

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1664 Session of
2011

INTRODUCED BY COHEN, CALTAGIRONE, CARROLL, DALEY, DAVIS, GEORGE,
JOSEPHS, KORTZ, MUNDY, M. O'BRIEN AND STURLA, JUNE 14, 2011

REFERRED TO COMMITTEE ON FINANCE, JUNE 14, 2011

AN ACT

1 Providing for multistate sales and use tax administration for
2 commerce.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Multistate
7 Sales and Use Tax Participation Act.

8 Section 2. Declaration of policy.

9 The General Assembly finds and declares as follows:

10 (1) A simplified sales and use tax system will reduce
11 and over time eliminate the burden and cost for all vendors
12 to collect this State's sales and use tax.

13 (2) This Commonwealth should participate in multistate
14 discussions to negotiate the terms of an agreement to
15 simplify and modernize sales and use tax administration in
16 order to substantially reduce the burden of tax compliance
17 for all sellers and for all types of commerce.

18 Section 3. Definitions

1 The following words and phrases when used in this act shall
2 have the meanings given to them in this section unless the
3 context clearly indicates otherwise:

4 "Agreement." The Streamlined Sales and Use Tax Agreement to:

5 (1) calculate the tax imposed by each jurisdiction on a
6 transaction;

7 (2) determine the amount of tax to remit to the
8 appropriate state; and

9 (3) maintain a record of the transaction.

10 "Certified automated system." Software certified jointly by
11 the states which are signatories to the agreement.

12 "Certified service provider." An agent certified jointly by
13 the states which are signatories to the agreement to perform all
14 of the seller's sales tax functions.

15 "Conforming state." Any state that adopts the agreement
16 through legislative action.

17 "Delegate." An individual who represents a state in
18 negotiating the agreement.

19 "Sales tax." The tax imposed under section 202(a) of the act
20 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
21 1971.

22 "Seller." A person making sales, leases or rentals of
23 personal property or services.

24 "State." Any state of the United States and the District of
25 Columbia.

26 "Use tax." The tax imposed under section 202(b) of the Tax
27 Reform Code of 1971.

28 Section 4. Delegates.

29 (a) Designation of delegates.--For the purposes of
30 negotiating the agreement the Commonwealth shall enter into

1 multistate discussions. For purposes of such discussions, the
2 Commonwealth shall be represented by the following delegates:

3 (1) The Governor or a designee.

4 (2) The President pro tempore of the Senate or a
5 designee.

6 (3) The Speaker of the House of Representatives or a
7 designee.

8 (4) The Minority Leader of the Senate or a designee.

9 (5) The Minority Leader of the House of Representatives
10 or a designee.

11 (b) Voting authority.--The Governor or his designee may vote
12 on behalf of the Commonwealth on any proposals presented as part
13 of the multistate discussions. As the voting representative of
14 the Pennsylvania delegation, the Governor or his designee shall
15 ensure that all information pertaining to the work of the
16 agreement and the Streamlined Sales Tax Project, and any
17 negotiations, meetings or other information pertaining thereto
18 shall be shared in a timely manner with all delegates identified
19 in this section.

20 Section 5. Authority to negotiate agreement.

21 (a) Negotiation.--The delegates may negotiate the agreement
22 with other states to simplify and modernize sales and use tax
23 administration in order to substantially reduce the burden of
24 tax compliance for all sellers and for all types of commerce. In
25 furtherance of the agreement, the delegates may act jointly with
26 other states establishing standards for certification of a
27 certified service provider and certified automated system and
28 establish performance standards for multistate sellers.

29 (b) Related matters.--The delegates may take other actions
30 reasonably required to implement the provisions of this act.

1 This subsection includes the promulgation of regulations and the
2 joint procurement, with other states, of goods and services in
3 furtherance of the cooperative agreement.

4 Section 6. Relationship to State law.

5 No provision of the agreement shall invalidate or amend any
6 provision of the laws of this Commonwealth. Implementation of
7 any condition of the agreement in this Commonwealth must be by
8 legislative action.

9 Section 7. Agreement requirements and prohibitions.

10 (a) Requirements.--The delegates, in negotiating the tax
11 agreement, shall generally abide by the following requirements:

12 (1) Simplified rate.--The agreement must set
13 restrictions to limit over time the number of state rates.

14 (2) Uniform standards.--The agreement must establish
15 uniform standards for the following:

16 (i) The sourcing of transactions to taxing
17 jurisdictions.

18 (ii) The administration of exempt sales.

19 (iii) Sales and use tax returns and remittances.

20 (3) Central registration.--The agreement must provide a
21 central, electronic registration system which allows a seller
22 to register to collect and remit sales and use taxes for all
23 conforming states.

24 (4) No nexus attribution.--The agreement must provide
25 that registration with the central registration system in the
26 conforming states will not be used as a factor in determining
27 whether the seller has 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:

1 (i) Restricting variances between the state and
2 local tax bases.

3 (ii) Requiring states to administer any sales and
4 use taxes levied by local jurisdictions within the state
5 so that sellers collecting and remitting these taxes will
6 not have to register or file returns with, remit funds to
7 or be subject to independent audits from local taxing
8 jurisdictions.

9 (iii) Restricting the frequency of changes in the
10 local sales and use tax rates and setting effective dates
11 for the application of local jurisdictional boundary
12 changes to local sales and use taxes.

13 (iv) Providing notice of changes in local sales and
14 use tax rates and of changes in the boundaries of local
15 taxing jurisdictions.

16 (6) Monetary allowances.--The agreement must outline any
17 monetary allowances that are to be provided by the states,
18 including any sales tax discounts offered by the various
19 states, to sellers or certified service providers. The
20 agreement must allow for a joint public and private sector
21 study of the compliance cost on sellers and certified service
22 providers to collect sales and use taxes for state and local
23 governments under various levels of complexity to be
24 completed by July 1, 2012.

25 (7) State compliance.--The agreement must require each
26 state to certify compliance with the terms of the agreement
27 prior to joining and to maintain compliance, under the laws
28 of the member state, with all provisions of the agreement
29 while a member.

30 (8) Consumer privacy.--The agreement must require each

1 state to adopt a uniform policy for certified service
2 providers which protects the privacy of consumers and
3 maintains the confidentiality of tax information.

4 (9) Advisory councils.--The agreement must provide for
5 the appointment of an advisory council of private sector
6 representatives and an advisory council of nonmember state
7 representatives to consult with in the administration of the
8 agreement.

9 (b) Prohibition.--The agreement shall not:

10 (1) Apply to taxes imposed on and measured by net income
11 derived from the Internet or interactive computer services.

12 (2) Apply to fairly apportioned business license taxes
13 applied to businesses that are doing business in this
14 Commonwealth.

15 (3) Affect the authority of the Commonwealth or its
16 political subdivisions to impose a tax on other transactions
17 affected by use of the Internet or interactive computer
18 services.

19 Section 8. Cooperating sovereigns.

20 The agreement is an accord among individual cooperating
21 sovereigns in furtherance of their governmental functions. The
22 agreement provides a mechanism among the member states to
23 establish and maintain a cooperative, simplified system for the
24 application and administration of sales and use taxes under the
25 law of each member state.

26 Section 9. Annual report.

27 The Governor or his designee shall prepare an annual report
28 of the Commonwealth's participation in the multistate
29 discussions to simplify and modernize sales and use tax
30 administration as set forth in this act. The report shall be

1 transmitted by the second Monday in January of each year that
2 such discussions are ongoing and shall be provided to the
3 majority and minority chairmen of the following committees:

4 (1) The Appropriations Committee of the Senate.

5 (2) The Finance Committee of the Senate.

6 (3) The Appropriations Committee of the House of
7 Representatives.

8 (4) The Finance Committee of the House of
9 Representatives.

10 Section 10. Effective date.

11 This act shall take effect in 60 days.