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Streamlined Sales Tax Project

**A Report to the Legislature on the
Streamlined Sales Tax Project**

Board of Governance

Honorable John Chiang, Chairman, Board of Equalization
Honorable Steve Westly, State Controller and Chairman, Franchise Tax Board
Honorable Roy Ashburn, California State Senate
Honorable Debra Bowen, California State Senate
Honorable Rudy Bermudez, California State Assembly
Honorable Mark Wyland, California State Assembly
Mr. Michael C. Genest, Department of Finance

January 27, 2005

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Quarterly Report to the Legislature on the Streamlined Sales Tax Project (SSTP) as of
December 31, 2004.

BOARD OF EQUALIZATION (BOE) STAFF PARTICIPATION

- BOE staff attended SSTP, Conforming States Committee and Implementing State meetings in:
 - Chicago, Illinois - August 2004
 - Nashville, Tennessee - October 2004
 - Chicago, Illinois - November 2004

- BOE staff has been asked to participate on a committee by the Implementing States to review sourcing issues. The committee has held two teleconferences to discuss a proposal by Ohio to carve-out an exclusion from the destination sourcing rules for small businesses.

- BOE staff hosted the first SSTP informational meeting on December 7, 2004, in Sacramento. This meeting was held to provide a forum for interested parties from both the business community and local governments to obtain information and discuss the SSTP and California's involvement. The meeting included:
 - A general overview of the SSTP.
 - An explanation of the SSTP organization, including workgroups and committees.
 - Information on the California SSTP Board of Governance.
 - An introduction to the Streamlined Sales and Use Tax Agreement (SSUTA).
 - A discussion on issues and concerns for California.
 - An open discussion.

Approximately 25 individuals representing the business community, local governments, the public, the BOE, and other state agencies attended the meeting. Attendees discussed the destination-based sourcing of retail sales, the necessity for zip code or address

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databases, certified service providers, and the challenges these issues will present. The following issues and concerns were also identified and discussed:

- California's influence over the development of the SSUTA and matters before the states.
- Authority of the California Board of Governance.
- The SSTP allows each state to have only one vote without regard to population or tax revenue.
- The SSTP spends too much time on small matters that affect a limited number of states.
- Sourcing rules will have a major impact on local governments and databases may be inadequate for tax reporting purposes.

BOE staff provided information on the ongoing comparative analysis of the SSUTA and encouraged all attendees to participate in the analysis process.

A second informational meeting will be held in May or June 2005.

ACCESS TO SSTP INFORMATION

- Internet Website

Interested parties can now access information on California's involvement in the SSTP at <http://www.boe.ca.gov/info/senatebill157.htm>. This website can be accessed directly or through links found on the California State and BOE websites. This site will allow users to view historical documents, review and comment on draft analysis of the SSUTA, access links to other related websites, and contact BOE staff.

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- Listserve

A California SSTP listserv is being established. Interested parties will be able to subscribe to be notified of any new developments regarding California's involvement in the SSTP. Interested parties will be able to subscribe to the California SSTP listserv at the above referenced website by early February 2005.

STATUS OF CONFORMING STATES

The SSUTA will become binding and take effect when at least 10 states comprising at least 20 percent of the total population, as determined by the 2000 Federal census, of all states imposing a state sales tax have been found to be in compliance with the requirements of the SSUTA. The SSUTA will take effect on the first day of a calendar quarter at least 60 days after the tenth state is found to be in compliance. To date, 21 states have passed legislation in an attempt to conform to the SSUTA. These states must submit a certificate of compliance to document compliance with the provisions of the SSUTA and cite applicable statutes, rules, regulations, or other authorities evidencing such compliance. A state is in compliance with the SSUTA if the effect of the state's laws, rules, regulations, and policies have been certified to be substantially compliant with each of the requirements set forth in the SSUTA.

The Conforming States Committee is charged with undertaking the planning necessary to implement the SSUTA and to establish the Governing Board of the SSUTA as an operating entity. As that work has proceeded, it has become apparent that successful implementation in an expeditious manner will require the retention of full-time staff dedicated to the numerous implementation tasks.

The Federation of Tax Administrators (FTA) is prepared to provide temporary facilities for the Conforming States organization. The SSTP will be responsible for securing the dedicated staff resources necessary to carry out its work. Such staff may be secured through the hiring of employees or the "loan" of personnel from participating states.

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The Conforming States Committee decided it would be beneficial if the first Executive Director was a “loaned” employee from one of the conforming states. Mr. Scott Peterson, Business Tax Division Director, South Dakota, was identified as the Interim Executive Director of the Conforming States Committee. The FTA and the National Conference of State Legislatures will provide grants of \$50,000 each to assist with startup costs.

The Conforming States Committee identified the following areas to be addressed:

- Organizational Structure of the Governance Board
 - Officers
 - Executive staff
 - Full-time staff
- Funding
 - Initial amount required from each conforming state
 - Permanent dues structure
- Central Registration System and Costs
- Review Requests for Proposal from potential Certified Service Providers
- Complete Bylaws
- Advisory Councils
 - Membership of the State and Local Advisory Council
 - Membership and open meeting issues of the Business Advisory Council

During the August 2004, Conforming States Committee Meeting, the committee asked about California’s needs relative to open meeting provisions as they relate to the Conforming States Committee, Implementing States, and ultimately the Governing Board.

At its meeting on September 23, 2004, the Board of Governance authorized Mr. Westly’s representative, Ms. Mandel to provide the opinion prepared by BOE legal counsel and advise that California wants a public participation policy adopted similar to that adopted by the Multistate Tax Commission, while noting that California’s response should in no way be taken as a commitment to enact conforming legislation. Ms. Mandel responded to the request on

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behalf of the Board in a letter dated September 29, 2004, to Ms. Loren L. Chumley, Chair, Conforming State Committee.

COMPARATIVE ANALYSIS OF SSUTA

The comparative analysis currently underway by BOE staff involves a detailed review of each section of the SSUTA and a comparison to California's Constitution, statutes, regulations, Policy and Procedure Manuals, and other information relating to the administration of sales and use tax. The analysis will strive to identify the impact of conforming to the SSUTA in the following areas:

- Changes necessary to California's Constitution, statutes, regulations, Policy and Procedure Manuals;
- Tax revenues, including revenue shifts for local jurisdictions;
- Administrative and operational costs for the state and local governments;
- Compliance and cost issues for businesses; and
- The responsibility of the Governor, California Legislature, Board of Equalization, and courts.

The analyses for SSUTA sections 309, Application of General Sourcing Rules and Exclusions from the Rules, and 310, General Sourcing Rules, were distributed for review by interested parties on December 21, 2004. Interested parties have until February 14, 2005 to provide comments to the BOE. SSUTA section 311, General Sourcing Definitions, will be the next section available for review followed by SSUTA sections 302, State and Local Tax Bases, and Section 308, State and Local Tax Rates. A timeline for the analysis of the remaining sections of the SSUTA will be distributed in February 2005.

SSTP MEETING SCHEDULE

SSTP and Conforming States Committee meetings were held on January 5, 6 and 7, 2005, in Phoenix, AZ.

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The next SSTP and Conforming States meetings are scheduled for March 7, 8 and 9, 2005, in Atlanta, GA. However, these dates are subject to change due to legislative responsibilities of several members of the Conforming States Committee

SUMMARY

BOE staff is continuing to work on the comparative analysis of the SSUTA. A timeline for the analysis of the remaining sections will be distributed in February 2005.

BOE staff will work with local government and business representatives on the analysis of the SSUTA and any new emerging issues.