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STREAMLINED SALES TAX PROJECT SSUT AGREEMENT SECTION ANALYSIS

STATE OF CALIFORNIA BOARD OF GOVERNANCE

Section: 308 (Exhibit I provides the complete language of Section 308 of the Streamlined Sales and Use Tax Agreement (SSUTA))

Title: State and Local Tax Rates

Summary

Conforming to SSUTA Section 308 would not require a change to California's Revenue and Taxation Code Sections (Statutes), regulations, or administrative policies or impact local taxing jurisdictions. California does not allow product or service based multiple sales and use tax rates at the state, local or district level.

Electricity, piped natural or artificial gas, or other heating fuels delivered by the seller, or the retail sale or transfers of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes are excluded from Section 308. Accordingly, states and local taxing jurisdictions could establish multiple sales and use tax rates for this property.

However, if California were to adopt Section 308, the state would be allowed to establish a single additional rate, which may be zero, on food and food ingredients and drugs as defined by the SSUTA. Local taxing jurisdictions are not allowed this option.

Description

SSUTA Section 308 requires that member states not have multiple sales and use tax rates on items of personal property and services after December 31, 2005, except for certain property.

States are allowed to establish a single additional rate, which may be zero, on food and food ingredients and drugs as defined by the SSUTA. Additionally, the provisions of this section do not apply to the sales or use tax levied on the following property:

- Electricity
- Piped natural, artificial gas or other heating fuels delivered by the seller
- Retail sales or transfers of:
 - Motor Vehicles
 - Aircrafts

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- Watercrafts
- Modular homes
- Manufactured homes
- Mobile homes

Related SSUTA Sections

Section 302: State and Local Tax Bases

Section 309: Application of General Sourcing Rules And Exclusions From The Rules

Related California Statutes and Regulations

Section 6051	Imposition and rate of sales tax
Section 6051.2	Imposition and rate of additional sales tax
Section 6051.3	Imposition of rate of additional sales tax
Section 6051.4	Conditions necessary for additional sales tax to cease
Section 6051.45	Operative date of tax
Section 6051.5	Imposition and rate of additional sales tax; Fiscal Recovery Fund
Section 6201	Imposition and rate of use tax
Section 6201.2	Imposition and rate of additional use tax
Section 6201.3	Imposition and rate of additional use tax
Section 6201.4	Operative date of rate increase
Section 6201.45	Operative date of tax
Section 6201.5	Imposition and rate of additional use tax; Fiscal Recovery Fund
Section 7202	Required provisions of county sales tax; credit for city tax
Section 7203	Required provisions of county use tax
Section 7203.5	Limitation; additional local sales and use tax; food products
Section 7261	Required provisions of the transactions tax
Section 7262	Required provisions of the use tax

Evaluation

Many states allow multiple sales and use tax rates for tangible personal property or services. A state may have a base sales and use tax rate of 6% for tangible personal property and have a reduced rate of 4% for specific food items. Many states also allow local taxing jurisdictions to establish multiple sales and use tax rates for certain tangible personal property or services.

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SSUTA Section 308 limits a member state's ability to establish a multiple sales and use tax rate on tangible personal property or services. Member states are only allowed a single additional sales and use tax rate for food and food ingredients and drugs as defined by state law and pursuant to the SSUTA. Local taxing jurisdictions, on the other hand, are not allowed the option of establishing an additional sales and use tax rate for food and food ingredients and drugs. There is no limit on multiple sales and use tax rates on electricity, piped natural or artificial gas, or other heating fuels delivered by the seller, or the retail sale or transfers of motor vehicles, aircrafts, watercrafts, modular homes, manufactured homes, or mobile homes.

Impact

Conforming to SSUTA Section 308 would not impact California. California sales and use tax law currently does not allow multiple sales and use tax rates at the state or local level. However, the adoption of Section 308 would allow the state to establish an additional sales and use tax rate for food and food ingredients and drugs, as defined. Additionally, the state and local jurisdictions could establish multiple sales and use tax rates for electricity, piped natural or artificial gas, or other heating fuels delivered by the seller, or the retail sale or transfers of motor vehicles, aircrafts, watercrafts, modular homes, manufactured homes, or mobile homes.

Section 308: State and Local Tax Rates

- A. No member state shall have multiple state sales and use tax rates on items of personal property or services after December 31, 2005, except that a member state may impose a single additional rate, which may be zero, on food and food ingredients and drugs as defined by state law pursuant to the Agreement.
- B. A member state that has local jurisdictions that levy a sales and use tax shall not have more than one local sales tax rate or more than one local use tax rate per local jurisdiction. If the local jurisdiction levies both a sales tax and use tax, the local rates must be identical.
- C. The provisions of this section do not apply to sales or use taxes levied on electricity, piped natural or artificial gas, or other heating fuels delivered by the seller, or the retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.