House Judiciary Committee Proposal for Origin Rules & Revenue Return

NCSL Meeting, 9-Jan-2015
New Orleans

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NetChoice
| 1. **Tax Relief** – Using the Internet should not create new or discriminatory taxes not faced in the offline world. No fresh precedent for other areas of interstate taxation by States. |
| 4. **Simplicity** – So simple and compliance so inexpensive and reliable as to render a small business exemption unnecessary. |
| 2. **Tech Neutrality** – The tax compliance burden on online sellers should not be less, but neither should it be greater than for similarly situated offline businesses. |
| 5. **Tax Competition** – Governments should be encouraged to compete to keep tax rates low and American businesses should not be disadvantaged *vis-a-vis* foreign competitors. |
| 3. **No Regulation Without Representation** – Those who would bear state taxation, regulation and compliance burdens should have direct recourse to protest unfair, unwise or discriminatory rates and enforcement. |
| 6. **States’ Rights** – States should be sovereign within their physical boundaries. Congress should not mandate that States impose any sales tax compliance burdens. |
| 7. **Privacy Rights** – Sensitive customer data must be protected. |
States Already Using **Origin Sourcing**
for in-store sales
States Already Using **Origin Sourcing** for in-state Online & Mail Order Sales
Virginia Dept of Revenue

Sales tax from all In-Store, Mail-order, and Online sales

Clearinghouse returns tax revenue from Maryland Purchasers

Maryland Dept of Revenue

Seller uses Home State Tax Rates & Rules for all In-Store, Mail-order, and Online Sales
How it works: a multistate compact

• Congress authorizes a multistate compact that deals with interstate commerce
• States joining the Compact require in-state sellers to apply home state tax rates & rules on their interstate sales, no matter where the customer lives or how the sale is made
• States’ incentive to join the Compact: to receive taxes paid by their state residents on their remote purchases, via revenue returned by the Clearinghouse
How it works: single source of audits, rules, rates, and procedures

• **Transaction Parity**: all sellers – whether brick-and-mortar or online – apply home state rates and rules on their sales.

• **Compliance Parity**: each business in the state follows the same rules and deals with the tax authorities where they are located

• **Audit Parity**: The thorny problem of multiple audits disappears
How it works: *physical presence*

- Sellers still use destination rates & rules for sales into states where they have physical presence.
- Bill codifies *physical presence*:
  - employee assigned to the state;
  - services of exclusive agent necessary to maintain market;
  - lease/own tangible or real property.
- Prevents states from expanding physical presence.
- For states where a seller has no physical presence, the seller applies tax rates & rules for their *Home Jurisdiction*: where most employees are working (per payroll tax records).
How it works: 5 states without sales tax

• Non-tax states may join the Compact:
  – would receive taxes collected by sellers in other states
  – State residents would still pay no tax on in-state purchases

• Federal law requires Sellers in non-tax states to:
  - **Report** all remote sales to the Clearinghouse, which may share that data with states to assist them in Use Tax compliance, or
  - **Collect** sales tax on remote transactions, using flat rate & definitions set by Clearinghouse

• States seeking to audit sellers in non-tax, non-Compact states offer to pay seller’s state to audit. Otherwise, the Clearinghouse does the audit
Advantages over MFA

• Don’t need CSPs, so no need to pay CSPs up to 8% of taxes collected
• Don’t need an SSTP Governing Board
• Sellers face audits only by home state, or by states where they have physical presence
• When filing with their home state, sellers report sales tax transactions from out-of-state purchasers, showing date, sale, tax, and zip code of shipping (or billing) address
Advantages over MFA (cont’d)

• Don’t need a small seller exemption
• Works for catalog customers doing mail orders
• Federal Courts hear disputes about Home Jurisdiction, taxation of sellers in non-tax states, and interpretation of federal law and Compact
• Consumers are protected from double taxation: no liability for use tax greater than sales tax paid
• Congress would require Clearinghouse and states to adopt privacy and data security safeguards
Advantages over MFA (cont’d)

• Avoids Due Process problems with MFA
• No basis for concern about Equal Protection
• Neither MFA nor Judiciary bill can make foreign sellers collect your sales tax
• Easy new report for sellers: tax collected by zip
• No “Taxation Without Representation”; sellers follow the rates & rules where they live
• Maintains state sovereignty over rates & rules on sales and businesses within that state’s borders
Origin Rules & Revenue Return

Virginia
Dept of Revenue

Maryland
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