

November 2007

## **Taxation and Budget Reform Commission Unanimously Votes to Fully Participate in the Streamlined Sales Tax Project**

By

Richard Hunt

Florida TaxWatch praises the strong action taken by the Finance and Tax Committee of the Florida Taxation and Budget Reform Commission (TBRC) in recommending, by unanimous vote of its members, that the full commission recommend that Florida return to full participation in the multistate compact known as the Streamlined Sales Tax Project (SSTP). This will bring Florida closer to collecting billions of dollars currently owed the state on internet and other remote sales that go uncollected.

Florida's legislature, after taking initial steps in 2001 to bring Florida into the working group of states pushing for a strong SSTP, failed to take the additional steps necessary to make Florida a member state. After that, the Governor and "anti-tax" legislators turned against Florida's involvement when it appeared that it might have meant additional new revenues being raised as the member states sought to provide some conformity to their tax bases. Florida TaxWatch advised the Governor and legislative leaders that Florida should not only join the SSTP as a full member, but also should become a leading proponent of its goals nationally.

Backing Florida away from the SSTP was unwise and contrary to Florida's interests, and it damaged the forward momentum and prospects for success of the SSTP's laudable purpose and objectives. It is not too late for Florida to reverse its position and return to the SSTP as a full member, participating with the vigor and leadership it has denied the project over the past five years. The state's representatives have continued to attend meetings of the SSTP up to the present.

The commission is strongly encouraged to accept its committee's recommendation and to take the strongest action necessary in order to return Florida to the SSTP as a fully participating and proactive leader. Florida TaxWatch urges the Florida Legislature to place Florida back in the SSTP as a full participant at the earliest possible date, and urges Governor Crist, through his personal diplomacy and negotiating skills, to bring to bear the full weight of Florida's prestige as a major retail market state and the third most sales tax-dependent state in the U.S., to lead the SSTP to the successful attainment of its objectives.

**Background of the SSTP and Florida's Participation to date; Importance of the SSTP in the Context of Florida's Current Tax Shortfall and Budget Crisis.** Some Floridians favor transferring some of the costs of government from property taxes to the sales and use tax. We are in a serious budgetary crisis, and every logical idea for property tax relief should be examined respectfully and objectively. For many decades, Florida's sales and use tax has been a dependable and resilient engine powering state government and backing up the property tax as a secondary source for local government.

However, those who would favor such a plan first need to know:

1. That Florida's (and other states') sales and use tax has been under a deadly assault for the past 15 years because of the U.S. Supreme Court's decision in *Quill Corporation v North Dakota* (1992).
2. Since *Quill* has effectively denied Florida the right to require interstate vendors not physically present in Florida to collect and remit its use tax, Florida's use tax has hemorrhaged **billions** of dollars of tax revenues, mostly from Internet sales to Floridians by vendors not physically present in Florida.
3. In *Quill*, a hesitant Supreme Court intentionally left the door open for the U.S. Congress to override its decision, and return these use tax revenues to the states.
4. Many other states have joined the SSTP.
5. Oversimplified, the purposes underlying the SSTP are as follows:
  - a. to focus the states in a collaborative effort with business to simplify collection and remittance of the tax, and to reduce its excessive administrative costs and burdens on interstate business;
  - b. to convince Congress to override *Quill* for the benefit of all states who join the SSTP and conform their sales and use taxes to comply with SSTP standards.

Florida joined the SSTP initially in 2001, and its legislature and Governor were encouraged to support and lead that group to achieve its objectives in the following Florida TaxWatch publications:

- <http://www.floridatxwatch.org/resources/pdf/082001streamlinedSalesTaxProject.pdf>, see also
  - <http://www.floridatxwatch.org/resources/pdf/8thSpecialReportStreamliningSalesTaxkb.pdf> (2003) and
  - <http://www.floridatxwatch.org/resources/pdf/04052007StreamlinedSalesTaxProject.pdf>
6. In 2002, Florida's legislative leaders and Governor pulled Florida back from membership in the SSTP. Florida is a major state, and one of three most sales tax-dependent states in the U.S.; for that reason, the loss of Florida's full membership and strong support has been a blow to SSTP, and a threat to its success.
  7. Non-membership of Florida in the SSTP continues to be contrary to Florida's interests. Responsible state leadership should bring Florida into full participation in the SSTP. Florida TaxWatch encourages Governor Charlie Crist to use personal diplomacy to lead Florida to the head of the table at SSTP. Here's why:

- a. Florida's constitution prohibits its legislature from taxing personal incomes, and it conditions its authority to tax estates to the whim of the U.S. Congress.
- b. Florida's tax system is particularly vulnerable to the growth of remote sales because it relies on sales and use taxes for 74 percent of its general revenue.
- c. The SSTP can help level the playing field between remote sellers, who are not required to collect sales taxes, and traditional, bricks-and-mortar retailers, who not only collect sales tax but also pay local property taxes and employ Florida citizens. Retailers in Florida find that the automatic price differential created by remote sellers not collecting sales tax makes a difference in competing for the sale, giving the out-of state remote seller the advantage. This loss of sales directly impacts Florida retailers and hurts the state's overall economy.
- d. The SSTP is a workable answer for increasing Florida sales and use tax collections **by effectively broadening its tax base**. The alternative, raising the tax rate, could be harmful to non-destination counties of the state, and offers other serious risks.
- e. Though remitting Florida's use tax is currently the legal responsibility of each Florida resident importing or accepting delivery of out-of-state purchases in this state, compliance is very low. **It must be stressed that the SSTP is not pursuing a tax increase, but would only collect taxes already owed under current law.** It would be wrong for the state of Florida to make it difficult, if not impossible, for citizens to meet their tax obligations under current law. Continuing to ignore the problem turns countless thousands of law-abiding citizens into tax cheats.

With the arrival of Florida's budget crisis, the citizens of Florida need and must receive a full and accurate accounting by the legislature for the state's lost use tax revenues. The Legislature should:

- i. instruct the state's economists to prepare a current revenue estimate to measure use tax revenue dollars lost to Florida (in vendor collections) because of the *Quill* decision;
- ii. explain clearly to Floridians the pros and cons of supporting the objectives of the SSTP.
- iii. Pass legislation to fully conform Florida to the SSTP.

#### **ABOUT THE AUTHOR**

*Richard Hunt is a member of the Florida Bar and the District of Columbia Bar, but is no longer engaged in the private practice of law. He is a commercial real estate broker and a mortgage broker doing business in Miami, Florida. He graduated from Yale University (B.A. – 1959); the University of Florida College of Law (J.D. – 1962); and New York University Graduate School of Law (LL.M. – 1963). While engaged in the active practice of law, he concentrated a major part of his time and effort in the field of state and local taxation. On two different occasions during his career, he taught state and local taxation law for several years in the graduate tax law program at the University of Miami School of Law, Coral Gables, Florida.*

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