



State and Local Tax Alert

Alabama Edition



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The Alabama Streamlined Sales Tax Commission Issues Its Report; What's Next?

By Bruce P. Ely and William T. Thistle

As we reported last month, the ten-member Alabama Streamlined Sales Tax Commission issued its preliminary report and recommendations, and those recommendations have generally been well received by the business community. The [report](#) is subject to public comment until Thursday, January 12 and constitutes Phase I of II of the Commission's work.

Most notably, the Commission members unanimously agreed that the Alabama Department of Revenue (ADOR) would be the "single entity administrator" if—but only if—Congress enacts either the Main Street Fairness Act (S. 1452 or H.R. 2701) or one of the two more recently-introduced pieces of legislation, the Marketplace Equity Act of 2011 (H.R. 3179) and the Marketplace Fairness Act of 2011 (S. 1832), or a combination thereof. If that were to occur, *and* the Alabama Legislature were to pass conforming legislation, the State of Alabama would rejoin the vast majority of states that require their department of revenue or similar taxing authority to be the sole administrator for both state and local sales taxes. We are closely monitoring Congressional debates over the three bills, following a lengthy and sometimes heated hearing before the Senate Judiciary Committee on November 30, 2011.

The Commission recommended that the ADOR become the single entity administrator not only for monthly and annual sales/use tax filings (and by election, for rental taxes), but for auditing purposes as well. At the request of the self-administered localities, however, the latter function would be a shared responsibility between the ADOR and the local governments, particularly in cases where the business to be audited is one that's located entirely within a particular city's and county's jurisdiction. Multistate audits would be conducted by the ADOR. In *all* events, these audits would be conducted on behalf of all cities and counties as well as the ADOR, thus substantially eliminating the current problem with multiple audits by the ADOR, self-administered localities, and contract auditing firms representing other localities. The self-administered localities insisted on having an advisory council that would review not only the selection of taxpayers to be audited, but also the quality of the audits and the continuing education and training requirements for auditors. The two larger private auditing firms were clearly not satisfied with the compromise, however.

If Congressional enabling legislation and state conforming legislation are both enacted, the state and local governments would stand to gain new sales tax revenue in the range of \$200 million annually, much of which is earmarked for public education. Due to the "trifecta" of benefits from eventual implementation of the Commission's recommendations, several

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influential business groups have already filed comments in support of those recommendations, including the Business Council of Alabama and the Alabama Retail Association. Copies of their comment letters can be accessed at <http://www.alabamaretail.org/politicalaffairs.aspx?id=4448> or <http://www.bcatoday.org/>.

We encourage our readers to file comments with the SST Commission, hopefully in favor of its recommendations, by the January 12 deadline. You may either email your comments to alasstcommission@googlegroups.com or (preferably) mail them to Ms. Mary Lynn Cooper, c/o Mayer Electric Supply, Inc., P.O. Box 1328, Birmingham, AL 35201-1328. Ms. Cooper and Alvin Lewis, Jr., of Books-A-Million, Inc. are the two business representatives on the Commission.

As Phase II of its work, the Commission is now developing legislative proposals for the Alabama Legislature to consider, which will (as mentioned) be contingent on Congressional action. Those proposals are due to the legislature no later than its fifth legislative meeting day, which should occur sometime in mid- to late February. The session begins February 7.

Several members of the firm's SALT Practice Group advise the Alabama Retail Association and other business groups on streamlined sales tax issues and related matters. Please consult one of our Alabama members with any questions regarding these issues or the Commission's proposals.

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