



## Simplification of the Sales, Use or Similar Transaction Tax System

### Policy Position

**Position:** *A sales, use or similar transaction<sup>1</sup> tax should be easily administered, easily understood by consumers, and nondiscriminatory between similarly situated sellers and purchasers. As appropriate, the states working in concert and/or Congress should establish uniform standards by which the states should simplify and reform their sales, use or similar transaction tax systems for all sellers and purchasers. Importantly, under a simplified system, the administration of the tax should not differ based on the type of presence a seller has in a state.*

**Explanation:** Existing state and local sales, use or similar transaction tax systems create burdensome and unnecessary complexity—this complexity imposes substantial costs on sellers, states, and consumers. A simple tax system offers the potential to promote equitable and nondiscriminatory taxation, reduces tax rates for consumers, reduces administrative burdens for both business and the states, reduces the risk of seller liability actions, and improves compliance.

While the U.S. Supreme Court in *South Dakota v. Wayfair* overruled the physical presence requirement for substantial nexus,<sup>2</sup> that decision did not address the exact requirements a state must meet in order to require a seller to collect and remit sales tax on taxable sales in a state. Congress retains the authority to specify these requirements to clarify when states can compel all sellers to collect and remit sales, use or similar transaction taxes. In the absence of Congressional action, this enhanced collection authority should be provided to states that simplify their sales, use or similar transaction tax systems in compliance with certain requirements, which should include the following elements:

- Uniform Tax Base Definitions – A uniform set of simple definitions applicable to the state and the local taxing jurisdictions within that state, tailored to avoid imposition provisions that unnecessarily and inappropriately expand or contract the tax base.
- One Tax Base Per State – A single tax base per state (including local taxes) that applies to taxable transactions in the state.
- Multistate Registration and Forms – A centralized, multistate seller registration system; uniform exemption certificate; and uniform tax return and remittance forms.
- Uniform Filing and Payment Dates – Due dates timed to allow collection of all relevant information and reduce filings.
- Adequate Notice of Law Changes – Tax jurisdictions should notify sellers at least 90 days in advance for tax base, rate, and jurisdictional boundary changes.
- Uniform Administration – Reasonable and uniform audit, appeal and refund procedures.
- Single Statewide Administration – Single statewide administration of all local taxes to alleviate burdens of multiple returns, payments, and audits. Taxes administered locally are burdensome and should not be subject to economic nexus provisions or marketplace laws.
- Simple Rate Structure – Preferably one rate per state.

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<sup>1</sup> “Similar transaction tax” could include an excise tax or other consumption tax.

<sup>2</sup> *South Dakota v. Wayfair*, 585 U.S. \_\_\_\_ (2018).

- Uniform Sourcing Rules – Simple rules for sourcing transactions, designed to prevent multiple taxation, and reliant on information available at the time of the transaction through regular business activities with the consumer.
- Information Reporting Limitations – Except as reasonably required during an audit, taxpayers, including marketplace facilitators, should not be required to provide supplemental, transaction-level data, or other information about third parties as part of their returns or supplemental reports.
- Bad Debt Deduction/Refund – Uniform rules allowing a bad debt deduction/refund to sellers, assignees or other third parties.
- Tax Credits – Uniform rules for allowing credit for sales, use and similar transaction taxes paid to other states and localities.
- Direct Pay – Uniform direct pay permits and registration requirements.
- Technology Implementation – Uniform and technology-neutral procedures for certification of seller software. Functional databases maintained collectively by the states providing sellers and purchasers a single point of access to information necessary to administer tax collection properly, including rate, base, taxability matrix, jurisdictional boundary, and exemption information.
- Hold Harmless – Elimination of seller tax liability for collection errors resulting from reliance on state-provided data, state-certified software, and customer exemption certificates as well as protection from civil suits alleging over- or under-collection of tax. Consumers should also not be subject to penalties and interest based on such errors.
- Seller Allowance – Adequate compensation to cover expenses incurred by a seller in administering, collecting, and remitting sales, use or similar transaction taxes (other than use taxes on goods and services purchased for the consumption of the seller).
- Funding – Adequate state funding of the technological and administrative functions.
- Oversight – Meaningful federal review of state adherence to the simplification features, state membership in the system, and conflicts of interpretation between participating states.
- Confidentiality and Privacy – Protections on use of data collected from business and consumers.
- Public Input – Business must have a meaningful voice in any designated multistate governance process.

A federal grant of tax collection authority to states meeting the simplification requirements shall not be construed as subjecting a seller to franchise taxes, income taxes, or other licensing requirements or affecting the application of such taxes or requirements. Furthermore, no obligation imposed by virtue of the federal grant of authority shall be considered in determining whether a seller has nexus with any state or locality for any other tax purpose.