

QUESTION NO. 3

Amendment to the Sales and Use Tax Act of 1955

Assembly Bill 403 of the 75th Session

CONDENSATION (Ballot Question)

Shall the Sales and Use Tax Act of 1955 be amended to authorize the Legislature to amend or repeal any provision of this Act only if necessary to resolve a conflict with any federal law or interstate agreement for the administration, collection, or enforcement of sales and use taxes?

Yes ☐ No ☐

EXPLANATION

This proposed amendment to the Sales and Use Tax Act of 1955 would authorize the Nevada Legislature to enact legislation amending or repealing any provision of this Act without obtaining voter approval whenever such legislation is necessary to resolve a conflict with any federal law or interstate agreement for the administration, collection, or enforcement of sales and use taxes. The proposed amendment would not authorize the Legislature, without obtaining voter approval, to enact any legislation that increases the rate of any tax imposed pursuant to this Act, or to narrow the scope of any exemption under the Act.

Nevada has enacted laws providing for the administration of sales and use taxes in accordance with the interstate Streamlined Sales and Use Tax Agreement to which Nevada is a member. The purpose of this Agreement is to simplify and modernize sales and use tax administration in order to reduce the burden of tax compliance for all sellers and types of commerce within and across state lines. To avoid a conflict with the provisions of the Agreement, the Legislature may be required to enact legislation amending the Sales and Use Tax Act of 1955 in response to federal legislation approved by Congress affecting the Agreement or in response to interstate actions amending the Agreement. The Legislature has the authority to amend local sales taxes without voter approval, but the Sales and Use Tax Act, which was enacted by referendum, cannot be amended without voter approval. Passage of this question would grant limited authority to amend the Sales and Use Tax Act to resolve certain conflicts.

A “Yes” vote would authorize the Legislature to amend or repeal any provision of the Sales and Use Tax Act of 1955 without voter approval in order to resolve a conflict with federal law or interstate agreements for the administration, collection, or enforcement of the sales and use tax, except for legislation that would increase the rate of tax imposed pursuant to the Act or narrow the scope of any exemption under the Act.

A “No” vote would continue to require the Legislature to obtain voter approval before enacting any legislation amending or repealing any provision of the Sales and Use Tax Act of 1955.

ARGUMENTS FOR PASSAGE

To remain in compliance with the Streamlined Sales and Use Tax Agreement, Nevada must act in a timely manner regarding federal legislation or amendments to the Agreement that affect the Sales and Use Tax Act of 1955. Authorizing the Legislature to amend or repeal provisions of the Act without voter approval, under certain limited conditions, would allow the Legislature to respond flexibly and efficiently to such legislation and amendments. Because the Legislature only meets regularly in odd-numbered years and general elections only occur in even-numbered years, there is already a potential 2-year delay in maintaining compliance with the Agreement. The additional delay of requiring approval of a ballot question to make technical and administrative changes relating to sales and use taxes increases the risk of falling out of compliance with the Agreement, which would jeopardize Nevada's membership status under the Agreement.

This amendment does not authorize the Legislature, without voter approval, to increase the State's portion of the tax rate (2 percent) or to take away or narrow the scope of any tax exemption under the Act.

ARGUMENTS AGAINST PASSAGE

Amendments to the Sales and Use Tax Act of 1955 have required voter approval since 1956 when Nevada voters approved the Act through the constitutional referendum process. Since that time, the Department of Taxation has been able to administer sales and use taxes and the Nevada Legislature has been able to enact appropriate legislation to amend the State's portion of the sales and use tax and obtain voter approval when required. With respect to federal law and the Streamlined Sales and Use Tax Agreement, the State was able to become a member to the Agreement and has been able to maintain compliance with the Agreement up to this point under the current process that requires voter approval. The citizens of Nevada should not give up the right to approve even minor legislation that changes the administration, collection, and enforcement of the State's portion of the sales and use tax.

FISCAL NOTE

Financial Impact – Cannot Be Determined

If this proposal to amend the Sales and Use Tax Act of 1955 is approved by voters, the Nevada Legislature would be authorized to make changes to the Sales and Use Tax Act of 1955 without voter approval under certain conditions. It cannot be determined with any degree of certainty the number or types of legislative actions that would be required by the Legislature which would meet all of the conditions specified within the question. Thus, the financial impact on the sales and use taxes collected in the State or upon individual taxpayers cannot be determined with any reasonable degree of certainty.