

Legislation Necessary to Level the Playing Field

The e-Fairness Coalition supports a “level playing field” so that all retailers – in-store, catalog, and online – have the same sales tax collection responsibility. We support the enactment of federal legislation to allow states to treat all retail sales equally. We do not support new taxes on Internet sales.

Current Law

Under current law, sales and use taxes are already imposed on all remote sales. If the remote retailer has a physical presence (or nexus) in the state of the buyer, the retailer is required to collect and remit the sales tax. However, under the Supreme Court’s Quill decision, if the remote retailer does not have sufficient physical presence in the state of the buyer, the retailer cannot be required to collect sales tax. In cases where the retailer does not collect the sales tax, the buyer is required to pay the use tax to their home taxing jurisdiction. The use tax is not widely understood and compliance is very low.

The Quill decision has resulted in a situation where large Internet retailers without physical stores do not collect sales taxes, while other “clicks and bricks” retailers with both online and traditional stores are required to collect sales taxes on all sales. This inequitable situation should not be allowed to continue. The Quill decision made clear that Congress has the authority to take action to cure this inequity

Meaning of “Extend the Moratorium”

The Internet Tax Freedom Act of 1998 banned taxes on Internet access and it banned multiple or discriminatory taxes on electronic commerce. **The Act did not ban the collection of sales and use taxes on sales made over the Internet.** This issue is not widely understood and is regularly mischaracterized in the press.

Merely extending the current moratorium does nothing to address the main issue of allowing states to require remote retailers to collect and remit sales taxes. Extending the moratorium will only delay a decision on this issue and allow the current inequitable situation to continue to the detriment of states and the “bricks and mortar” retailers that compete with remote sellers.

Compromise Legislation

The e-Fairness Coalition supports S. 512, the “Internet Tax Moratorium and Equity Act,” introduced by Senators Dorgan (D-SD) and Enzi (R-WY), with thirteen bipartisan cosponsors and its companion legislation, H.R. 1410, the “Internet Tax Moratorium and Equity Act,” introduced by Representatives Istook (R-IL) and Delahunt (D-MA), with ten bi-partisan cosponsors.

This legislation seeks to remedy the unlevel playing field for sales tax collection by authorizing states to develop and enter into an Interstate Sales and Use Tax Compact. States joining the Compact would be required to adopt a simplified sales tax system. In turn, states adopting the simplified system would automatically be authorized to require remote sellers above a sales volume threshold to collect use tax on all taxable sales into a state. Retailers would also be provided a collection allowance to offset the cost of compliance.

Providing a framework for simplification, and allowing states to require collection when the states achieve simplification is a reasonable and necessary step for Congress to take. Merely extending the moratorium is an empty gesture that does not solve the real problem.

<p>The e-Fairness Coalition includes brick-and-mortar and online retailers, retail corporations and associations, publicly- and privately-owned shopping centers, outlet centers and independently owned shops. The coalition advocates fairness for businesses and consumers. It supports a level playing field that ensures consumers are treated fairly regardless of where they choose to shop.</p>
