

Utah – Remote sellers voluntarily collecting and remitting sales and use tax may retain 18% of amounts collected

March 28, 2013

In brief

On March 22, 2013, Utah Governor Gary Herbert signed [H.B. 300](#), which allows remote sellers that voluntarily collect and remit Utah state and local sales and use tax to retain 18% of the tax sellers would otherwise remit to the State Tax Commission. The seller must obtain a Utah sales and use tax license and the seller must not have been licensed prior to January 1, 2014. A seller is ineligible to retain the 18% if the seller is required to collect or remit Utah sales and use tax under Utah law or pursuant to subsequent US Congressional or US Supreme Court authority.

Under current law, Utah generally provides that sellers may retain 1.31% of tax collected (the collection allowance). H.B. 300 provides that sellers voluntarily remitting and retaining 18% of the tax collected may not retain other amounts, such as the 1.31% collection allowance.

The law is effective January 1, 2014.

The takeaway

Most states welcome sellers that have no in-state physical presence to voluntarily remit sales and use tax, however states typically do not provide a monetary incentive to do so. Utah has taken a unique approach to addressing the

remote seller issue. While other states seek to impose a sales and use tax collection obligation on out-of-state sellers without a physical presence in their jurisdiction, Utah has chosen to incentivize those sellers that voluntarily collect and remit the tax. It is noteworthy that the bill

as introduced included a 50% retention amount, which was subsequently reduced to 18%.

The new law could be subject to constitutional scrutiny as it provides a benefit to out-of-state companies that is not available to in-state companies.

Let's talk

If you have questions about H.B. 300, please contact one of the following individuals:

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