



April 19, 2013

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

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

The Honorable Max Baucus  
Chairman, Senate Finance Committee  
United States Senate  
Washington, DC 20510

The Honorable Orrin Hatch  
Ranking Member, Senate Finance  
Committee  
United States Senate  
Washington, DC 20510

Dear Majority Leader Reid, Republican Leader McConnell, Chairman Baucus and Ranking Member Hatch:

We are writing to encourage you to provide for a thoughtful and deliberative process when weighing the merits of a new Internet Sales Tax system. States have tried and failed to create a workable collection system for over a decade. The Senate should require that this unprecedented grant of new taxing authority to states be provided all normal due process and deliberation.

TruST believes that the untested Internet Sales Tax proposal in the Marketplace Fairness Act (S. 743), which will likely see floor consideration next week, leaves many important questions unanswered and puts both businesses and consumers in harm's way by imposing new burdens that will hinder economic growth and job creation. As American businesses begin to recover from weak economic conditions, we cannot understand the rush to experiment with such an untested expansion of state taxing powers.

Under the most recent Internet sales tax proposals (including the Marketplace Fairness Act), new costs for businesses are significant and inevitable. From the near constant threat of audits from tax collectors in far away states to systems, accounting and legal fees, businesses face an uphill battle that will harm bottom lines. Additional layers of bureaucracy will also further inhibit new businesses that wish to sell their wares online.

Recent Internet sales tax proposals have the potential to create chaotic conditions for businesses struggling to comply with state tax laws. Almost in the blink of an

eye, businesses will go from having to comply with a single state's tax laws to nearly four dozen new regimes with no clear lines for appeal or redress.

Another major challenge with the proposed Internet Sales Tax is the trust that advocates are placing in states to simplify the tax systems. We know that states have their own unique and intricate levels of bureaucracy in dealing with enforcing tax policies. This system sets up businesses to fall flat on their face as they struggle to comply with multiple tax code definitions and rules for each state.

At a minimum, states and supporters of a new Internet Sales Tax system must demonstrate that their proposals meet the following minimum simplification requirements:

- **Provide Certified Software:** States must provide consolidated software for rate lookup, collection, electronic filing, and funds transfer. Users of the software would be immune from state and civil liability for errors in taxes collected.
- **Establish Universal Sales Tax Rate:** Enact a single sales tax rate per state for remote sales.
- **Reimburse Businesses for Reasonable Costs:** States should compensate businesses for reasonable costs of collecting sales taxes, including purchase and implementation of software.
- **Universal Definitions for Taxable/Exempt Products:** A single set of definitions for taxable and exempt products for all states.
- **One, Single Audit for All States:** A single audit on behalf of all states and local jurisdictions conducted by a single state where the seller has physical nexus, or a designated state in cases where a seller lacks physical nexus in any sales tax state.
- **Common Sales Tax Return:** There should be a common sales tax return for remote sellers to file electronically.
- **National Sourcing Sales Rule:** A single national rule for sourcing sales.
- **Align Sales Tax Holidays:** Harmonize sales tax holidays and thresholds, or give remote sellers an optional exemption from participation in sales tax holidays and thresholds.
- **Allow Remote Seller Disputes:** Allow remote sellers to challenge states in federal district court for disputes on sales tax collection, including whether a state is following congressionally required simplifications.
- **Preempt/Preclude Sales Tax Obligations:** Preempt and preclude state laws imposing sales tax obligations on businesses with no physical presence in that state.
- **Small Business Exception:** A congressionally-determined exception for small businesses.

This bill, and in fact, this entire issue has never had a full vetting and markup in a Senate committee. It makes complex changes to the entire economy and the simplistic headlines have subsumed the substance of the issue. Now is not the time

to hastily rush into passing an Internet sales tax without first requiring states provide meaningful simplification and safeguards.

We respectfully request the Senate to hold states accountable before granting them expansive new tax powers and postpone any floor vote until the reasonable simplification requirements are met.

Signed,

Direct Marketing Association

Electronic Retailing Association

American Catalog Mailers  
Association

NetChoice