

Meeting Minutes  
Finance and Taxation Committee  
Taxation and Budget Reform Commission  
Conference Call  
Thursday, August 9, 2007  
4:00 p.m. – 5:00 p.m.

**Committee Members:** *Susan Story, Chair; Barney Barnett, Martha Barnett, Julia Johnson, Bruce Kyle, Patricia Levesque, John McKay, Randy Miller, James A. Scott, Ken Wilkinson, Brian Yablonski*

**Members Present:**

Susan Story, Chair  
Barney Barnett  
Julia Johnson  
John McKay  
Randy Miller  
James A. Scott  
Ken Wilkinson

**Other Members Present:**

Allan Bense, TBRC Chair

**Members Absent:**

Martha Barnett  
Bruce Kyle  
Patricia Levesque  
Brian Yablonski

Committee Chair Susan Story called the meeting to order at 4:05 p.m. It was determined that while a quorum was expected, all callers were not yet on the line. Due to the educational nature of the meeting agenda, Chair Story asked that Roll Call be suspended until later in the meeting and members agreed to begin the presentation in anticipation of a quorum. Roll was called at 4:30 p.m. and a quorum was present.

Mr. Marshall Stranburg, Office of the General Counsel, Department of Revenue, and Mr. Alan Johansen, Staff Director of the Senate Finance and Tax Committee, made a presentation to the committee on issues related to remote sales and use tax collection, internet and catalog sales, and national efforts to establish a streamlined process for sales and use tax collections from remote sales. Messrs. Stranburg and Johansen have been involved in the national discussion since its inception in 1999.

Committee members had several questions and comments on the presentation.

Commissioner Julia Johnson was interested in learning what would cause a state to want to participate in the national process. Commissioner Randy Miller, along with Mr.

Stranburg and Mr. Johansen, indicated that the process is a valuable cost efficiency process for businesses and an amenity that assists in maximizing collections of taxes owed but not currently collected. They did indicate that some states have expressed concerns with standardizing to a national system and giving up of decision-making rights inherent to state governments.

Commissioner Story asked about the legislative history of the issue in Florida, and what had caused a failure of the issue to get through the legislative process. Mr. Stranburg reported that the original legislation was presented in Florida in 2001 to assert the state's interest in streamlining and participation in the national process. While that legislation passed, bills to implement that intent were introduced in 2003, 2004, and 2005, and never passed both houses of the legislature. When asked to assess what caused the failure of that legislation, Mr. Johansen asked to defer that response to Commissioner Miller. Commissioner Miller indicated that while the bills had the strong support of the state's business community, there was intense opposition by various groups, including the Americans for Tax Reform organization and Mr. Gordon Norquist, who strongly opposes the national streamlining process.

Mr. Stranburg indicated that legislation has been filed in every Congress starting with the 108<sup>th</sup> Congress in 2003, but that the legislation has languished. There is some indication that Congress may take action on legislation filed this year, S.34, but staff cautioned that it would be wrong to assume that such federal legislation may pass, or that the streamline issue may be before the U.S. Supreme Court, anytime in the near term.

Commissioner Miller framed the issue for the group as "bricks and mortar" businesses, which are required by state sales tax laws to collect at point of sale, versus pure on-line businesses such as E-Bay and Amazon that operate out of non-sales tax states and are not required to collect taxes for sales of merchandise shipped to sales tax states. He asked if those pure on-line businesses had been approached by individual states on the compliance issue. Mr. Stranburg indicated that Amazon had been approached and seemed willing to cooperate, but that E-Bay maintains that it simply provides a conduit service for its multiple small business sellers and that it would not be able to comply dependent on exemption thresholds. He indicated that the federal legislation is not settled on the issue of collection exemption thresholds, but it would probably be somewhere between \$500,000 and \$3,000,000.

Commissioner Miller and the presenters reiterated that the issue is not raising new taxes, but collection of use taxes already owed to the state that are not now being collected. A University of Tennessee study had projected those losses to be between \$1.5 billion and \$2.3 billion by 2008.

Commissioner Johnson asked what role the Taxation and Budget Reform Commission might play in the collection of those unremitted taxes. Commissioner McKay further asked Commissioner Miller what the real chances of success in putting this issue forward to the legislature would have of any action. Commissioner Miller opined that at a minimum the TBRC should consider putting forward model legislation as a

recommendation. There may be an additional need for some type of constitutional amendment that would require the state to collect taxes that are owed but unremitted.

Chair Story asked Commissioner Miller to work with staff to prepare options for such model legislation back to the committee for consideration at the August 17 meeting. He agreed to the assigned task.

Commissioner Barney Barnett asked staff to research who would oppose such state action and bring that information back to the committee as well.

Chair Allan Bense reminded the group that opposition had been very strong in the past and that members should always keep in mind the 60% passage requirement for constitutional amendments in the discussion of proposals. Commissioner James Scott said that while understanding that the 60% threshold is there, the financial situation faced by the state today is vastly different than what was in place in the earlier years when legislation was proposed. He said it was very important to consider this option as a major focal point in discussions about state revenues, and possible ways to replace property taxes. Chair Bense agreed.

There being no further business before the committee, the meeting was adjourned at 5:08 p.m.