

# Meeting: Local Taxes Advisory Task Force Public Meeting

Date: 11/01/2023

Time: 1:30 p.m. – 3:30 p.m.

Location: Hybrid meeting in Stassen Building and via Teams

Task Force Attendees: Commissioner Paul Marquart (Chair), Lisa Bode, Pat Dalton, Jenny Max, Jill Sims, Michael Williams

Wilder Attendees: Heather Britt, Ananya Matewos

## Agenda

### Part I: Task Force Meeting 1:30-2:00pm

- Welcome and check-in (Chair Marquart) **(5 min)**
  - Restate original task force goals
- Knowledge session **(25 min)**
  - Streamline and Vendor Allowance Q&A

### Part II: Task Force Workgroup Session 2:00-3:30 pm

- Process Overview **(10 min)**:
  - Wilder will provide brief intro and guidelines around work group activities
- Work Group Activities **(75 min)**
  - Homework synthesis discussion (20 min)
    - Including building definitional consensus around key terms
  - Whiteboard activity (30 min)
    - Considering perspectives and impacts of local taxes for stakeholders
    - Visualizing the life cycle of local taxes
  - Begin constructing *principles* based on consensus around key terms that will be used for future task force evaluation decisions (25 min)
- Debrief **(5 min)**:
  - Task force members will reflect what was learned or determined today
  - Task force will suggest future topics they want additional resources and presentations
- Adjournment (Chair Marquart)

## Notes

### Part I: Task Force Meeting 1:30-2:00pm

- Welcome and check-in
  - Task force (TF) member and Wilder Research introductions
  - Wilder Research gave homework assignments to TF members that were due 10/31
  - Restated task force goals.
  - Chair Marquart: Whatever the TF decides, it should be politically viable. Does not want the TF's report to be a Strategic Plan Languishing on the Shelf (SPLOTS)
- Knowledge session
  - Streamline and Vendor Allowance Q&A conducted by Craig Johnson (Streamlined Sales Tax Governing Board Inc.) and Merry Hopkins (MN DOR)
  - TF members were given materials explaining Streamlined Sales Tax (SST) background, burdens, summary of key features, and other related issues. See *Appendix A for Streamlined Sales Tax Outline and Appendix B for the Streamlined Sales Tax Slide Deck*.
  - Craig Johnson: Received a question from the TF about remote sellers. When streamline started they looked at how you get remote sellers to voluntarily collect tax. Decided to offer compensation to remote sellers. None of our member states have implemented this compensation to in-state sellers.
  - Merry Hopkins: All of our border states are Streamline members.
  - Member Bode: With the South Dakota v. Wayfair decision, can we reevaluate?
  - Craig Johnson: There are misconceptions after Wayfair. You can't impose undue burdens on interstate commerce. The goal of SST is simplification and uniformity. Vendors don't have a problem collecting tax, but do have a problem when it is complicated and confusing. In Halmstad vs. Louisiana there business owner spending more time and money with calculating the tax than what was remitted to the state. States, local governments, and business community came up with uniform definitions for member states. Had to create a system that worked for large retailers and small retailers alike. What we're doing is no longer putting more restrictions on states--we are developing shared administration policies. Post-Wayfair there is a questionnaire for remote sellers. Map from 2020 (*Appendix B Slide 24*) shows how many taxing jurisdictions are in every state. Minnesota has 98 taxing jurisdictions (less than North Dakota and South Dakota, 22 more than Wisconsin, and Iowa has 1,028). Texas has the most with 1,659. Think about this from an out-of-state retailer's perspective. Map of Minnesota shows the different rates in different jurisdictions (*Appendix B Slide 25*), retailers have to track all of the different rates and boundaries. Example with zooming in on the metro area, and with Excelsior standing out as a very small area with boundaries that do not follow street geography (*Appendix B Slides 27-30*). Understandable that municipalities cannot change their boundaries, but need to understand that this is the level of complexity of what retailers have to deal with. My solution is to have the tax jurisdiction follow 5 digit zip code, might not be a popular solution with the TF. Goal of

the business community is to have clarity so that they are able to collect properly and avoid consequences of over/under collection (audits, lawsuits, etc.). Database is difficult for retailers to navigate as well, doesn't recognize certain abbreviations or typos/misspelling. Streamline is working on making software improvements to address this.

- Member Dalton: Will businesses be able to know how much of the tax is going where?
- Craig Johnson: Yes, it will be broken out by jurisdiction (county, city). You can have 15-20 tax jurisdictions at one time.
- Member Max: Is it correct to assume that the Excelsior example isn't unique to Minnesota?
- Craig Johnson: Correct.
- TF Bode: Is there a reason why we don't have this tool for in-state retailers?
- Craig Johnson: If the state wanted to have everyone participate, we may be able to negotiate a lower compensation rate if there is a wider net to draw from.
- Member Bode: It makes more sense to offer the technical help rather than a vendor allowance.
- Member Sims: How do special taxes work?
- Craig Johnson: Each state generates its own database. Recommendation in WI was to have jurisdictions required to provide a specific format--burden should be shifted to the jurisdictions who will benefit from the tax.
- Member Dalton: Can you include food/beverage and lodging taxes in the database, or are they unique?
- Craig Johnson: Taxes within the database apply to everyone. You can't build in lodging tax. There is an interest in looking at taxes similar to this. Realize that this is a real and growing issue. With sales of digital goods, sellers don't need/want an address, but they do get a 5-digit zip code. Another reason that this might be a better way to identify a jurisdiction.
- Merry Hopkins: Pennsylvania is not a SST state and has an agreement that applies to remote sellers. Minnesota could look to this system as an example.
- Member Dalton: DOR doesn't know where a lot of the local lodging taxes go. There are over 200 lodging taxes in the state. Tourism department can't guarantee they have data about them all.
- Craig Johnson: Will provide a link to study conducted by the State Tax Research Institute and released in 2022 ([link to that study](#) provided after the meeting).

## **Part II: Task Force Workgroup Session 2:00-3:30 pm**

- Wilder Research (WR Britt): overview of workgroup session agenda
- WR Matewos: Review of tasks for the workgroup session. Reminder of where we are in the process. Right now we are identifying concepts and priorities.

Next session will be evaluation of guidelines and proposed amendments, and the TF will be given a report outline at this time. Finally, the last couple of sessions will be continuing to draft the report and coming up with recommendations. We assume three

working sessions, some are on the calendar, but we may add another (date TBD).  
Explanation of Fist to Five voting method to reach consensus- TF agreed to use this method moving forward.

Review of the homework results--TF members were asked to rate importance of a list of terms to a different stakeholder group. Average scores are presented, color coded with blue if average importance rating was higher than 2. When we develop a principle, we need to consider all of the stakeholder groups for which it is of higher importance.  
Overview of terms by stakeholder groups

Introduced [Miro board](#) with definitions provided. Where do you see similarities? Where do you see things to unpack? Looking for key ideas and framing around final definitions moving forward.

- Accessibility
  - Chair Marquart: Accessibility is not just what is in statute, but what is in reality.
  - Member Williams: I agree with this, and I was trying to capture this in my definition.
  - Member Bode: What about providing clear guidelines and resources to establish a tax? The clear guidelines are what will make it accessible.
  - Member Dalton: Chair Marquart's issue is better addressed with the equity definition. I'm thinking about if local governments know what they have to do to impose a tax.
  - Member Williams: Now that I see how other people view this, I agree that the issues I raised in this definition can be moved to Equity or Equalization.
  - Chair Marquart: Accessibility in terms of the legislature is what we're looking at.
  - Member Sims: Easy and clear are two words that come to mind to address accessibility.
  - Member Bode: Information on local sales taxes needs to be accessible to the local business community.
  - WR Matewos: Revised definition- *Local governments (city/county) know how to impose tax; there is an easy to understand system for being allowed to impose local taxes; for individuals and businesses it means the information is readily available so they know about them and can easily comply with the different taxes; providing clear guidelines and resources to establish a tax for all.*
    - Approved
- Autonomy

- Chair Marquart: If a city or a county met certain requirements, they would not need to have legislative approval. This is what resonated most with me as a definition of Autonomy.
- Member Bode: The relationship with the voters really critical. It's not the local government making the decision, it's the people living in the community and paying the tax making the decision. We can educate and inform them. Voter referendum is important.
- Member Dalton: For voters to have that level of control, individual tax proposals need to be on the ballot. Can't just be for "parks" but needs to be a specific project.
- Member Williams: In my experience with the six-city tax, we were not that specific, but voters approved.
- Member Dalton: With the six-city project, there was still a primary project.
- Member Williams: The first project was the library, the second project was the airport, so yes there was one regional project that was the focus.
- Member Max: Supporting the concept of self-governance from the voter perspective should be a focus of this definition.
- WR Matewos: Revised definition- *A process with clear conditions for cities and counties to act appropriately for a tax that impacts their community; there is no need for a legislative process as long as they have followed established criteria; voters are in support of the distinct project-based decisions to impose the tax, voter referendum should be a requirement, and demonstrate an element of self-governance*
  - Approved
- Benefit
  - Member Bode: Seems like all the notes say the same thing, we have reached consensus.
  - WR Matewos: Revised definition- *The people who pay the tax benefit from the project funded by the tax*
    - Approved
- Burden
  - Member Dalton: I think burden means different things to different groups. Cost of compliance is a burden for businesses, for individuals the burden is if groups are paying more than their fair share, which is related to equity.
  - Member Sims: Agree that there is a distinction between definitions for different groups.
  - Member Max: I was looking at it based on impact, not specific to what happens next.

- Chair Marquart: A sales tax can be more attractive to cities than property tax. This is an issue to consider as well.
- WR Matewos: Revised definition- *Resulting impact of a decision on an individual, business or municipality, including: 1.) Cost of compliance of administering the tax (businesses, municipalities, and state agencies), 2.) Individuals (are some groups disproportionately paying their more share of taxes holistically)*
  - Approved
- Regionality
  - Member Dalton: This has always been an issue the legislature looks at. Leg didn't want cities funding services that all communities benefit from with a tax. If everyone has to fund police, we don't want to use a tax that is funded by non-locals. Regionality has been a way to address this--if you are going to tax non-locals, the revenue should benefit those non-locals in some way. It's of importance to the legislature, but not everyone else.
  - Member Williams: This might look different if we're talking about counties, rather than cities, because counties could be considered a region in and of themselves.
  - Member Dalton: That was the purpose of the transportation tax, we acknowledge that roads are used throughout a broader geography.
  - Member Williams: Justice centers are an example.
  - Member Dalton: We have different frameworks for different counties with different needs and populations. This could be looked at from a legislative perspective. With a county of under 5k in population, they aren't going to raise much sales tax revenue.
  - Member Williams: Combining services over several counties is very complex, if it were simple we would have done it already. Have been discussing this for many years.
  - Member Bode: Not sure about law enforcement facilities, and not sure how I feel about this. They serve a regional population, not always the local residents being served (through incarceration). The tax has to have a benefit and a contribution to the region to be fundable. Should only fund things beyond core government services.
  - Member Max: Not every government provides the same exact service. There are core government services but it can vary. Example, are parks standard government service.
  - Member Dalton: Current law says that you have to demonstrate this. Can't do neighborhood parks with sales tax, but could fund a larger athletic complex that would draw people from more than just that area.

- Member Williams: Agree that there should be regional benefit, but disagree that we should only fund things that are beyond "core government services." For a county, this is a large share of what we do.
- WR Matewos: Revised definition- *Related to more than the city or county imposing the tax, that funds projects that provide benefits and contributions beyond local residents beyond the general conduct of core government services; not meant to fund what everyone already has to provide (for example police (justice centers, city halls); not meant to fund local neighborhood level projects (such as parks); if you are going to tax people who don't live in your city, then what is the benefit beyond that locality.*
  - Vote did not reach consensus. Agreed definition is okay for now, but will need to be reviewed in future
- Flexibility
  - Chair Marquart: Legislative time table. Between 2015-2018 there was no tax bill, so if you were trying to impose a local sales tax you couldn't. Flexibility means that implementing the tax is not dependent on the legislature.
  - Member Sims: I agree but this, to me, doesn't fall under flexibility. This should mean that the criteria are flexible.
  - Member Dalton: Strongly disagree about allowing a local government to use a local sales tax in any way it deems appropriate. It should be project-specific, not carte blanche for a local government to use as they wish.
  - Member Sims: With flexibility, maybe we can weave some concepts together.
  - Member Williams: I didn't mean that cities/counties should have carte blanche, but wanting to identify how flexible we will be with defining the projects.
  - Member Bode: As we develop which projects are fundable, could we have flexibility around some projects but more specific about others? Could say that since jails are required, maybe then the voters decide if it is funded by sales or property tax.
  - Member Dalton: Should flexibility be different for counties vs. cities? Could we have flexibility around criteria?
  - Member Bode: Flexibility in criteria for counties vs. cities, or for projects? I have an issue with having counties and cities be in different pots because it doesn't seem fair.
  - Member Dalton: Criminal justice facilities can be mandated by courts, so the local government doesn't have a choice.
  - WR Matewos: Revised definition- *Allows cities and counties several opportunities to fund a variety of projects that fit fundable criteria from*

*the legislature; mandated facilities may require different consideration; not dependent on Legislative timetables*

- Approved
- Debrief & Adjourn
  - Chair Marquart: Reminder that members can amend or add to their thoughts.
  - WR Matewos: As we develop the principles, you can add to the criteria. What we're doing here is defining the principles. We need to table Equalization and Equity for next time. We will propose some of these structured definitions that you can modify. This will help the process move along. Review of what we will do next--review remaining terms, suggest extending the next meeting by one hour. Bring forth the guiding principle statements for you vote on.
  - Shokohzadeh: We have 2 hours for our meeting on 11/8. Depending on the number of people testifying, we may have to modify the percentage of time spent on each activity.
  - Chair: Meeting on 11/8 and 11/22, looking for a date in between for another working session.
  - Ananya: Let's vote on the low-hanging fruit, and then show you the report outline. Is there feedback on the homework? We want to plan for future homework. Goal is to make visible all of the work you're doing. Next homework will involve 3-4 reflection questions about the principles.
  - Member Bode: At first it was weird, but seeing how it was used today it helped to set the stage and save a lot of time.
  - Chair Marquart: Thanks for all of the great comments and for doing your homework.

## Appendix

Appendix A: Streamlined Sales Tax Outline

### What is Streamlined Sales Tax (SST)?

It's an effort by state and local governments and the business community.

Focus and goals are:

- **Simplification:** Creating a simpler system for administering the various state and local taxes
- **Uniformity:** At least make processes uniform if they cannot be made simple
- **Removing burdens:** Leverage the use of technology to ease the retailer's tax collection and reporting
- **State sovereignty:** Balance the interests of a state's sovereignty with the interests of simplicity and uniformity



## What does SST do?

SST assists states as they administer a simpler and more uniform sales and use tax system.

- Simplify and modernize sales and use tax administration to substantially reduce the burden of tax compliance
- Improve sales and use tax administration systems for all sellers and all types of commerce

## Why did SST start?

SST started due to U.S. Supreme Court decisions.

- 1967 case of National Bellas Hess v. Illinois and 1992 case of Quill Corp. v. North Dakota:
  - States do not have the authority to require out-of-state retailers without a physical presence in the state to collect sales tax
  - Burdens imposed by states constituted an “undue burden on interstate commerce” and a violation of the commerce clause of U.S. Constitution

## Simpler System Needed

In 1999, the National Governors Association, National Conference of State Legislatures, Federation of Tax Administrators, and Multistate Tax Commission requested tax administrators to develop a sales tax system that:

- Is less complex
- Addresses unfair tax collection for merchants (brick and mortar businesses collect tax but remote sellers don't)
- Addresses loss of revenue from states unable to collect taxes already imposed
- Reduce states' burden of administering use tax

**Result:** Streamlined Sales and Use Tax Agreement (SSUTA) was created, effective October 1, 2005.

## Who's involved?

### States

- Initially, all states with a sales tax, except Colorado, were involved in developing the SSUTA
- Current membership is 23 full members and one associate member

### Governing Board

- Comprised of representatives from every member state

- Minnesota delegates per Minnesota Statute 297A.995, Senate and House tax chairs, and the commissioner of Revenue
- One vote per state

#### State and Local Advisory Council (SLAC)

- Advises Governing Board on all matters related to the administration of the SSUTA related to the states
- Serves as a voice for states and local governments, including those not on the Governing Board
- Chairs nominated from member states
  - Currently, the Minnesota SST key resource is vice chair

#### Local Government Advisory Council and Business Advisory Council (BAC)

BAC advises the Governing Board on all matters related to the administration of the SSUTA as it relates to local governments and business community.

##### **Local Government Advisory Council**

- Comprised of U.S. Conference of Mayors, Government Finance Officers Association, National League of Cities, and National Association of Counties

##### **Business Advisory Council (BAC)**

- Represents the private sector
- Comprised of trade associations, accounting firms, law firms, and individual businesses—large and small

## Key Features of SSUTA

- Uniform definitions
- Uniform destination-based sourcing rule for goods and services
- Uniform simplified electronic return (SER)
- [One-stop central registration system](#) (ability to register all 24 states with one registration)
- Simplified exemption administration
- [Taxability matrix](#)
- Liability relief provisions
- Certified Service Providers (CSPs)

## Key Features Related to Local Tax

- State level administration of local sales and use taxes (M.S. 297A.99, subdivision 9)
- Common state and local tax bases within a state (M.S. 297A.99, subd. 4)

- Rate and boundary databases and restricting the frequency of changes in local rates (M.S. 297A.995)
- Simplification of tax rates: one rate per local taxing jurisdiction (M.S. 297A.99, subd. 5)

#### Rate and Boundary Databases

- Used by CSPs, states, tax preparers, and sellers
- Provide CSPs and sellers a way to accurately calculate tax rates for locations within each SST member state based on street addresses and 5- and 9-digit ZIP codes

### Certified Service Providers (CSPs)

- CSPs are agents certified by the SSUTA to perform all of a seller's sales and use tax functions, except remitting use tax on its own purchases.
- CSPs tax codes are certified by states (rates and boundaries tables are continuously tested by states)
- Sellers may receive free CSP service usually in states they sell remotely
  - Reduces the burden on knowing other states laws and local tax jurisdictions
  - Available to Minnesota businesses that sell into other states as well

### South Dakota v. Wayfair decision by U.S. Supreme Court

- Decision made on June 21, 2018
- Reversed the physical presence requirement contained in the Quill decision
- Did not rule on constitutionality of South Dakota's law and cautioned that the Commerce Clause prohibits discrimination against or imposing undue burdens upon interstate commerce

### Current Local Tax Considerations with the SSUTA: Seller Compliance and Local Sales Tax Collection

#### Emerging Compliance Issues

- Sourcing digital goods that do not require an address to complete the sale
- Concerns with gathering personal identifiable information not needed to complete the sale

#### Digital Goods

- SLAC workgroup contemplating changes to encourage remote or digital sellers to obtain local sourcing information for proper collection of local taxes
  - Remote sellers can easily determine state level tax, but due to the granularity of local taxes, it is very difficult to determine the proper local jurisdiction and tax rate

- If a seller over collects the local tax, they face possible class action lawsuits, and if they under collect, they face possible qui tam lawsuits or assessments by Minnesota Department of Revenue
  - Sellers want to get rates correct and processes need to be easy for remote sellers
- Keep in mind that if a local tax is too difficult to administer or to determine the proper rate and jurisdiction, businesses will likely not get it correct and the local jurisdiction may not receive the revenue they anticipate