COMPROMISE PROPOSAL: DESTINATION RATE, ORIGIN BASE & REMITTANCE

SUMMARY: Remote Sellers collect at the Destination Rate (simplified to one-rate-per-State.) The tax base, audit and remittance structure remain tied to the Origin State in order to satisfy concerns about simplicity and States' cross-border reach.

DETAIL: States enter into a Distribution Agreement requiring them to do two simple things. (1) Select a single statewide rate ("remote rate") that remote sellers will apply when selling to residents of the State; (2) Enact laws that require their own sellers to collect at other participating States' designated remote tax rates.

Example: A MA customer purchases a TV from UT based Seller.com. Seller.com checks whether TVs are taxable under UT law (*i.e.*, Origin Base.) If so, Seller.com applies the MA (not UT) statewide rate to the sale and remits the money to the UT State Tax Commission, as it would any other sale. The UT State Tax Commission then forwards the money to MA via the proven clearinghouse method used in the Fuel Tax context. Notably, Seller.com collects at the MA rate, not because MA requires it, but because Utah, as party to the Distribution Agreement, agrees to require its home state sellers, including Seller.com, to collect at the MA rate on sales into MA. The result is Destination Rate collection, without States reaching beyond their borders.

FAQs & Additional Points

Achieving Parity – Tax is collected at the Destination Rate. One-rate-per-State is a simplification specifically endorsed by business trade group COST in a current official policy statement.

Addressing NOMADs – Sellers in NOMAD States are required either to report the sale or collect at the Destination Rate (subject to the one-rate-per-State simplification.) This is irrespective of whether the NOMAD State itself joins the compact. However, if the NOMAD State joins, its residents pay zero sales tax on purchases from out-of-state remote sellers. This resolves the tax hike issue. Thus, for NOMAD States, there is a major upside to joining.

Superior State Revenue Impact – Our proposal offers States an estimated $16 million more per year in revenue than they would get under RTPA/MFA. The reason is RTPA requires States to provide free collection software. Our version, because of its simplicity, requires no such thing. A major tax software provider estimates the figure even higher at $29 million per-State.

Rogue Sales Tax States – Every sales tax State has a strong incentive to join. If the Destination State does not join the compact, the Origin State imposes tax at the Origin rate and keeps it. This serves as a strong incentive for all States to join. Otherwise, they receive none of the tax money that their own citizens are paying on remote sales. Instead, the tax money remains with the Origin State. In addition, the Destination State must provide credit for that tax it never receives against any use tax it wishes to impose. The premise of this entire effort is that States are losing billions in revenue annually. The requirements of this bill are minimal and, unlike Streamline, require no changes to intrastate taxation rules. **More importantly, Streamline required States to make major changes without any guarantee of collection authority. This bill guarantees collection authority provided States take just two simple steps**. In short, there is great upside to joining and strong downside to refusing. **Nevertheless, to address any lingering concern about this remote contingency, the bill would require sellers in non-participating States to report their sales to the consumer's state so the latter can collect its use tax directly from the consumer.** This achieves parity because remote sellers either collect at the statewide Destination Rate (near-complete parity) or they report the sale to the Destination State which then collects Use Tax from its own resident at the Destination Rate (perfect parity).

Niche Exemptions – There are just three major categories of exemption: food, medicine and clothing. Food and prescription drug exemptions are ubiquitous, so nationwide brick and mortars enjoy them equally in most store locations. As for clothing, it is fully or partially exempt in eight States, but there are a host of factors that determine business location decisions. For example, customer touch and feel, delivery time & cost can be more critical in many cases. In addition, the way Origin State is defined, a business must actually move and have the most employees in the target State; it cannot simply set up a shell corporation for tax purposes. Finally, the Destination State retains full authority to impose its Use Tax.

State Administrative & Legal Burdens – Our framework is no more burdensome than RTPA/MFA and quite possibly less. We require States to do two simple things in addition to making periodic reports to a clearinghouse. By contrast, RTPA has a host of requirements including enacting a "uniform sales and use tax base" across local jurisdictions, passing legislation specifying the taxes to which the bill applies, creating and regularly updating rate, boundary, taxability and exemption tables, certifying software providers, and interacting with a central registration system for remote sellers.

State Sovereignty – The seller collects at the simplified Destination Rate chosen by the Destination State itself. In addition, the Destination State retains full authority to impose its Use Tax provided credit is given for any sales tax collected by the seller.