

1 SB321
2 34972-1
3 By Senators Sanders, Callahan, Enfinger, Preuitt, McClain,
4 French, and Denton
5 RFD: Finance and Taxation Education
6 First Read: 20-FEB-2001

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8 SYNOPSIS: This bill would authorize the State of
9 Alabama to adopt and enter into, with one or more
10 participating states, an interstate proposal
11 entitled the "Streamlined Sales and Use Tax
12 Agreement." The proposal is designed to provide a
13 standardized system among the states for
14 simplification and modernization of sales tax and
15 use tax administration to substantially reduce the
16 burden of tax compliance for all sellers and for
17 all types of commerce including catalog and
18 internet vendors; would authorize the Commissioner
19 of the Alabama Department of Revenue to promulgate
20 rules and regulations deemed necessary to
21 administer this act; and would provide for a
22 delayed effective date.

23
24 A BILL
25 TO BE ENTITLED

1 AN ACT

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3 To create Chapter 23A, Title 40, Code of Alabama
4 1975, authorizing the State of Alabama to adopt and enter
5 into, with one or more participating states, the Streamlined
6 Sales and Use Tax Agreement, that is designed to provide a
7 standardized system among the states for simplification and
8 modernization of sales tax and use tax administration to
9 substantially reduce the burden of tax compliance for all
10 sellers and for all types of commerce including nonresident
11 catalog and internet vendors; authorizing the Commissioner of
12 the Alabama Department of Revenue to promulgate rules and
13 regulations deemed necessary to administer this act; providing
14 for amendment of current sales and use tax statutes to remove
15 conflict with provisions of the agreement; and providing for
16 an effective date.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. A new Chapter 23A is added to Title 40 to
19 read as follows:

20 CHAPTER 23A
21 UNIFORM SALES TAX AND USE TAX
22 ADMINISTRATION

23 Section 40-23A-1.

1 (a) The Legislature of Alabama finds that this state
2 should enter into an agreement with one or more states to
3 simplify and modernize sales and use tax administration in
4 order to substantially reduce the burden of tax compliance for
5 all sellers, to reduce the costs of administration, and to
6 provide a means by which taxes may be levied and collected
7 from those sellers located outside of this state which sell to
8 residents inside this state through catalog sales, internet
9 sales and other means but do not have nexus within this state.

10 (b) This chapter shall be known as "The Uniform
11 Sales and Use Tax Administration Act."

12 Section 40-23A-2.

13 As used in this chapter the following terms shall
14 have the following meanings:

15 (1) AGREEMENT. The Streamlined Sales and Use Tax
16 Agreement.

17 (2) AGREEMENT SIGNATORIES. Those states which have
18 agreed to participate in the provisions of the unified pact
19 entitled the "Streamlined Sales and Use Tax Agreement."

20 (3) CERTIFIED AUTOMATED SYSTEM. Software certified
21 jointly by the agreement signatories to calculate the tax
22 imposed by each jurisdiction on a transaction, determine the
23 amount of tax to remit to the appropriate state, and maintain
24 a record of the transaction.

1 (4) CERTIFIED SERVICE PROVIDER. An agent certified
2 jointly by the agreement signatories to perform all of the
3 seller's sales tax and use tax functions.

4 (5) DEPARTMENT. The Alabama Department of Revenue.

5 (6) PERSON. Any individual, trust, estate,
6 fiduciary, partnership, limited liability company, limited
7 liability partnership, corporation, or any other legal entity.

8 (7) SALES TAX. The tax levied under Article 1,
9 Chapter 23 of this title.

10 (8) SELLER. Any person making sales of tangible
11 personal property.

12 (9) STATE. Any state of the United States and the
13 District of Columbia.

14 (10) USE TAX. The tax levied under Article 2,
15 Chapter 23 of this title.

16 Section 40-23A-3.

17 (a) The Department of Revenue shall enter into the
18 Streamlined Sales and Use Tax Agreement with one or more
19 states to simplify and modernize sales and use tax
20 administration in order to substantially reduce the burden of
21 tax compliance for all sellers and for all types of commerce.
22 In furtherance of the agreement, the department may act
23 jointly with other states that are members of the agreement to
24 establish standards for certification of a certified service
25 provider and certified automated system and establish
26 performance standards for multistate sellers. The department

1 also may take other actions reasonably required to implement
2 the provisions set forth in this chapter.

3 (b) The department is also authorized to perform
4 other actions including, but not limited to, the adoption of
5 rules and regulations and the joint procurement, with other
6 member states, of goods and services in furtherance of the
7 cooperative agreement.

8 (c) The department is authorized to represent this
9 state before the other states that are signatories to the
10 agreement.

11 Section 40-23A-4.

12 No provision of the agreement authorized by this
13 chapter in whole or part invalidates or amends any provision
14 of the law of this state. Adoption of the agreement by this
15 state does not amend or modify any law of this state.
16 Implementation of any condition of the agreement in this
17 state, whether adopted before, at, or after membership of this
18 state in the agreement, must be by the action of this state.

19 Section 40-23A-5.

20 The department shall not enter into the agreement
21 unless the agreement requires each state to abide by the
22 following requirements:

23 (1) Uniform State Rate. The agreement must set
24 restrictions to achieve more uniform state rates through the
25 following:

26 a. Limiting the number of state rates.

1 b. Eliminating maximums on the amount of state tax
2 that are due on a transaction.

3 c. Eliminating thresholds on the application of
4 state tax.

5 (2) Uniform Standards. The agreement must establish
6 uniform standards for the following:

7 a. The sourcing of transactions to taxing
8 jurisdictions.

9 b. The administration of exempt sales.

10 c. The allowances a seller can take for bad debts.

11 d. Sales and use tax returns and remittances.

12 (3) Uniform Definitions. The agreement must require
13 states to develop and adopt uniform definitions of sales and
14 use tax terms. The definitions must enable a state to preserve
15 its ability to make policy choices not inconsistent with the
16 uniform definitions.

17 (4) Central Registration. The agreement must provide
18 a central, electronic registration system that allows a seller
19 to register to collect and remit sales and use taxes for all
20 signatory states.

21 (5) No Nexus Attribution. The agreement must provide
22 that registration with the central registration system and the
23 collection of sales and use taxes in the signatory states will
24 not be used as a factor in determining whether the seller has
25 nexus with a state for any tax.

1 (6) Local Sales and Use Taxes. The agreement must
2 provide for reduction of the burdens of complying with local
3 sales and use taxes through the following:

4 a. Restricting and eliminating variances between the
5 state and local tax bases.

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

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

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

18 (7) Monetary Allowances. The agreement must outline
19 any monetary allowances that are to be provided by the states
20 to sellers or certified service providers.

21 (8) State Compliance. The agreement must require
22 each state to certify compliance with the terms of the
23 agreement prior to joining and to maintain compliance, under
24 the laws of the member state, with all provisions of the
25 agreement while a member.

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

5 Section 40-23A-6.

6 The agreement authorized by this chapter is an
7 accord among individual cooperating sovereigns in furtherance
8 of their governmental functions. The agreement provides a
9 mechanism among the member states to establish and maintain a
10 cooperative, simplified system for the application and
11 administration of sales and use taxes under the duly adopted
12 law of each member state.

13 Section 40-23A-7.

14 The agreement authorized by this chapter binds and
15 inures only to the benefit of this state and the other member
16 states. No person, other than a member state, is an intended
17 beneficiary of the agreement.

18 Section 40-23A-8.

19 Any benefit to a person is established by the law of
20 this state and the other member states and not by the terms of
21 the agreement. No law of this state, or the application
22 thereof, may be declared invalid as to any person or
23 circumstance on the ground that the provision or application
24 is inconsistent with the agreement. No person shall have any
25 cause of action or defense under the agreement or by virtue of
26 this state's approval of the agreement. No person may

1 challenge, in any action brought under any provision of law,
2 any action or inaction by any department, agency, or other
3 instrumentality of this state, or any political subdivision of
4 this state on the ground that the action or inaction is
5 inconsistent with the agreement.

6 Section 40-23A-9.

7 (a) A certified service provider is the agent of a
8 seller, with whom the certified service provider has
9 contracted, for the collection and remittance of sales and use
10 taxes. As the seller's agent, the certified service provider
11 is liable for sales and use tax due each member state on all
12 sales transactions it processes for the seller except as set
13 out in this section. A seller that contracts with a certified
14 service provider is not liable to the state for sales or use
15 tax due on transactions processed by the certified service
16 provider unless the seller misrepresented the type of items it
17 sells or committed fraud. In the absence of misrepresentation
18 or fraud, a seller that contracts with a certified service
19 provider is not subject to audit on the transactions processed
20 by the certified service provider. A seller is subject to
21 audit for transactions not processed by the certified service
22 provider. The member states acting jointly may perform a
23 system check of the seller and review the seller's procedures
24 to determine if the certified service provider's system is
25 functioning properly and the extent to which the seller's

1 transactions are being processed by the certified service
2 provider.

3 (b) A person that provides a certified automated
4 system is responsible for the proper functioning of that
5 system and is liable to the state for underpayments of tax
6 attributable to errors in the functioning of the certified
7 automated system. A seller that uses a certified automated
8 system remains responsible and is liable to the state for
9 reporting and remitting tax.

10 (c) A seller that has a proprietary system for
11 determining the amount of tax due on transactions and has
12 signed an agreement establishing a performance standard for
13 that system is liable for the failure of the system to meet
14 the performance standard.

15 Section 40-23A-10.

16 The Commissioner of the Alabama Department of
17 Revenue shall promulgate rules and regulations for the
18 implementation and administration of the provisions of this
19 chapter.

20 Section 2. This act shall become operative upon the
21 passage by the United States Congress of an act authorizing a
22 uniform law relating to interstate taxing and after the
23 Department of Revenue, by regulation, makes a finding that a
24 federal law authorizing this act has been enacted.

1 Section 3. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.