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Forward: Symposium on State Sales Tax

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FOREWORD

CHARLES F. CONLON*

One of the most remarkable developments in state finance is the rapidity with which the retail sales tax has become the most important fixture in the revenue system. Practically unknown a quarter century ago, by five years later in 1935 the tax yielded \$284 million, slightly less than 13 per cent of state tax collections — unemployment compensation taxes aside. Last year, state sales tax revenues amounted to \$2.6 billion, or about 23 per cent of state tax collections. For the future the prospect is that sooner or later all but a few, if indeed not all the states, will be in this tax field.

A symposium on the subject is most timely, and the editors of the *Vanderbilt Law Review* and its contributors are to be congratulated on this undertaking. It is true that considerable progress has been made toward solving many of the problems found in the early days of the sales tax — the taxation of sales involving interstate elements, the extent of the obligation of sellers to collect use taxes, and the tax status of sales on federal areas, to name but a few. Administrative methods have improved considerably and with few exceptions the tax has gradually won acceptance in the states where it is imposed. Nevertheless, there are a number of points where the statutes, inter-governmental relations and administrative methods may be substantially improved, and a review and reappraisal of the type that follows might well encourage an effort to achieve desirable improvements and refinements.

Problems of definition and construction, while much less apparent than was the case ten or fifteen years ago, still persist. There are many minor differences in sales tax laws, regulations and rulings which by themselves are not very important but taken together they do impose a needless compliance burden on businesses operating in more than one state. Uniformity in this respect is about as far away as it ever was. Differences in exemptions have much the same effect from the compliance standpoint, though exemptions are of considerably more importance than other variations in sales tax laws because both directly and indirectly they can affect the revenue substantially. The indirect effect of exemptions is well known to tax administrators who see their audit control weakened as exemptions increase, but unfortunately this point is not generally appreciated.

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Many defense-connected procurement and manufacturing contracts with the Government contain title-passing and purchasing-agency clauses which if widely extended would immunize a considerable area of economic activity from liability for sales and use taxes. This phase of sales taxation merits serious consideration, and possibly corrective legislation by the Congress.

Administrative procedures have been developed and improved over the years, but this development and improvement have been uneven among the states. A variety of factors are pertinent here: appropriations for operating expense, differences in personnel standards and training, salary scales, inadequacies of staff in numbers or quality or both, the type and extent of exemptions—these and other factors influence the enforcement effort for better or worse and sometimes prevent the administration from achieving the standard of adequacy and fairness.

For some time the maximum rate of tax in the state sales tax field was 3 per cent. Lately a number of local governments have come into the field and combined rates in excess of 3 per cent are observed in some states. As a matter of fact, the 3 per cent ceiling at the state level was broken in two states during 1955 legislative sessions.

The fraction-by-fraction approach toward higher levels of sales taxes is a serious and fundamental matter. What may be a fair and equitable tax at a rate of 2 per cent or 3 per cent when considered in connection with other elements in a state's tax system (and the federal tax structure), may be grossly unfair at a rate of 5 per cent. If adequate administration and more inclusive, exemption-free statutes will substantially improve the yield of sales taxes at present rates, certainly that choice is to be preferred to the alternative of a continuous upward movement in tax rates.

For these reasons, among others, it appears that even in a relatively mature period of its development the sales tax merits careful study. This symposium is a most useful undertaking precisely because it does provide such a study of current trends and developments in the sales tax field.