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SSTA: 800 lb. gorilla or new growth stream for vendors?

By Lisa Spinelli

Not surprisingly, the National Taxpayer's Union sees nothing but downside to the Streamlined Sales and Use Tax Agreement.

"Not only will this result in record-keeping burdens for small businesses," said Peter Sepp, a representative for the NTU, "but they will have to absorb a great deal of added costs and competition will suffer."

However, some CPAs see the SSTA as a way to further help their multi-state clients at a minimal cost.

The SSTA was officially formed in March 2000, when 39 states and the District of Columbia voted to administer and collect sales and use taxes across state lines.

Under the agreement, remote sellers would have to pay the sales tax rate in the buyer's jurisdiction, regardless of whether they have a physical presence in that jurisdiction. However, in order for the agreement to take effect, at least 10 states comprising a minimum of 20 percent of the total U.S. population must pass legislation in compliance with the agreement.

However, in the past five years, only 21 states have passed some form of SSTA legislation, while others in the original 39 have backed out. Some of those remaining states are in complete SSTA compliance, while others are in partial compliance.

At presstime, a meeting was scheduled for April 16 in Washington to determine whether states not in complete compliance - but with some form of SSTA legislation already in place - would be counted towards the 20 percent needed for the SSTA to be implemented nationally by the target date in October.

"If we can call them associate members," said Harley Duncan, executive director of the Federation of Tax Administrators, "and amend their agreement, we can enter in their population."

Many of the states having some form of compliance in place have delayed their individual effective dates.

Minnesota has postponed theirs until Dec. 31, 2007, while they try to enforce a local sales tax in every jurisdiction in the state, a requirement under the SSTA.

After two delays to its effective date, Ohio recently proposed a three-year transition period for small businesses to convert to the destination-based sourcing rules required under the SSTA. And Utah signed a bill into law in March that delayed their effective date from July 2005 to

2006, to allow more time to comply with a variety of SSTA regulations.

"It's a Trojan horse for big-buck businesses to cut their losses from Internet sales," said Michael O'Connor, president and chief executive officer of the Virginia Petroleum, Convenience and Grocery Association, a trade group based in Richmond, Va. "Had Virginia bought into this scheme, we would have been left without any ability to negotiate sales taxes except for what was in this SSTA document."

The Virginia House of Delegates essentially terminated any SSTA progress in the state when it passed a bill last year stating, "Business is not obligated to collect and remit sales and use taxes to another state."

In March, the delegates put through a clarification stating that nonprofits are also exempt - leaving essentially no one subject to the remote sales tax.

Congress has yet to pass legislation under the commerce clause of the Constitution allowing SSTA member states to enforce their sales and use tax regulations. The commerce clause forbids state government to interfere with interstate commerce - something that many argue the SSTA does.

"Buying into this agreement would erase competitive advantages," said Sepp of the NTU. "It's not just a matter of raising sales tax revenue, but could even have a ripple effect in other unpredicted areas."

But many accountants do not feel the added tax law would cause much damage to their practices, or to their small and midsized business clients.

"It won't hurt," said Charles Pietka, CPA and managing partner for the state and local tax practice at Moss Adams in Seattle. "Potentially, it could be a big plus. We'd be helping clients in many states at a minimal cost to them."

If the SSTA should go through in October, those companies that decide to register will not only get amnesty from any previous sales tax debt owed to another state, but will also receive free, or mostly free, online software to report their sales and use transactions.

In March, seven sales and use tax software vendors - Avalara, Exactor, Taxware, EDS - U.S. Government Solutions, Paychex, Sales Tax Services, and Salis - were selected to participate in the SSTA certified service provider certification.

"From the start, we recognized the need for governments to foot the bill," said Jon Abolins, senior vice president of Taxware. "In addition to a calculation engine and money movement, we also provide reporting capabilities to both merchants and states."

Certified software providers would create a feed from a company's financial or sales software package to the CSP product online. This software would then check their taxability matrixes and zip code databases for whatever local tax jurisdiction is applicable. Once captured, the taxes would be calculated and remitted to states.

The funds are withdrawn directly from the seller's bank account and deposited into the appropriate taxing jurisdiction's bank account by the CSP. In this way, the CSP has the responsibility for all of the financial transactions, not the seller or the buyer. If used correctly, the CSP is then held responsible if the sales and use tax taken was miscalculated.

The way in which these software companies will be paid, however, is still undetermined. There is some speculation about local governments giving users an allowance to use the SSTA-certified software, or the government that oversees the taxing jurisdiction paying the vendor directly.

"We'll shift as much of the cost to the taxing authorities," said chief executive officer Jonathan Barsade of Exactor Inc. "The goal is to keep the cost as low as possible."

A worry for CPAs?

While the NTU's Sepp is worried that these software packages could create competition for accountants, CPAs don't share his concern.

CPA Diane Yetter built her entire nine-year-old practice around specializing in sales and use tax compliance. Is she afraid of tax software packages taking over her business?

"Absolutely not. A big part of what we do is putting in sales tax systems," said the founder of Chicago-based Yetter Consulting Services Inc. "Users will need help with maintenance and keeping tax rules up to date."

For the most part, accountants and software companies agreed that, while some aspects like tax research might wind up moving more online via software applications, the products will not take away any real business and could, in fact, help generate more business.

"It's not going to hurt," said Pietka. "Potentially, it could be a big plus, helping more clients with minimal costs to them."
