



Bethany Boyd

Bill Analysis
Legislative Service Commission

S.B. 294

126th General Assembly
(As Introduced)

Sens. Amstutz, Carey, Gardner, Grendell, Harris, Jacobson, Niehaus, Padgett, Schuring, Stivers, Zurz

BILL SUMMARY

- Delays the date, from May 1, 2006, to January 1, 2008, when vendors must convert from origin-based situsing to destination-based sourcing for the purpose of determining the appropriate sales tax jurisdiction in which a sale occurred and is taxable.
- Eliminates the plan for the delayed transition to destination-based sourcing for vendors with limited Ohio sales.

CONTENT AND OPERATION

Background

The Streamlined Sales and Use Tax Agreement came into effect on October 1, 2005. Any state that becomes a full member of the Agreement is authorized to collect sales or use taxes from remote sellers that have voluntarily registered with the central electronic registration system established under the Agreement in return for limited amnesty. To become a member state, a state must bring its laws, rules, regulations, and policies into substantial compliance with each of the Agreement's provisions.

In one of its numerous provisions, the Agreement requires that all member states adopt uniform sourcing standards for retail sales so that it is easier for vendors to collect taxes for 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 receives the property or services, and the taxes are collected and remitted by the vendor for that location, at the state and local "piggyback" tax rate

for that location. The method of sourcing sales under these standards is generally referred to as "destination-based sourcing."

Currently, Ohio follows origin-based situsing (R.C. 5739.035) under which the law deems that a sale occurred at the vendor's place of business, i.e., the origin of the sale. To comply with the Agreement, Ohio did enact a destination-based sourcing law (R.C. 5739.033), but the effective date of that law has been delayed a few times, most recently by Am. Sub. S.B. 26 of the 126th General Assembly, which sets an effective date of May 1, 2006.

Because Ohio has enacted all the necessary provisions that conform to the Agreement, but its destination-based sourcing requirements are not yet in effect, Ohio has become an associate member, rather than a full member, of the Agreement. Registered remote sellers may, but are not required to, collect taxes on sales into an associate member state. The Agreement provides that if Ohio's destination-based sourcing law takes effect on or before January 1, 2008, Ohio will automatically become a full member state under the Agreement, and registered remote sellers would have to collect taxes on sales into Ohio.

Destination-based sourcing delayed

(R.C. 5739.033 and 5739.035)

The bill further delays Ohio's transition from origin-based situsing to destination-based sourcing until January 1, 2008.

Eliminate transition plan

(R.C. 5739.033(B))

Under existing law, vendors with delivery sales that do not exceed specific dollar limits may delay the implementation of destination-based sourcing until January 1, 2008. The bill eliminates the transition plan for vendors with limited delivery sales since the bill changes the date on which destination-based sourcing must begin to January 1, 2008.

HISTORY

ACTION	DATE
Introduced	03-15-06

S0294-I-126.doc/jc

