



# State and Local Tax Alert

## Alabama Edition



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## Alabama Streamlined Sales Tax Commission Issues Landmark Report

By Bruce P. Ely and William T. Thistle, II

The ten-member Commission created by Act 2011-563 of the Alabama Legislature, charged with studying the feasibility of Alabama becoming a member of the Streamlined Sales and Use Tax Agreement and what statutory and administrative changes that effort would entail, issued its preliminary report and recommendations on Monday afternoon, November 28. The report is subject to public comment for the next 45 days and constitutes Phase I of II of the Commission's work.

In a refreshing spirit of cooperation between the Alabama Department of Revenue (ADOR) and the self-administered cities and counties (*i.e.*, those local governments that not only levy but also collect their own sales and use taxes), the Commission unanimously agreed that the ADOR would be the "single entity administrator" should Congress enact either the Main Street Fairness Act or one of the two recently-introduced pieces of legislation now pending in Congress. If that were to occur, Alabama would rejoin the vast majority of states that require the state department of revenue or similar taxing authority to be the sole administrator for both state and local sales taxes. That did not sit well with some of the interested parties, including the two largest contract auditing firms.

If Congressional legislation is enacted, along with state conforming legislation, the Commission recommends that the ADOR become the single entity administrator both for filing *and* auditing purposes. At the request of the self-administered localities, however, the latter function would be a shared responsibility between the ADOR and the local governments, particularly in cases where the business to be audited is one that's located entirely within a particular city's and county's jurisdiction. Multistate audits would be conducted by the ADOR. In all events, these audits would be conducted on behalf of all cities and counties as well as the ADOR, thus substantially eliminating the current problem with multiple audits by the ADOR, self-administered localities, and contract auditing firms representing other localities. The self-administered localities insisted on having an advisory council that would review not only the selection of taxpayers to be audited, but also the quality of the audits and the continuing education and training requirements for auditors. The authors and other observers were encouraged with the level of cooperation between the ADOR and representatives of the self-administered localities, including the Alabama League of Municipalities and the Association of County Commissions of Alabama.

Although the goals of the respective parties may differ, if Congressional legislation and state conforming legislation is enacted, the state and local governments would stand to gain new sales tax revenue in the range of \$200 to \$240 million dollars annually, much of which is earmarked for public education.

In a related development, on November 16, Speaker of the House Mike Hubbard (R-Auburn) and Senate President Pro Tem Del Marsh (R-Talladega), held a press conference to announce a series of Republican Caucus proposals, one of which will establish a task force to recommend

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ideas for streamlining the Alabama sales, use and rental tax system. Hopefully, this task force's proposals will *not* be conditioned on (and delayed by) Congressional legislation. The task force will consist of 20 members, yet to be officially appointed, and would obviously be required to work quickly to the extent that its recommendations involve proposed legislation, since the Spring 2012 regular session begins February 7.

In the meantime, the Alabama SST Commission is required, as Phase II of its work, to develop specific legislative proposals for the Alabama Legislature to consider, again, at the insistence of the self-administered localities, to be contingent on Congressional action. Those proposals are due to the legislature no later than its fifth legislative meeting day, which should occur sometime in mid- to late February.

*Members of the firm's SALT Practice Group advise the Alabama Retail Association and other business groups on streamlined sales tax issues and related matters. Bruce Ely was a principal author of both the 1998 Local Tax Simplification Act and Local Tax Conformity Act.*



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## WE ARE PLEASED TO ANNOUNCE

Brett Carter, partner in the Nashville office, has recently been appointed as the Vice Chair of the firm's [SALT Practice Group](#). Brett represents taxpayers before the Tennessee Department of Revenue and local taxing authorities as well as the chancery and appellate courts of Tennessee, focusing on all Tennessee taxes. In this new role, Brett will be working with Practice Group Chair, Bruce Ely, to further strengthen the SALT practices in each of Bradley Arant Boulton Cummings' multistate offices to improve the quality of service that BABC provides to its SALT clients.

Brett is a frequent lecturer on Tennessee and multistate tax matters for national organizations such as COST, IPT and various state and local tax institutes. He is also a contributing author to the ABA Property Tax Desk book (Tennessee), State Tax Notes, and the Journal of Multistate Taxation. Brett is also a member of the Tennessee and Nashville Bar Associations, the Institute for Professionals in Taxation, the American Bar Association Tax Section, and the Independent SALT Alliance.

Brett received a B.S. degree in Accounting from the University of Tennessee (much to the chagrin of his Alabama partners), his law degree (with honors) from the University of Memphis, and his LL.M. in Taxation from Georgetown University Law Center. Brett clerked for Chief Judge Mary Ann Cohen on the United States Tax Court and is a Major in the Tennessee Army National Guard, having served a tour of duty in support of Operation Iraqi Freedom III and earning a Bronze Star for his work with the Regiment's detainee operations program. Brett was also the Democratic Nominee for the 6th Congressional District Seat of Tennessee in 2010. Yes, there are still a few Democrats in Tennessee.

To unsubscribe from this newsletter, email Jerry Young at [jyoung@babc.com](mailto:jyoung@babc.com)

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