legislation addresses the issue of nexus, as defined as physical presence in the 1992 Supreme Court decision *Quill Corp. v. North Dakota*, which exempted businesses from collecting taxes for purchases made by consumers in states where the store does not have a physical presence.

In a hearing before the Senate Commerce Committee in March, Wyoming Gov. Jim Geringer called on Congress to encourage states and localities to simplify their tax systems. He said, "Congress should use any



Wyoming Gov.  
Jim Geringer

extension of the Internet Tax Freedom Act as an important opportunity to enact legislation establishing a procedure that would encourage states and localities to continue their initiative to develop and implement a simplified and streamlined sales-tax system. Those states that do simplify their sales-tax systems to require remote sellers could then collect sales and use taxes on sales into a state."

### Federal prospects

Congress will decide this year what to do about the moratorium on Internet taxes. State and local government officials are watching closely a bill introduced by Sen. Byron Dorgan, D-North Dakota, a former state tax commissioner. Dorgan said the Internet Tax Moratorium Equity Act (S. 512) will "level the playing field for local retailers that already collect and remit sales tax, while protecting the ability of state and local governments to provide necessary services

funded by tax income. ... Any new form of commerce presents a challenge to the rules and structures that have grown up around the old."

A similar bill is expected to be introduced in the House. Dorgan's Senate bill would:

- Extend the existing moratorium on Internet access and multiple and discriminatory taxes through Dec. 31, 2005;

- Show that Congress supports voluntary state and local actions to streamline sales and use tax systems, including allowing remote sellers to use information provided by the states to easily identify the single applicable rate for each sale and relieving sellers from liability;

- Require that the simplified tax system include uniform definitions for goods and services, uniform procedures for the treatment of tax exempt purchasers, uniform rules for assigning transactions to a particular tax jurisdiction, and uniform audit procedures and the option for a single-seller's audit;

- Authorize states to enter into an Interstate Sales and Use Tax Compact once 20 states had enacted the streamlined sales tax system – states would adopt the use of the system through legislation and Congress would give consent to entering into the compact;

- Limit voluntary participating remote sellers to those with more than \$5 million in annual gross sales; and

- Allow for Congress to disapprove of the compact within 120 days of the 20 states verifying participation.

CSG, along with the six other members of the Big Seven state and local government coalition (The International City/County Management Association, the National Association of Counties, the National Governors' Association, the National League of Cities, the National Conference of State Legislatures, the U.S. Conference of Mayors) support the goals of the bill to provide for a level playing

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field for all retail sales through state-based tax simplification for collection of state and local sales and use taxes.

Additionally, some retailers are increasingly interested in a level playing field between retail stores and Internet stores. Peter Lowy, CEO of Westfield America, which has 39 super regional and regional shopping centers, said, “Simply put, there is no logical argument that supports taxing the same retail transaction differently depending on the delivery system. The marketplace should determine sales decisions, not discriminatory tax policies.”

On the other hand, Sen. Ron Wyden, D-Oregon, has introduced a bill to extend the moratorium and impose significant hurdles for states to collect

sales taxes on remote sales.

Dorgan is optimistic that a compromise bill can be crafted before the moratorium expires in October. “My sense is that we’re making a lot of progress on this issue,” Dorgan said. “We’ll be looking for the common ground that I think is going to emerge.”

In doing so, Congress will have to address the convergence of technology and how to distinguish between the variety of services to which to apply state and local taxes when telephone, cable, data and other telecommunications services are bundled.

For more, visit [www.csg.org](http://www.csg.org) and the project at [www.geocities.com/streamlined2000/](http://www.geocities.com/streamlined2000/)

