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Simplification section - for ITAA

States must simplify first, and then seek Congressional approval in order to obtain expanded taxing authority.

There is a critical philosophical difference in current major legislation addressing remote taxation of interstate commerce. One version favors an approach that would allow states to first tax and then simplify their tax frameworks. We believe that the states must first simplify their tax systems and provide bright line business activity tax nexus standards before seeking the authority to require remote sellers to collect sales tax on their behalf. Any attempt by the states to overturn the Quill decision and the Commerce Clause proscriptions against undue burdens on interstate commerce by means of an act of Congress requires a rebalancing of the new authority. No greater disaster could evolve in this debate than for a mandatory duty to collect sales tax to be imposed on out-of-state merchants before the states have simplified their sales and use tax provisions in a uniform manner. The careful balance of power that currently exists would be upset if states were allowed to require out-of-state merchants with no physical contacts in the state to collect sales tax in the state before the states simplify their tax systems and Congress deems the simplification sufficient to allow this authority.

States should, within their Constitutional parameters, control their taxing authority.

Despite the insistence of some of the parties involved in the debate, this issue is not a question of who should control the future of state tax schemes. States should control taxing authority within their borders. Rather, this is clearly an issue of the states trying to expand their taxing power under the U.S. Constitution without dramatically simplifying their currently difficult (particularly for small companies) web of conflicting sales tax laws and rules. What the states have actually asked for is a right to require remote merchants to collect and remit sales taxes. This is an expansion of power. If Congress considers passing legislation that grants this power shift to the states, then the legislation must include simplification standards for the states to meet before they can return to Congress seeking the ability to tax beyond their jurisdiction.

Telecommunications taxes must be rationalized with sales and use tax simplification.

The major thrust of state and local tax simplification is aimed at, and is a result of, the growth in electronic commerce. Electronic commerce, in its myriad forms, highlights the complexity and uncertainty of state and local retail transactions taxes. Telecommunications is fundamental to electronic commerce. Without telecommunications there is no electronic commerce, much less the Internet.

Taxes imposed in this area are the most complex, multi-layered and unclear of any transactions taxes. The Committee on State Taxation study of telecommunications taxes demonstrates this clearly. (The report may be obtained at [www.statetax.org](http://www.statetax.org)) As many of

these taxes are imposed on the users of telecommunications, the users of electronic commerce are burdened, if only indirectly. Electronic commerce pays the price (and suffers the consequences) of excessive, complex and uncertain telecommunications taxes. No simplification of taxation of electronic commerce, including Internet, catalogue sales, and other businesses at least in part conducted by telephone or telecommunications, is complete without the included rationalization of telecommunications taxes.

Telecommunications taxes need not be included in a sales tax bill with other transactions taxes, but there is no rationale for excluding telecommunications taxes from any streamlined processes the legislation mandates. Examples here could include transactions sourcing, processing exemption claims, audit and appeal procedures, facilitating reporting and collection, etc.

Recent studies and reports have documented the excessive burdens of complying with state and local taxes imposed on telecommunications services. A national telecommunications firm must file over 63,000 state and local transaction tax returns a year. Complying with these taxes is made more difficult because of the lack of information from the taxing jurisdiction.

The single largest factor to minimize the compliance burdens faced by telecommunications providers requires the state to administer local taxes. Other provisions that are needed include: limiting the frequency of tax rate and boundary changes; holding sellers harmless when using a prescribed database for determining tax liability; certifying rate assignment systems by the state; reporting by local authorities of the changes in local rates and boundaries to the states; and developing more uniform rules for sourcing telecommunications services.

In no way should the states be allowed to begin levying taxes on remote commerce, unless they have already simplified the current tax structures. After the states simplify the tax structure and provide some means of assurance that complexity will not return to a simplified system, only then should the allowance of remote taxation be considered. As a general view in simplification, one rate per state is clearly more simplified than multiple rates. Every allowance to move away from a truly simplified system places remote sellers, and really all merchants, into a system like the current system with differing tax rates that lead to greater complexity. One important goal would be to determine common definitions so that the same products could be understood similarly in the various tax codes. Along these lines, several states are currently considering levying a tax on services that may be rendered remotely. To begin adding services to a consumption tax base adds further complexity to the patchwork quilt of already inconsistent taxation. These schemes in the states make the notion of truly gaining simplicity increasing difficult.