

Comments Submitted to the United States Senate Finance Committee hearing on “Tax Reform: What it Means for State and Local Tax and Fiscal Policy”, April 26, 2012

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In Support of e-Fairness, Closure of loopholes, and Improved Tax Compliance, as embodied in S 1832

SUMMARY

Most of us agree government should not pick winners and losers in the marketplace. Yet until Congress enacts “e-fairness” legislation such as the Marketplace Equity Act, Congress daily allows many out of state e-tailers to operate at nearly a 10% price advantage over our local brick-and-mortar retailers who must charge sales taxes that many of the internet-based sellers do not.

Today, your constituents shopping on the Internet are legally required to self-report and pay use taxes on their internet purchases when they file their state income tax returns, if no sales taxes were charged at the time of purchase. But only about 1% of such non-taxed internet purchases get self-reported, eroding Oklahoma’s state and local government tax collections by more than \$225 million annually, an amount which is growing rapidly year by year.

A more efficient, effective & fair means of collecting these taxes is to do it all at the time of purchase. This would represent improved tax compliance, not a tax increase, as it is sometimes erroneously mislabeled.

Eliminating the existing e-tailer loophole would not only level the playing field for retailers, but help preserve local funding for police and fire services, which in our state are directly tied to sales tax collections and are greatly threatened by ever-growing internet sales.

BACKGROUND

The following issue brief was crafted by two Tulsa Metro Region task forces which met on legislative issues over the course of three months last summer and fall, and became the basis for a proposal calling for e-fairness, all part of a package of legislative initiatives which has now been adopted by 55 different area chambers of commerce and local governments which together represent hundreds of thousands of businesses and citizens.

The Development, Economy, and Taxation Task Force and the Small Business Task Force of the Tulsa Metro Chamber both recommend the following policy proposal be advanced to the 2012 ONE VOICE Federal Legislative Agenda:

“Support fair and equal treatment of local businesses through passage of the Main Street Fairness Act, allowing collection of sales tax from online sales and preventing further erosion of our local merchants’ competitiveness. Without this Act, Oklahoma retailers will continue to operate at a competitive disadvantage versus out-of-state online retailers who refuse to collect sales taxes on sales made within Oklahoma.”

Issue Summary

Under our nation’s current system of sales taxation, not all retail sales are created equal. While brick-and-mortar retailers must remit sales and use taxes, many remote sellers, such as catalog and online (i.e., internet) vendors, are exempt from such requirements, creating a tremendously unfair competitive advantage (of as much as 10%) over their main street brick and mortar counterparts. Growth in internet usage and online shopping shows no sign of letting up, compounding the problem every month Congress fails to act to rein in the problem.

Along with unfairly impacting local retailers -- many of whom have also been hard hit during the recession -- the present system places an impractical legal burden on taxpayers and consumers. Although consumers making an online purchase are legally required to later pay an outstanding "use" tax on the purchase, few are aware of this requirement, even fewer pay these taxes, and there is little incentive to do so. It has been estimated in California, for example, that only 1% of internet-based purchases are properly self-reported on that state’s income tax forms. Countless citizens become tax cheats in the process, which collectively costs state and local governments billions in much-needed revenue annually -- an amount which grows every year it is allowed to continue – and threatens governments’ ability to provide essential public services.

Traditional brick and mortar stores make significant investments in our local communities, employ many of our spouses and our young people, regularly give back to our communities through sponsorships of local ball teams, participation in local chambers etc... and pay ad valorem taxes for support of our local school systems and county government operations .Unfortunately, many local retail operations are being reduced to “show rooms”, where customers can try out a product before placing their (tax-free) order online. Some traditional retailers have already begun down-sizing their stores, employing fewer people locally, and generating less sales tax and ad valorem revenue for state and local government programs. Continuation of this trend will place upward pressure on state and local sales tax rates on those remaining community-based retailers, increasing their relative competitive disadvantages vis-à-vis their on-line competitors.

A 2009 University of Tennessee study estimated that in 2012 alone, the lost revenue could reach as high as \$23 billion. A 2011 study by the National Conference of State Legislatures placed last year's annual loss to state and local governments at \$8.6 billion, with Oklahoma's loss being \$296.3 million.

The Main Street Fairness Act would eliminate the present system's lopsided manner of taxing community-based retailers, make it easier for the consumer to fulfill his or her tax obligation, and promote community investment. More importantly, it would provide support for local businesses and necessary revenue to state and local governments without adding to the federal deficit, without establishing new taxes or increasing existing taxes. It merely establishes a uniform, more effective and efficient means of collecting consumption taxes which are already due and owing, and eliminates a great and unfair disparity between community based retailers and their remote, on-line competitors.

The Main Street Fairness Act embraces the Streamlined Sales and Use Tax Agreement, a voluntary program adopted by retailers and 24 states, developed over the past few decades to simplify catalogue and internet sales across numerous jurisdictions. Congress's adoption of the Main Street Fairness Act would require catalogue and on-line retailers to collect sales taxes on purchases shipped into those states which opted into the Streamlined Sales and Use Tax Agreement.

We strongly urge our Congressional delegation to support the Main Street Fairness Act. We need to provide a level playing field for retailers in our state by offering long-overdue sales tax fairness and a simpler, more even-handed system that will eliminate current distortions in the marketplace and serve to benefit our overall economy.