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RICHARD THOMPSON AINSWORTH

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The One-Stop-Shop in VAT and RST: Common Approaches to EU-US Consumption Tax Problems

In March 2004 the European Commission solicited comments on a proposal to simplify value added tax (VAT) obligations through a one-stop scheme.[1] The proposal was modest in scope. It was designed to build upon the success of a similar scheme[2] that dealt with non-EU established persons supplying digital products to non-taxable EU persons.[3] That scheme is found in Article 26c of the *Sixth VAT Directive*.[4]

In its March *Consultation Paper* the Commission proposed that businesses established within the EU be allowed to participate in a one-stop scheme that would be similar to the Article 26c scheme. Limited to B2C transactions, like Article 26c, this new scheme would encompass more than digital sales. After a five-month public comment period, ending in October 2004, the Commission proposed two Council Directives and a Council Regulation.[5] The October proposals far exceeded the vision of March *Consultation Paper*.

States in the US confront similar problems with respect to the retail sale tax (RST), as do Member States of the EU with the VAT. E-commerce, distance sales from non-resident sellers, and complex multi-jurisdictional reporting, audit and refund issues are problematical issues within and among the States. Not surprisingly, many of the EU and US solutions are the same. Although the US Constitution closes off some avenues that remain open in the EU,[6] there are other instances where what seems "new" in EU contexts, is an approach that has a long record of application in the States.

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[1] European Commission, *Consultation Paper: Simplifying VAT Obligations, The One-Stop System* (March, 2004) TAXUD/590/2004-EN. Available at: http://europa.eu.int/comm/taxation_customs/taxation/consultations/One_stop_en.pdf

[2] The proposal for the special scheme for digital sales can be found in COM(2000) 349 final at http://europa.eu.int/eur-lex/en/com/pdf/2000/en_500PC0349_02.pdf

[3] This scheme essentially applies only in B2C transactions where the B is a business located outside the EU (non-established in the EU) and the C is an individual purchasing electronic services for personal consumption within the EU. Although primarily directed at individuals, C in this instance could also be an exempt legal entity (non-taxable person), like a government department, university or hospital.

[4] *Sixth Counsel Directive* 77/388/EEC of May 17, 1977 on the harmonization of the laws of the Member States of the European Union relating to turnover taxes – Common system of Value Added Tax: Uniform Basis of Assessment (OJ L 145, 13.6.1977). Available at: http://europa.eu.int/eur-lex/en/consleg/pdf/1977/en_1977L0388_do_001.pdf

[5] COM(2004) 728 final. Available at: http://europa.eu.int/comm/taxation_customs/publications/official_doc/COM_728_en.pdf

[6] For example, the premise of the distance sales regime under Article 28b(B) of the *Sixth Directive* is that it is perfectly appropriate for tax to be collected at origin for sales of goods made to end users in other Member States, even though title, risk of loss and possession of the property passes outside the origin State. In the US this would violate rules set down by the US Supreme Court under the interstate commerce clause in Evco v. Jones 409 US 91 (1972). The opposite is also true. In the EU it is perfectly appropriate for a business established in one Member State to be required to collect and remit a destination-based VAT on sales to a customer in another State, even though the business is not established, or has no presence other than this sale, in that other State. This too would be a violation of the interstate commerce clause, as interpreted by the US Supreme Court in Quill v. North Dakota 504 US 298 (1992).

This paper contrast the one-stop-shop proposals in the EU with similar systems currently in use in the US, as well as with developments under the Streamlined Sales Tax Project (SSTP).[7] It concludes that there is much to be shared among consumption tax administrators it terms of designing systems that work effectively and efficiently in a technology-intensive age.

The EU's Expanding One-Stop scheme

So far there have been four distinct phases in the EU's one-stop-shop initiative: (1) the digital sales directive of Article 26c, (2) the limited one-stop-shop proposal set out in the March *Consultation Paper*, (3) the expansive one-stop-shop proposals of the October 29, 2004 proposals, and (4) the Commission's pull back from full implementation of a European one-stop scheme due in part to burdens "… dealing with the re-distribution of money received [which would require] … [d]eveloping the kind of major treasury function needed to handle the volume of money flows which would be inherent to a much wider application…"[8]

1. Article 26c

In the late 1990's the EU became concerned with digital products provided to EU customers by non-EU businesses. The primary issue was sourcing. The *Sixth Directive* was sourcing these supplies as services provided outside the EU, making them not subject to VAT, even though consumption (use and enjoyment) was occurring within the EU. Specifically, the sourcing issue was that the fall back rule of Article 9(1) provided that any service not covered in the series of exceptions that make up the rest of Article 9 was to be taxed where the supplier was located.

The solution worked out by the commission had technical and practical aspects. On the technical side, on May 7, 2002 electronically supplied services from non-EU businesses were added to the list of exceptions in Article 9(2)(e), and a special rule dealing with similar B2C transactions was added in Article 9(2)(f). Thus tax became due in the EU, because the source of the supply was within the EU.

Working out the practical aspect of this solution was more complicated. B2B transactions from non-EU suppliers, by far the largest part of e-commerce in monetary terms, were handled rather simply through the reverse charge procedure.[9] B2C transactions were another story. Because consumers do not file VAT returns (they are not "taxpayers" in VAT terms) a reverse charge procedure was not possible. The only solution for B2C sales from non-EU businesses was to require the non-EU business to collect and remit the tax.

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[7] The Streamlined Sales Tax Agreement and related documents can be found at: http://www.geocities.com/streamlined2000/

[8] COM(2004) 728 final, page 5. Available at: http://europa.eu.int/comm/taxation_customs/publications/official_doc/COM_728_en.pdf

[9] A reverse charge is a self-assessment obligation imposed on businesses purchasing taxable supplies. See: *Sixth Counsel Directive*, Article 21. Available at: http://europa.eu.int/eur-lex/en/consleg/pdf/1977/en_1977L0388_do_001.pdf

For those businesses willing to comply there were essentially two options: they could either (1) establish themselves in a Member State,[10] or (2) register in each Member State where they made taxable supplies.[11] Neither option was optimal. Although under the first option all digital sales would be sourced to the one EU jurisdiction where the business was established (Article 9(1)), the establishment process itself led to direct tax obligations. The formerly non-EU business would become a real EU business for tax and regulatory purposes. The second option also had disadvantages. Under this option a business could conceivably be required to register in 25 Member States, file 25 sets of VAT returns, and do so in as many as 20 different languages. Sourcing of sales under this option would be destination-based.

Article 26c was adopted to provide a third alternative. This was a one-stop-shop option. It allowed non-EU established businesses to select a single "Member State of identification" where they could be registered, but not be established, under a simplified arrangement. VAT from sales made throughout the EU would be determined on a destination-basis using the rates and rules of the jurisdiction where the customer resided. However the VAT collected on these sales would be paid over to the Member State of identification on a single electronic return. That tax administration was in turn obligated to redistribute the VAT to appropriate jurisdictions. Everything was required to be performed electronically.

2. The Consultation Paper (March, 2004)

The Commission's *Consultation Paper* was designed to do just a little bit more than leveling the playing field. With respect to distance B2C digital sales EU businesses were to be put in exactly the same position as non-EU businesses. With respect to non-digital distance sales EU and non-EU businesses were to be treated equally. The *Consultation Paper* suggested that any businesses selling products (digitized or otherwise) directly to EU end users in a Member State where they were not established were to be allowed to file under this new one-stop-shop procedure.

Thus, the Commission's proposal was limited. This new one-stop scheme was to be "… primarily concerned with persons carrying out taxable activities in a Member State where they are not established … restricted to B2C transactions, [and] … available to all non-EU [as well as EU] businesses (even those not engaged in e-commerce) …"[12]

Two distinct one-stop schemes were envisioned. Participants in the Article 26c scheme were excluded from this new scheme, even though differences between the schemes were minimal. Both schemes mandate fully electronic registration and filing.

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[10] In this instance the place of supply of digital services would be the Member State where the supplier is established. (Article 9(1)). However, it would subject the business to direct taxation in that state.

[11] In this instance the place of supply of digital services would be where the customer resides (Article 9(2)(f), a circumstance that might require registration and the filing of returns in as many as 25 States. (Article 21).

[12] Although not clearly stated in the *Consultation Paper* it appears that non-EU established persons would have to become established to participate. European Commission, *Consultation Paper: Simplifying VAT Obligations, The One-Stop System* (March, 2004) TAXUD/590/2004-EN, page 3. Available at: http://europa.eu.int/comm/taxation_customs/taxation/consultations/One_stop_en.pdf

The two significant differences between the schemes concern the identification numbers used and the transfer of funds. Under the *Consultation Paper's* one-stop-shop traders would use VAT numbers already issued to them by their Member State of establishment, whereas under the Article 26c scheme businesses were provided a special EU number, a numeric code prefaced with a two digit alpha-identifier "EU…" Additionally, under Article 26c the Member State of identification was obliged on behalf of registered taxpayers to re-allocate VAT receipts transferred to them to the states where the sales occurred. Under the *Consultation Paper* proposal there would be no assistance with fund transfers.

Business response to the *Consultation Paper* was overwhelmingly positive. Businesses outside the EU[13] as well as within the EU[14] welcomed it. Differences were mostly attributable to perspective. Americans tended to express confidence in the one-stop system based on experiences with Article 26c, as well as with similar one-stop schemes in the US. Europeans on the other hand tended to urge expansion of the one-stop system into domestic and B2B transaction based on what they saw as a simplification that worked, but had been unfairly open only to foreigners.

3. Furthering the One-Stop Scheme: Proposing Two Directives and a Regulation (October 29, 2004)

It is apparent that the Commission was listening to business. The October 29 proposals derived from the *Consultation* are brief, but breathtakingly wide-ranging in business impact. If adopted in full they will fundamentally change the way a large portion of EU cross-border transactions are taxed.

There are six distinct components (each of which will be considered below): (a) a new one-stop scheme targeting established EU businesses involved in cross-border sales into Member States where they are not established, (b) an additional one-stop-shop for refunds under the *Eighth Directive*,[15] (c) a simplification/ limitation on tax blocking rules, (d) an extension of the reverse charge mechanism into additional services areas, (e) a redefinition of what constitutes a small business, and (f) a simplification of the distance sales scheme.

The key to appreciating how the limited proposals of March became the wide-ranging proposals of October is to follow the chain of issues that flow from the decision

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[13] See for example the response of Taxware LP summarizing the positive response of many American businesses to the Article 26c one-stop scheme and urging continued expansion of the system. Taxware LP is a leading transaction tax compliance software and service provider for global VAT and RST solutions. Available at: XXXXXXXXXXXXXXX

[14] See for example the response of Eurochambres, *Position Paper 2004: Simplifying VAT Obligations: the One-Stop System.* Eurochambres is a 17 million-member business organization that is the sole European body serving the interests of every sector and every size of European business. Available at: http://www.eurochambres.be/PDF/pdf_position_2004/VAT%20One-Stop-Shop.pdf

[15] *Eighth Council Directive*, 79/1072/EEC of December 6, 1979 on the harmonization of the laws of the Member States relating to turnover taxes – Arrangements for the refund of value added tax to taxable persons not established in the territory of the country OJ L 331, 27.12.1979, page 11.

to include B2B transactions within the scope of what had been an exclusively B2C one-stop-shop scheme. Much like pulling a loose thread from the sleeve of a sweater, once B2B transactions are considered, then rules relating to both refund procedures and cross-border small businesses sales need to be mended as the workability of a number of older rules begin to unravel.

Refund procedures. Refund procedures under the *Eighth Directive*[16] have long been a recognized problem. In June of 1998 the Commission proposed a "cross border deduction" to resolve many of the issues, but in six years the Council has not found a way to agreed on implementation.

When the Commission decided to consider B2B transactions within the context of a one-stop scheme the old issues around refund procedures were swept into the discussion. This was not an issue in the B2C context of Article 26c. Those sales transactions involved downloading digital content from Internet sites. In a B2C context these kinds of transactions would generate only output VAT obligations for B. In the vast majority of cases, B would not be making related purchases in C's state. Thus, B2C sales, which were the exclusive target of Article 26c, rarely involved refunds.

However, cross-border B2B activities are a different story. B2B transactions are frequently part of significant, on-going business relationships. It is easy to anticipate these kinds of transactions will involve significant purchases as well as sales in the destination state. This is a context where a one-stop-shop would not achieve true simplification if it did not deal with refunds as well as net VAT payments.

Thus, including B2B transactions led to consideration of refunds. To answer the questions raised (without simply re-proposing the cross border deduction idea) the Commission proposed an additional one-stop-shop scheme dedicated to mitigating refund problems by streamlining existing processes.

Expanding the reverse charge mechanism. In domino fashion, streamlining refund procedures opened the door for yet another simplification. This one involved an expansion of the reverse charge mechanism in certain service areas.

Small businesses and distance sales. The new one-stop-shop proposals are expected to be overwhelmingly popular with small businesses making distance sales. To facilitate wide usage by this business segment the Commission went further and proposed changes that involved the definition of small businesses as well as how the distance sales scheme operates under Article 28b(B).

(a) A Second One-Stop Scheme:
Established EU Businesses making B2B or B2C supplies
in Member States where they are Not Established.

[16] COM(1998) 377 final. OJ C: 219/16 15.7.98. Available at: http://europa.eu.int/eur-lex/pri/en/oj/dat/1998/c_219/c_21919980715en00160019.pdf

The October 2004 proposal would amend the *Sixth Directive*, adding a new one-stop-shop scheme at Article 22b. The scheme is elective, and available for taxable persons, established in one or more Member States that are making supplies of goods or services into one or more other Member States where they are not established. Businesses participating in the one-stop scheme for digital goods, Article 26c, are excluded from the Article 22b scheme.

Where Article 26c is concerned with non-established taxable persons, Article 22b is concerned with taxable persons established in at least one Member State. Both schemes are paperless, fully electronic. Like the scheme under Article 26c, the Article 22b scheme allows one return to be filed for all transactions in non-established States. That return is filed with its Member State of establishment. A harmonized set of compliance rules covers the content and frequency of the return.

Unlike the Article 26c scheme, all tax transfers under proposed Article 22b will be done directly. The Member State of establishment will not redistribute funds for the taxpayer. Each taxable person must make payments directly to each Member State of consumption. National rules governing declaration periods, as well as various payment and refund rules must still be complied with on a country-by-country basis.

Summary Comparison: Article 26c and Proposed Article 22b One-Stop-Shops

	Article 26c Digital Sales	**Article 22b Established business One-Stop Schemes**
Taxpayers	Non-EU established businesses only.	Established EU businesses only.
Customers	Non-taxable end users only (B2C).	All purchasers (B2B and B2C).
Identification number	Special EU number. For example, “EU1234567.”	The VAT number already issued by the Member State of establishment.
Goods/ services	Only digital products.	All goods and services.
Returns	One return, filed with the Member State of identification. Return may only be submitted electronically.	
Payment	One payment, made to the Member State of identification and redistributed on the taxpayer’s behalf to the Member State(s) of consumption.	Separate payments made directly to each Member State of consumption by the taxpayer.
Refunds	Not anticipated to be significant. Special refund rules applicable under Directive 86/560/EEC.	Special scheme for refunds also proposed.
Number of taxpayers involved	1,000	250,000

(b) A Third One-Stop Scheme: Refunds Under the Eighth Directive

The Commission has long considered the *Eighth Directive* to be troublesome. It has been a major concern of businesses. The *European Tax Survey*, completed in the later half of 2003 indicated that 53.5% of large companies had not requested VAT refunds in some instances, simply because of complexities or the length of time that procedures took.[17]

Although the Commission still believes that the cross-border deduction proposal[18] it made in 1998 is the correct way to resolve problems with EU VAT refunds, it also believes that, in the short term, a dedicated one-stop-refund system could make significant improvements in the current system.[19] Aspects of the refund process that would not change under the Commission's proposal include:

- Refund requests would continue to be handled by the Member State where the expenses were incurred, not the Member State where the taxpayer is established and one-stop refund request is made.
- Deduction rules of the Member State of consumption would continue to apply to the refund.
- Repayment would be made directly by the Member State of consumption to the taxpayer.

The one-stop-refund-shop proposal would make changes in the fiscal administration of each Member State. A web-based refund portal would be required to be part of each Member State's web page through which EU-wide electronic refund requests could be presented. The portal would be open only to businesses established with that Member State who are seeking refunds from Member States where they are not established. Original invoices or import documents would not be required. Only relevant information to the refund itself would be recorded and sent electronically. The refund request would be forwarded to the Member States of refund on behalf of the taxpayer. The Member State of establishment would be required to verify the taxpayer's status, confirming that it is an active taxable person.

Two measures to increase the speed of refund actions are also proposed: (1) a three-month deadline for government action on a refund request is proposed, after this time a request could no longer be denied,[20] and (2) any refunds made after this three

[17] Commission of the EU, *Commission Staff Working Paper: European Tax Survey*, SEC(2004) 1128/2, October 9, 2004, at page 4. Available at:
http://europa.eu.int/comm/taxation_customs/publication/working_doc/working_doc.htm

[18] Under the cross-border deduction proposal a business established in one Member State would be allowed a deduction for input VAT paid to another Member State where it was not established.

[19] COM(2004) 728 final, page 7. Available at:
http://europa.eu.int/comm/taxation_customs/publications/official_doc/COM_728_en.pdf

[20] See Article 7(5) of the modified *Eighth Directive*. At: COM(2004) 728 final, page 30. Available at:
http://europa.eu.int/comm/taxation_customs/publications/official_doc/COM_728_en.pdf

month period would carry with it a 1% per month interest charge, based on the amount of the refund, and running from the day the refund was first due.[21]

(c) Simplification/ Limitation of Tax Blocking: Further Facilitating the Refund One-Stop-Shop

Member States have the authority to deny VAT refunds on certain goods and services. Conflicting rules developed because the *Sixth Directive* lacks clear definitions, and the existing rules have been locked in place by the standstill provision of Article 17(6). The Commission proposed an alignment of these rules in 1998,[22] but met with resistance due to the budgetary impact.

In this part of the October proposals the Commission seeks to standardizing the scope of the tax blocking rules, and thereby reduce the complexity of refund requests. The Commission would limit tax blocking to:

- motorized road vehicles, boats and aircraft,
- travel, accommodation, and food and drink, and
- luxuries, amusements and entertainment.

Within these categories business will then be aware that special tax blocking rules might apply in a Member State. Out outside of them businesses should expect to apply normal refund rules.[23] This proposal facilitates the functioning of the one-stop scheme for refunds.

(d) Reverse Charge for More Services: Further Facilitating the Refund One-Stop-Shop

The reverse charge mechanism leads to requests for refunds. When customers self-assess, VAT suppliers collect no output VAT. If input VAT is paid in the Member State of consumption suppliers are caught without offsetting output VAT amounts and are then forced to apply for refunds. However, if the one-stop scheme for refunds could streamline the refund process, then the Commission saw that the door to expansion of the reverse charge mechanism was opening.

Thus, the Commission proposed mandatory use of the reverse change mechanism in three supplies of services: (1) a charge for services which are related supplies of goods which are installed or assembled by or on behalf of a supplier by a non-established person, (2) a charge for services related to immovable property by a non-established person, and (3) a charge for services covered by Article 9(2)(c) of the *Sixth Directive* by a non-established person.[24]

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[21] See Article 8 of the modified *Eighth Directive*. At: COM(2004) 728 final, page 30. Available at: http://europa.eu.int/comm/taxation_customs/publications/official_doc/COM_728_en.pdf

[22] COM(1998) 377 final. OJ C: 219/16 15.7.98. Available at: http://europa.eu.int/eur-lex/pri/en/oj/dat/1998/c_219/c_21919980715en00160019.pdf

[23] This would be accomplished by eliminating Article 17(6) of the *Sixth Directive* and thereby limiting tax blocking to goods and services listed above in a proposed Article 17a.

[24] These activities are:

- cultural, artistic, sporting, scientific, educational, entertainment or similar activities, including the activities of the organizers of such activities, and where appropriate, the supply of ancillary services,

(e) Standardizing the definition of small business

The Commission proposes to standardize the maximum sales threshold for small business status at 100,000 euro.

(f) Simplifying the Special Scheme for Distance Sales:

Article 28b(B) is a special scheme for distance sellers of goods. Under destination principles cross-border sales of goods are normally taxed in the Member State of arrival. Article 28b(B) provides an exception. Cross-border sales of goods are taxed at origin if the total supply of goods into the Member State of arrival in the previous calendar year was less than 100,000 or 35,000 euro. Member States can elect either threshold in national legislation. This is a scheme tailored to small businesses.

These businesses are also expected to make use of both the Article 22c one-stop-shop and the streamlined refund one-stop-shop. The Commission wanted these businesses to take full advantage of these schemes as they grew, but felt that compliance with multiple Article 28b(B) thresholds was burdensome. Thus, the Commission proposed the elimination of variable, state-by-state distance sales thresholds, and replacement with a single Community-wide threshold set at 150,000 euro.

4. The Commission Pulls Back from Full One-Stop-Shop Implementation

The fourth phase of the Commission's experimentation with one-stop-shops is a retreat. Both of the new one-stop-shops are a retreat from full implementation of the concept. The retreat is caused by concerns of "… dealing with the re-distribution of money received." Comprehensive one-stop-shop functionality requires, "… [d]eveloping the kind of major treasury function needed to handle the volume of money flows which would be inherent to a much wider application…" and the Commission feels the EU is not ready for this next step.

This was not the case with the Article 26c one-stop-shop. Under the digital sales scheme funds are transferred by the Member State of identification on behalf of taxpayers. However, neither of the new one-stop-shops will do this. The experience with approximately 1,000 taxpayers under Article 26c has convinced the Commission that full implementation would be a strain on the resources of EU tax administrations. Over 250,000 businesses are expected to take advantage of the proposed Article 22b and *Eighth Directive* schemes.

The Comparative One-Stop-Shop Inquiry

Has the EU gone as far as it can? Most one-stop-shops in the US are far more comprehensive than any of the EU one-stop-shops. Could the EU benefit from the US experience? Many of the US one-stop-shops are easily administered by state governments, and most provide this service free of charge to local tax administrations. Could the EU do the same? Some states, California and New Mexico for example, have

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- ancillary transport activities such as loading, unloading, handling and similar activities,
- valuations of movable tangible property,
- work on movable tangible property.

devised reimbursement schemes. Is there an experience in the pay-as-you-go one-stop-shops in the US that could be useful to EU officials?

The US is experimenting still further with a private sector one-stop-shop in the SSTP. The EU appears to be following, but not adopting the underlying concepts that make this idea workable. Is there more to learn in this area? Are there reasons that prevent a comparative legal analysis of the tax administration systems of EU and US consumption tax systems?

In none of the EU materials, not in the digital sales one-stop-shop, not in the non-established business one-stop-shop, not in the refund one-stop-shop is there any mention of the extensive use of the one-stop-shop concept in the US retail sale tax area. This is in spite of the fact that the 30 states that operate one-stop-shops do so for far more than the 25 jurisdictions that encompass the European Union. Texas alone, for example, runs a one-stop-shop for a staggering 1,270 jurisdictions.

Key Attributes of the EU One-Stop-VAT-Shops

Issue	EU-VAT
1. Limitations on the types of taxpayers who can use the one-stop-shop.	*Article 26c*: limited to B2C digital sales made by non-established EU taxpayers *Article 22b*: Limited to established EU taxpayers making B2B or B2C sales into jurisdictions where they are not established. *Eighth Directive*: Limited to established EU taxpayers making B2B or B2C sales into jurisdictions where they are not established.
2. Single return	*Article 26c*: voluntary use of single return filing *Article 22b*: voluntary use of single return filing *Eighth Directive*: voluntary use of local jurisdiction refund system (electronic portal)
3. Electronic filing	*Article 26c*: mandatory *Article 22b*: mandatory *Eighth Directive*: voluntary
4. Electronic payment	*Article 26c*: mandatory *Article 22b*: not possible *Eighth Directive*: not applicable
5. Refund functions	*Article 26c*: outside scope *Article 22b*: outside scope *Eighth Directive*: simplified electronic refund applications processed through single electronic portal
6. Audits	*Article 26c*: outside scope *Article 22b*: outside scope *Eighth Directive*: outside scope
7. Re-allocation of taxes among jurisdictions	*Article 26c*: yes *Article 22b*: outside scope *Eighth Directive*: not applicable

The One-Stop-Shop in the US

The one-stop-shop concept has a long history in the US. With 7,588[25] discrete RST jurisdictions in the US imposing tax on non-harmonized bases, with non-uniform rates, and a mix of destination and origin based systems, the need for one-stop-shop solutions in the US has always been great.

The US one-stop-shops are state level solutions that are fully comparable with the national level one-stop-shops developing in the EU. Even though EU VATs are national level taxes, and the US RSTs are sub-national (state and municipal level) taxes,[26] both theoretical and administrative workability issues of the one-stop-shop principle are the same for both systems.

EU VATs and US RSTs are both transaction-based consumption taxes. The EU VAT is a multistage version of what US RSTs accomplish at a single stage. In general EU VATs function on broad base, taxing most all goods and services. US RSTs are generally narrower, taxing primarily goods with services included only selectively.

Tax administrations in both the EU and US see one-stop-shops as a way to ease taxpayer compliance burdens. From the EU perspective it was e-commerce that brought this scheme to the forefront of tax policy debates. Digitized products were escaping tax primarily in B2C transactions where B was located outside and C was located within the EU. From a US perspective it was the sheer number of competing, non-harmonized taxing jurisdictions that brought one-stop-shops into policy discussions.

In the sections that follow, this paper will present four major topics. (1) An overview of the use of the one-stop-shop concept in the US. (2) An overview of electronic filing options currently in use by the one-stop-RST-shops. Attention will be paid to (a) return filing, and (b) payment methods. (3) A representative examination of specific one-stop-RST-shops that will cover (a) the range of tax design types (origin and destination based RSTs), (b) comprehensiveness of the one-stop-RST-shop (states where all RSTs are filed centrally through the one-stop-RST-shop as well as states where only some RSTs are centralized while others are independently administered), and (c) the various electronic filing systems (extensible markup language – XML; electronic data

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[25] This figure is based on a recent count with the best available information, and represents 46 state level jurisdictions (including Washington, D.C.), 1,732 counties, 5,571 cities, and 229 districts. At one extreme is Texas with 1,370 taxing jurisdictions (124 counties, 1,141 cities, and 104 districts in addition to the state itself), and at the other extreme are states like Connecticut, Hawaii, and Maine where there is only one taxing jurisdiction at the state level.

[26] From time to time there have been proposals for a national level RST in the US. In these proposals a major concern is with State-Federal cooperation/ coordination, because all level of government would now be sharing the same tax base. Representatives Linder and Peterson introduced the Fair Tax Act of 1999, which would impose a federal RST. It would be state administered. (H.R. 2525, Fair Tax Act of 1999, 106th Cong., 1st Sess., 145 Cong. Rec. H5571 (July 13, 1999). Previously, Congressman Schaefer introduced the National Retail Sales Act of 1996. This tax was to replace the income tax. The Internal Revenue Service was to be abolished and the states would be asked to administer the tax, with the Treasury stepping in where a state did not have a RST. (H.R. 3039, 104th Cong., 2d Sess., 141 Cong. Rec. H 1775 (March 6, 1996).

interchange – EDI; Internet based). (4) A look at the Streamlines Sales Tax project (SSTP), and its contribution to the one-stop-RST-shop in the US.

(1) US Overview: The RST One-Stop-Shops

Examples of multi-jurisdictional one-stop-shops abound in the US. Many have been in effect since the 1950's. In 34 of the 45 states that impose a state level RST, the local jurisdictions (counties, districts, and cities) impose an RST of their own.[27] Variances are common between states, among local jurisdictions within the same state, as well as between the local jurisdictions and the state itself. Rates vary as do the tax bases. Differences are derived from political decisions about the acceptable scope of taxation. The US one-stop-shops facilitate rather than homogenize this diversity.

In 25 of these 34 states[28] a one-stop-shop operates to collect the RST for all local jurisdictions. These one-stop-shops redistribute taxes collected from the taxpayer to each locality according to where consumption occurred (in the instance of destination-based RSTs) or where the sale occurred (in the instance of origin-based RSTs). This redistribution is accomplished in all instances with unitary taxpayer identification numbers and reporting requirements. Some one-stop-shops allow filing only with traditional paper forms. Others allow the taxpayer to elect to file either on paper or in an electronic format. Still others make electronic filing mandatory.

In 5 states[29] there is a combined system where a one-stop-shop is in use for some jurisdictions, while other jurisdictions have autonomous local collection.

The only US jurisdictions where there are local RSTs without a one-stop-shop to facilitate compliance are the four states of Alaska, Idaho, Louisiana, and Vermont. Of these states, Alaska is a special case. In Alaska there is no state level RST. All RSTs are locally controlled and administered.

Spectrum of One-Stop-Shop Jurisdictions in the US

State and Local RST All RSTs Centrally	State and Local RST Central & Local	State and Local RTS All Independently	Only Local RTS All Independently

[27] In the 9 other states (Connecticut, Hawaii, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Jersey, Rhode Island, and West Virginia, as well as the District of Columbia) there is only a state level RST, and no need for a one-stop-shop. There are some limited exceptions to this rule. In these cases no one-stop-shop functions to facilitate compliance. Some counties in Indiana are authorized to levy miscellaneous local taxes on specified transactions. *Illinois Code* 6-9-34-1. In Mississippi even though general sale taxes at the local level are not permitted, some counties and cities are permitted to impose hotel-motel occupancy and taxes on restaurant sales. *Miss. Code Ann.* § 27-65-73. In New Jersey only Atlantic City imposes a local levy on specific types of retail sales. *New Jersey Statutes Annotated*, Section 40:48-8.15. In Rhode Island an additional 1% levy is added to meals and beverage sales for local use. *General Laws of Rhode Island*, Section 44-18-19.1. Effective on July 1, 2005 a general sales and use tax may be imposed by municipalities in West Virginia. *West Virginia Code*, Section 8-13C-6.

[28] The 25 states are: Arkansas, California, Florida, Georgia, Illinois, Iowa, Kansas, Missouri, Nebraska, Nevada, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, and Wyoming.

[29] The 5 states are: Alabama, Arizona, Colorado, Minnesota, and Wisconsin.

Administered	Administration	Administered	Administered
25	5	3	1
Full One-Stop-Shop	Partial One-Stop-Shop	No One-Stop-Shop	No One-Stop-Shop

(2)(a) US Overview: Electronic Return Filing Options in the US One-Stop-Shops[30]

Although most US systems are voluntary, a growing number of states are making electronic filing mandatory.[31] Efforts are underway through the Streamlined Sales Tax Project (SSTP) to harmonize data exchange methodologies for exchange of information purposes as well as for electronic payment and e-file reporting capabilities. At the present time the three main electronic solutions are: extensible markup language – XML, electronic data interchange – EDI, and Internet based.

XML (extensible markup language): XML is a newer technology and one that shows promise of coming closest to the goal of a universal language for electronic commerce. In XML, a "tag" is attached to each data element within a transaction, giving information concerning both the semantic meaning of the data element itself, but also its structure within the tax-reporting document. Because the "tags" are not pre-determined by any generic XML standard, XML is "extensible"- meaning that the user may extend the language through the definition of any document. A tax return document definition may be transmitted along with the data or stored in a database. The databases would be that of the taxpayer and the tax administration.

XML capability is built into leading Internet browsers. Taxpayers with Internet access and a browser can 'interpret' XML by linking to the database server containing the document definition. An XML transmission can be associated with a "style sheet" indicating how the data is to be displayed and manipulated. Thus, XML allows the taxing authority to create an Internet filing application, control how the taxpayer interacts with

[30] Federation of Tax Administrators, *Electronic Commerce Best Practices*, (under annual review and updating). Available at: http://www.taxadmin.org/fta/edi/newecbp.html

[31] Eleven states have mandatory e-filing and e-payment systems in place for some or all of their consumption taxpayers. In Alabama as of October 2003, all filing is required to be either electronic or by phone (http://www.ador.state.al.us/salestax/EFileInfo.htm). In Connecticut electronic filing is mandatory if annual liabilities exceed $100,000. (http://www.drs.state.ct.us/electronicservices/fastfiling.htm). In Florida all zero returns must be filed electronically as well as the returns for filers who have in excess of $30,000 in annual liability in the prior year. (http://www.state.fl.us/dor/forms/dr15inst.html). In Louisiana businesses with liabilities in excess of $20,000 must pay by EFT. (http://www.rev.state.la.us/sections/eservices/default.asp#efbt). Minnesota has a mandatory electronic filing system for everyone. (http://www.taxes.state.mn.us/efiling/egs/sales_internet.html). Missouri has a mandatory e-filing system for all taxpayers who had in excess of $15,000 in liability in 6 of the previous 12 months. (http://www.dor.mo.gov/tax/business/payonline.htm). New Jersey has a mandatory e-filing system for all taxpayers. (http://www.state.nj.us/treasury/taxation/). New York has a mandatory e-filing system, called Propfile, for taxpayers with liabilities in excess of $500,000 annually. (http://www.tax.state.ny.us/prompt/Sales_Tax/sttoc00.htm). Oklahoma has a mandatory e-filing program for taxpayers with in excess of $100,000 in liability per month. (http://www.oktax.state.ok.us/oktax/quicktax.html). In Texas electronic filing is mandatory for filers with a past year sales tax liability of $100,000 or more. This filing must be through EDI if there are more than 30 Texas locations. (http://www.window.state.tx.us/webfile/index.html). Utah requires taxpayers with liabilities in excess of $96,000 to e-file. (http://www.tax.ex.state.ut.us/sales/salestaxonline.html).

the application through the browser, and specify unambiguously the meaning and structure of the data within the tax return.

The State of California currently offers sales and use tax filing over the web using XML.[32]

EDI (electronic data interchange): EDI is a computer application to computer application system. Information is transmitted in standardized format. Consensus bodies set EDI standards. EDI is best used in the following situations:

- Large volume transmitters (EDI is very receptive to large data volumes)
- Self-programmers
- Third-party bulk filers
- Batch applications (where real time responses are not expected)
- Industry segments (where a large EDI commitment has been made)

Prior to the emergence of new electronic technologies to transact business, EDI was the best way for a business to reduce its paper processing cost, as well as the costs, errors and time delays associated with data entry. Large corporations, their customers and suppliers implemented EDI in the mid-1980's and 1990's. The use of EDI for tax filing was a natural extension.

One of the drawbacks to EDI is that specialized software is needed to translate normal business records into EDI format for transmission. Small and mid-sized businesses saw this as a barrier for tax filings. Thus, software vendors[33] and tax administrations[34] developed applications that made EDI a viable option for these businesses. Because the EDI technology is embedded in the tax filing software, no knowledge of the technical specifications involved in creating an EDI-formatted data file are needed.

An additional barrier to EDI concerns the transmission of the tax data from the taxpayer to the tax authority. EDI has traditionally made use of the "value added network" (VAN) for data transmission. Both the tax authority and the taxpayer must maintain a "mailbox" provided by the VAN. The taxpayer transmits EDI tax filings to the tax authority's mailbox, and receives acknowledgements in the taxpayer's mailbox. The VAN has advantages and disadvantages. The advantage is that the tax authority needs to maintain only one communications interface. It does not have to maintain communications lines to support a large volume of taxpayer calls, nor does it have to

[32] For California's acceptance of XML filing see: http://www.boe.ca.gov/elecsrv/efiling/srvprovider.htm

[33] For example, the State of California offers taxpayers the ability to file through two companies that are electronic returns operators. Participation is voluntary. See: http://www.boe.ca.gov/elecsrv/efiling/srvprovider.htm
Booklet (68 pages) explaining the California system is available at: http://www.boe.ca.gov/elecsrv/efiling/erocont.htm

[34] For example the State of Indiana's e-filing system, called "Trust File," involves a software program that is offered free of charge. Participation is voluntary. See: http://www.in.gov/dor/electronicservices/insite/btef.html. A similar program is available with a state provided program for businesses in Kansas, see: http://www.ksrevenue.org/rcuwebfile.htm

support a variety of communications speeds and protocols. The VAN also enforces the security of the transmissions. However, VAN costs generally include not only the monthly mailbox fee, but also the costs of the toll calls and a per-character transmission charge. To overcome this some tax administrations pay the toll and transmission charges for taxpayers. For these reasons, the Internet is now being considered as a low cost alternative to the value added networks.

The States of Florida[35] and South Carolina[36] require sales and use taxpayers who would like an EDI filing option to join the Easy Link Value Added Network.

Internet-based filing: There are two basic approaches to tax filing over the Internet: (a) interactive filing and (b) batch filing.

In interactive filing, the taxpayer interacts directly with a web-based application. Tax filing is completed online. When the information is complete, the taxpayer submits the filing for processing. Payment information, such as bank accounts for direct debit payments or direct deposit of refunds, or credit card information, may be combined with the tax filing application.

Within the interactive method there are two alternative technologies. In one, the taxpayer interacts directly with the web server hosted by the tax authority or a third party, with only a web browser on the taxpayer's machine. A variety of taxpayer hardware and software configurations can be accommodated with a single host application. However, the taxpayer needs to remain connected to the host website throughout the entire transaction.

The second alternative has the taxpayer download tax preparation software from the website to the taxpayer's machine. The taxpayer completes the filing offline, then reconnects to the host website to upload the completed filing. Under this method the taxpayer can store the filing for future reference, and can interrupt a filing for other activities, and return to it at a later time. However, the tax administration will need to accommodate various versions of the software to match taxpayer hardware and software configurations, and may need customer support staff to aid downloading and installation processes.

In Internet batch filing, the Internet is simply utilized as the network over which a tax filing is transmitted. The tax filing is created offline as a data file. For very large data files the file transfer protocol (FTP) is preferred. Since FTP requires special software and some knowledge of computer transmissions, it may not be the best method for smaller returns and smaller businesses or individuals. Attaching a return as an e-mail attachment is another option. Both FTP and e-mail methods raise security as well as quality of service and confirmed delivery concerns. Various encryption protocols offer solutions.

[35] Florida's Easy Link VAN is explained at: http://www.state.fl.us/dor/forms/dr15inst.html
[36] South Carolina's Easy Link VAN is explained at: http://www.sctax.org/Electronic+Services/default.htm

The State of Kansas[37] uses FTP for state and local sales and use tax filings currently, but only allows zero returns to be filed over the Internet.[38]

(2)(b) US Overview: Electronic Tax Payment and Refund Options in the US One-Stop-Shops[39]

There are three options for electronic payments associated with tax returns filed electronically: ETF via ACH, credit card and direct deposit mechanisms.

ETF via ACH: The form of electronic funds transfer (ETF) most widely utilized by the states involve debit or credit transactions through the Automated Clearing House (ACH) network. The National Automated Clearing House Association (NACHA) governs the ACH network. It is the network through which banks exchange funds electronically for customer transactions. ACH transaction data is exchanged in strictly formatted, multi-record transmissions.[40]

Debit Transactions through ETF via ACH: In an ACH debit transaction, the payee's financial institution (in this case the tax authority's financial institution) originates the transaction by sending a request for funds to the taxpayer's financial institution. The taxpayer's financial institution then transfers the funds in order to settle the transaction. The tax authority must receive prior authorization to request the funds.

In 1995 several states wanted to combine electronic payments with electronically filed returns.[41] As a result, the EDI standard for the Electronic Filing of Tax Return Data, transaction set 813, was modified to include information necessary for ACH debit origination. Several states have implemented EDI programs combining the filing and payment.

In these systems, when the ACH debit authorization reaches the tax authority as part of an electronic tax return transmission, it is the responsibility of the tax authority to

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[37] The Kansas FTP system is explained at: http://www.ksrevenue.org/rcuwebfile.htm
[38] For the Kansas zero return program see: http://www.ksrevenue.org/eservzerowf.htm
[39] Federation of Tax Administrators, *Electronic Commerce Best Practices*, (under annual review and updating). Available at: http://www.taxadmin.org/fta/edi/newecbp.html
[40] ACH settlement processes should be noted. An ACH transaction "settles" when the funds are made available to the tax authority's account. Most EFT programs require the funds to be available to the tax authority on the due date of the associated return. Because ACH debit and credit transactions generally settle the next day after they are originated, this requires the taxpayer to file his return one day early. However, a paper return and paper check are considered timely if postmarked on the due date, even though the funds are not yet available. Tax authorities looking for incentives to encourage filing and payment by electronic means must consider this discrepancy. One incentive is the ability to "warehouse" payments until the due date. In this case, the taxpayer transmits a tax return, including payment information, at any time, with instructions to warehouse the payment until a specified later date on or before the due date. This practice encourages early filing, and may help the tax authority by smoothing peak filing dates, as well as insuring timely payment. It also eliminates the advantage of paper to the taxpayer, by allowing the taxpayer to control the "float" created by the timing of the movement of funds.
[41]See: Federation of Tax Administrators' Business Taxes Electronic Filing Task Group, *Report and Recommendations*, (1995). This report is updated annually. The current versions is Federation of Tax Administrators, *Electronic Commerce Best Practices*. Available at: http://www.taxadmin.org/fta/edi/newecbp.html

create the proper ACH formatted record. The record is then transmitted it to the state's financial institution. If the state is utilizing a Value Added Network (VAN), Internet Service Provider (ISP), or other third party to process the incoming transactions, that third party may also perform the ACH debit origination.

Credit Transactions through ETF via ACH: ACH credit transactions originate in the taxpayer's financial institution, and move funds directly to the tax authority's financial institution. Since the taxpayer is originating the payment, it occurs separately from any electronic return filing. The EDI 813, or other electronic filing, may contain notification to the tax authority of the intent to pay by ACH credit, but the tax authority must wait to receive notification from its financial institution that the credit payment has indeed taken place.

Credit card payment systems: The controversial issue surrounding credit cards for tax payments is the credit card fees charged by most processors for handling the transaction. These fees are generally paid by the "merchant" accepting the payment and generally range from 1.5% to 4%. A tax authority, which chooses to accept credit cards, is acting in the role of a merchant, and has three options for handling the fees:

- Pay the fee out of the operating budget,
- Pay the fee out of tax revenues received, or
- Require the taxpayer to pay the fee, by adding a surcharge to the tax payment.

Because the first option may involve a considerable expenditure, and the second requires special legislation, most states that allow credit card payments charge taxpayers a surcharge.

Direct Deposit systems: Electronic refunds to taxpayers are commonly through direct bank deposits. This is generally done as an ACH credit transaction, in which the tax authority provides refund deposit information to the tax authority's financial institution, which in turn passes the payment to the taxpayer's financial institution.

(3)(a) US Examples: US One-Stop-Shops in an Origin Tax System (New Mexico) and in a Destination System (South Dakota).

New Mexico (an origin-based one-stop-RST-shop). New Mexico[42] imposes a general excise tax on persons for the privilege of doing business in New Mexico.[43] A compensating (use) tax is imposed on businesses for the privilege of using tangible property in the state and for the privilege of using service rendered in the state.[44] Municipalities and counties may impose, by ordinance, local option gross receipts taxes that are in addition to the state gross receipts tax. Rates vary by locality, but the local tax base is harmonized with the state base.[45]

[42] There are 136 RST taxing jurisdictions in New Mexico. There are 33 counties, and 102 city RSTs in addition to the state RST.
[43] N.M. Stat. Ann. §7-9-4
[44] N.M. Stat. Ann. §7-9-7
[45] N.M. Stat. Ann. §7-19D-4

The New Mexico gross receipts taxes are based in origin principles. Tax receipts are sourced by business location, and tax reporting is required to indicate gross receipts at each business location.[46] All gross receipts taxes are reported on the same form, the CRS-1,[47] which indicates, that "… the location of a taxpayer's place (or places) of business determines the tax rate … delivery points of goods or services is not the criteria to be used."

The New Mexico Department of Revenue collects all state, county and city gross receipts taxes.[48] The Department is required by statute to transfer to each county and municipality the taxes it has collected on their behalf (less any disbursements for administrative costs), and to do so by the month following the month the tax is collected.[49] The Department is also authorized to conduct audits, make adjustments for credits, refunds and interest applicable to the taxes.[50]

The Combined Reporting System (CRS) allows gross receipts taxes to be filed and paid electronically. Amended returns are not accepted electronically. This is a voluntary system that will accept returns and payments in any amount, including zero returns. Payment methods include Fedwire transfers, ACH deposits, credit cards or electronic checks.[51]

South Dakota (a destination-based one-stop-RST-shop). South Dakota[52] imposes a general sales tax on retailers for the privilege of selling, leasing or renting tangible personal property at retail in South Dakota, and on persons selling, performing or furnishing designated services at retail to consumers or users in South Dakota.[53] Municipalities are authorized by ordinance to levy local sales and use taxes.[54] Local sales and use taxes must[55] be imposed on the same base as the state tax.[56]

South Dakota's sales tax is destination-based. The retail sales tax and compensating use tax at the state, city and district levels for the sale of tangible personal property and services are sourced to the location where the tangible personal property or services are received.[57] The South Dakota Department of Revenue administers the local

[46] N.M. Admin. Code tit. 3, §1.4.13
[47] Available on the New Mexico web site at: http://www.state.nm.us/tax/forms/year99/crs1long.pdf
[48] N.M. Stat. Ann. §7-19D-7-A
[49] N.M. Stat. Ann. §7-19D-7-B
[50] N.M. Stat. Ann. §7-19D-7-B and N.M. Stat. Ann. §7-19-15-A
[51] N.M. Stat. Ann. §7-1-13.1
[52] There are 214 RST jurisdictions in South Dakota. There are 208 city, and 5 district RSTs in addition to the state RST.
[53] S.D. Codified Laws §10-45-2
[54] S.D. Codified Laws §10-52-2
[55] It is permissible for a locality to allow for refunds of taxes on capital assets used in the manufacture of personal property for sale or lease. In this instance a local tax base may diverge from the state tax base. Refunds are handled locally. (S.D. Codified Laws §10-52-10)
[56] S.D. Codified Laws §10-52-2
[57] S.D. Codified Laws §10-45-108

sales and use tax,[58] and a single return, the RV11STRTN,[59] is used for all South Dakota RSTs.[60]

The South Dakota Department of Revenue collects state, city and district RSTs, and is required to distribute the amounts it collects on behalf of the cities and districts to those jurisdictions.[61] Audits of sales and use tax returns are conducted by the South Dakota Department of Revenue.[62]

Although the Secretary of Revenue is authorized to accept payment of sales and use taxes, fees, penalties or interest by electronic transmission, at the present time electronic payments are only accepted by EFT.[63] Returns can be filed online or through telefile as part of the SD QUEST system.[64]

(3)(b) US Examples: US One-Stop-Shops with a Large Number of Local Jurisdictions (Texas) and with a Selective Number of Local Jurisdictions (Colorado).

Texas (the largest one-stop-RST-shop). Texas[65] imposes a sales tax on sales of tangible personal property and specified taxable services.[66] A compensating use tax is imposed on consumption in the state.[67] Texas counties,[68] special purpose taxing districts,[69] incorporated cities, towns, and villages[70] are all authorized to impose RSTs. Rates may vary among the jurisdictions, but the tax base is harmonized, although at least three different programs allow local government refunds of varying amounts of the taxes collected: two programs are concerned with economic development zones, and a third with health and safety issues.[71]

Texas has some of the most complex RST rules for determining where sales are taxable and the amounts that are owed to various jurisdictions. The complexity derives in large part from the sheer number and overlapping allocation mechanisms of Texas RST jurisdictions.[72] In addition, all jurisdictions in Texas are origin based,[73] except for transit

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[58] S.D. Codified Laws §10-52-4
[59] Available from the South Dakota web site at: http://www.state.sd.us/drr2/forms/businesstaxforms/non0908V2-SalesAndUseTaxReturn.pdf
[60] S.D. Admin. R. 64:06:01:29
[61] S.D. Codified Laws §10-52-4
[62] S.D. Codified Laws §10-59-5
[63] S.D. Codified Laws §10-59-32
[64] The online and telefile requirements are at SD QUEST: http://www.state.sd.us/reyenue
[65] There are 1,270 RST jurisdictions in Texas. There are 124 county, 1,141 city, 104 district RSTs in addition to the state RST.
[66] Tex. Tax Code Ann. §§151.005; 151.006; 151.051; 151.302; 151.010
[67] Tex. Tax Code Ann. §§151.011; 151.101
[68] Tex. Tax Code Ann. §§151.101; 151.103; 151.104
[69] Tex. Local Government Code Ann. §§377.002; 377.103
[70] Tex. Local Government Code Ann. §§151.101; 321.103; 321.104; 34 Tex. Admin. Code § 3.372
[71] Tex. Government Code Ann. §2310.405
[72] Tex. Tax Code Ann. §§321.203; 321.205
[73] Texas Comptroller of Public Accounts, *Guideline for Collecting Local Sales and Use Tax (94-105)* (June, 2003), available at: http://www.window.state.tx.us/taxinfo/taxpubs/tx94_105.html At the time of this writing Texas has delayed moving to a full destination system based on the SSTP agreement. A notice

districts.[74] Transit districts are destination based.[75] However, all RSTs are reported to and collected by one state-level agency, the Comptroller of Public Accounts.[76] Taxpayers report these amounts on a single Texas sales tax return,[77] form number 01-114.[78]

The Comptroller of Public Accounts must make quarterly reports to all local taxing entity, if requested, and provide in that report the name, address and account number of each person or entity doing business within the jurisdiction that has remitted taxes during the quarter.[79] The Comptroller is also empowered to audit all books and records for all RSTs.[80]

The Comptroller of Public Accounts is authorized to allow or require any taxpayer to file electronically, based on a written agreement, and in a manner prescribed by regulation.[81] Prior to January 1, 2002 electronic payment was mandatory if payments in the previous year exceeded $250,000,[82] after January 1, 2002 the payments were mandatory if amounts exceeded $100,000.[83] Texas accepts funds transfers by EFT and EDI. Electronic filing of returns is mandatory in all instances where payments are required to be made electronically.[84] Failure to comply with electronic filing and reporting rules is subject to penalty.[85]

Colorado (a selective one-stop-RST-shop). Colorado[86] sales tax is imposed on sales and purchasing of tangible personal property at retail,[87] and services specifically made subject to tax.[88] A compensating use tax applies.[89] Local sales and use taxes are imposed on sales of tangible personal property that is subject to the state sales and use tax.[90] State provisions on exemptions, basis, credits generally apply to local taxes, however, no county sales tax may apply to construction and building materials,[91] or to a

was posted on the Texas Comptroller of Public Accounts web site on May 27, 2004. Available at: http://www.window.state.tx.us/taxinfo/local/index.html

[74] 9 of the 104 districts in Texas are transit districts. For a list of these districts see: http://window.state.tx.us/taxinfo/local/mta.html

[75] *Decision of the Comptroller of Public Accounts*, Hearing No. 16,976, April 24, 1987.

[76] Tex. Tax Code Ann. §323.301

[77] Texas electronic form for sales and use tax is available at: http://www.window.state.tx.us/webfile/salestax.html

[78] Tex. Tax Code Ann. §§111.002; 321.301; 322.201; 323.301

[79] Tex. Tax Code Ann. §§321.302; 322.202; 323.302

[80] Tex. Tax Code Ann. §111.002

[81] 34 Tex. Admin. Code § 3.9

[82] Tex. Government Code Ann. §404.095(c)

[83] Tex. Government Code Ann. §404.095(c)

[84] Tex. Tax Code Ann. §111.0625

[85] Tex. Tax Code Ann. §111063

[86] There are 278 RST jurisdictions in Colorado. There are 49 county, 216 city, 9 district RSTs in addition to the state RST.

[87] Colo. Rev. Stat. § 39-26-104(1)(a)

[88] Colo. Rev. Stat. § 39-26-104

[89] Colo. Rev. Stat. § 39-202(1)

[90] Colo. Rev. Stat. § 39-26-105(1)

[91] Colo. Rev. Stat. § 29-2-105(2)

transaction subject to tax in another county,[92] or to foods purchased with food stamps or with funds from the federal government supplemental programs for women and children.[93] Rates vary among local jurisdictions, although overall limitations are set by the state.[94] All Colorado RSTs are destination-based.[95]

Counties, cities, and unincorporated towns may impose sales and use taxes,[96] as well as regional transportation districts, the Denver Municipal Baseball Stadium District, and the Denver Scientific and Cultural Facilities District.[97] Home rule cities are exceptions to the general rule of local conformity to state tax base rules, and may apply sales and use taxes of their own design.[98] State limitations on home rule state taxing authority must specifically identify home rule states to be applicable.[99]

Local taxes are administered, collected, and enforced by the Executive Director of the Department of Revenue in the same manner as state sales and use taxes.[100] The common return is DR-0100. A taxpayer with multiple locations in Colorado can elect to file a consolidated return for all locations[101] with DR-100-1 where sales from all locations are reported. Returns due in home rule jurisdictions[102] must submitted locally, and are not part of the uniform state return filed centrally.[103] Local use taxes are paid to the local jurisdiction.[104]

The Executive Director is authorized to accept returns electronic returns filed under "voluntary alternative methods for the making, filing, signing, subscribing, verifying, transmitting, receiving or storing of returns or other documents …"[105] Any vendor whose Colorado sales tax liability for the previous calendar year exceeded $75,000 is required to use electronic funds transfers to remit all taxes required to be remitted to the Executive Director of the Department of Revenue.[106]

(3)(c) US Examples: US One-Stop-Shops using XML (California), EDI(Illinois), and Internet reporting (Florida).

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[92] Colo. Rev. Stat. § 29-2-105(3)
[93] Colo. Rev. Stat. § 29-2-105(6)
[94] Colo. Rev. Stat. § 29-2-108
[95] Colo. Reg. 39-26-114.1(a)(III)
[96] Colo. Rev. Stat. § 29-2-102
[97] Colo. Rev. Stat. § 32-9-119(2)
[98] Colo. Const. Art. XX, § 6
[99] Colo. Rev. Stat. § 29-2-107
[100] Colo. Rev. Stat. § 20-2-106(1)
[101] Colo. Rev. Stat. § 39-26-110; Colo. Reg. 26-110
[102] 58 of the 278 jurisdictions in Colorado are home rule jurisdictions. For a list of the home rule jurisdictions see page 4 of Colorado Form DRP 1002, available at: http://www.revenue.state.co.us/PDF/drp1002.pdf
[103] Colo. Rev. Stat. § 29-2-106(9); *Colorado FYI Publication No. Sales* 62 (9-01-2000).
[104] Colo. Rev. Stat. § 29-2-109
[105] Colo. Rev. Stat. § 39-21-120
[106] Colo. Rev. Stat. § 39-26-105.5

California (a one-stop-RST-shop using XML): California[107] imposes sales tax on every retailer for the privilege of making retail sales of tangible personal property in the state.[108] A compensating use tax is also imposed.[109] As a general rule services are not subject to tax, with the exception of certain fabrication services.[110] California cities and counties are authorized (Bradley-Burns Uniform Local Sales and Use Tax Law) to impose a tax on the same base as the state tax base.[111] In addition to Bradley-Burns, local sales and use taxes may be imposed within the borders of transit or other districts,[112] or counties for a specific purpose[113]

Additional complexity is added to the California system in two areas: (1) when cities impose sales and use taxes California requires that the county where a city is located to off-set a portion of the city tax with a county tax reduction,[114] and (2) even though California primarily determines RST liability on an origin-basis,[115] district level taxes are collected on a destination basis.[116]

Local taxing jurisdictions must contract with the State Board of Equalization (SBE) to administer the local sales and use taxes.[117] Revenue collected by the SBE is redistributed to cities and counties by March 15th each year.[118] The SBE requires retailers to make a county-by-county allocation of local tax liabilities on the return (on origin and destination basis).[119] The SBE assesses a fee in the amount of 0.82% of the taxes collected for administrative expenses.[120]

Sales and use tax returns may be e-filed in the following manner: by computer modem, magnetic media, optical disk or other electronic media (including facsimile and telephone).[121] California offers its tax filing option over the web using XML.[122] XML is hierarchical in structure, making it a good "fit" with e-filed tax return systems. "The California Board [of Equalization] was able to extract data from [its] legacy mainframe into an XML format. Once that was done, Web developers worked with off-the-shelf software and created a Web operation that incorporates the legacy data. The developers

[107] There are 101 RST jurisdictions in California. There are 59 county, and 41 district RSTs in addition to the state RST.
[108] Cal. Rev. & Tax Code § 6051
[109] Cal. Rev. & Tax Code § 6202
[110] Cal. Rev. & Tax Code § 6006(b)
[111] Cal. Rev. & Tax Code § 7202
[112] Cal. Rev. & Tax Code § 7251
[113] Cal. Rev. & Tax Code §§ 7285; 50075
[114] Cal. Rev. & Tax Code § 7202
[115] Cal. Code Regs. tit.18, § 1802(a); Cal. Rev. & Tax Code § 7205
[116] Cal. Code Regs. tit.18, § 1821(2)
[117] Cal. Rev. & Tax Code §§ 7202; 7270; Cal. Code Regs. tit.18, §§ 1803; 1823
[118] Cal. Rev. & Tax Code § 7287.6(b)
[119] Cal. Rev. & Tax Code § 7205
[120] Cal. Rev. & Tax Code § 7202; Cal. Code Regs. tit.18, § 1803
[121] Cal. Rev. & Tax Code § 6479.31; California State Board of Equalization, *News Release*, No. 26-P (June 8, 2001)
[122] Wisconsin also uses XML for sales and use tax filing. See at: http://www.dor.state.wi.us/eserv/file/index.html

did not have to be trained in mainframe computer languages, saving time and money …"[123]

The California mainframe database is integrated with a payment system, which automatically forwards information to Union Bank of California for payment processing. Tax payments can be scheduled, warehoused until the due date. According to the Federation of Tax Administrators, "… about 30 states have opted to go down the path of using existing mainframes with XML-based Web connections … The challenge has been building a cost-effective interface to the Web, and while there are other methods, such as screen scraping, using XML offers advantages upfront. Using XML gave the California board the chance to create digitally signed and binding transactions within the multistep mainframe-to-Web server process. This can turn Web development into days rather than weeks, reducing costs."[124]

Taxpayers who have sales and use tax accounts or a prepayment account may remit payments by credit cards issued by NOVUS (Discover/NOVUS), MasterCard, and American Express.[125] If the estimated sales and use tax liability averages $20,000 or more per month, then funds must be remitted electronically by EFT.[126] Payment may also be made through automated clearinghouse debt, automated clearinghouse credit, or Federal Reserve Wire Transfer (Fedwire).[127]

Illinois (a one-stop-RST-shop using EDI): The Illinois[128] RST is imposed on persons selling tangible personal property at retail, and on persons in the business of selling services in the state.[129] There is a complementary use tax.[130] Unlike a traditional dual transaction tax system (sales and use tax), Illinois employs a four-part system: Retailers' Occupation Tax (ROT); Use Tax (UT); Service Occupation Tax (SOT); and Service Use Tax (SUT). The Illinois system places the legal incidence of the ROT on the seller of tangible personal property, and then allows the seller to reimburse itself from the UT it collects from customers.[131] In a similar fashion the legal incidence of the SOT is on the service provider, who is then allowed to reimburse itself through the SUT it collects from purchasers.[132]

Illinois RSTs operate on an origin-basis. Illinois considers the seller's acceptance of a purchase order to be the most important aspect of selling. It is this location that is

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[123] Federation of Tax Administrators, *Electronic Commerce Best Practices*, (under annual review and updating). Available at: http://www.taxadmin.org/fta/edi/newecbp.html
[124] Federation of Tax Administrators, *Electronic Commerce Best Practices*, (under annual review and updating). Available at: http://www.taxadmin.org/fta/edi/newecbp.html
[125] California Board of Equalization, *News Release*, 41-G (August 16, 1999); see also: http://www.boe.ca.gov/elecsrv/faqcc.htm
[126] Cal. Rev. & Tax Code § 6479.3
[127] Cal. Rev. & Tax Code § 6479.5
[128] There are 192 RST jurisdictions in Illinois. There are 27 county, 158 city, and 6 district RSTs in addition to the state RST.
[129] 35 Ill. Comp. Stat. §§ 115/1; 120/2
[130] 35 Ill. Comp. Stat. §§ 105/2; 110/2
[131] 86 Ill. Comp. Stat. § 130.101(d)
[132] 35 Ill. Comp. Stat. § 110/3-55; Ill. Admin. Code tit. 86 § 160.101(g)

the place of sale.[133] Secondary importance is given to the location where the seller receives an order.[134] Third importance is given to the location from which the property is shipped.[135] Delivery of property to the purchaser in Illinois is not important, nor is the place where the property is to be used, nor is the residence of the purchaser.[136] For example, the sale of coal or a mineral mined in Illinois is where the coal is extracted.[137]

Local RSTs are modeled on the state's RST. The tax bases for state and local RSTs are harmonized, including exemptions and exclusions. The Illinois Department of Revenue administers, enforces and collects the state as well as all local retailer's ROT, SOT, UT and SUT.[138]

The state and all local RSTs are included on the same return, either the ST-1 (single location taxpayer) or the ST-2 (multiple location taxpayer). The date for filing and making payments is the same as that for the state return.[139]

Illinois has voluntary program for the electronic filing of forms ST-1 and ST-2.[140] Participation in this program is by Electronic Data Interchange (EDI).[141] Due to the technology required to participate in an EDI system, it is unlikely that Illinois could make this program mandatory. This is not the case with the XML filings in California and the diversified choice of programs in Florida. However, if a taxpayer elects voluntarily electronic filing, then that taxpayer is required to make payments by electronic means.[142] Taxpayers with an annual state and local occupation tax liability in excess of $200,000, regardless of how they file returns, must make all payments by EFT.[143] Other electronic payment methods authorized include MasterCard, American Express and Discover card.[144]

Florida (a one-stop-RST-shop using Internet reporting): Florida[145] imposes a sales tax on all dealers engaged in the sale, lease or rental of tangible personal property sold at retail in the state.[146] A compensating use tax is imposed on all persons who use property in Florida that would have been subject to tax if purchased from a Florida

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[133] 86 Ill. Comp. Stat. §§ 270.115; 220.115; 320.115; Ill. Admin. Code tit. 86 §370.115; 630.120
[134] Ill. Admin. Code tit. 86 §220.115(c)(1); 270.115(b)(2); 320.115(b)(2); 370.115(b)(2); 630.120(b)(2)
[135] Ill. Admin. Code tit. 86 §220.115(c)(2); 270.115(b)(3); 320.115(b)(3); 370.115(b)(3); 630.120(b)(3)
[136] 86 Ill. Comp. Stat. §§ 270.115; 220.115; 320.115; Ill. Admin. Code tit. 86 §370.115; 630.120
[137] 55 Ill. Comp. Stat. § 5/5-1006; 65 Ill. Comp. Stat. § 5/8-11-1; 70 Ill. Comp. Stat. § 3610/5.01;
[138] 55 Ill. Comp. Stat. §§ 5/5-1006; 5/5-1007; 65 Ill. Comp. Stat. §§ 5/8-11.1; 5/8-11-1.3; 5/8-11-1.4; 5/8-11-1.6; 5/8-11-1.7; 5/8-11-5; 70 Ill. Comp. Stat. §§ 210/13; 3610/5.01; 3615/4.03; 3720/4.
[139] 55 Ill. Comp. Stat. §§ 5/5-1006; 5/5-1007; 65 Ill. Comp. Stat. §§ 5/8-11-1; 5/8-11-1.3; 5/8-11-1.4; 5/8-11-1.6; 5/8-11-1.7; 5/8-11-5; 70 Ill. Comp. Stat. §§ 210/13; 3610/5.01; 3615/4.03; 3615/4.03; 3720/4.
[140] 86 Ill. Comp. Stat. § 760.100
[141] 86 Ill. Comp. Stat. §§ 760.210; 220.
[142] 86 Ill. Comp. Stat. § 760.220
[143] 35 Ill. Comp. Stat. § 105/9; 110/9; 115/9; Ill. Admin. Code tit. 86 § 750.300
[144] 35 Ill. Comp. Stat. § 5/605; *Illinois Department of Revenue Form IL-1040, Instructions*, December, 2000.
[145] There are 58 RST jurisdictions in Florida. There are 55 county, and 2 city RSTs in addition to the state RST.
[146] Fla. Stat. § 212.05

dealer.[147] Although dealers are liable for the tax, they are required to collect it from the consumer,[148] for whom it is a debt to the dealer until paid.[149]

With two exceptions,[150] the Florida RSTs are destination-based. A sale is considered a Florida sale if title or possession transfers in Florida.[151] The tax is imposed on all delivery of tangible personal property to a Florida location, and is presumed due on every sale of tangible personal property to a person present in Florida, except if the property is committed to exportation from the state at the time of the sale and the process of exportation remains continuous and unbroken until the property leaves the state.[152] In cases where there is no reasonable evidence of the destination, then the location where the purchaser accepts the bill of sale is used.[153] However, sales of tangible personal property by florists located in Florida are always sourced to the location where the florist took the original order.[154]

The same destination rules are applied to determine the location of sales among localities that impose RSTs.[155] Counties in Florida are authorized to impose RSTs, either as discretionary sales surcharges, or local option taxes.[156] Local RSTs are harmonized with the state base.

Generally, the Florida Department of Revenue administers, collects, and enforces local discretionary surtaxes and local option taxes using the same procedures used in collecting the state sales taxes.[157] However, in some instances a county may opt to collect local option taxes, for instance the convention tax or the tourist development

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[147] Fla. Stat. § 212.05(1)(b); Fla. Admin. Code Ann. r. 12A-1.091(2)(a)
[148] Fla. Stat. § 212.07(1)(a)
[149] Fla. Stat. § 212.07(2)
[150] The cities of Panama City (city ordinance 1893) and Panama City Beach (license tax) both impose a sales tax (on a gross receipts base) with origin situsing. Both locations impose their tax only on goods, but not services. Thus, both locations are at odds with all other Florida locations in terms of both tax base and situsing rules. For Panama City see:
http://cpcnotes.cityofpanamacity.com/notesdata/ordinances.nsf/347da20b6b84b10286256c37005e7b0e/715c780f09cf53f886256da500483c23?OpenDocument&Highlight=0,1893
and for Panama City Beach see: http://www.pcbgov.com/ordinance/c&o0104.pdf
[151] Fla. Stat. § 212.02(15)(a)
[152] Fla. Admin. Code Ann. r. 12A-10015(2)(a); see also Fla. Stat. § 212.06(5) for export rules.
[153] Fla. Stat. § 212.054(3)
[154] Fla. Stat. § 212.054(3)(m)
[155] Fla. Stat. § 212.054(3)
[156] Fla. Stat. §081(3)(b). There are 8 discretionary sales taxes authorized: [1] Charter county transit system surtax (Fla. Stat. 212.055(1)); [2] Local government infrastructure discretionary surtax (Fla. Stat. 212.055(2)); [3] Small county surtax (Fla. Stat. 212.055(3)); [4] Indigent care and trauma center surtax (Fla. Stat. 212.055(4)); [5] County public hospital surtax (Fla. Stat. 212.055(5)); [6] School capital outlay sales surtax (Fla. Stat. 212.055(6)); [7] Voter-approved indigent care surtax (Fla. Stat. 212.055(7)); [8] Multijurisdictional tourism, sports, and entertainment special district surtax (Uncodified §§ 4(3) AND 13(2)(cc), Ch. 94-338, Fla. Laws 1994 Fla.). There are 5 local option taxes authorized: [1] Tourist development tax (Fla. Stat. 125.0104(3); [2] Additional tourist development taxes (Fla. Stat. 125.0104(3)(d); [3] Tourist impact tax (Fla. Stat. 125.0108(1)); [4] Convention development tax (Fla. Stat. 125.0305(4)(a)); [5] Local option food and beverage tax (Fla. Stat. 212.0306(1).
[157] Fla. Stat. § 212.054(4); Fla. Admin. Code Ann. r. 12A-15.001

tax.[158] In the case of the local food and beverage RST, any county that levies this tax must administer the tax locally.[159] In instances where a Florida dealer, located in a county that does not impose a local RST, makes sales into county that does impose a local RST, the tax collected is deposited into the Clearing Trust Fund controlled by Department of Revenue Administration. This clearinghouse then redistributes the taxes collected based on a statutory formula (relative weight of population, tax rates and months that a local tax was imposed).[160]

The executive director of the Florida Department of Revenue has the authority to require electronic filing of returns as well as electronic payments of taxes.[161] On or before November 1, 2004 the Department will directly notify each Florida taxpayer who is required to file and or pay electronically of their obligation to do so.[162]

Businesses that have two or more locations and paid over $30,000 in RST in the previous year are required to file consolidated sales and use tax return. Beginning in 2003 those filing consolidated returns are also required to file and remit taxes by "electronic means."[163] "Electronic means" includes EDI, EFT, or use of the Internet, telephone or other technology specified by the Department.[164]

The preferred electronic payment method for consolidated filers in Florida is ACH debit. ACH credit, wire transfers, and other electronic methods are allowed as exceptions per regulations in certain cases.[165]

Different rules apply for non-consolidated filers. Non-consolidated filers are allowed to file and pay under a special scheme that utilizes the Internet. This program is voluntary, both for filing and for payment.[166] Special procedures have been established for Internet based filing, including the filing of an Agreement for Internet Filing form, DR-653W.[167]

Refunds due to overpayment of RST, or additional tax amounts due because of underpayments are adjusted and are handled electronically. Taxpayers can either telephone the E-Services Unit or can make adjustments through the Department of Revenue's Internet website (www.myflorida.com/dor).[168]

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[158] Fla. Stat. §§ 125.0104(10); 212.0305950
[159] Fla. Stat. § 212.0306(6)
[160] Fla. Stat. § 212.054(4)(c)(1)
[161] Fla. Stat. § 213.755(1)
[162] Fla. Admin. Code Ann. r. 12-24.004(2)
[163] Fla. Admin. Code Ann. r. 12-24.002(23); Fla. Admin. Code Ann. r. 12-24.003(2); Fla. Stat. § 202.30
[164] Fla. Stat. 213.755(2)(c); Fla. Admin. Code Ann. r. 12-24.002(14)
[165] Fla. Admin. Code Ann. r. 12-24.005; Fla. Admin. Code Ann. r. 12-24.008(3); Fla. Admin. Code Ann. r. 12-24.004; Fla. Admin. Code Ann. r. 12-24.005
[166] Florida Tax Information Publication No. 01(A)01-14 (October 8, 2001); Fla. Stat. §§ 211; 212
[167] Florida Tax Information Publication No. 01(A)01-14 (October 8, 2001)
[168] Fla. Admin. Code Ann. r. 12-24.007

The following chart summarizes the chief characteristics of the one-stop-shop in the EU and the US. The specific US examples are limited to states that were considered in this text. A more thorough chart, one that would consider all 30 of the US states that employ one-stop-RST-shops might prove to be a useful tool for the design of one-stop-VAT-shops in the EU.

Comparison: EU One-Stop-VAT-Shops v. US One-Stop-RST-Shops

Issue	EU-VAT	US-RST
1. Limitations on the types of taxpayers who can use the one-stop-shop.	*Article 26c*: limited to B2C digital sales made by non-established EU taxpayers *Article 22b*: Limited to established EU taxpayers making B2B or B2C sales into jurisdictions where they are not established. *Eighth Directive*: Limited to established EU taxpayers making B2B or B2C sales into jurisdictions where they are not established.	One-stop-RST-shops do not limit the types of taxpayers who can use them.
2. Single return	*Article 26c*: voluntary use of single return filing *Article 22b*: voluntary use of single return filing *Eighth Directive*: voluntary use of local jurisdiction refund system (electronic portal)	Commonly a mandatory single return filing and payment system for all RSTs. [New Mexico, California, South Dakota, Illinois]. Occasionally, some local jurisdictions are omitted from the single return [Florida, Colorado].
3. Electronic filing	*Article 26c*: mandatory *Article 22b*: mandatory *Eighth Directive*: voluntary	Commonly a voluntary procedure. However, for large taxpayers electronic filing is frequently mandatory [Florida – over $30,000 from multiple locations; Texas – in all instances where funds are required to be paid electronically, i.e., over $100,000]
4. Electronic payment	*Article 26c*: mandatory *Article 22b*: not possible *Eighth Directive*: not applicable	Commonly a voluntary procedure. However, for large taxpayers electronic payment is mandatory [Texas – over $100,000;

		Colorado – over $75,000; California -- $20,000 per month; Illinois -- $200,000; Florida -- $30,000 and two or more business locations].
5. Refund functions	*Article 26c*: outside scope *Article 22b*: outside scope *Eighth Directive*: simplified electronic refund applications processed	All states handle overpayments and underpayments through the same one-stop-RST-shop system.
6. Audits	*Article 26c*: outside scope *Article 22b*: outside scope *Eighth Directive*: outside scope	All states handle audits through the one-stop-RST-shop system
7. Re-allocation of taxes among jurisdictions	*Article 26c*: yes *Article 22b*: outside scope *Eighth Directive*: not applicable	All states re-allocate funds to local jurisdictions through the one-stop-RST-shop

(4) The One-Stop-Shop Concept in the Streamlined Sales Tax Project (SSTP)

Through the Streamlined Sales Tax Project (SSTP)[169] further efforts have been made in the US to harmonize tax bases, standardize electronic reporting requirements, restrict jurisdictional reporting for local jurisdictions to the state level, and streamline the collection of state and local RSTs. The Streamlined Sales Tax Agreement (SSTA) was adopted on November 12, 2002, but has not yet taken effect. A threshold requirement to make the Agreement operational has not been met. Enactment of the Agreement needs to be completed in 10 or more states that represent at least 20% of the US population. Expectations are that this threshold will be exceeded in 2005.

The SSTP initiative is not technically a multi-state one-stop-shop effort, because there will be no central government collection and re-allocation of RST revenues among state jurisdictions. Even after full implementation of the SSTP revenue collection and re-allocation will be conducted by the state one-stop-shops. What the SSTP is designed to do is to stimulate the development of, and coordinate the operations of, uniform state-level one-stop-RST-shops across the US.

The SSTP does provide a centralized, multi-state electronic one-stop registration system for businesses to establish their business registration profile.[170] This registry will function like the registration system in the EU where taxpayers receive a unique identification number that is recognized for VAT purposes throughout the EU. The SSTP one stop registration system will allow for centralized updating of address and other tax information.

[169] The Streamlined Sales and Use Tax Agreement is available at: http://www.geocities.com/streamlined2000/
[170] Streamlined Sales and Use Tax Agreement §§ 303; 401(A); 401(C); 404.

The SSTP also requires centralized reporting of all local taxes for all jurisdictions in each state.[171] This provision effectively mandates a one-stop-shop for filing of local returns at the state level. Although this central filing of returns is already practiced in many states,[172] there are states where multiple returns need to be filed within a single state,[173] as well as states where local government can "opt out" of a state sponsored centralized filing system.[174] These variances would no longer be permissible under the SSTP.

The SSTP also requires uniform reporting for all states using standard data elements for uniform reports and uniform requirements for payments.[175] A standardized system for refunds is also established, both for end consumers, and for businesses remitting the tax.[176]

The SSTP also provides for certification of tax service providers (CSPs) who will provide point of sale, automated tax determination systems. CSPs will also file returns and make tax payments for taxpayers.[177] In this respect CSPs will function as private sector multi-jurisdictional one-stop-shops. The CSP becomes an intermediary between government and business, and facilitates the administration, collection and payment of the RST.[178]

Conclusion

The European Commission assesses its success with the one-stop-shop experiment implemented under Article 26c, the digital sale directive, in the following manner:

> The European Union is the first tax jurisdiction in the world to have developed and introduced a simplified framework for the payment of consumption taxes on e-commerce in accordance with the principles agreed in the OECD.[179]

While it is certainly true that Article 26c represents a "simplified framework for the payment of consumption taxes on e-commerce," it is also a limited framework in terms of

[171] Streamlined Sales and Use Tax Agreement §§ 318(A); 318(B)
[172] This paper considered the examples of California, Illinois, Texas, New Mexico, and South Dakota.
[173] This paper considered the example of Colorado.
[174] This paper considered the example of Florida.
[175] Ability to file electronically is the intent of the SSTP. Streamlined Sales and Use Tax Agreement § 318(D)
[176] Streamlined Sales and Use Tax Agreement §§ 325
[177] Streamlined Sales and Use Tax Agreement §§ 501(A), (B), (C) and (D).
[178] The SSTP envisions three automation models, (1) the CSP, (2) the certified automated system (CAS) which is software certified under the Agreement that is used by the taxpayer directly, without the intermediation of the CSP, and (3) certified proprietary systems for large taxpayers who have developed software of their own. Streamlined Sales and Use Tax Agreement §§ 203; 404(A); 202; 403(B); 207; 403(C).
[179] Commission of the European Union, Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee: Review and Update of VAT Strategy Priorities, COM(2003)614 final (October 20, 2003) at page 5. Available at: http://europa.eu.int/eur-lex/en/com/cnc/2003/com2003_0614en01.pdf

the one-stop-shop concept. Article 26c is limited (a) only to digital e-commerce, (b) only to B2C transactions, and (c) only to sales made by non-EU established businesses. In addition, Article 26c is further limited in that it makes no provision for refunds, audits or amended returns.

In addition, the EU may be overreaching a bit when it proclaims itself to be "the first tax jurisdiction in the world to have developed and introduced" such a system. Far more comprehensive one-stop-shop systems have been operational in US consumption taxes for many years. Admittedly the US one-stop-RST-shops may be easy to overlook. First, they are not globally prominent, because they are function at the state not national level. Secondly, they are frequently comprehensive in scope, and have easily accommodated e-commerce developments. As a result the one-stop-RST-shops have not attracted the attention of law markers, academics or government researchers.

The critical question for the EU today is whether or not the one-stop-shop concept of Article 26c can be extended in scope and application. This is what the proposed one-stop-shop for EU established businesses in Article 22b is all about. It is also the driving force behind the proposed revision to the *Eighth Directive* on refunds.

In this context, the comparative law questions are: (a) Are there lessons for the EU to learn in the current operation of US one-stop-RST-shops, or are there inherent barriers to borrowing between these consumption tax systems? (b) Are there new ideas in the SSTP that might assist the EU in overcoming difficulties?

Inherent Barriers to Borrowing

There are three notable differences between the EU VATs and the US RSTs; differences over sovereignty, tax design, and tax rate/ tax base freedoms. Of these, it is the difference over sovereignty that imposes the greatest limitation on EU Member States borrowing from the US one-stop-shop experience.

Sovereignty. Both EU VAT and US RST systems deal with multi-jurisdictional taxation issues. However, in the EU context these issues fall between countries, whereas in the US they fall between sub-governmental units. Through the Treaty of Rome the Member States of the EU yielded a measure of their tax sovereignty to the Union in an effort to harmonize consumption taxes. But, the Member States retained tax authority over many matters. These residual tax sovereignty powers are the source most EU harmonization difficulties. Great effort is need to come to agreement over the transferring of tax receipts among Member States, common audit practices, shared rules for taxpayer refunds, amended returns, filing dates, methods of payment, as well as forms of data transmission. The coordination of these aspects of tax administration among the Member States requires specific agreement before they can be included within a comprehensive one-stop-shop solution.

In the US sovereignty issues rarely arise. The counties, cities, municipalities and districts which the US one-stop-shops coordinate all received their taxing powers from the state. There is no issue of residual powers in the sub-governmental units. All

residual powers remain with the state. It is therefore, a relatively easy matter for the state to adjust, restrict or revise their grant of taxing authority as it sees fit to facilitate one-stop-shop solutions.

US home rule jurisdictions are the exception. These local authorities have independent taxing authority normally granted to them through the state constitution. This is the reason that some jurisdictions in Colorado can and do refuse to join the state's one-stop-shop, leaving taxpayers burdened with multiple filing, payment and audit obligations.

Tax design. Both the VAT and the RST are consumption taxes. The VAT is a multi-stage version of the single-stage RST. VATs and RSTs work equally well on an origin or a destination base. It is common in both systems to have a mix of origin and destination rules for determining the taxing jurisdiction. Neither EU VATs nor US RSTs one-stop-shops are impacted by these differences. Although the SSTP seeks to harmonize many of these design attributes, this harmonization is not essential for the efficient functioning of a one-stop-shop solution.

Tax rate/ tax base. The EU exercises modest control over the VAT base and rates in the Member States. Compared to the US RSTs, the Member States have considerable freedom over the selection of the items subject to tax and rates of tax imposed. In the US it is common for local jurisdictions to be required to occupy the same base as the state, adopting all state rules and regulations. There is some freedom in the US RSTs to determine local tax rates, but upper limits are commonly imposed by the state through various types of capping rules. These differences, although they do complicate paper-based tax compliance, do not have a significant impact on the functioning of a technology-intensive one-stop-shop.

Thus, of all the major differences between the EU VATs and the US RSTs it is sovereignty that poses the greatest barrier to EU efforts to develop the kind of comprehensive one-stop-shop so frequently found in the US states. Without specific 25-country agreement on refund procedures, unified audit, amended returns, filing dates and methods of electronic payment, it is difficult to anticipate the rise of one-stop-shops in the EU, so that one could consider them to be comparable in scope to those presently operational in the US.

US Experiences That Could Be Borrowed

That being said, there are a number of "old US experiences" that could be borrowed or examined by the EU as efforts are underway to expand the one-stop-shop concept. The one-stop-RST-shops considered in this paper have pointed to some of them. No effort has been made to comprehensively survey the variety of one-stop-shop schemes in the US, and the lessons that could be borrowed. The scope of that project would be large. 34 US states have multi-jurisdictional RSTs. 30 of these 34 operate one-stop-shops to facilitate compliance. However, from the limited review undertaken in this paper three lessons can be highlighted.

(1) California v. Illinois on the choice of electronic return filing systems. California's adoption of XML technology should be contrasted with Illinois EDI experience when choosing an electronic return filing systems. With XML taxpayers who have Internet access and a browser can file a return by linking to the database server containing the document definition. An XML transmission can be associated with a "style sheet" indicating how the data is to be displayed and manipulated. With XML California has created a low cost Internet filing application, and the state controls how the taxpayer interacts with the application through the browser. The California XML application specifies unambiguously the meaning and structure of the data within the tax return.

Illinois uses EDI to establish a similar e-filing program. EDI however, requires specialized translation software, which is a time and cost barrier to small and mid-sized businesses. EDI also use a "value added network" (VAN) for data transmission. This is another cost point for taxpayer and tax administration. Both the tax authority and the taxpayer must maintain a "mailbox" provided by the VAN.

The impact of Illinois's EDI selection is that a mandatory electronic filing of returns is not a viable broad-based option. In contrast, California's XML allows virtually any business with a computer to e-file.

(2) Florida on the workability of a clearinghouse to re-allocate tax receipts from origin to the jurisdiction of consumption. Florida imposes destination-based RSTs at the local level. However, not all Florida jurisdictions impose RSTs. When sales are made into a county that does impose an RST from one that does not, the tax due is collected at origin (along with the state RST) and deposited into the Clearing Trust Fund controlled by Department of Revenue Administration. This clearinghouse then redistributes the taxes collected based on a formula of estimated consumption. The EU has considered a similar clearinghouse option.

In 1996 the EU considered collecting VAT at origin and then reallocating the amounts received based on formulas that would estimate where consumption actually occurred.[180]

(3) New Mexico v. California on methods for financing a one-stop-shop. New Mexico and California both charge the local governments for operating one-stop-shops. New Mexico charges the full cost of the program to the localities before remitting funds to the localities. The California BOE on the other hand, retains a flat 0.85% of all taxes collected. Other states like South Dakota and Illinois provide the one-stop-shop service as a cost of general state government.

The EU could consider some of these options if it would like to enhance the current Article 22b one-stop-shop proposal.

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[180] Commission of the European Communities, *A Common System of VAT: A Programme for the Single Market* (Brussels, 1996).

New US Ideas That Could Be Borrowed

The most innovative one-stop-shop ideas in the US are found in the SSTP. Three related concepts, the certified service provider (CSP),[181] the certified automated system (CAS),[182] and automated proprietary systems[183] have the most comparative relevance from an EU perspective. The key to these concepts is an agreement between the tax authority and the taxpayer. If a taxpayer is willing to use certified software, or certified service providers to collect and remit RST obligations, then the states agree not to audit. Fraud, of course, is an exception.

The certification process is essentially an intensive state audit of a software package. Once the software is certified all taxpayers using it can rely on its accuracy as a final determination of RST obligations.

The CSP takes this certification one step further, because this third party not only uses certified software to determine RST obligations, but it uses these calculations to generate certified returns, and make certified tax payments on behalf of the taxpayer. Thus, the CSP becomes a private sector one-stop-shop.

This is the US RST development that has caught the attention of the European Commission.[184] The private sector one-stop-shop solves two of the EU's most difficult problems (1) the question of selective surrendering of tax sovereignty, and (2) the technical burden of handling large fund transfers.

A private sector one-stop-shop in the CSP model is a workable in the VAT context, and one that can be implemented with less than full 25-country agreement. Certifying a software package would amount to privatizing a portion of a country's revenue authority. It would be a loss of sovereign control, particularly in the area of audit enforcement. However, the sovereign would still determine VAT rates, the tax base, rules for refunds and other matters. Countries that wished to certify a CSP could do so, while other countries could refuse to do so without damaging the integrity of the one-stop-CSP-shop. Countries could join (certify a CSP) in one year and then leave (de-certify that CSP) the following year without damaging the one-stop-CSP-shop. The SSTP does not require participation by all states. In fact, it is assumed not only that membership will not include all of the RST states, but that not all states that do join will remain with the SSTP going forward.[185]

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[181] *Streamlined Sales and Use Tax Agreement* §§ 203; 403(A)
[182] *Streamlined Sales and Use Tax Agreement* §§ 202; 403(B)
[183] *Streamlined Sales and Use Tax Agreement* §§ 207; 403(C)
[184] Commission of the European Union, Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee: Review and Update of VAT Strategy Priorities, COM(2003)614 final (October 20, 2003) at page 15. Available at: http://europa.eu.int/eur-lex/en/com/cnc/2003/com2003_0614en01.pdf
[185] States that join the SSTP are required to re-certify compliance with the agreement each year, and those that fall out of compliance can leave or be removed from the agreement. *Streamlined Sales and Use Tax Agreement* §§ 803; 809.

The second issue, the burden of handling large fund transfers, was a noted concern of the European Commission as it considered expanding the Article 26c one-stop-shop (digital sales) in the October 2004 proposals for a one-stop-shop in Article 22b (established EU businesses). Under Article 26c each government was required to re-distribute VAT receipt free of charge, as is done in most US one-stop-RST-shop states. If this service was to be provided under Article 22b the Commission felt it would be asking too much of the Member States.

The Commission felt that EU governments were not ready to develop "… the kind of major treasury function needed to handle the volume of money flows which would be inherent to a much wider application…"[186] The Commission goes on to say, "It is however probable that financial intermediaries or other trusted third party service providers might offer a payment handling function to operators under this scheme which would relieve them from the burden of multiple payments. Such a commercial service would be particularly attractive to smaller operators but would have to be based on commercial realities."[187]

This reference to "trusted third party service providers" is a clear nod in the direction of the CSP model under the SSTP. However, the Commission makes no mention of the software certification process and the audit exemption agreement that is at the heart of the CSP model. The importance of this aspect of the SSTP will be measured over the coming months. The US experience in this regard should prove useful to EU planners as they move forward with their efforts to expand one-stop-VAT-shops.

[186] COM(2004) 728 final, page 5. Available at: http://europa.eu.int/comm/taxation_customs/publications/official_doc/COM_728_en.pdf
[187] COM(2004) 728 final, page 5. Available at: http://europa.eu.int/comm/taxation_customs/publications/official_doc/COM_728_en.pdf