



S.B. 218*

125th General Assembly
(As Introduced)

Sen. Amstutz

BILL SUMMARY

- Revises the procedure used to return local "piggyback" sales and use tax collections to counties under the destination-based sourcing law that is scheduled to take effect January 1, 2005, so that the collections are returned to counties under the prior origin-based sourcing law.

CONTENT AND OPERATION

Background

Returning piggyback sales and use taxes to areas levying them

(R.C. 5739.21)

Sales and use taxes paid to the state are deposited into the Local Government Fund, Local Government Revenue Assistance Fund, and the General Revenue Fund. If, in addition to the state sales or use tax, any county or transit authority levies local "piggyback" taxes, the Tax Commissioner is required by law to determine each month and certify to the Director of Budget and Management the amount of the proceeds of those taxes received during the month from billings and assessments, or associated with tax returns or reports filed during that month, to be returned to the county or transit authority levying the taxes. The amount to be returned is a fraction of the aggregate amount of money collected with respect to each area in which one or more of the piggyback taxes are concurrently in effect with the state sales tax. The numerator of the fraction is the rate of tax levied by the county or transit authority and the denominator is the aggregate rate of such taxes applicable to the area.

* 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.

Determining where a sale occurred

(R.C. 5739.033, not in the bill)

Under this formula, the taxes collected in an area (and the taxes to be returned to the area) depends on whether a sale occurs in the area. For the majority of sales, determining where a sale occurred is easy, because most consumers purchase property and take possession of it at a vendor's place of business. In this instance, the vendor collects the sales tax from the consumer and remits it to the state, at the tax rate that exists for the county in which the vendor is located. But if the property is to be delivered to the consumer in another location, determining where the sale occurred is more difficult, and the vendor must follow state law to determine the "source" of the sale. Under the current sales and use tax sourcing law (R.C. 5739.033), if a consumer takes possession of the property other than at the vendor's place of business or takes possession at the vendor's warehouse, the law provides that the sale occurred at the vendor's place of business where the purchase contract or agreement was made or the purchase order was received. Sourcing sales in this manner is called "origin-based sourcing" because the law deems that the sale occurred at the vendor's place of business, i.e., the origin of the sale.

Am. Sub. S.B. 143 of the 124th General Assembly changed origin-based sourcing. S.B. 143 enacted the Simplified Sales and Use Tax Administration Act and authorized Ohio to participate in multi-state discussions to finalize a voluntary, streamlined sales tax collection system through a Streamlined Sales and Use Tax Agreement developed by the states. The Agreement provides that any state that becomes a member to the Agreement is authorized to collect taxes from remote sellers that have voluntarily registered with the central electronic registration system established under the Agreement. The Agreement requires that states bring their law, rules, regulations, and policies into substantial compliance with its provisions in order to become a member state.

One of the laws that must be revised for Ohio to become a member state is the origin-based sourcing law. The Agreement requires that all member states adopt uniform sourcing standards for retail sales so that it is easier for vendors to remit taxes to the proper taxing jurisdiction. These standards provide that sales are generally determined to be sourced to a vendor's place of business, but when tangible personal property or services are not received by a consumer at a vendor's place of business, the source of the sale is the location where the consumer received the property or services, and the taxes are collected and remitted by the vendor for that location, at the tax rate that exists in that location. The method to source sales under these standards is generally referred to as "destination-based sourcing." Ohio enacted the destination-based sourcing law in S.B. 143, which was scheduled to take effect July 1, 2003.

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

Once the destination-based sourcing law takes effect, it will change how tax dollars are returned to counties and transit authorities that levy local piggyback sales and use taxes, because the law revises how the location of a sale is determined and, more importantly, the area in which the sale occurred. After January 1, 2005, under the destination-based sourcing law, if a consumer purchases tangible personal property from a vendor in one county, but has the property delivered to another county, the tax to be collected is the tax rate of the county to which the delivery was made. That county is the source of the sale, and is the county levying the sales tax on the sale, not the county in which the vendor is located. In addition, the Tax Commissioner views that source county as the county in which the tax collections occurred for purposes of returning piggyback taxes to the area levying them.

Returning sales and use tax collections to the county of origin of a sale

(R.C. 5739.21(B)(1) and 5741.03)

The bill changes the procedure used to return local piggyback sales and use tax collections to areas once the destination-based sourcing law takes effect. The bill provides that on and after January 1, 2005, when determining the aggregate amount of money collected with respect to a county, the Tax Commissioner must attribute and return to the county the amount of money it would have collected under the old origin-based sourcing law, as it existed on December 31, 2004. Thus, even though sales will be sourced under the new destination-based sourcing law and vendors will remit taxes according to it, tax collections will be returned to areas in the same manner as they are currently being returned--basically, to the area of origin of the sale, which normally is the county in which the vendor is located.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	---	---

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