
M E M O R A N D U M

DATE: January 4, 2005
TO: City Council Members
FROM: Russell Weeks
RE: Utah League of Cities & Towns – Single-rate Sales Tax
CC: Cindy Gust-Jenson, Rocky Fluhart, Ed Rutan, Gary Mumford, Lynn Pace, Jennifer Bruno, Vicki Pacheco

Most of this memorandum is a brief summary of a discussion at the Utah League of Cities & Towns Legislative Policy Committee meeting held December 14 in North Salt Lake about potential legislation to implement a single statewide sales tax rate.

The key point of discussion at the meeting was a presentation by League tax policy consultant Roger Tew on a bill to reduce 92 different sales tax rates in Utah to a single statewide rate. The bill – as of January 4 – remained under preparation and was unpublished. Rep. Wayne Harper, R-West Jordan, is the bill’s sponsor.

The bill appears to be at least a partial response to Utah State government’s agreement to join the Streamlined Sales and Use Tax initiative. According to the Legislature’s Internet website, the Legislature enacted laws in its 2003 and 2004 general sessions to make Utah laws conform to the agreement. However, the Legislature called a special session last June to postpone the effective date of the laws until July 1, 2005, because “it became apparent that some of these new provisions could result in tax increases for some taxpayers and could also impose new compliance costs for some businesses.” According to the website, the Legislature has listed implementation of the tax initiative as a priority, and “may consider legislation to address some of the issues regarding these delayed provisions.”

The Streamlined Sales and Use Tax initiative is an agreement made by 31 states in November 2002 to simplify retail tax rates so they can tax Internet retail sales. According to the National Governor’s Association, the agreement “would establish uniform definitions for taxable goods, and would require participating states and local government to have only one statewide tax rate *for each type of product.*” (Italics – Council staff).

However, Congress would have to enact a law allowing states to tax Internet retail sales, and – to date – has not done so. Mr. Tew, in response to a question from Midvale Mayor Joanne Seghini, said the enactment of Rep. Harper’s bill would not guarantee that Congress will allow states to tax Internet retail sales. He said the states have an option of petitioning the Supreme Court if Congress does not authorize them to tax Internet retail sales.

Mr. Tew said the Legislature was certain to pass Rep. Harper’s bill. He said the upside to supporting the bill would be that Utah cities would have a voice in the bill’s final version.

Executive Director Mr. Bullock said cities would have the opportunity to “minimize the negative effects of the bill” and secure a consistent revenue stream.

According to League staff, the bill’s key points are:

- Taxes such as the resort community tax, the ZAP tax, the RAP tax, and the city/county rural hospital tax would be eliminated. The resort community tax would be replaced by a gross receipts business license tax.
- Sales tax earmarked for the Utah Transit Authority would be extended countywide in Utah, Cache, Tooele, Box Elder and Summit counties. In counties where there is no mass transit system, counties could enact a sales tax levy equal to the transit tax to pay for highway and road construction and maintenance.
- The single statewide tax rate would protect revenue streams that pay off bond debt such as the ZAP tax.
- The bill would contain a local option “hold harmless” provision for cities. However, the hold harmless provision would be a dollar figure instead of a percentage of sales tax revenue. The hold harmless provision also would expire “over time.” Ultimately, all sales tax levies would become part of general fund levies.
- League staff estimated that ultimately the local government share of sales tax would rise from 1 percent to 1.1 percent or 1.4 percent.
- While Rep. Harper’s bill does not address changes to the sales tax distribution formula, there has been some discussion about changing the formula. The current distribution formula of 50 percent point-of-sale and 50 percent population would remain and continue except for sales tax generated by new “big-box” retailers. Revenue from future big-box retailers would be distributed wholly by percentage of population.
- According to a League staff memo, “A consequence of a single statewide rate is that local governments will have for all practical purposes ceded future sales tax headroom to state government.” As a result, the bill might contain an “inflation adjustment” that would allow cities to adjust property tax revenue without holding a truth-in-taxation hearing within the level of the inflation adjustment.”

Reaction to the proposal was mixed, although Bountiful City Manager Tom Hardy guaranteed that no city would lose money if the Legislature passes the bill. Several committee members requested financial figures from League staff on the potential effect the bill would have. At the December meeting, the League’s Mr. Bullock and Mr. Tew said financial figures would be prepared as soon as some details of the bill are worked out and other points are negotiated. According to a League e-mail on Tuesday, the League is waiting for financial analyses from the Office of Legislative Research & General Counsel. Some information may be available at the Thursday briefing.

Issues/Questions for Consideration

The following is a list of questions the City Council may wish to consider in relation to the proposed bill:

- What are the upsides for Salt Lake City to support the bill?
- What are the downsides to Salt Lake City if the Legislature passes the bill?

- What specific items remain to be negotiated in the proposed bill, and who is involved in the negotiations?
- Who is supporting the bill to the point where its passage is assumed to be assured?
- Which specific business groups or other groups have endorsed or voiced support of this bill?
- Do the bill's supporters include: Governor Huntsman, the Association of Utah Counties, the Salt Lake County Council, County Mayor Corroon, and the Salt Lake Chamber of Commerce?
- What is the position of Salt Lake City's Administration in regard to the bill?
- What is the difference – if any – of a single statewide sales tax proposed in Rep. Harper's bill, and "one statewide tax rate for each type of product" contemplated under the Streamlined Sales Tax Agreement of 2002?
- The Legislature passed the streamlined sales tax as part of an effort to collect sales taxes from Internet sales. What is the likelihood that Congress or the Supreme Court will authorize states to collect sales taxes from Internet sales in the future?
- How will Utah and its cities be affected if Congress does not authorize states to collect taxes from Internet sales?
- How many Internet and mail order businesses are voluntarily complying with Utah's streamlined sales tax law now?

MEMORANDUM

To: The ULCT Legislative Policy Committee
From: Roger O. Tew, ULCT Tax Policy Consultant
Date: December 13, 2004
Re: 2005 Sales and Property Tax Legislation

Last month ULCT staff informed the ULCT Tax Team and the Legislative Policy Committee of possible legislation that would involve the sales tax and the impact on local government revenues. Representative Wayne Harper, who has spearheaded discussion efforts to date, appeared before the LPC to discuss the issues.

Rep. Harper indicated his primary objective was rate simplification – the elimination of multiple sales tax rates throughout the state. He indicated that he initially had thought in terms of reducing the current 92 different rates to 29 rates, or a single rate per county. However, in his opinion, the changes necessary to accomplish that goal were virtually the same as going to a single state rate. The need to address simplification is a significant matter as the state prepares to implement the Streamlined Sales Tax System (SST) on July 1, 2005.

The issue of how to distribute the local sales tax has also been a discussion item for several years. Although not directly related to SST implementation, questions over “zoning for dollars” have prompted some efforts to reexamine the current distribution formula. Rate simplification and tax distribution were also part of Gov. Walker’s recently announced tax overhaul plan.

Rep. Harper has now proposed legislation for the upcoming 2005 session to address these issues. The purpose of this overview is to provide an outline of the key provisions as they have most recently been discussed. Please note that Rep. Harper personally has not advocated inclusion of the distribution matters. However, if he were persuaded that agreement could be reached among the cities that he would include them in a comprehensive bill.

Therefore, a key component of the overall sales tax changes is the development of an "inflation" adjustment that be excluded from the truth-in-taxation process. Any increases above this inflation adjustment would still be subject to the current truth-in-taxation process.

Political Issues

Assessing the politics of any major proposal is always challenging. Earlier we addressed some of the major political considerations. The following information summarizes these concerns and some additional matters.

Additional Policy/Political Considerations

1. There is considerable support for moving forward with one-rate legislation.
 - General discussions with key legislators
 - Part of the Walker tax reform plan/one aspect of the plan that could be enacted this session without impacting state revenue. The legislature would like to do something.
 - Strong support from business groups
 - Able to provide simplification for in-state businesses
2. The SST legislation scheduled to take effect on July 1, 2005 mandates that the one-rate change be enacted during the 2005 legislative session.
3. If cities could defeat the proposal now could it be delayed indefinitely? If not are we able now to achieve other policies as part of the proposal at this time?
 - There appears to be a general consensus that raising the local option base rate is necessary now – will it be in the future?
 - The inflation adjustment for truth-in-taxation can be incorporated as part of a comprehensive proposal. It is unlikely that it can be passed standing alone.
4. The sales tax distribution proposal is generally within the parameters of the existing formula. In short – it is a targeted adjustment dealing with key criticisms of the current situation rather than a drastic overhaul.

Why is this Issue Being Considered?

There have been several very legitimate questions raised about why this issue is even being discussed at this time. In particular, is there a real need to deal with distribution matters as part of the single rate proposal?

Your answer to these questions depends entirely on your assessment of the political climate associated with these issues both in the short and long term. The first consideration is whether the entire subject, both single rate and distribution, can be deferred to provide further study. The staff view is that the single rate issue will go forward this session. There is wide support for the approach from business community. It was endorsed in the Walker proposal. Lastly, SST will start in July 2005. The single rate would need to be addressed this session.

The second question is whether issues surrounding distribution can be deferred until such time as cities develop their own distribution. In prior discussions, the general consensus was that the Utah Legislature would give us some time – but not defer examination of the issue indefinitely. Furthermore, the visibility of “big box” retailer issues will keep the distribution issue on the front burner. Simply put, if there is a need to address the matter in the near future anyway, do the political circumstances associated with the single rate argue moving forward now?

Lastly, are there some other taxation changes that cities have advocated for that could be incorporated into a comprehensive sales tax bill? One such item may be a truth-in-taxation inflation adjustment that cities, and other political subdivisions, have long argued is needed. There appears to be movement for support of such a provision provided the single rate and distribution issues could be addressed.

A Single State Rate Provision

Overview: There would a single statewide sales tax rate applicable to all transactions subject to sales tax. In order to accomplish this objective current “boutique” sales tax rates would be eliminated. The base local option rate would then be increased to provide a “hold harmless” revenue threshold for existing jurisdictions that currently impose the “boutique” levy.

Specifics

- “Boutique rates” to be eliminated include the resort community tax, ZAP/RAP tax, and the city/county rural hospital tax. The resort community tax would be replaced by a gross receipts business license tax.

- The current transit tax levy would be extended countywide in those counties where the transit levy currently does not operate countywide (Utah, Cache, Tooele, Box Elder and Summit). Non transit counties would be authorized to impose a sales tax levy equal to the transit tax to be used for highways.
- Administrative Issues: There is need to protect revenue streams currently funding bonded indebtedness i.e. ZAP tax. However, that protection would be provided within the single statewide rate.
- The "hold harmless" provision would be a dollar figure that over time would expire.
- The basic local option rate would be increased to a level needed to provide hold harmless revenue.

Local Option Distribution Provision

The current sales tax distribution component now associated with the 1% basic local option tax would be modified. The 50% point of sale/50% population formula would be retained. However, there would be adjustments to reflect a true 50-50 option. In addition, there would be provisions to deal with potential dislocations associated with mega-retail operations.

Specifics

- The 50%-50% distribution currently in statute would be retained. However, the current percentage "hold harmless" provision would be eliminated and replaced with a dollar figure. The most likely figure would be the hold harmless amounts for 2004. Eventually the value of the hold harmless would dissipate do to inflationary growth in the economy. The result would be all local sales tax revenues would now be distributed on a 50/50 basis.
- There would be a provision to deal with future large retail development. The language from Sen. Killpack's 2004 legislation would be used to define these retailers. Sales tax generated from these facilities would be distributed 100% by population.

Property Tax Changes

A consequence of a single statewide rate is that local governments will have for all practical purposes ceded future sales tax headroom to state government. Of necessity there will be a need for increased reliance on property tax. The current truth-in-taxation law contains incentives for taxing entities to avoid small, inflation-related property tax revenue increases. These increases are an inherent feature of sales and income taxes.



MEMORANDUM

To: Salt Lake City Council
From: Utah League of Cities and Towns
Date: January 6, 2005
Re: 2005 Sales and Property Tax Legislation

In November, ULCT staff informed the ULCT Tax Team and the Legislative Policy Committee of possible legislation that would involve the sales tax and the impact on local government revenues. Representative Wayne Harper, who has spearheaded discussion efforts to date, appeared before the LPC to discuss the issues.

Rep. Harper indicated his primary objective was rate simplification – the elimination of multiple sales tax rates throughout the state. He indicated that he initially had thought in terms of reducing the current 96 different rates to 29 rates, or a single rate per county. However, in his opinion, the changes necessary to accomplish that goal were virtually the same as going to a single statewide rate. The need to address simplification is a significant matter as the state prepares to implement the Streamlined Sales Tax System (SST) on July 1, 2005.

The issue of how to distribute the local sales tax has also been a discussion item for several years. Although not directly related to SST implementation, questions over “zoning for dollars” have prompted some efforts to reexamine the current distribution formula. Rate simplification and tax distribution were also part of Gov. Walker’s recently announced tax overhaul plan.

Rep. Harper has now proposed legislation for the upcoming 2005 session to address these issues. The purpose of this overview is to provide an outline of the key provisions as they have most recently been discussed. Please note that Rep. Harper personally has not advocated inclusion of the distribution matters. However, if he were persuaded that agreement could be reached among the cities that he would include them in a comprehensive bill.

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- Administrative Issues: There is need to protect revenue streams currently funding bonded indebtedness i.e. ZAP tax. However, that protection would be provided within the single statewide rate.
- The "hold harmless" provision for boutique taxes would be a dollar figure that would fulfill the bonding obligations associated with the various projects and then expire once bond obligations had been met.
- The basic local option rate would be increased to a level needed to provide hold harmless revenue.

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