THE TRUTH ABOUT THE MARKETPLACE FAIRNESS ACT

As the House Judiciary Committee revisits discussions on legislation that would give state and local governments the option to collect taxes on remote sales, it has become clear that there are a number of misconceptions about the legislation, including how it would be implemented and questions about collection and remittance of remote sales taxes. Many of these same issues help illustrate why this important legislation is necessary. This document is intended to clear up these misunderstandings and set the record straight.

Background

Two U.S. Supreme Court decisions of the previous century (before the internet existed) established federal law with respect to remote sales tax collection as we know it today – the 1967 National Bellas Hess v. Department of Revenue of Illinois case and the 1992 Quill Corp. v. North Dakota. In the first case, the Illinois Department of Revenue attempted to force catalog retailer Bellas Hess, which was based in Kansas City, to collect Illinois sales tax. Bellas Hess refused. In its ruling on the case, the Supreme Court said that only businesses with nexus in a state have to collect sales tax for that state. Nexus is created by a physical presence. The Bellas Hess decision was reaffirmed in 1992 when North Dakota tried to require Quill Corporation, a mail-order office supply company incorporated in Delaware, to collect tax on its sales into the state. Quill refused on the grounds that it had no physical operations or employees in North Dakota. However, in the Quill ruling, the Supreme Court specifically invited Congress to exercise its authority to overrule the Supreme Court by enacting legislation:

"Our decision is made easier by the fact that the underlying issue is not only one that Congress may be better qualified to resolve, but also one that Congress has the ultimate power to resolve . . . In this situation, it may be that the better part of both wisdom and valor is to respect the judgment of the other branches of the Government."

However, remote sales have changed dramatically since that time through the advent of Ecommerce, and federal law has not kept pace. The absence of an update has left brick and mortar retailers (local businesses) at a 6-10 percent price disadvantage to online retailers and state and local governments at a $23 billion per year loss in unpaid taxes on remote sales.

Responding to the Supreme Court's invitation for Congress to utilize its authority to regulate interstate commerce and modernize our tax laws, the Marketplace Fairness Act would allow those states interested in collecting taxes from online retailers to either: (1) join the Streamlined Sales and Use Tax Agreement (SSUTA), a compact between 24 states to use simplified state-level administration of sales and use taxes and uniformity in state and local tax bases and definitions, or (2) agree to implement minimum tax simplification requirements as outlined in the bill.

DISPELLING THE MYTHS

Myth - Marketplace Fairness Act Would Impose a New Tax

The argument that the Marketplace Fairness Act would permit new taxing authority to state and local governments distorts the facts with respect to current state laws and federal law as established under the Supreme Court's decision in Quill Corp. v. North Dakota, 504 U.S. 298 (1992). That decision holds that a state may not require a seller that does not have a physical presence in the state to collect tax on sales into the state. ***However in states that impose a sales tax (45 states and the District of Columbia), online buyers are already required to pay a use tax for items upon which no sales tax has been paid***; though sellers do not always apply this tax and most buyers are not aware of their obligation to remit it. This negligent tax compliance has imposed increasingly negative fiscal consequences on state and local governments as a greater number of consumers have begun to shop online. According to the Department of Commerce Ecommerce sales in 2005 were $87 billion, and grew by nearly 40 percent to $225.5 billion in 2012. The National Conference of State Legislatures revealed last year that these sales produced approximately $23 billion in unpaid sales and use taxes in 2012. The time for congressional action to repair this broken tax system and redress these losses is now.

Myth - Small Businesses Will Be Negatively Impacted

Opponents of the Marketplace Fairness Act also argue that even if technology can resolve the technical concerns of keeping track of rates, jurisdictions, and filing complexities, such software would be prohibitively costly, particularly for small businesses. However the legislation actually requires states to provide the necessary software to retailers free of charge. And business has been very involved in simplifying the sales tax systems across the country to make it easier to comply. These improvements include standard definitions, taxability tables and other improvements which the software can interpret at the time of sale. It has already gotten easier for small businesses to comply with their sales tax responsibilities.

Myth - Collecting the Tax is Too Complex

Technology has advanced considerably since the 1967 and 1992 Supreme Court rulings that created the current sales tax situation. Today, keeping track of a few thousand local tax rates and filing requirements is not an insurmountable technical, administrative, or financial burden. The technologies necessary to create such a system are well-established. In fact, they are currently being used throughout Ecommerce, with existing technology available from at least six companies that allows for the easy collection of due sales tax. Again, the necessary software is free of charge.

TALKING POINTS ON HOUSE ONLINE SALES TAX LEGISLATION

- I am writing/calling to request your support for HR 2775, the Remote Transactions Parity Act.

- The current tax structure for online sales creates vast disparities between brick and mortar businesses and online retailers, and costs state and local governments an estimated $23 billion per year in taxes owed on remote sales.

- All 45 states that impose a sales tax already require consumers to pay a tax on online purchases. However no federal law exists to enable states to compel online stores to require consumers to pay this tax. In the absence of such a law, these taxes are not being paid, and local businesses are being put at a five to ten percent competitive disadvantage to remote sellers.

- Why do state and local governments insist that this kind of legislation is necessary?

  - The negligent consumer tax compliance that exists due to federal inaction on this issue annually results in the loss of billions of dollars per year in taxes owed to state and local governments on remote sales.

  - State and local governments use tax revenue to pave roads, supply clean water and reliable energy, and provide public education and valuable public safety services. Many governments have had to cut back services in many of these areas due to the tight budget constraints imposed by the mortgage foreclosure crisis.

  - Enactment of federal legislation that would compel retailers with an online presence to collect and remit taxes from their remote sales would close an enormous tax loophole, help our state and local governments restore many of these important services, and advance plans to improve economic development and create jobs.

  - A study by former Reagan Economic Policy Advisory Board member Arthur Laffer estimates that enactment of such legislation would allow states to lower tax rates, create over 1.5 million new jobs and add $563 billion in GDP over the next 10 years.

  - Passing this kind of legislation now is also important because there has been tremendous growth in online sales over the years. And as online sales continue to increase the amount of taxes going unpaid to state and local governments to provide critical community services also increases.

  - For example, according to the Department of Commerce e-commerce sales in 2005 were $87 billion, and grew by nearly 40 percent to $225.5 billion in 2012. Correspondingly, the National Conference of State Legislatures revealed last year that these sales produced approximately $23 billion in unpaid sales and use taxes in 2012. The time for congressional action to repair this broken tax system and redress these losses is now.

  - I should also add that leveling the playing field for small businesses is one of the main drivers of this legislation. As long as online retailers are free to sell their products without charging sales tax, local businesses without an online presence will continue to be at a price disadvantage. Many small businesses, including <u>**(INCLUDE NAMES OF BUSINESSES IN YOUR**</u>

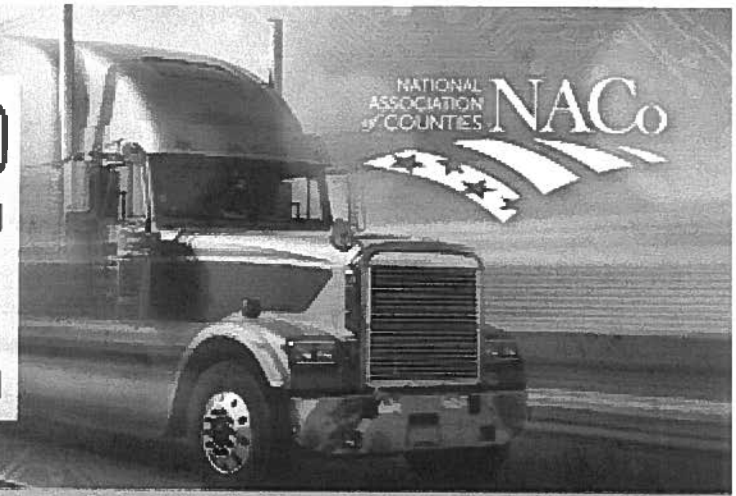
COMMUNITY THAT SUPPORT THE BILL) have come out to urge their members of Congress to support legislation to eliminate this disparity.

- The Senate approved similar legislation (the Marketplace Fairness Act) by an overwhelming bipartisan majority (69-27) in 2013, and has reintroduced this legislation (S 698) IN 2015.

- Thank you for making time to discuss this important issue with me today. I hope this conversation has helped to clear up some of the misunderstandings about this much-needed legislation. And I hope that you will reach out to Speaker Boehner and urge him to bring online sales tax legislation to the floor for a vote.

- Thanks again for your time.

DELIVERING UNCOLLECTED
REVENUE



SUPPORT REMOTE SALES TAX LEGISLATION

WASHINGTON

	UNCOLLECTED REVENUE, 2013:	UNCOLLECTED REVENUE 2011-2013 GROWTH RATE:
STATE	$663.8 M	11.9 %
NATIONAL	$ 26.1 B	10.2 %

Congress should act now on this critical issue for counties by passing legislation like the Marketplace Fairness Act (MFA) or the Remote Transactions Parity Act (RTPA) by the end of the year.

- **MFA/RTPA is not a new tax**. It would allow state and local governments to collect existing sales and use taxes on remote sales.
- MFA/RTPA would enable state and local governments to collect sales taxes that are already owed each year that could be dedicated to providing important local services such as infrastructure, public safety, education and economic development.
- Passing federal legislation would level the playing field for local retailers who are at a competitive disadvantage to online retailers who do not have to collect taxes.

Source: NACo Analysis of data from U.S. Census Bureau; U.S. Bureau of Economic Analysis; Federal Communications Commission; University of Tennessee.

MISSING REVENUE IS CRITICAL FOR SERVICES INCLUDING:

ROAD AND BRIDGE MAINTENANCE | LAW ENFORCEMENT | PUBLIC HEALTH | EDUCATION | ECONOMIC DEVELOPMENT | SOLID WASTE DISPOSAL | ENVIRONMENTAL COMPLIANCE

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U.S. Metro Economies

May 2013

Impact of "Marketplace Fairness" on Select Jurisdictions – UPDATE

Prepared for:

The National Association of Counties

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The United States Conference of Mayors

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Sales Taxation and Electronic Commerce

State and local governments across the US rely extensively on sales taxation as a key source of revenue to fund essential government functions. The sales tax is normally very simple to administer, requiring that vendors located within a locality charge buyers the required percent of the purchase price and remit the proceeds to the taxing jurisdiction. Enforcement by the local government authorities is simplified by the physical presence of the vendor. However, the very rapid growth in recent decades of online, Internet, sales poses new enforcement challenges and difficulties, and has contributed to an erosion of the sales tax base across cities and counties.

States and local governments have long had difficulties collecting sales taxes due from out-of-state sellers. These purchases from remote sellers were previously predominated by mail-order sales, but the growth of the Internet and ease of online remote sales has accelerated the rate of sales tax revenue losses. Moreover, the US Supreme Court held, in Quill Corp. v. North Dakota (1992), that a seller must have physical presence in a state in order for that state to require the seller to collect sales and use taxes.

The Marketplace Fairness Act

The Marketplace Fairness Act would allow state and local governments to enforce existing state and local sales and use tax laws on remote retailers so long as they simplify tax administration by adopting the Streamlined Sales and Use Tax Agreement (an agreement among twenty-four state governments which standardizes and simplifies administration across jurisdictions) or alternative minimum simplification requirements. It would also exempt small (less than $1 million in nationwide sales) remote sellers.

The purpose of this research is to provide estimates of the sales tax revenue losses for E-commerce in 2011, 2012, and 2013, across US cities and counties in the absence of this Act. These estimates are presented in the accompanying tables.

METHODOLOGY

The research relies heavily on the excellent, much-cited work in 2009, "State and Local Government Sales Tax Revenue Losses from Electronic Commerce", by Donald Bruce, William F. Fox, and LeAnn Luna, at the University of Tennessee. They made an extensive survey of state tax bases and surveyed state tax enforcement officials across the country, to develop estimates of losses as the state level. They concluded that total revenue losses from uncollected sales taxes on E-commerce across the US totaled $7.2 billion in 2007.

We extend their analysis to cities and counties, compiling sales tax rates across jurisdictions, IHS estimates of E-commerce growth through 2013, and IHS retail sales projections across US metros through 2013.

RESULTS

County and city sales tax receipts, normally collected at the point of purchase, provide funding for local services and are often designated for local improvement projects. The growth of E-commerce and remote sales has allowed for a lack of compliance with both state and local tax policy and further erodes the ability for local jurisdictions to collect on the primary drivers of sales tax revenue: population, income, and discretionary spending. As such, our analysis focuses on the monetary significance of local tax revenues lost to E-commerce and internet sales in the largest metropolitan areas across the United States.

Over $225 Billion in E-commerce transactions were recorded by Census in the United States in 2011. The results of our analysis show that, collectively, state and local governments in the United States experienced a direct loss of revenues due to uncollected taxes on E-commerce of nearly $12 Billion in 2011, rising to almost $14 Billion by 2013. The counties and cities tabulated here suffered a loss of nearly $1.3 Billion in 2011, $1.5 Billion in 2012, and a projected $1.7 Billion in 2013. The three year total of losses for these counties and cities is estimated at $4.5 Billion.

Each county and city included in the analysis levies a tax rate between 0.1% and approximately 6% on top of state taxes. Due to the difficulty in collecting from out of state retailers, taxes on these remote sales are rarely collected even when directly addressed by the local tax code. Lost revenues are calculated by determining the share of E-commerce originating from a given county or city and applying the appropriate local tax rate. While it is not uncommon for local jurisdictions to provide exemptions on some goods and services, purchases made through on-line transactions would not typically fall into exempt categories.

Among cities, New York City experienced the greatest loss in 2012 over $200 Million. Phoenix and Chicago followed with losses of $18 Million and $17 Million respectively. These losses are forecast to $235 Million for New York and to over $20 Million for Phoenix. Ten other cities are projected to lose over $10 million each in 2013.

Top Eleven U.S. Cities - E-Commerce Tax Revenue Losses by Year
($000s)

City	State	2011	2012	2013	Cumulative Total
New York	New York	179,401	205,730	235,072	620,203
Phoenix	Arizona	15,200	17,790	20,587	53,577
Chicago	Illinois	14,536	16,859	19,236	50,630
Dallas	Texas	9,507	11,177	12,919	33,603
Philadelphia	Pennsylvania	9,425	10,950	12,517	32,891
Oklahoma City	Oklahoma	9,290	10,873	12,499	32,662
Memphis	Tennessee	9,283	10,860	12,442	32,585
Nashville	Tennessee	8,628	10,094	11,564	30,285
Los Angeles	California	8,584	10,022	11,481	30,087
Houston	Texas	8,429	9,909	11,453	29,790
Denver	Colorado	7,852	9,187	10,577	27,617
Total		**280,134**	**323,450**	**370,347**	**973,931**

Source: IHS Global Inc.

Among counties, Los Angeles, CA and Cook County, IL experienced the greatest losses at over $70 Million and $42 Million respectively. In 2012, the city of Chicago was unable to collect over $14 Million due to remote sales. Yet, this number represents only 26% of the total MSA losses recorded in the surrounding counties.

Comal County, Texas, part of the San Antonio metro, experienced the least amount of losses of any county recorded in our study at $6,000; however, this number is forecasted to grow by nearly 15% by 2013.

Top Ten U.S. Counties - E-Commerce Tax Revenue Losses by Year ($000s)						
State	**Metropolitan Statistical Area**	**County**	**2011**	**2012**	**2013**	**Cumulative Total**
California	Los Angeles	Los Angeles	70,807	82,473	95,265	248,545
Illinois	Chicago	Cook	42,002	48,523	55,547	146,071
Washington	Seattle	King	30,037	35,610	41,582	107,229
New York	New York	Westchester	25,997	30,210	35,213	91,419
Georgia	Atlanta	Fulton	23,623	27,416	31,559	82,598
Louisiana	Baton Rouge	East Baton Rouge	21,038	23,686	26,974	71,698
Arizona	Phoenix	Maricopa	19,639	23,010	26,896	69,544
Louisiana	New Orleans	Orleans	18,206	21,181	25,180	64,566
Louisiana	New Orleans	Jefferson	17,179	19,339	21,785	58,304
New York	Buffalo	Erie	16,043	18,348	21,091	55,482
Total			**251,349**	**292,108**	**338,213**	**881,670**

The full study results are organized by state in the following tables. For cities the results are organized by state. Study results for counties are organized by descending geographic region. To find a particular county or city, first locate the state in which the local jurisdiction resides. Listed under each state are the Metropolitan Statistical Areas (MSAs), entities defined by the Office of Management and Budget for collecting, tabulating and publishing federal statistics. County-level data is found under the corresponding MSA. For example, when researching data for Dakota County in Minneapolis, one must first scroll to the Minnesota section and precede one geographic level down to the Minneapolis MSA. Dakota County data will be located under the state and MSA sub-headings. It should be noted: counties in MSAs that cross state lines can be found under the state in which they are located.

REVENUE LOSSES FROM E-COMMERCE - CITIES

State	City	Tax Revenue Loss ($000s)			
		2011	2012	2013	Total
Alabama	Birmingham	3,397	3,937	4,516	11,850
	Decatur	648	751	862	2,261
	Dothan	762	884	1,014	2,660
	Huntsville	2,522	2,923	3,353	8,799
	Montgomery	2,305	2,672	3,065	8,042
Arkansas	Fayetteville	574	669	768	2,012
	Ft. Smith	673	784	900	2,357
	Hot Springs	275	320	367	962
	Jonesboro	394	459	526	1,379
	Little Rock	755	880	1,010	2,646
	Pine Bluff	311	363	416	1,090
	Rogers	437	509	584	1,530
Arizona	Chandler	1,967	2,302	2,664	6,932
	Gilbert	1,736	2,032	2,351	6,120
	Mesa	4,149	4,857	5,620	14,626
	Phoenix	15,200	17,790	20,587	53,577
	Prescott	421	493	570	1,484
	Scottsdale	1,959	2,292	2,653	6,904
	Tucson	5,587	6,540	7,568	19,695
California	Culver City	90	105	121	317
	Davis	181	211	242	634
	Inglewood	255	297	341	893
	Long Beach	1,046	1,221	1,399	3,667
	Los Angeles	8,584	10,022	11,481	30,087
	Merced	218	254	291	763
	Oxnard	546	637	730	1,913
	Palm Springs	218	255	292	766
	Porterville	141	164	188	493
	Sacramento	1,211	1,414	1,620	4,245
	Salinas	415	484	555	1,455
	San Bernardino	281	328	376	984
	San Luis Obispo	117	137	157	411
	San Mateo	119	139	159	418
	San Rafael	142	165	189	496
	Santa Cruz	156	182	208	546
	Santa Monica	208	243	279	731
	Santa Rosa	423	494	566	1,483
	Stockton	358	418	478	1,253
	Tracy	215	251	288	755
	Vacaville	473	552	633	1,658
	Vallejo	593	693	794	2,079
	Visalia	166	194	223	583
	Vista	244	284	326	854
	Watsonville	68	80	92	240
	West Sacramento	134	157	180	471
Colorado	Aurora	4,515	5,282	6,081	15,878
	Colorado Springs	4,710	5,511	6,345	16,567
	Colorado Springs	4,220	4,938	5,685	14,843
	Denver	7,852	9,187	10,577	27,617
	Fort Collins	2,263	2,647	3,048	7,958
	Grand Junction	632	739	851	2,221

REVENUE LOSSES FROM E-COMMERCE - CITIES

State	City	Tax Revenue Loss ($000s)			
		2011	2012	2013	Total
	Pueblo	1,512	1,770	2,037	5,319
Florida	Tallahassee	477	553	637	1,666
Georgia	Atlanta	2,175	2,534	2,913	7,622
Hawaii	Honolulu	1,526	1,787	2,058	5,371
Illinois	Chicago	14,536	16,859	19,236	50,630
Kansas	Kansas City	2,130	2,458	2,805	7,393
Minnesota	Duluth	440	514	588	1,542
	Minneapolis	1,042	1,218	1,395	3,655
	Rochester	291	340	389	1,020
	St. Cloud	179	210	240	629
	St. Paul	1,107	1,295	1,482	3,884
Missouri	Kansas City	4,435	5,142	5,886	15,463
	St. Louis	1,846	2,140	2,449	6,435
North Dakota	Bismark	450	549	639	1,639
	Fargo	724	883	1,028	2,634
	Grand Forks	340	414	482	1,236
Nebraska	Lincoln	1,770	2,058	2,325	6,154
	Omaha	2,801	3,258	3,681	9,740
New Mexico	Albuquerque	3,959	4,599	5,264	13,822
	Santa Fe	703	816	934	2,453
New York	New York City	179,401	205,730	235,072	620,203
	Yonkers	2,805	3,216	3,675	9,696
Oklahoma	Oklahoma City	9,290	10,873	12,499	32,662
	Tulsa	4,092	4,789	5,506	14,387
Pennsylvania	Philadelphia	9,425	10,950	12,517	32,891
Tennessee	Chattanooga	2,411	2,820	3,231	8,461
	Cleveland	724	847	971	2,542
	Knoxville	2,567	3,003	3,440	9,010
	Memphis	9,283	10,860	12,442	32,585
	Nashville	8,628	10,094	11,564	30,285
Texas	Arlington	2,648	3,113	3,598	9,358
	Austin	3,173	3,730	4,312	11,215
	Corpus Christi	1,685	1,981	2,289	5,955
	Dallas	9,507	11,177	12,919	33,603
	El Paso	2,606	3,064	3,541	9,211
	Fort Worth	2,976	3,498	4,044	10,517
	Garland	911	1,071	1,238	3,219
	Houston	8,429	9,909	11,453	29,790
	Irving	868	1,021	1,180	3,069
	Laredo	1,185	1,393	1,610	4,188
	Lubbock	1,382	1,625	1,879	4,886
	Plano	1,043	1,226	1,418	3,687
	San Antonio	6,087	7,156	8,272	21,516
Utah	Logan	205	242	281	728
	Ogden	353	416	482	1,252
	Orem	376	444	514	1,335
	Provo	462	545	631	1,638
	Salt Lake City	766	903	1,046	2,714
Virginia	Lynchburg	350	406	466	1,222
	Norfolk	1,124	1,304	1,498	3,926
	Richmond	788	914	1,050	2,751

REVENUE LOSSES FROM E-COMMERCE - CITIES					
State	**City**	**Tax Revenue Loss ($000s)**			
		2011	**2012**	**2013**	**Total**
	Roanoke	449	521	599	1,569
	Virginia Beach	2,027	2,352	2,702	7,081
Vermont	**Burlington**	259	302	346	907
Washington	**Bellevue**	1,421	1,672	1,925	5,017
	Bremerton	339	399	459	1,196
	Everett	1,112	1,308	1,506	3,926
	Longview	253	297	342	892
	Olympia	447	526	623	1,595
	Pullman	183	215	247	645
	Puyallup	420	494	569	1,483
	Seattle	707	831	958	2,496
	Spokane	1,195	1,406	1,619	4,220
	Tacoma	2,304	2,710	3,121	8,135
	Yakima	694	817	941	2,452
West Virginia	**Huntington**	253	295	336	884
Wyoming	**Casper**	509	592	678	1,779
	Cheyenne	912	1,061	1,214	3,187
		416,342	**482,660**	**553,477**	**1,452,479**

REVENUE LOSSES FROM E-COMMERCE - COUNTIES

State	MSA	County	Tax Revenue Loss ($000s)			
			2011	2012	2013	Total
Alabama	Birmingham	Bibb	256	295	341	892
		Blount	488	570	665	1,722
		Chilton	236	276	321	834
		Jefferson	8,782	10,039	11,457	30,278
		St. Clair	827	979	1,155	2,960
		Shelby	1,613	1,926	2,291	5,831
		Walker	700	804	919	2,423
	Huntsville	Limstone	865	1,015	1,197	3,078
		Madison	1,445	1,653	1,918	5,016
Arkansas	Memphis	Crittenden	387	447	513	1,347
	Little Rock	Faulkner	306	364	432	1,101
		Grant	103	119	139	361
		Lonoke	334	392	461	1,187
		Perry	100	116	134	350
		Pulaski	2,526	2,880	3,286	8,692
Arizona	Phoenix	Maricopa	19,639	23,010	26,896	69,544
		Pinal	1,802	2,168	2,642	6,611
	Tucson	Pima	3,437	3,982	4,621	12,040
California	Los Angeles	Los Angeles	70,807	82,473	95,265	248,545
	San Francisco	Marin	1,987	2,350	2,752	7,089
		San Francisco	8,433	9,933	11,541	29,907
		San Mateo	6,025	7,127	8,315	21,467
	San Jose	Santa Clara	14,422	17,076	19,734	51,232
	San Diego	San Diego	9,192	10,751	12,498	32,441
	Riverside	Riverside	4,180	4,946	5,821	14,946
		San Bernardino	3,886	4,520	5,212	13,618
	Sacramento	Sacramento	3,403	3,957	4,577	11,937
	Fresno	Fresno	2,628	3,083	3,573	9,284
Colorado	Denver	Adams	2,239	2,612	3,029	7,881
		Arapahoe	1,615	1,897	2,207	5,719
		Clear Creek	91	105	121	316
		Denver	5,576	6,440	7,380	19,396
		Douglas	3,621	4,398	5,314	13,334
		Elbert	193	230	269	692
		Jefferson	5,903	6,800	7,796	20,499
		Park	103	122	142	366
	Colorado Springs	El Paso	5,298	6,128	7,066	18,492
		Teller	175	204	238	617
Florida	Miami	Miami-Dade	12,662	14,696	17,000	44,358
	Tampa	Hernando	375	437	512	1,324
		Hillsborough	6,329	7,406	8,656	22,391
		Pasco	1,950	2,273	2,656	6,879
		Pinellas	5,203	6,020	6,933	18,156
	Orlando	Lake	1,345	1,584	1,864	4,793
		Orange	2,952	3,425	3,993	10,369
		Osceola	981	1,162	1,378	3,522
	Jacksonville	Baker	92	106	123	321
		Clay	867	1,021	1,205	3,092
		Duval	4,638	5,309	6,108	16,056
		Nassau	437	517	609	1,564

REVENUE LOSSES FROM E-COMMERCE - COUNTIES						
State	MSA	County	Tax Revenue Loss ($000s)			
			2011	2012	2013	Total
	North Port-Bradenton-Sarasota	Manatee	938	1,092	1,275	3,306
		Sarasota	2,726	3,160	3,653	9,538
Georgia	Atlanta	Barrow	937	1,094	1,273	3,304
		Bartlow	1,243	1,446	1,677	4,366
		Butts	277	324	375	975
		Carroll	1,407	1,616	1,857	4,880
		Cherokee	2,749	3,289	3,900	9,938
		Clayton	2,915	3,229	3,638	9,782
		Cobb	10,759	12,571	14,531	37,861
		Coweta	1,951	2,316	2,727	6,994
		Dawson	343	417	497	1,257
		De Kalb	12,407	14,294	16,374	43,075
		Douglas	1,739	2,029	2,366	6,134
		Fayette	1,675	1,981	2,329	5,985
		Forsyth	3,273	4,068	4,981	12,321
		Fulton	23,623	27,416	31,559	82,598
		Gwinnett	9,292	11,083	13,136	33,510
		Haralson	366	422	482	1,270
		Heard	133	152	174	458
		Henry	2,826	3,420	4,114	10,360
		Jasper	183	215	249	648
		Lamar	218	253	291	761
		Meriwether	262	300	340	901
		Newton	1,145	1,340	1,572	4,056
		Paulding	2,255	2,694	3,203	8,152
		Pickens	477	557	646	1,680
		Pike	194	227	264	685
		Rockdale	1,247	1,452	1,679	4,378
		Spalding	800	916	1,044	2,760
		Walton	1,262	1,478	1,719	4,459
	Chattanooga	Catoosa	841	989	1,148	2,978
		Dade	201	234	268	703
		Walker	829	960	1,104	2,893
Hawaii	Honolulu	Honolulu	4,707	5,473	6,321	16,501
Iowa	Ohmaha	Harrison	59	69	78	206
		Mills	67	79	90	235
		Pottawattamie	349	408	464	1,221
	Des Moines	Guthrie	42	47	53	142
		Madison	58	67	76	201
Illinois	Chicago	Cook	42,002	48,523	55,547	146,071
		Du Page	5,530	6,505	7,572	19,606
		Kane	1,609	1,884	2,205	5,699
		Kendall	460	558	678	1,696
		Mchenry	1,047	1,221	1,423	3,690
		Will	2,397	2,822	3,319	8,538
	St. Louis	Jersey	71	82	94	246
		Madison	420	480	546	1,446
		Monroe	44	52	61	157
		St. Clair	984	1,139	1,315	3,438
Kansas	Kansas City	Franklin	198	223	254	675

REVENUE LOSSES FROM E-COMMERCE - COUNTIES

State	MSA	County	Tax Revenue Loss ($000s)			
			2011	2012	2013	Total
		Johnson	5,721	6,717	7,839	20,277
		Leavenworth	427	501	585	1,513
		Miami	256	294	339	889
		Wyandotte	689	779	880	2,348
	Wichita	Butler	106	123	141	370
		Harvey	354	406	461	1,221
		Sedgwick	3,003	3,494	4,020	10,517
		Sumner	76	87	98	261
Louisiana	New Orleans	Jefferson	17,179	19,339	21,785	58,304
		Orleans	18,206	21,181	25,180	64,566
		Plaquemines	982	1,147	1,268	3,397
		St. Bernard	1,664	1,898	2,241	5,803
		St. Charles	2,235	2,527	2,882	7,645
		St. John the Baptist	1,887	2,174	2,499	6,560
		St. Tammany	12,920	14,899	16,920	44,740
	Baton Rouge	Ascension	5,055	6,055	7,171	18,282
		East Baton Rouge	21,038	23,686	26,974	71,698
		East Feliciana	795	911	1,035	2,741
		Iberville	1,281	1,449	1,610	4,340
		Livingston	4,519	5,339	6,267	16,125
		Pointe Coupee	854	989	1,131	2,975
		St Helena	438	506	579	1,523
		West Baton Rouge	1,054	1,231	1,412	3,698
		West Feliciana	456	518	577	1,552
	Shreveport-Bossier City	Bossier	4,911	5,767	6,725	17,403
		Caddo	9,562	10,783	12,272	32,617
		De Soto	908	1,074	1,246	3,228
	Lafayette	Lafayette	10,696	12,908	14,963	38,566
		St. Martin	1,619	1,880	2,165	5,664
Minnesota	Minneapolis	Dakota	588	691	802	2,081
		Hennepin	3,310	3,868	4,453	11,630
		Ramsey	735	847	967	2,549
		Washington	376	446	518	1,340
Missouri	St. Louis	Franklin	883	1,026	1,178	3,087
		Jefferson	2,129	2,481	2,859	7,469
		Lincoln	454	533	620	1,607
		St. Charles	81	95	110	286
		St. Louis	119	138	159	416
		Warren	279	326	379	984
		Washington	75	87	99	261
	Kansas City	Bates	88	102	116	307
		Caldwell	99	114	129	341
		Cass	866	1,017	1,184	3,068
		Clay	1,334	1,578	1,833	4,745
		Clinton	119	139	161	420
		Jackson	5,231	6,018	6,850	18,100
		Lafayette	285	329	377	992
		Platte	831	988	1,162	2,981
		Ray	182	211	241	634
North Carolina	Charlotte	Anson	112	126	142	380
		Cabarrus	1,115	1,307	1,524	3,945

REVENUE LOSSES FROM E-COMMERCE - COUNTIES						
State	**MSA**	**County**	**Tax Revenue Loss ($000s)**			
			2011	**2012**	**2013**	**Total**
		Gaston	1,189	1,372	1,567	4,128
		Mecklenburg	8,749	10,293	11,997	31,039
		Union	1,194	1,415	1,672	4,281
	Virginia Beach	Currituck	155	179	209	543
	Raleigh	Franklin	299	347	401	1,046
		Johnston	943	1,105	1,289	3,337
		Wake	6,511	7,702	9,047	23,260
	Durham	Chatham	473	551	647	1,671
		Durham	1,958	2,330	2,712	7,001
		Orange	1,116	1,289	1,500	3,906
		Person	185	212	245	642
	Greensboro	Guilford	3,079	3,626	4,200	10,905
		Randolph	752	874	1,005	2,632
		Rockingham	469	537	609	1,614
	Winston-Salem	Davie	251	295	342	888
		Forsyth	2,214	2,562	2,940	7,716
		Stokes	233	270	311	814
		Yadkin	201	234	269	703
New Mexico	Albuquerque	Bernalillo	5,895	6,719	7,701	20,315
		Sandoval	1,258	1,493	1,772	4,522
		Torrance	167	194	224	585
		Valencia	695	810	941	2,446
Nevada	Las Vegas	Clark	14,546	16,811	19,552	50,909
	Reno-Sparks	Storey	21	24	27	72
		Washoe	2,702	3,091	3,551	9,345
New York	Albany	Albany	5,602	6,336	7,248	19,186
		Rensselaer	2,427	2,790	3,210	8,427
		Saratoga	3,396	4,000	4,682	12,078
		Schenectady	2,581	2,955	3,391	8,926
		Schoharie	452	520	599	1,571
	Buffalo	Erie	16,043	18,348	21,091	55,482
		Niagara	2,950	3,393	3,903	10,246
	New York	Putnam	2,227	2,596	3,001	7,825
		Rockland	7,000	8,163	9,527	24,690
		Westchester	25,997	30,210	35,213	91,419
	Poughkeepsie	Dutchess	5,348	6,165	7,135	18,647
		Orange	6,005	6,946	8,027	20,979
	Rochester	Livingston	819	945	1,090	2,854
		Monroe	12,817	14,756	17,016	44,588
		Ontario	1,651	1,926	2,247	5,823
		Orleans	497	569	652	1,718
		Wayne	1,323	1,532	1,773	4,628
	Syracuse	Madison	977	1,142	1,329	3,448
		Onondaga	7,530	8,590	9,867	25,988
		Oswego	1,489	1,721	1,984	5,194
Ohio	Cleveland	Cuyahoga	10,127	11,671	13,347	35,145
		Geauga	451	530	618	1,599
		Lake	1,093	1,283	1,487	3,863
		Lorain	833	978	1,136	2,947
		Medina	682	811	953	2,446
	Cincinnati	Brown	184	216	250	650

REVENUE LOSSES FROM E-COMMERCE - COUNTIES

State	MSA	County	Tax Revenue Loss ($000s)			
			2011	2012	2013	Total
		Butler	1,033	1,214	1,404	3,650
		Clermont	707	838	982	2,527
		Hamilton	3,692	4,292	4,916	12,900
		Warren	891	1,070	1,272	3,233
	Columbus	Delaware	1,176	1,429	1,718	4,323
		Fairfield	477	555	639	1,672
		Franklin	5,435	6,345	7,323	19,103
		Licking	812	944	1,089	2,846
		Madison	169	196	225	589
		Morrow	137	159	182	478
		Pickaway	234	270	308	811
		Union	210	241	273	725
	Dayton	Greene	621	740	865	2,227
		Miami	433	505	583	1,521
		Montgomery	2,715	3,109	3,532	9,356
		Preble	179	208	239	625
	Akron	Portage	681	798	926	2,405
		Summit	2,182	2,527	2,901	7,610
	Toledo	Fulton	199	232	268	699
		Lucas	1,817	2,095	2,395	6,307
		Ottawa	189	220	254	663
		Wood	446	523	607	1,576
Oklahoma	Oklahoma City	Canadian	316	377	448	1,141
		Cleveland	473	561	663	1,697
		Grady	171	201	233	605
		Lincoln	271	314	361	946
		Logan	174	200	229	604
		Mcclain	148	176	207	531
Pennsylvania	Pittsburgh	Allegheny	4,951	5,760	6,628	17,339
South Carolina	Charlotte	York	797	930	1,087	2,814
	Columbia	Calhoun	52	60	69	182
		Fairfield	68	78	88	233
		Kershaw	213	246	284	743
		Lexington	981	1,166	1,370	3,517
		Richland	1,433	1,668	1,919	5,020
		Saluda	69	81	93	243
	Charleston	Berkeley	1,065	1,241	1,449	3,754
		Charleston	2,669	3,127	3,623	9,419
		Dorchester	463	545	643	1,651
	Greenville	Laurens	203	231	262	696
		Pickens	349	402	461	1,213
Tennessee	Nashville	Cannon	138	159	182	480
		Cheatham	488	564	646	1,698
		Davidson	11,805	13,656	15,630	41,091
		Dickson	173	200	230	603
		Hickman	359	429	502	1,290
		Macon	593	691	794	2,079
		Robertson	407	481	557	1,444
		Rutherford	852	996	1,143	2,990
		Smith	1,333	1,589	1,869	4,791
		Sumner	165	191	217	573

REVENUE LOSSES FROM E-COMMERCE - COUNTIES						
State	MSA	County	Tax Revenue Loss ($000s)			
			2011	2012	2013	Total
		Trousdale	2,344	2,744	3,179	8,267
		Williamson	393	457	525	1,375
		Wilson	267	315	365	947
	Memphis	Fayette	663	784	917	2,363
		Shelby	15,189	17,784	20,455	53,428
		Tipton	823	970	1,131	2,925
	Knoxville	Anderson	1,245	1,462	1,665	4,371
		Blount	1,491	1,755	2,033	5,279
		Knox	6,592	7,770	8,997	23,359
		Loudon	57	66	75	199
		Union	2,175	2,532	2,915	7,622
	Chattanooga	Hamilton	5,337	6,253	7,261	18,851
		Marion	410	477	553	1,440
		Sequatchie	176	206	241	623
Texas	Houston	Austin	64	73	84	221
		Brazoria	767	905	1,057	2,730
		Liberty	163	189	218	570
		San Jacinto	54	64	75	193
	Dallas	Delta	10	11	13	34
		Hunt	172	196	223	591
	Austin	Bastrop	135	157	183	475
		Caldwell	63	73	84	220
		Hays	332	398	474	1,204
	San Antonio	Atascosa	85	100	117	302
		Bandera	64	73	84	221
		Comal	6	7	9	22
		Guadalupe	317	373	430	1,120
		Kendall	25	29	33	87
		Medina	76	87	99	261
	El Paso	El Paso	1,519	1,796	2,096	5,411
Utah	Provo	Utah	3,544	4,187	4,914	12,645
	Salt Lake City	Salt Lake	10,971	12,919	14,995	38,885
		Summit	514	622	739	1,875
		Tooele	296	355	420	1,071
Virginia	Washington	Arlington	1,827	2,137	2,481	6,445
		Clarke	61	71	82	214
		Fauquier	361	425	499	1,285
		Loudoun	1,830	2,185	2,589	6,604
		Stafford	574	678	798	2,051
		Warren	150	173	200	524
		Alexandria City	1,107	1,291	1,507	3,905
		Fairfax /City/Falls Church	7,907	9,162	10,649	27,718
		Prince William	2,171	2,576	3,055	7,802
		Spotsylvania	493	573	668	1,734
	Virginia Beach	Gloucester	147	172	198	517
		Isle of Wright	152	177	205	534
		Matthews	48	56	65	169
		Surry	26	31	35	92
		Chesapeake	37	43	49	129
		Hampton	155	177	201	533
		Newport News	150	173	200	524

REVENUE LOSSES FROM E-COMMERCE - COUNTIES

State	MSA	County	Tax Revenue Loss ($000s)			
			2011	2012	2013	Total
		Norfolk	67	78	90	235
		Portsmouth	89	103	118	311
		Suffolk	551	626	710	1,886
		Virginia Beach	633	728	830	2,191
		James City	115	132	151	398
		York	302	348	400	1,050
Washington	Seattle	King	30,037	35,610	41,582	107,229
		Snohomish	7,059	8,264	9,631	24,954
Wisconsin	Milwaukee	Milwaukee	2,256	2,593	2,961	7,810
		Ozaukee	313	370	431	1,113
		Washington	358	421	490	1,270
		Waukesha	236	278	322	836
	Madison	Columbia	119	136	156	411
		Dane	1,196	1,391	1,613	4,200
		Iowa	46	52	59	156
Wyoming	Casper	Natrona	784	916	1,056	2,756
	Cheyenne	Laramie	1,431	1,669	1,935	5,034
			881,671	**1,026,198**	**1,187,914**	**3,095,783**

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IHS GLOBAL INSIGHT

BLOG

Federal Appeals Court Upholds Colorado's Effort to Collect Tax on Remote Sales

By MIKE BELARMINO Mar. 8, 2016

Tags: Tax & Finance, Intergovernmental Affairs

On February 22, the U.S. Tenth Circuit Court of Appeals decided that a Colorado law requiring remote sellers to inform Colorado purchasers annually of their purchases and send the same information to the Colorado Department of Revenue is constitutional. While this decision does not completely resolve the lack of federal action on remote sales tax legislation, it certainly marks a positive development in the long-standing effort by state and local governments to collect taxes on remote or online sales.

When Colorado enacted its law in 2010, the primary objective was to address use tax non-compliance. As in most other states, Colorado cannot compel out-of-state retailers that are not physically located in the state to collect taxes. Colorado requires purchasers themselves to calculate and remit use taxes on their purchases from out-of-state retailers. But most states requiring this remittance of use taxes have found that compliance is extremely low. By collecting the information from remote sellers, Colorado sought to implement a mechanism to allow greater enforcement of their use tax without violating current law, which has been in place since *Quill Corp. v. North Dakota <https://scholar.google.com/scholar_case?case=3434104472675031870&q=Quill+Corp.+v.+North+Dakota&hl=en&as_sdt=2006&as_vis=1>* was decided in 1992.

In *Quill*, the U.S. Supreme Court basically reaffirmed a 1967 decision in another case by holding that states cannot require retailers without any in-state physical presence to collect use tax. Both decisions, however, were made well before the Internet became the dynamic retail market we see today. The Direct Marketing Association (DMA) sued Colorado in federal court, claiming the law was unconstitutional under *Quill*.

In *Direct Marketing Association v. Brohl* <http://www.reedsmith.com/files/uploads/alert-attachments/2016/alert16055_attach.pdf> , the Tenth Circuit disagreed, concluding that *Quill* "applies narrowly to sales and use tax collection." The Tenth Circuit noted that neither the Supreme Court nor the Tenth Circuit has extended *Quill* "beyond the realm of sales and use tax collection." The Tenth Circuit further concluded the Colorado law doesn't discriminate against interstate commerce because DMA was unable to point to any evidence that the notice and reporting requirements imposed on out-of-state retailers are more burdensome than the sales tax collection and administration requirements imposed on in-state retailers.

Prior to this decision, in March 2015 the U.S. Supreme Court held unanimously that the Tax Injunction Act does did not bar the Tenth Circuit from deciding the *Direct Marketing Association* case. The State and Local Legal Center (SLLC), a group that the National Association of Counties (NACo) is a member of, filed an amicus brief <https://naco.sharefile.com/share#/view/s99f69054540462b9?_k=iv0xaa> discussing the devastating impact *Quill* has had on state and local governments in light of the rise in internet purchases, Congress's failure to pass the Marketplace Fairness Act and states' need to improve use tax collection through statutes like Colorado's. Justice Kennedy wrote a concurring opinion, which appeared to rely on the SLLC's brief, stating that the "legal system should find an appropriate case for this Court to reexamine *Quill*."

The SLLC also filed an amicus brief <https://naco.sharefile.com/share#/view/sa524205a99149ba9?_k=3q337y> in the Tenth Circuit making the same policy arguments that it made in the U.S. Supreme Court. The brief also argued that *Quill* does not apply to the Colorado law and that the notice and reporting requirements aren't discriminatory.

The Tenth Circuit began its opinion by noting the difficulty states and local governments face collecting use tax in an e-commerce economy. The opinion cited the SLLC brief, which provided an estimate of the very low rate of use tax compliance, and quoted Justice Kennedy's recent criticism of *Quill*.

At least three other states have similar notice and reporting requirements: Oklahoma, South Dakota and Vermont. NACo will continue to monitor developments as they occur.

NACo Resources:

- Policy Brief on Remote/Online Sales Tax Collection <http://www.naco.org/sites/default/files/documents/2016%20Online%20Sales%20Tax%20Final.pdf>
- Marketplace Fairness Action Hub <http://www.naco.org/advocacy/action-centers/marketplace-fairness>

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BLOG

Senate Passes Permanent Internet Tax Freedom Act

By MIKE BELARMINO Feb. 12, 2016

Tags: Tax & Finance, Intergovernmental Affairs

On February 11, the U.S. Senate passed the conference report on H.R. 644 <https://www.congress.gov/bill/114th-congress/house-bill/644> , a trade and customs enforcement bill that includes a permanent extension of the Internet Tax Freedom Act (ITFA). As a result, state and local taxes on Internet access services are permanently prohibited and the grandfathered states will have until June 2020 to phase out their existing taxes on Internet access services. The language was "air-dropped" into the conference report, meaning the provision was not part of the underlying bill that either the U.S. House of Representatives or Senate originally voted on in mid-2015. Click here <http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=114&session=2&vote=00022> to see how your Senators voted on H.R. 644.

ITFA, enacted in 1998, preempts state and local government authority to tax Internet access services. Currently, seven states (Hawaii, New Mexico, North Dakota, Ohio, South Dakota, Texas and Wisconsin) are grandfathered under ITFA and are still collecting over $500 million a year in taxes.

When first enacted, ITFA was only intended to be temporary in order to allow the Internet to "grow." For over a decade, NACo and other state and local government groups fought off attempts to permanently extend the preemption, resulting in eight short-term extensions. The primary goal was to ensure that Congress was periodically compelled to revisit whether the preemption of state and local authority was still necessary in light of the law's original intent of allowing the Internet to grow. Despite the tremendous growth of the Internet over the last seventeen years, proponents of the legislation still felt that it needed protection. As more telecommunication and video services transition to the Internet, critical revenue for local governments such as franchise fees, rights-of-way fees and other fees could see a substantial impact. In a letter <http://www.naco.org/sites/default/files/documents/NACo_2016%20ITFA%20SenLtr.pdf> to Senate leadership opposing the permanent extension, NACo urged lawmakers "not to indefinitely preempt the authority of state and local governments to set our own tax policies."

In recent years, Senate champions for remote sales tax legislation, like the Marketplace Fairness Act (MFA), have attempted to combine consideration of any extension of ITFA with MFA. Attempts have largely been unsuccessful, despite Senate passage of the Marketplace Fairness Act in 2013 by a strong bipartisan vote. In the days leading up to the Senate vote on the conference report, the strategy by MFA proponents appeared to be to attempt to strip out the permanent language from the report. However, two days before the vote a deal was struck between Senate leaders that resulted in Senators dropping their opposition to the conference report in exchange for a promise from Majority Leader Mitch McConnell (R-Ky.) that MFA would be considered "at some point" this year.

The legislation now heads to the president's desk for his signature.

NACo Resources:

- Marketplace Fairness Action Center <http://www.naco.org/advocacy/action-centers/marketplace-fairness>
- Policy Brief on the Internet Tax Freedom Act <http://www.naco.org/sites/default/files/documents/2016_%20ITFA_New%20Template.pdf>

About Mike Belarmino (Full Bio)

Associate Legislative Director, Finance, Pensions & Intergovernmental Affairs; Associate General Counsel

Mike Belarmino serves as Associate Legislative Director for Finance and Intergovernmental Affairs. He is responsible for all policy development and lobbying for the association in the areas of municipal finance and tax, elections, pensions and county and tribal government relationships. He also serves as Associate General Counsel for NACo.

More From Mike Belarmino

House GOP tax reform plan unclear on the future of municipal bonds

President Signs Legislation to "Fix" Puerto Rico Debt Crisis

NATIONAL ASSOCIATION of COUNTIES NACo

February 3, 2016

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Harry Reid
Minority Leader
United States Senate
Washington, DC 20510

Dear Majority Leader McConnell and Minority Leader Reid:

On behalf of America's 3,069 counties, the National Association of Counties respectfully requests that you oppose any permanent extension of the Internet Tax Freedom Act (ITFA), such as the proposal included in the conference report on H.R. 644. Any extension of ITFA should only be temporary in nature in accord with the intent of the law when it was enacted in 1998.

ITFA was originally designed to foster the then fledgling Internet by temporarily suspending new taxes on Internet access and – out of respect for state and local government authority – it was set to expire after two years. Eighteen years later, it is hard to argue that the Internet still needs protection because it is now a ubiquitous element of everyday life and the global marketplace. However, subsequent extensions of ITFA were temporary, as the original intent of the law was to compel Congress to periodically revisit whether the benefit of providing preferential treatment to one particular industry outweighed the cost of preempting state and local government authority. The fact that the Internet has thrived in the states and localities that have been able to tax Internet access since proves that any extension, much less a permanent extension, is no longer necessary.

We are not advocating for counties or our state and local government partners to tax Internet access; we are asking Congress not to indefinitely preempt the authority of state and local governments to set our own tax policies.

Counties rely on taxes to provide critical services, such as fire, public safety, education, and infrastructure to foster economic competitiveness. But today, as telecommunications and video services rapidly shift to the Internet, a permanent extension of ITFA would eliminate existing and future revenue that help to fund those critical services. In many instances, counties are mandated to provide a greater number of services, all while facing greater state and federal restrictions on generating revenue.

Furthermore, we are concerned that Congress is willing to consider a permanent extension of ITFA, a federally imposed prohibition on state and local taxing authority, but is not willing to take up legislation to level the playing field for retailers and consumers, such as the Marketplace Fairness Act or the Remote Transactions Parity Act. Enactment of remote sales tax collection legislation would restore budget autonomy to state and local governments and would ensure that competition, not a tax

25 MASSACHUSETTS AVENUE, NW | SUITE 500
WASHINGTON, DC 20001 | 202.393.6226 FAX 202.393.2630 | www.NACo.org

loophole, determines who succeeds in the marketplace. The legislation is not a new tax, but would require states to simplify their sales taxes and ease compliance in return for the authority to collect the billions of dollars in taxes that are already owed. These revenues will be used to reduce other taxes as well as be allocated for investments in infrastructure improvements, education advancements and public safety. Passage of MFA or RTPA will also benefit the small businesses on our Main Streets, as they are vital members of our communities that are currently at a competitive disadvantage with online retailers that do not have to collect the taxes.

Therefore, we urge you to oppose permanently extending ITFA. But if any extension is considered, Congress must finally, after more than two decades, join with state and local officials to ensure fair competition and preserve state and local authority by providing remote sales tax collection authority to state and local governments.

Thank you for your consideration of these issues.

Sincerely,

Matthew D Chase

Matthew D. Chase
Executive Director

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WASHINGTON, DC 20001 | 202.393.6226 FAX 202.393.2630 | www.NACo.org

H.R.2775 - Remote Transactions Parity Act of 2015

114th Congress (2015-2016) | Get alerts

BILL Hide Overview

Sponsor: Rep. Chaffetz, Jason [R-UT-3] (Introduced 06/15/2015)

Committees: House - Judiciary

Latest Action: 07/01/2015 Referred to the Subcommittee on Regulatory Reform, Commercial And Antitrust Law. (All Actions)

Tracker:

Introduced Passed House Passed Senate To President Became Law

More on This Bill

Constitutional Authority Statement

CBO Cost Estimates [0]

Subject — Policy Area:

Taxation

View subjects

Summary (1) Text (1) Actions (3) Titles (2) Amendments (0) Cosponsors (67) Committees (1) Related Bills (1)

Summary: H.R.2775 — 114th Congress (2015-2016)

All Bill Information (Except Text)

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There is one summary for H.R.2775. Bill summaries are authored by CRS.

Shown Here:
Introduced in House (06/15/2015)

Remote Transactions Parity Act of 2015

This bill authorizes both member states under the Streamlined Sales and Use Tax Agreement and states that have not adopted the Agreement (the multistate agreement for the administration and collection of sales and use taxes adopted on November 12, 2002) to require remote sellers (i.e., sellers who make remote sales in a state without a physical presence) to collect and remit sales and use taxes with respect to remote sales sourced to such states.

States that have not adopted the Agreement must show that they have adopted and implemented minimum simplification requirements for the administration of sales and use taxes in order to collect such taxes. Such requirements include: (1) the designation of a single state entity responsible for all state and local sales and tax administration, return processing, and audits of remote sales; (2) a single audit of a remote seller for all taxing jurisdictions in the state; (3) direct contact with a certified software provider utilized by the remote seller in conducting an audit; (4) a single sales and use tax return for use by remote sellers that is filed with a single entity responsible for tax administration; (5) a uniform sales and use tax base; and (6) sourcing of all remote sales in compliance with criteria established by this Act.

This bill expressly prohibits a state from requiring a remote seller to file sales and use tax returns any more frequently than is required for nonremote sellers. Additionally, remote sellers whose gross annual receipts are less than $5 million are exempt from audits unless there is a reasonable suspicion of intentional misrepresentation or fraud.

For the first three years after the effective date of this Act, the requirement for remote sellers to collect and remit sales and use taxes is limited to remote sellers whose gross annual receipts exceed a certain level (i.e., $10 million in the first year, $5 million in the second year, and $1 million in the third year) and who utilize an electronic marketplace for making sales to the public. After the third year after the effective date of this Act, there is no exemption for remote sellers to collect and remit such taxes.

The bill specifies limitations on the applicability of this Act, including by providing that nothing in this Act shall be construed as: (1) subjecting a remote seller to any type of tax other than sales and use taxes, or (2) enlarging or reducing the authority of a state to impose such taxes. The bill suspends the authority of a state to collect sales and use taxes in the first year after the effective date of this Act and between October 1 and December 31 of such first year.

The bill also prohibits a state from exercising any authority under this Act unless it: (1) provides certification procedures for persons to be approved as certified software providers, (2) refrains from denying or revoking certification to a software provider without a reasonable basis, (3) has certified multiple national certified software providers and such certifications are in effect, and (4) provides compensation for certified software providers.

August 27, 2016

Sample

The Honorable Maria Cantwell
United States Senate
511 Hart Senate Office Building
Washington DC 20510

Dear Senator Cantwell:

RE: SUPPORT THE MARKETPLACE FAIRNESS ACT (S 698)

On behalf of the Clark County, we are writing to request your support for the bipartisan *Marketplace Fairness Act (S 698)*. Such legislation would not impose a new tax, but would enable state and local governments to compel retailers to collect and remit sales taxes on online sales, which are already owed to them under current law.

The current tax structure for online sales creates vast disparities between brick and mortar businesses and online retailers, and costs state and local governments an estimated $23 billion per year in taxes owed on remote sales. All 45 states that impose a sales tax already require consumers to pay a tax on online purchases. However no federal law exists to enable states to compel online stores to require consumers to pay this tax. In the absence of such a law, these taxes are not being paid, and local businesses are being put at a five to ten percent competitive disadvantage to remote sellers.

Passing internet sales tax legislation now has never been more important because of the tremendous growth in online sales that has taken place over the years. And as online sales continue to increase the amount of taxes going unpaid to state and local governments to provide critical community services also increases. For example, according to the Department of Commerce e-commerce sales in 2005 were $87 billion, and grew by nearly 40 percent to $225.5 billion in 2012. The time for congressional action to repair this broken tax system, redress these losses and level the playing field for both brick and mortar and online retailers is now.

Thank you for your consideration of this important request. We hope you can sign on as a cosponsor of S 698. We look forward to working with you to advance Senate consideration of this bill.

Sincerely,
Board of County Councilors

August 30, 2016

Sample

The Honorable Patty Murray
United States Senate
154 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Murray:

RE: SUPPORT THE MARKETPLACE FAIRNESS ACT (S 698)

On behalf of the Clark County, we are writing to request your support for the bipartisan *Marketplace Fairness Act (S 698)*. Such legislation would not impose a new tax, but would enable state and local governments to compel retailers to collect and remit sales taxes on online sales, which are already owed to them under current law.

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Passing internet sales tax legislation now has never been more important because of the tremendous growth in online sales that has taken place over the years. And as online sales continue to increase the amount of taxes going unpaid to state and local governments to provide critical community services also increases. For example, according to the Department of Commerce e-commerce sales in 2005 were $87 billion, and grew by nearly 40 percent to $225.5 billion in 2012. The time for congressional action to repair this broken tax system, redress these losses and level the playing field for both brick and mortar and online retailers is now.

Thank you for your consideration of this important request. We hope you can sign on as a cosponsor of S 698. We look forward to working with you to advance Senate consideration of this bill.

Sincerely,
Board of County Councilors

August 27, 2016

Sample

The Honorable Jaime Herrera-Beutler
U.S. House of Representatives
O.O. Howard House (Officers' Row)
750 Anderson Street, Suite B
Vancouver, WA 98661

Dear Representative Herrara-Beutler:

RE: Cosponsor HR 2775 – *The Remote Transactions Parity Act*

Clark County asks for your support and co-sponsorship of the Remote Transactions Parity Act (H.R. 2775). This bill will modernize our nation's outdated sales tax collection process. The Remote Transactions Parity Act does not impose a new tax, but instead levels the playing field between online and brick-and-mortar stores by closing the online sales tax loophole. Sales taxes are owed on all purchases, and it is unfair for online retailers to skip collecting taxes, while the stores in our community collect all owed taxes.

The Act will also provide local governments with the resources needed to invest in communities, build infrastructure and provide important services like police protection, mental health services, and emergency response.

Today's marketplace offers consumers more choices than ever, but the existing outdated and inequitable tax and regulatory environment puts traditional retail outlets at an unfair disadvantage. The Supreme Court's decision in Quill Corp. v. North Dakota, 504 U.S. 298 (1992), left state and local governments unable to adequately enforce their existing sales tax laws on out-of-state catalog and online sales.

Fortunately, with its clear constitutional authority to regulate interstate commerce, Congress can give states and local governments the power to require sellers who do not have a physical presence in their jurisdiction to charge and collect sales taxes. We strongly urge you to support our local businesses and cosponsor H.R. 2775. Thank you for your leadership on this issue, and for all your hard work on behalf of Clark County.

Sincerely,

Board of County Councilors