

STATEWIDE SALES TAX REFORM MOVEMENT

Alabama could soon bring in \$240M in online sales taxes

BY RYAN POE | STAFF

Alabama's sales tax system is headed for a major overhaul in anticipation of a federal showdown on the issue of online sales taxes.

If Congress passes any of the three bills that are now winding their way through the political system – and that could happen within months – online retailers would be on the hook for as much as \$240 million in annual sales taxes to Alabama counties, cities and the state revenue department, said Alabama Retail Association tax attorney Bruce Ely.

But the bills would do more than just bring the state a wave of new revenue: They would require traditional brick-and-mortar businesses to remit current sales taxes to a single revenue authority, likely the Alabama Department of Revenue, instead of each municipality in which it does business.

Even if the bills fail this round, the state may go ahead and preemptively change its tax system next year, said Ely, who also chairs the state and local tax practice group of Birmingham-based Bradley Arant Boult Cummings LLP.

For businesses, the change to a single tax collecting entity – a practice already used in most states – would mean one monthly filing and one audit, if any, saving them time, effort and expense, Ely said.

The change would also save governments the extra work and costs of collecting sales taxes.

“To me, it's a win-win situation,” Ely said. “Anything we do would only be

an improvement (to the state's tax system).”

But Birmingham Finance Director Tom Barnett, who supports a single-entity collector system, said making the change is a hard pill for some government officials to swallow because it would require them to cede control of collections.

“There were problems in the past and everyone has memories of that,” he said, recalling when the state collected sales taxes for local governments back during the administration of Gov. George Wallace Jr. The state delayed sending it to local governments, prompting the local entities to take control of the process.

“We've been assured by the Department of Revenue that (problems getting the taxes to local governments) will not happen again,” Barnett said.

Barnett was appointed to the 10-member Alabama Streamlined Sales and Use Tax Commission in June to iron out those problems and come up with recommendations for bringing the state into compliance with any new online sales tax laws that may pass.

After more than a decade of gridlock, two similar bipartisan federal bills, the Marketplace Equity Act in the House of Representatives and the Alexander-Enzi bill in the Senate, have gained traction, and the latter has even garnered support this week of the Seattle-based online retailer Amazon.com Inc. Until one of those bills passes Congress, states have little power to enforce the collection of online sales taxes.

Alabama's sales tax commission has

a Dec. 7 deadline to draft its recommendations, which will be presented to the state Legislature Feb. 21.

Unlike in the past, he said, the Department of Revenue can give municipalities detailed reports that track collections and can get the money to municipalities in three days.

“I'm very pleased with the progress of the commission and coming up with the structure,” he said.

Montgomery Director of Finance Lloyd Faulkner didn't share his sentiment. Faulkner said he is skeptical of the proposed changes, which would probably cost his city money and a “whole lot of control.”

“No one can do it like we're doing it,” he said of sales tax collections. “I don't see anything but negatives.”

On the other hand, Mary Lynn Cooper, a senior tax accountant with Birmingham-based Mayer Electric and member of the Streamlined Sales and Use Tax Commission, said she only sees positives for the business community. A change would simplify the filing process for companies like hers with locations in multiple areas.

“If you don't make it easy and don't make it fair, what's the upside for the retailer? There is none,” Cooper said. “I can't see a downside to any of this.”

That also goes for the Alabama Department of Revenue, whose costs to take over collections would be minimal, said Curtis Stewart, the head of the department's tax policy and research division.

“It's in everyone's interest to make sure this happens,” he added.