

## Senate Bill No. 157

### CHAPTER 702

An act to add Chapter 1.5 (commencing with Section 6025) to Part 1 of Division 2 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 8, 2003. Filed with Secretary of State October 9, 2003.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 157, Bowen. Sales and use taxes: uniformity.

The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. Under the Bradley-Burns Uniform Local Sales and Use Tax Law, counties and cities are authorized to impose local sales and use taxes in conformity with state sales and use taxes.

This bill would enact the Streamlined Sales Tax Project. The bill would direct the board, as defined in this bill, or the board's designee, to represent this state in all meetings with certain other states regarding the development of a multistate, voluntary, streamlined system for sales and use tax collection and administration, as discussed in the Streamlined Sales and Use Tax Agreement adopted on January 27, 2001. This bill would also authorize the board to vote on behalf of this state and to represent the position of this state in all matters relating to the adoption of the agreement or amendments to the agreement. This bill would require the board to report quarterly to the Assembly and Senate Revenue and Taxation Committees on the progress in negotiating the agreement. This bill would prohibit the board or the board's designee from entering into the Streamlined Sales and Use Tax Agreement, unless the agreement requires that each state abide by the particular requirements, as specified in this bill.

*The people of the State of California do enact as follows:*

SECTION 1. Chapter 1.5 (commencing with Section 6025) is added to Part 1 of Division 2 of the Revenue and Taxation Code, to read:

#### CHAPTER 1.5. STREAMLINED SALES TAX PROJECT

6025. This chapter shall be known as and referred to as the "Streamlined Sales Tax Project."



6026. For purposes of this act:

(a) “Agreement” means the Streamlined Sales and Use Tax Agreement.

(b) “Board” means the board of governance, as defined in this act, or the board’s designee.

(c) “Certified automated system” means software certified jointly by the states that are signatories to the agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.

(d) “Certified service provider” means an agent certified jointly by the states that are signatories to the agreement to perform all of the seller’s sales tax functions.

(e) “Person” means an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity.

(f) “Sales tax” means the tax levied by Chapter 2 (commencing with Section 6051) of Part 1 of Division 2 of the Revenue and Taxation Code.

(g) “Purchaser” means a person to whom a sale of tangible personal property is made or to whom a service is provided.

(h) “Seller” means any person making sales, leases, or rentals of personal property of services.

(i) “Sourcing” means determining the tax situs of a transaction.

(j) “State” means any state of the United States and the District of Columbia.

(k) “Signatory state” means a state that has entered into the agreement.

(l) “Use tax” means the tax levied by Chapter 3 (commencing with Section 6201) of Part 1 of Division 2 of the Revenue and Taxation Code.

6027. (a) There is created in state government a Board of Governance consisting of two Members of the Senate chosen by the Senate Committee on Rules, one of whom shall belong to the majority party and one of whom shall belong to the minority party, two Members of the Assembly chosen by the Speaker of the Assembly, one of whom shall belong to the majority party and one of whom shall belong to the minority party, one member of the State Board of Equalization, one member of the Franchise Tax Board, and one member of the Governor’s Department of Finance.

(b) The board may represent this state in all meetings, limited only to those states that are also authorized by statute to enter into the agreement. The board shall vote on behalf of this state and shall represent the position of this state in all matters relating to the adoption of or amendments to the agreement.



(c) The board shall report quarterly to the Assembly and Senate Revenue and Taxation Committees on the board's progress in negotiating the agreement and shall recommend to the committees the state statutes required to be added, amended, or otherwise modified for purposes of substantially complying with the agreement.

6028. The state's decision to join the Streamlined Sales Tax Project shall not invalidate, amend, or otherwise modify, in whole or in part, any provision of the law of this state. Implementation of any provision of the agreement in this state, whether adopted before, at, or after this state's adoption of the agreement, shall be exclusively done by a separate act or acts of the Legislature.

6029. The board may not enter into the agreement unless the agreement requires each state to abide by the following requirements:

(a) The agreement shall set restrictions to limit over time the number of state rates.

(b) The agreement shall establish uniform standards for the following:

(1) The sourcing of transactions to taxing jurisdictions.

(2) The administration of exempt sales.

(3) Sales and use tax returns and remittances.

(c) The agreement shall provide a central electronic registration system that allows a seller to register to collect and remit sales and use taxes for all signatory states.

(d) The agreement shall provide that registration with the central registration system and the collection of sales and use taxes in the signatory states does not by itself determine whether the seller has nexus with a state for any tax.

(e) The agreement shall provide for reduction of the burdens of complying with local sales and use taxes through the following:

(1) Restricting variances between the state and local taxes bases.

(2) Requiring states to administer any sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions.

(3) Restricting the frequency of changes in local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes.

(4) Providing notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions.

(f) The agreement shall outline any monetary allowances that are to be provided by the states to sellers or certified service providers. The agreement shall allow for a joint public and private sector study of the compliance cost on sellers and certified service providers to collect sales



and use taxes or state and local governments under various levels of complexity.

(g) The agreement shall require each state to certify compliance with the terms of the agreement prior to joining and to maintain compliance, under the laws of the member state, with all provisions of the agreement while a member.

(h) The agreement shall require each state to adopt a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information.

(i) The agreement shall provide for the appointment of an advisory council of private sector representatives and an advisory council of nonmember state representatives to consult with in the administration of the agreement.

6030. The agreement is an accord among individual cooperating sovereigns in furtherance of their governmental functions. The agreement provides a mechanism among the member states to establish and maintain a cooperative, simplified system for the application and administration of sales and use taxes under the duly adopted law of each member state.

6031. (a) The agreement shall bind and inure only to the benefit of this state and the other member states. No person, other than a member state, is an intended beneficiary of the agreement. Any benefit to a person other than a state is established by the law of this state and the other member states and not by the terms of the agreement.

(b) Consistent with subdivision (a), no person shall have any cause of action or defense under the agreement or by virtue of this state's decision to join the Streamlined Sales Tax Project. No person may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of this state, or any political subdivision of this state on the ground that the action or inaction is inconsistent with the agreement.

(c) No law of this state, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the agreement.

