



SMALL BUSINESS  
LEGISLATIVE  
COUNCIL

# SBLC REPORT

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## **MARKETPLACE FAIRNESS ACT**

Proponents of legislation to require all sellers to collect a state's sales or use tax overcame two efforts to filibuster the Marketplace Fairness Act, S. 743. The margins on the votes were well in excess of the 60 votes needed. The Senate left for a scheduled recess before a vote could be taken on the final bill. The final vote for approval their version is scheduled for May 6<sup>th</sup>.

If the Senate approves the bill, the United States House of Representatives must still consider the bill.

The bill would allow states to secure jurisdiction (nexus) over out of state sellers to require them to collect and remit use taxes. The legislation exempts sellers that make less than \$1 million in total remote sales in the year preceding the sale from the requirement to collect the tax.

The bill is constructed around acceptance of the Streamlined Sales and Use Tax Agreement (SSUTA) by states. On November 12, 2002, representatives of 33 states and the District of Columbia (now 44 states) voted to approve a multi-state agreement to simplify the nation's sales tax laws by establishing one uniform system to

administer and collect sales taxes on the several trillion dollars spent annually in out-of-state retail transactions. The effort is known as the Streamlined Sales Tax Project (SSTP). The states have been implementing the agreement. Twenty-four states have adopted the simplification measures in the Agreement (representing over 33 percent of the population).

Under the bill, states that voluntarily are already or become Member States of the SSUTA would be able to require remote sellers to collect and remit sales and use taxes after 90 days. States that do not wish to become members of SSUTA would be allowed to collect the taxes only if they adopt certain minimum simplification requirements and provide sellers with additional notices on the collection requirements. The requirements are similar to but not as comprehensive as the conditions SSUTA Members have accepted.

The following states that have passed legislation to conform to the Streamlined Sale and Use Tax Agreement: Arkansas, Georgia, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Nebraska, Nevada, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Rhode Island, South Dakota, Tennessee, Utah,

Vermont, Washington, West Virginia, Wisconsin and Wyoming.

## **COMP TIME**

This week, the House is expected to consider the Working Families Flexibility Act of 2013, H.R. 1406. The legislation would amend the Fair Labor Standards Act of 1938 to allow employers to offer private-sector employees the choice of paid time off in lieu of cash wages for overtime hours worked.

Specifically, the bill:

\*Allows employers to offer employees a choice between cash wages and comp time for overtime hours worked. Employees who want to receive cash wages would continue to do so. No employee can be forced to take comp time instead of receiving overtime pay.

\*Protects employees by requiring the employer and the employee to complete a written agreement to use comp time, entered into knowingly and voluntarily by the employee. Where the employee is represented by a union, the agreement to take comp time must be part of the collective bargaining agreement negotiated between the union and the employer.

\*Retains all existing employee protections in current law, including the 40-hour workweek

and how overtime compensation is accrued. The bill adds additional safeguards for workers to ensure the choice and use of comp time are truly voluntary.

\*Allows employees to accrue up to 160 hours of comp time each year. An employer would be required to pay cash wages for any unused time at the end of the year. Workers are free to 'cash out' their accrued comp time whenever they choose to do so.

### ***DOWN THE ROAD***

The Senate majority is expected to consider an effort to increase the minimum wage this summer. S. 460, the Fair Minimum Wage Act of 2013 will be the legislative vehicle. The bill amends the Fair Labor Standards Act of 1938 (FLSA) to increase the federal minimum wage for employees to: (1) \$8.20 an hour on the first day of the third month after the enactment of the bill; (2) \$9.15 an hour after one year; (3) \$10.10 an hour after two years; and (4) the amount determined by the Secretary of Labor (based on increases in the Consumer Price Index) after three years, ***and annually thereafter.***

### ***MANUFACTURING REINVESTMENT ACT***

Representatives Rosa DeLauro (D-CT) and Adam Kinzinger (R-IL) have introduced H.R. 1737, the Manufacturing Reinvestment Account Act.

H.R. 1737 would enable manufacturers to open a manufacturing reinvestment account (MRA), similar to an individual retirement account (IRA) in a community bank. They would be able to make annual pre-

tax contributions of up to \$500,000 into these accounts, for a period of seven years. Funds withdrawn from the account could be invested in machinery, facilities, and job training.

For example, if a manufacturer contributes \$500,000 annually and the account earns interest at five percent, with a low 15 percent tax rate on amounts distributed from the MRA, after seven years the manufacturer would have approximately \$3.6 million to reinvest in their business. That amount is about \$1 million more than had the same amount initially been invested in a taxable account.

### ***SOFT BOILED OR HARD BOILED***

We will see a flurry of activity in the House this week on tax reform. The Joint Committee on Taxation will issue a report based on the work of various bi-partisan task forces created by the Ways and Means Committee. That will be followed by some hearings.

However, the real action will depend on the outcome of the discussion over another increase in the federal debt ceiling. The government was expected to bump up against the ceiling this month, but may not do so because of additional tax revenues in the first quarter. When it does hit the ceiling there are some technical ways the Department of Treasury can delay the need for an increase. As a result, we are dealing with a "soft" ceiling.

The hope among tax reform advocates is that the deal on the debt ceiling included a "hard" deadline for tax reform. If it does not, the motivation to complete tax

reform will probably soften. Until the debt ceiling debate is resolved, the tax reform activity is "going through the checklist" to get ready.

The day of debt ceiling reckoning is beginning to look more like a late summer rather than early summer event.