

The Project approved moving this paper to the Implementing States on June 14, 2002.

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STREAMLINED SALES TAX PROJECT

TAXES AFFECTED BY SSTP ACT AND AGREEMENT

(7/3/02)

Issue

To what taxes should the SSTP Act and Agreement apply?

Recommendation

Adopt the definitions of “sales tax” and “use tax” as provided in Section 2 of the Uniform Sales and Use Tax Administration Act as approved December 22, 2000, and amended January 24, 2001 (Act).

The Act defines “sales tax” and “use tax” as follows for purposes of the Streamlined Sales and Use Tax Agreement as approved December 22, 2000, and amended January 24, 2001 (Agreement):

- e. “Sales Tax” means the tax levied under (CITE SPECIFIC STATUTE).
- h. “Use Tax” means the tax levied under (CITE SPECIFIC STATUTE).

Each state will determine and insert statutory cites of the specific taxes to which the Streamlined Sales and Use Tax Agreement applies. Taxes that may fall within the ordinary or common meaning of “sales tax” or “use tax,” but which are imposed outside of the statutes cited in the Act, are not required to be administered under the simplification measures proposed by the Streamlined Sales Tax Project.

The Project strongly suggests that a state avoid creating new excise or other taxes outside of the statutes cited in the Act or Agreement in order to continue the tax treatment of a particular category of property or service. Enacting such a tax places an additional burden on sellers.

State Survey

States were surveyed to determine what types of taxes would be excluded from the requirements of the Streamlined Sales and Use Tax Agreement. In all cases, states will exclude excise taxes on cigarettes, tobacco, motor fuel, and liquor. They will also exclude taxes on insurance premiums. Other taxes to be excluded are identified by each state below.

State	Taxes to Be Excluded
Alabama	Contractor's gross receipts tax Dry cleaning fee Lodging tax Nursing facility tax Pharmaceutical provider tax Mobile telecommunication service tax Rental or leasing tax Utility gross receipts tax and license
Arkansas	Tourism tax Motor vehicle rental taxes and fees Meal taxes outside of sales taxes Motor vehicle taxes outside of sales taxes Aviation tax Wholesale vending tax
Connecticut	Room occupancy Rental vehicle fee Motor vehicle rental surcharge Dry cleaning surcharge
Florida	Communications services tax Gross receipts tax Tourist development tax Tourist impact tax Municipal public service tax
Georgia	None
Illinois	Utilities excise taxes and fees Telecommunications excise tax and fees Hotel operators tax Vehicle rental tax Motor vehicle use tax Dry cleaning tax Liquor tax Tire fee Amusement device fee

State	Taxes to Be Excluded
Indiana	Wheel tax Local food, beverage and lodging taxes Admissions tax Capital Improvement Board tax Auto rental and boat excise tax Hazardous waste tax
Kansas	Motor vehicle rental excise tax Transient guest tax Dry cleaning surcharge & fee Clean drinking water fee Water protection fee Petroleum product environmental fee New tire excise tax Transportation district excise tax
Maryland	Admissions and amusement tax Recycle tire fee Motor vehicle and boat titling fee Utility taxes Local hotel/motel and parking taxes Local illegal drug tax Meals tax Boat slip tax
Michigan	Airport parking tax State convention facility development tax Excise tax on licensed food service establishments, leased motor vehicles, and transient accommodations Convention tourism marketing assessment Accommodations tax Regional and community tourism market assessments City utility users tax
Minnesota	Solid waste management services taxes Fur clothing excise tax
Nebraska	Lodging tax Automobile rental company tax
Nevada	Room taxes Tourism taxes Telecommunications taxes
New Jersey	Admissions, meals, alcoholic beverages and room rentals for tourism.

State	Taxes to Be Excluded
North Carolina	Lease or rental of motor vehicles use tax Scrap tire disposal tax White goods disposal tax Dry cleaning solvent tax Piped natural gas tax Mill machinery tax Local occupancy taxes Local prepared food taxes
North Dakota	Local lodging tax Local restaurant tax Aircraft excise tax Motor vehicle excise tax Telecommunications taxes
Ohio	Local hotel lodging taxes Resort area gross receipts tax
Pennsylvania	Hotel tax Public transportation fund tax Vehicle rental tax Admissions and amusement taxes Parking taxes Utility taxes Business privilege and mercantile taxes
Rhode Island	Hotel tax Motor vehicle rental surcharge Parking surcharge Hard to dispose tax Beverage container tax
South Dakota	Local gross receipts tax on alcoholic beverages, lodging, eating establishments, and entertainment State gross receipts tax on hotels and lodging, campgrounds, motor vehicle rentals, visitor attractions, recreational equipment rental, spectator events, and visitor-intensive businesses Motor vehicle excise taxes

State	Taxes to Be Excluded
Utah	Transient room tax Resort communities tax Tourism, recreation, cultural, and convention facilities tax Motor vehicle rental tax Municipal energy sales and use tax Lubricating oil fee Waste tire recycling fee Emergency services telephone fee
Vermont	Utilities tax Meals and room taxes outside the sales tax (imposed in different chapter; pre-dates sales taxes) Purchase and use tax on motor vehicles (imposed in different chapter) Telecommunications taxes Local entertainment, meals and lodging taxes
Washington	Car rental taxes Natural or manufactured gas use tax Solid waste tax Room and hotel taxes Food and beverage taxes for stadium
Washington, DC	Utilities and telecommunications gross receipts tax
Wisconsin	Local room taxes Local food and beverage tax Local rental car tax Resort area tourism tax Rental vehicle fee Dry cleaners fee
Wyoming	Lodging excise taxes

Background

“Sales tax” encompasses a large variety of levies, but is summarized in most court cases and writings as an excise tax on the privilege of selling at retail. The buyer generally pays the tax, measured by the selling price, to the seller, who becomes an agent for the collection of the tax. Common examples of tax levies that could be considered sales or use taxes but are generally imposed apart from a state’s general sales and use tax include room taxes; tourism taxes; excise taxes on utilities, tobacco products, liquor, and motor fuel; and telecommunications taxes; etc.

The following definitions and discussions from various sources illustrate the broad nature of the term “sales tax”:

- 68 Am Jur 2d, § 1, Sales and Use Tax

“While the term ‘sales tax’ encompasses a large variety of levies, the term often refers to the ‘retail sales tax’ where the tax is separately stated and collected on a transaction-by-transaction basis from the consumer; although the economic burden of the sales tax falls upon the consumer, the seller has the statutory duty to collect the tax for the taxing jurisdiction.”

“A municipal tax exacted of the consumer upon each transaction of sale affects the freedom of purchase within the city and thus falls under the generic heading of a sales tax.”

- 68 Am Jur 2d, § 4, Sales and Use Tax

“Sales taxes in particular jurisdictions have been referred to as, or declared to be:

- License taxes
- Privilege taxes
- Income or gross income taxes, and
- Excise taxes.”

- Words and Phrases, Sales Tax

“A ‘sale’ or ‘use’ tax is a tax on the privilege of engaging in a particular business or occupation which is levied against businessman engaged in that occupation and not against the consumer.”

“The ‘sales tax’ is an excise tax for privilege of selling tangible personal property at retail measured by gross receipts from such sales.”

“City ordinance purporting to impose license tax based on gross sales was sales tax . . .”

- Black’s Law Dictionary, Sales Tax

“A state or local-level tax on the retail sale of specified property or services.”