



Bethany Boyd

*Bill Analysis*  
Legislative Service Commission

**S.B. 217\***  
125th General Assembly  
(As Introduced)

Sen. Amstutz

---

**BILL SUMMARY**

- Delays the effective date of the sales tax's new destination-based sourcing standards until the governing board of the Streamlined Sales and Use Tax Agreement establishes a monetary allowance for certified service providers and the Tax Commissioner adopts temporary compensation rules for certain Ohio vendors.
- Requires that the Tax Commissioner adopt rules providing temporary compensation to any Ohio vendor that delivers property or services outside the county in which it is located, to assist the vendor in complying with the destination-based sourcing standards.

---

**CONTENT AND OPERATION**

**Background--Streamlined Sales and Use Tax Agreement**

In 2002, the 124th General Assembly, in Am. Sub. S.B. 143, enacted the Simplified Sales and Use Tax Administration Act (R.C. Chapter 5740.), a model act recommended by the National Conference of State Legislatures for the development of a voluntary, streamlined system for the collection of sales and use taxes from remote sellers, i.e., sellers from whom sales or use taxes cannot be collected because they do not have a physical presence in or sufficient contacts with Ohio under the United States Constitution's Commerce Clause, Art. I, §8, cl. 3 (defined in state law as "substantial nexus"). S.B. 143 authorized Ohio to participate in discussions with other states to develop the collection system through an agreement that was already in the process of being drafted, known as the "Streamlined Sales and Use Tax Agreement," and to amend and enter into the

---

\* This analysis was prepared before the introduction appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

Agreement if the final version contained certain provisions. S.B. 143's enactment of the model Act made Ohio an "implementing state" under the Agreement, with the ability to amend and approve the final version of it.

On November 12, 2002, the Agreement was adopted by the implementing states and submitted to them for execution. The Agreement requires that states bring their laws, rules, regulations, and policies into substantial compliance with the provisions in it. Those states that desire to become a party to the Agreement must submit a petition for membership and a certificate of compliance to the governing board (comprised of states found to be in compliance), with a proposed date of entry, which is the date on which all provisions necessary for the state to be in compliance with the Agreement are in place and in effect. For the Agreement to come into effect, at least ten states comprising at least 20% of the total population of all states imposing a state sales tax must be in compliance with it.

The Agreement provides states with the blueprint for establishing the tax administration and collection systems envisioned by the model Act. Member states are authorized to collect taxes from remote sellers that have registered with the central electronic registration system established under the Agreement and that have selected a certified service provider to perform their sales tax functions, or use a certified automated system or have their own system to calculate the taxes due to each taxing jurisdiction.

Generally, the Agreement's purpose is to simplify tax collection systems to substantially reduce the burden of tax compliance. The Agreement focuses on this by requiring state-level administration of sales and use tax collections, uniformity in state and local tax bases, uniformity of major tax base definitions, simplification of state and local tax rates, simplification of administration of tax exemptions, and simplification of tax returns and remittances. The Agreement requires the establishment of a central electronic registration system for remote sellers and member states, and requires that the Agreement's governing board contract with certified service providers, and states provide monetary allowances to certified service providers from taxes collected by the providers.

Most important to this analysis, the Agreement requires that states adopt uniform sourcing standards for retail sales. These standards are used to determine where a sale occurred so that taxes are paid to the proper taxing jurisdiction.

**Uniform sourcing standards adopted by Ohio require destination-based sourcing**

**Effective date delayed after S.B. 143**

(R.C. 5739.033, not in bill)

Ohio enacted the Agreement's uniform sourcing standards in S.B. 143, which were scheduled to take effect July 1, 2003. This law provides that sales are generally determined to be sourced to a vendor's place of business, which means that sales taxes are paid by the consumer to the vendor at that place of business, and the vendor remits them to the state, with the taxes being returned to the taxing jurisdiction in which the sale occurred. But when tangible personal property or services are not received by a consumer at a vendor's place of business, the sourcing law provides that the source of the sale is the location where the consumer receives the property or service (basically the consumer's address), and the taxes are collected and remitted by the vendor, but are returned to the county where the property or service was received. These standards are generally referred to as "destination-based sourcing standards."

The effective date of the destination-based sourcing standards has been delayed twice since the standards were enacted in S.B. 143. Am. Sub. H.B. 95 of the 125th General Assembly delayed their effective date until January 1, 2004, and the standards were further delayed until January 1, 2005, under Sub. H.B. 127 of the 125th General Assembly.

**Effective date further delayed under the bill**

(R.C. 5740.05 and 5740.051; Section 3)

The bill again delays the effective date of the destination-based sourcing standards by making the effective date contingent on the Tax Commissioner's certification that two conditions have been met. The bill prohibits the Tax Commissioner from submitting a petition for membership and certificate of compliance to become a party to the Agreement until the Commissioner certifies both of the following in writing to the Speaker of the House of Representatives and the President of the Senate:

(1) That the monetary allowance has been established for a certified service provider in accordance with the Agreement and under the terms of the contract between the Agreement's governing board and the provider; and

(2) That rules regarding temporary compensation for vendors (see "**Compensation given to vendors for implementing sourcing standards**," below) have been adopted.

The date on which the certification is mailed or delivered must be entered in the Tax Commissioner's journal. The journal entry is a matter of public record and must be maintained in an administrative portion of the journal as provided under existing law. The destination-based sourcing standards go into effect on the first day of the calendar quarter following 30 days after the certification date entered in the journal, rather than taking effect January 1, 2005.

**Compensation given to vendors for implementing sourcing standards**

(R.C. 5739.06(C), 5739.12(H), and 5741.12(A))

Not sooner than 30 days after the bill's effective date, the bill requires the Tax Commissioner to adopt rules that provide for temporary compensation to each vendor to assist the vendor in complying with the destination-based sourcing standards. The compensation must be based on that portion of a vendor's sales that are reported on the vendor's sales tax return or consolidated return as taxable sales sourced to an Ohio county that is not the Ohio county in which the vendor's place of business is located. This compensation is to be provided to vendors each month for up to 12 months, and is in addition to the monetary allowance required by existing law to be given to them if they are remote sellers who voluntarily register with the central electronic registration system under the Agreement. The bill provides that the temporary compensation will not be given to any certified service provider.

**Technical revision**

(R.C. 5740.05(F))

Under continuing law, one condition that must be met before Ohio enters into the Agreement is that the Agreement must allow for a study of the compliance costs to collect sales and use taxes under various levels of complexity, to be completed by July 1, 2002. The bill revises that date to July 1, 2004, to give the implementing states more time to complete the study.

---

**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	---	---

S0217-I-125.doc