# Federal Remote Seller Collection Authority

## Legislative Update and What Streamlined is Doing to Prepare

# Current Federal Remote Seller Collection Authority Bills

- The Marketplace Fairness Act of 2015

- The Remote Transactions Parity Act of 2015

- The Online Sales Simplification Act (discussion draft)

# The Marketplace Fairness Act

▶ Passed Senate in 2013 (S. 743)

▶ Re-introduced March 10, 2015 (S. 698)

▶ Provides a state two options for gaining the Congressional authorization to require remote sellers to collect sales tax:

- SSUTA member states have to provide 180 days notice that they will exercise authority under the Act;

- Non-SSUTA members must comply with minimum simplification requirements.

# The Marketplace Fairness Act

► The minimum simplification requirements include:

- Central administration;

- One audit per state;

- Uniform sales and use tax base among all state and local jurisdictions;

- Uniform sourcing rules;

- Information on the taxability of products and services;

- State must provide software, free of charge, capable of calculating sales tax due on remote sales and filing returns;

► Small seller exception of $1M in remote sales

► One year delayed effective date

# The Remote Transactions Parity Act

- Introduced June 15, 2015 (H.R. 2775)
    - Bi-partisan support in House
- Provides states with two options for gaining Congressional authorization, similar to the MFA
- Includes the minimum simplification requirements contained in the MFA, plus additional protections for remote sellers and certified software providers

# The Remote Transactions Parity Act (cont.)

- Additional Protections include:
    - If a remote seller uses a certified software provider, audits must go through that provider and not the seller;
    - Software must include integration, set-up and maintenance;
    - Remote sellers with less than $5M of gross receipts in the taxable year may not be audited, except in cases of fraud;
    - A mandatory 3 year statute of limitations for assessments;
    - The state must provide a taxability and exemption table;
    - The state must provide rates and boundary database;
    - Central registration system

# The Remote Transactions Parity Act (cont.)

▶ No Preemption

▶ Small Remote Seller Exemption.

- The "small remote seller" exemption applies to remote sellers with less than $10M in total gross receipts during the first year the state acts under the Act, less than $5M in the second year, and less than $1M in the third year.

  - Completely phased out after the third year.

  - Sellers utilizing an electronic marketplace are not considered small sellers and are not entitled to the exception, no matter the year.

# The Online Sales Simplification Act

- House Judiciary Chairman Bob Goodlatte released a discussion draft on Jan. 13, 2015.
  - Has not been introduced.
- The draft proposes a hybrid origin-based solution.
- Only 'origin' states may impose a sales and use tax collection requirement on remote sellers.
- States may only impose such a requirement if they join a distribution agreement, whereby origin states redistribute the revenue to destination states.

# What SST is Doing to Prepare for Passage of MFA

▶ Federal Implementation Workgroup

   ▶ Contacts Workgroup

   ▶ Notice Workgroup

# What SST is Doing to Prepare for Passage of MFA

- Federal Implementation Workgroup (cont'd)

    - FAQs Workgroup

        - Streamlined States

        - Non-Streamlined States

    - Exemption and Taxable Services Matrix

    - CSP Contracts

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# Issues Non-SST States Must Address

▶ Registering Remote Sellers

▶ Important Questions

    ▶ Central administration?

    ▶ Single return for remote sellers?

    ▶ Single state and local tax audits?

    ▶ Uniform state and local tax base?

    ▶ Uniform sourcing rules?

    ▶ Taxability and exemption information

▶ Questions by Instate Sellers and Purchasers

# Issues Non-SST States Must Address

▶ Things States Must Provide

  ▶ Taxability and exemption information

  ▶ Rates and boundary databases

  ▶ "Free Software"

  ▶ Certification procedures

  ▶ Central Registration System

# Questions?