

Landmark Alabama Legislation on Single Point of Filing for Businesses

The editors of The Journal of Multistate Taxation and Incentives feature this column as a forum for discussing important multistate tax issues. We invite letters from our readers, either commenting on articles or columns in The Journal or sharing ideas and experiences with other readers. Letters should be addressed to Mark Wolowitz, Managing Editor, The Journal of Multistate Taxation and Incentives, Thomson Reuters, 1 New York Plaza, 34th Floor, New York, New York 10004. This article appears in and is reproduced with the permission of the Journal of Multistate Taxation and Incentives, Vol. 22, No. 4, July 2012. Published by Warren, Gorham & Lamont, an imprint of Thomson Reuters.

Bruce Ely is Chair of the State & Local Tax Practice Group at the multistate law firm of Bradley Arant Boult Cummings LLP (www.babc.com), resident in its Birmingham, Alabama office. **Will Thistle** is a senior associate with the firm, resident in the same office. Both have previously written for The Journal. They write here to inform readers about new legislation that calls for the Alabama Department of Revenue to develop and make available a system that allows any taxpayer required to file and remit a state, county, or municipal sales, use, and/or rental tax return, to file and remit those returns and payments through an electronic "single point of filing" program. Mr. Ely also was involved with the legislative effort in this matter. (Copyright © May 2012. Bruce P. Ely/William T. Thistle, II/Bradley Arant Boult Cummings LLP. All rights reserved.)

The "ONE SPOT" system. At the urging of the Alabama Retail Association and other business groups, and well as the House and Senate leadership and their respective task forces, the Alabama legislature unanimously passed, and Governor Robert Bentley signed into law, what is commonly known as the "ONE SPOT" Act (S.B. 459, 5/3/12, Act No. 2012-279). Many believe this landmark legislation will greatly reduce the paperwork and sales tax filing burden for many companies doing business in Alabama, while municipalities and counties and their respective associations are hoping for increased levels of compliance.

ONE SPOT stands for "Optional Network Election for Single Point Online Transactions."

Under the new Act, businesses will have the option to file all of their sales, use, and rental (lease) tax returns and make the accompanying payments online, and all local taxing

jurisdictions will be required to use the ONE SPOT system. To ensure that the local taxing jurisdictions have meaningful input into the process, however, the Act calls for a State and Local Advisory Committee to be established and give recommendations to the Alabama Department of Revenue (the "Department") on the system's implementation. The Committee members, who will receive no compensation of any kind for their services, will include representatives of county and municipal government (including a county or municipality that levies a rental tax), and the business and retail communities.

The ONE SPOT system must be in place by 9/30/13 and available for use by any taxpayer for tax periods beginning after that date, for tax return filing and remittance of local sales, use, and rental taxes. Taxpayers will not be required to use the ONE SPOT system. Any taxpayer that does use the system, however, must comply with the Act and any rules promulgated by the Department for the administration of the Act. Furthermore, any taxpayer using the system must comply with any rules of the local taxing jurisdiction regarding the administration of the local sales, use, or rental tax.

Alabama as a poster child. The long-awaited legislation is designed to significantly reduce the administrative burden on businesses with locations or other physical presence in multiple cities and counties within the state. Under current Alabama law, businesses located in or otherwise having nexus with multiple cities and counties must file separate sales, use, and rental tax returns for each individual location unless those cities or counties are administered by the Department or by one particular contract auditing firm.

Alabama is unique among the 50 states by allowing each city and county to elect to administer its own sales, use, and rental tax levies, or to contract out that function. While most of the smaller municipalities and counties have engaged the Department or, more often, a contract auditing firm to handle their tax collection and administration, some of the larger municipalities and a handful of counties long ago opted to administer their own sales, use, and rental taxes, making Alabama truly the poster child for the sales tax streamlining movement.

(For a useful discussion of Alabama's current sales/use tax system and the Streamlined Sales Tax (SST) effort at the national level, we refer readers to an in-depth Comment written by Bradley Arant law clerk J. Sims Rhyne, "A Useless Use Tax: Why Alabama Is the

Poster Child for the Streamlined Sales and Use Tax Agreement," published recently in the Cumberland Law Review (Volume 42, No. 2). For more background on the Agreement, see, e.g., Friedman, Kearns, and Houghton, "Streamlined Sales Tax Update: The Long Journey Towards a Simplified Sales Tax System," 16 J. Multistate Tax'n 6 (Mar/Apr 2006).)

Officials agree. Governor Bentley commented that "Alabamians expect government to make efficient use of their hard-earned taxpayer dollars." With the ONE SPOT system, the governor continued, "the Alabama Department of Revenue can offer businesses an efficient process that eases the burdens associated with tax filings in multiple taxing jurisdictions. This service is free of charge for businesses and local jurisdictions. I commend the Legislature for streamlining this process and making our state even more business friendly." He also commended Commissioner of Revenue Julie P. Magee for her efforts at reaching out to the local governments and their revenue officers, many of whom in the past have resisted such proposals.

This legislation was the one of the top recommendations of the Business Tax and Regulatory Reform Study Group recently established by Senate President Pro Tem Del Marsh, who said: "This common sense solution is a perfect example of how we can streamline state government and eliminate bureaucratic red tape to better serve Alabama taxpayers." Author Bruce Ely served as Technical Adviser to the task force.

END OF DOCUMENT -