



NATIONAL CONFERENCE of STATE LEGISLATURES

The Forum for America's Ideas

June 28, 2012

Honorable Lamar Smith
Chairman
Committee on Judiciary
2138 Rayburn House Office Building
Washington, DC 20515

Honorable John Conyers, Jr.
Ranking Member
Committee on Judiciary
2138 Rayburn House Office Building
Washington, DC 20515

Stephen Morris
*Senate President
Kansas Senate
President, NCSL*

Michael P. Adams
*Director, Strategic Planning
Virginia Senate
Staff Chair, NCSL*

William Pound
Executive Director

Dear Chairman Smith and Ranking Member Conyers,

We write on behalf of the National Conference of State Legislatures (NCSL) concerning the Digital Goods and Services Tax Fairness Act (HR 1860). While NCSL acknowledges that rapid changes in technology and digital products have necessitated the creation of a national framework for the taxation of digital goods, similar to the framework of mobile cellular sourcing, we have concerns about this legislation as currently drafted. As written, this bill fails to adequately establish clear rules for the sourcing of transactions and fails to sufficiently define the types of taxes subject to the measure. NCSL is also concerned that this legislation will preempt existing state tax statutes and could negatively impact state revenues during a time when state budgets are only now recovering from the recent recession. As such, we feel that the uncertainties in definitions and scope of the measure must be resolved before further action is taken.

NCSL would also like to recognize that 24 member states of the Streamlined Sales Tax Agreement have already addressed digital sourcing. This measure would preempt these states who have diligently worked with industry to negotiate an agreement that guides states on the taxation of digital goods and services.

Moreover, HR 1860 only aims to fix one aspect of the sourcing issues of electronic commerce and fails to address the problem that states are unable to collect the sales taxes they are owed on remote transactions. Annually, states lose billions of dollars in tax revenue as the amount of business conducted online continues to increase. Measures in Congress, such as The Marketplace Equity Act (HR 3179) or the Main Street Fairness Act (HR 2701), would solve this problem and would also give states the incentive to simplify tax definitions and sourcing rules. Additionally, the increased revenues from sales tax collection would offset any losses that the states would incur through the passage of the Digital Goods and Services Fairness Act.

Therefore, the National Conference of State Legislatures requests that Congress delay action on HR 1860 to address the concerns of states and also asks that Congress not consider this legislation before first granting states the authority to collect the sales taxes they are owed on remote purchases.

Thank you for your consideration.

Senator Pam Althoff, Illinois

Delegate Shelia Hixson, Maryland

Co-Chairs, NCSL Executive Committee Task Force on State and Local Taxation