
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 92

Session of
2005

INTRODUCED BY STEIL, CALTAGIRONE, CAPPELLI, CLYMER, CORRIGAN,
DALEY, DENLINGER, FABRIZIO, GRUCELA, HARHAI, KOTIK, MELIO,
MICOZZIE, R. MILLER, MUSTIO, O'NEILL, READSHAW, RUBLEY,
SAYLOR, SCAVELLO, E. Z. TAYLOR, THOMAS, TIGUE, YOUNGBLOOD,
YUDICHAK AND REICHLEY, JANUARY 25, 2005

REFERRED TO COMMITTEE ON FINANCE, JANUARY 25, 2005

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

1 for all sellers and for all types of commerce.

2 Section 3. Definitions

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

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

7 (1) calculate the tax imposed by each jurisdiction on a
8 transaction;

9 (2) determine the amount of tax to remit to the
10 appropriate state; and

11 (3) maintain a record of the transaction.

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

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

17 "Conforming state." Any state that adopts the agreement
18 through legislative action.

19 "Delegate." An individual who represents a state in
20 negotiating the agreement.

21 "Sales tax." The tax imposed under section 202(a) of the act
22 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
23 1971.

24 "Seller." A person making sales, leases or rentals of
25 personal property or services.

26 "State." Any state of the United States and the District of
27 Columbia.

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

30 Section 4. Delegates.

1 (a) Designation of delegates.--For the purposes of
2 negotiating the agreement the Commonwealth shall enter into
3 multistate discussions. For purposes of such discussions, the
4 Commonwealth shall be represented by the following delegates:

5 (1) The Governor or a designee.

6 (2) The President pro tempore of the Senate or a
7 designee.

8 (3) The Speaker of the House of Representatives or a
9 designee.

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

11 (5) The Minority Leader of the House of Representatives
12 or a designee.

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

22 Section 5. Authority to negotiate agreement.

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

1 (b) Related matters.--The delegates may take other actions
2 reasonably required to implement the provisions of this act.
3 This subsection includes the promulgation of regulations and the
4 joint procurement, with other states, of goods and services in
5 furtherance of the cooperative agreement.

6 Section 6. Relationship to State law.

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

11 Section 7. Agreement requirements and prohibitions.

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

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

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

18 (i) The sourcing of transactions to taxing
19 jurisdictions.

20 (ii) The administration of exempt sales.

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

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

26 (4) No nexus attribution.--The agreement must provide
27 that registration with the central registration system in the
28 conforming states will not be used as a factor in determining
29 whether the seller has nexus with a state for any tax.

30 (5) Local sales and use taxes.--The agreement must

1 provide for reduction of the burdens of complying with local
2 sales and use taxes through the following:

3 (i) Restricting variances between the state and
4 local tax bases.

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

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

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

18 (6) Monetary allowances.--The agreement must outline any
19 monetary allowances that are to be provided by the states,
20 including any sales tax discounts offered by the various
21 states, to sellers or certified service providers. The
22 agreement must allow for a joint public and private sector
23 study of the compliance cost on sellers and certified service
24 providers to collect sales and use taxes for state and local
25 governments under various levels of complexity to be
26 completed by July 1, 2006.

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

1 while a member.

2 (8) Consumer privacy.--The agreement must require each
3 state to adopt a uniform policy for certified service
4 providers which protects the privacy of consumers and
5 maintains the confidentiality of tax information.

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

11 (b) Prohibition.--

12 The agreement shall not:

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

15 (2) Apply to fairly apportioned business license taxes
16 applied to businesses that are doing business in this
17 Commonwealth.

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

22 Section 8. Cooperating sovereigns.

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

29 Section 9. Annual report.

30 The Governor or his designee shall prepare an annual report

1 of the Commonwealth's participation in the multistate
2 discussions to simplify and modernize sales and use tax
3 administration as set forth in this act. The report shall be
4 transmitted by the second Monday in January of each year that
5 such discussions are ongoing and shall be provided to the
6 majority and minority chairmen of the following committees:

7 (1) The Appropriations Committee of the Senate.

8 (2) The Finance Committee of the Senate.

9 (3) The Appropriations Committee of the House of
10 Representatives.

11 (4) The Finance Committee of the House of
12 Representatives.

13 Section 10. Effective date.

14 This act shall take effect in 60 days.