

A Proposal for a Streamlined, Fair Tax System

**Submitted to the Advisory Commission on Electronic Commerce by
Commissioners Jones, Kirk, Leavitt, Lebrun and Locke**

Introduction

The advent of the Internet and electronic commerce is revolutionizing American society. It is altering the way individuals communicate and manage their personal affairs; it is changing the way government interacts and provides services to its citizens. Above all, it is radically reforming the way business operates, particularly with respect to the sale of goods and services to other businesses and to the consuming public.

The U.S. fiscal system – federal, state and local – must likewise undergo a radical reformation if it is to work in concert with the new economy. Governments must provide a fiscal climate that allows electronic commerce to fully mature and reach its untold potential. Tax systems must be modernized so that revenues are available to meet the legitimate expectations of citizens for desired services. All this must be done in a manner that is as neutral as possible across all forms of commerce and that avoids putting the government in the role of choosing winners and losers in the new economy.

As elected leaders of state, county, and city government, we also have a fundamental bottom line that drives our decision making – providing effective and efficient public services. As members of the Advisory Commission in Electronic Commerce, we have focused on protecting our "bottom line" in this new economy as well as recognizing the need for change in our state and local revenue systems. While we are ready and willing to take the steps necessary to ensure that our revenue collection systems reflect this increasingly borderless economy, we are not willing to compromise our ability to deliver high quality services to all of our constituents. Despite the remarkable opportunities offered by technology, there will never be a time when you can completely digitize the delivery of public services such as public safety, public education, and public works.

The Advisory Commission on Electronic Commerce was created to examine precisely this question: How should U.S. tax systems be adjusted so that both electronic commerce and government can fulfill the roles required of them in the new economy. It is unfortunate that the Commission was unable to reach the 2/3 majority required by the Internet Tax Freedom Act to enable it to make a recommendation to Congress. Perhaps an appropriately balanced Commission could have achieved such a consensus.

Nonetheless, much was learned from the Commission process, and each member can take away a great deal from the process that will inform his/her decisions as we move into the 21st century. From the work of the Commission, we have discerned a number of principles that we believe enjoy reasonably widespread support among members of the Commission as well as the taxpaying public. We have used those principles to guide the development of a comprehensive proposal to address many of the issues presented to the Commission. We offer them for consideration by Congress, the Administration, state and local governments and others.

Level Playing Field and Radical Simplification of the Sales Tax

We believe there are two preeminent principles that all parties should take away from this process. First, it is paramount that government officials and business leaders accord the highest priority to creating a level playing field that will treat all sellers – regardless of the channels through which they choose to market – as fairly and uniformly as possible for sales and use tax purposes. Second, the cornerstone of that level playing field should be a radically streamlined state and local sales and use tax system that is characterized by simplicity, uniformity, neutrality, efficiency and fairness. Unless we are able to achieve these objectives, we will have sanctioned a system in which certain retailers face an insurmountable competitive disadvantage simply because of how they operate. We will also have implicitly made a choice that the sales and use tax is a relic of a bygone era and not capable of operating in the digital, electronic world of the 21st century. We do not believe that Main Street retailers should be put at such a disadvantage; neither do we believe it is necessary or desirable to abandon the sales tax.

Electronic commerce makes it a certainty that many traditional businesses will compete on an uneven playing field against on line retailers. Under current Supreme Court holdings, states may not require a seller that does not have a physical presence in a state to collect tax on goods and services sent into that state. Use tax is still owed on the purchase, but the individual consumer is responsible for remitting the tax directly to the taxing authority. The Court has clearly held that it is within the authority of Congress to authorize states to require remote sellers to collect tax on sales into a state and that its standard can change if the states reduce the burden of collection on remote sellers. Without a change in current law, however, state use tax is unlikely to be collected on a substantial portion of electronic commerce transactions; estimates are that the potential revenue loss could reach \$20 billion annually by 2003.

This differentiation between remote and other sales might be allowed to continue if retailing remained divided between companies that are primarily on line sellers and others that are basically “bricks and mortar” sellers. We have learned in the Commission, however, that the on line and the physical worlds are rapidly integrating their operations to meet the demands of the consumers. “Bricks and mortar” retailers will pour millions into their on line shopping offerings as they morph into “clicks and mortar” retailers. Likewise, on line sellers are trying to establish relationships with traditional storefronts to offer better customer services.

In this integrated world, if remote sales are taxed differently than over-the-counter sales, we will have a system based upon a tangle of legal maneuvering to create fictitious separations between local merchants and their Internet counterparts and a playing field that will be viewed as inherently unfair. Such unfairness, if left to fester, will bring contempt and noncompliance that will, in turn, undermine the ability of state and local governments to provide required state and local services.

The conceptual solution to the state taxation issue is the creation of a level playing field in which all retailers are treated in an essentially similar manner with respect to requirements for collecting state sales and use tax. We recognize, however, that compliance and administration of the current sales and use tax system is complex and burdensome, particularly for multistate retailers. Accordingly, the linchpin of the proposals we offer below is that state and local governments must pursue an aggressive program to make the sales and use tax and its administration simpler and more uniform across states. If a level playing field is to be achieved, states and localities must act to make the sales tax more understandable and consistent across states. They must also act to reduce substantially the administrative complexity and burden imposed on all types of sellers.

Other Principles

Several other principles have helped guide our proposals:

- We do not see the Internet as a target for new taxes. Neither do we believe there exists any compelling reason to impose taxes exclusively targeted at the Internet as a medium or electronic commerce as a distinct channel of commerce. Discriminatory taxes on electronic commerce will not create an environment that is conducive to economic growth and will simply increase the digital divide, i.e., reduce the availability and affordability of the Internet to those Americans at the bottom of our socioeconomic ladder.
- The service demands placed on state and local governments will not dissipate in the near future. Despite the move to a virtual world, there is still a demand for real-world services of police and fire protection, quality education, environmental resource management and the like. State and local tax systems must be adapted to deal effectively with the new economy if states and localities are to meet the legitimate expectations of the voters for quality services.
- One of the most important and enduring features of the United States is the ability of taxpayers at each level of government to determine which taxes, fees, or levies they will or will not use to finance public safety, education, and public infrastructure. There is no reason to stand federalism on its head, much less to eviscerate this essential component of our history and tradition. There has been no showing of a need for restrictions on state and local taxation of electronic commerce, and such intervention would inevitably lead to unintended consequences and government involvement in choosing winners and losers. At the same time, states and localities must be prepared to take the initiative in simplifying their tax systems and adapting them to operate in the new economy.
- The federal, state and local system of taxing telecommunications is to a considerable extent a relic of a more regulated communications era. In an unregulated environment, complying with the telecommunications tax structure has become overly burdensome, and some of the taxes have discriminatory aspects to them. Substantial action must be taken in cooperation with the telecommunications industry to simplify and rationalize this tax structure.
- The work of the Commission highlighted the enormous sensitivity concerning privacy rights on the Internet. Individuals harbor fears that personal information given on line might have unfortunate, and unintended, uses that could impinge upon their private lives. While taxation policy itself might not be able to have any great detrimental effect on the tidal wave of growth in electronic commerce, tax policy that compromises individual privacy rights is unacceptable. Every care must be taken in designing tax systems for electronic commerce that there will be no compromising of consumer privacy.

With these principles in mind, we have fashioned proposals that address the primary state and local tax issues brought before us. We believe that, if adopted, they would establish an environment that continues to foster innovation and technological advancement in the development of the Internet and electronic commerce. At the same time, they recognize the obligation of the state and local governments to continue providing needed services to its citizenry. They are consistent with our beliefs that Governments should keep the tax and administrative burden on consumers and businesses as low as possible. They are also consistent with our view that federal policies in this area should be respectful of the sovereignty of sub-federal jurisdictions and interstate commerce. We believe they accomplish a balance between the needs of the Internet economy and the responsibilities of state and local governments.

The Components of a Streamlined, Fair Tax System

No Discriminatory or New Internet Taxes

The ultimate purpose of the Internet Tax Freedom Act, which remains effective until October 2001, is to prevent targeted taxation of the Internet and electronic commerce. We believe that is a worthy goal, and we do not advocate discriminatory taxation of electronic commerce.

Proposal

- The temporary moratorium on transaction taxes on Internet access charges established in the Internet Tax Freedom Act (ITFA) should be extended.
- The temporary moratorium barring multiple and discriminatory taxes on electronic commerce should be extended for a period of time commensurate with the implementation of the sales tax simplification efforts outlined below. Congress should then examine whether these provisions of the ITFA should be continued.
- This extension of the ITFA should be accompanied by an examination to ensure that it is consistent with technological and other advances since its passage and does not create unintended consequences. In particular, the issues of appropriate treatment for “bundled” communications services and Internet telephony should be examined.

Level Playing Field and Radical Sales Tax Simplification

We believe that the creation of a level playing field that will treat all sellers – regardless of the channels through which they choose to market – as fairly and uniformly as possible for sales and use tax purposes is a matter of the highest priority. The cornerstone of that level playing field must be a radically streamlined state and local sales and use tax system that is characterized by simplicity, uniformity, neutrality, efficiency and fairness.

We further believe that states adopting the simplified system should be granted the authority to require remote sellers whose sales volume exceeds a specified threshold to collect sales and use tax on goods and services sold into a state. Consumer choices should not be distorted by disproportionate tax collection responsibilities. This proposal is intended to enable all consumers, whether they make purchases on the Internet or elsewhere, to enjoy the benefits of a newly restructured sales and use tax system.

Our system of federalism mandates that the burden and the right to simplify the sales tax system fall on the states. This proposal gives the states until December 31, 2003 to simplify their state and local sales tax systems in a manner that will substantially reduce the administrative and compliance burden associated with collecting state and local sales and use taxes. This system should not be materially more burdensome on a business that collects and remits taxes to several taxing jurisdictions than it is to a business that collects and remits taxes in a single taxing jurisdiction.

Proposal

We recommend that states and localities work with the National Conference of Commissioners on Uniform State Laws (NCCUSL) to develop a streamlined sales and use tax system as delineated below. If such a system is adopted by the states, it will not, in our estimation, create an undue burden on interstate commerce or burden the growth of electronic commerce and related technologies in any material way.

The features that a streamlined sales and use tax system should address include, but are not limited to:

- Centralized, one-stop registration system
- Uniform tax base definitions
- Uniform and simple sourcing rules
- Uniform exemption administration rules (including a database of all exempt entities and removal of “good faith” acceptance rule)
- Appropriate protection of consumer privacy
- Methodology for certifying software used in the sale tax administration process for tax rate and taxability determinations
- Uniform bad debt rules
- Uniform tax returns and remittance forms
- Consistent electronic filing and remittance methods
- State administration of all state and local use taxes on remote sales with distribution of revenues to local governments according to precedent and applicable state law
- Uniform audit procedures
- Reasonable compensation for remote sellers that reflects the complexity of an individual state’s tax structure, including the structure of its local taxes
- Appropriate sales volume threshold below which small business remote sellers would not be required to collect use tax except in states in which they have a physical presence

To implement this streamlined sales tax system, we recommend that Congress enact legislation authorizing states to develop and enter into an Interstate Sales and Use Tax Compact by December 31, 2003. The legislation should provide that states joining the Compact will be required to adopt a simplified sales tax system addressing the criteria outlined above. States adopting the simplified system would be authorized to require remote sellers above the sales volume threshold to collect use tax on all taxable sales into a state. The legislation should also authorize a single use tax “collection” rate per state for remote sales with the revenues therefrom to be allocated proportionately among local governments. This authorization should offer states the option of employing a “blended” rate reflecting the weighted average of state and local rates across the state.

This proposal allows states that have adopted such a system to begin collecting use taxes on remote sales by January 1, 2004 or by the date of adoption of the compact, whichever is earlier. For those states that do not choose to simplify their tax collection system, current law will apply. In future years, states that had either chosen not to simplify, or failed to meet the required criteria by December 31, 2003, can opt into the system, commencing with any succeeding calendar year, by meeting the simplification standards set forth.

Nexus Standstill

Constitutional considerations of due process prevent a state from imposing tax obligations on a person or entity unless that person or entity has a connection with the state that would be sufficient to justify that state’s exercise of jurisdiction over the person or entity. This is the concept of “nexus.” The Commission has considered several proposals to establish supposed “bright lines” for determining what constitutes nexus in the state tax world. We believe such efforts are misguided for two reasons. First, the proposals considered by the Commission try to define nexus in terms that are focused on physical presence in a state, when all observers recognize that the world of electronic commerce is increasingly “borderless,” digital and intangible. This seems entirely incongruous. Second, the establishment of new, purported “bright line” nexus rules, no matter how well meaning, will simply result in more litigation and

legal contortions as entities attempt to restructure themselves to take advantage of the tax advantages.

Many of the historic concerns of taxpayers over nexus for sales and use tax purposes will disappear, as irrelevant, after enactment of the simplified sales tax system contained in this proposal. Defining tax collection obligations on the basis of sales volume in a simplified system is the only standard that makes sense. In the meantime, however, states do have an obligation to make the standards they employ in determining nexus as clear as possible to taxpayers.

Proposal

- Congress should take no action to establish in federal law any standards that should be applied in determining nexus for state sales and use taxes or business activity taxes. Each state, however, should examine its current policies and practices to determine if there are areas where additional taxpayer guidance is necessary. States should also ensure that they have a procedure a taxpayer may utilize to obtain a response to questions regarding nexus and a ruling on whether a specified set of activities constitutes nexus.
- The legislation authorizing the Interstate Sales and Use Tax Compact should make clear that any obligation for use tax collection imposed on a remote seller, as a result of this proposal, shall not be considered as a factor in determining nexus in a state for any other tax purpose.
- States should make clear that voluntarily registering and collecting a state's use tax is not a factor in considering nexus for any other state tax purpose.

Simplify and Reduce Telecommunications Tax Burdens

The telecommunications industry is subject to several levels of complicated taxes that put an onerous and costly compliance burden on that industry. These costs ultimately are borne by the American consumer, thus increasing the difficulty lower-income households have in enjoying the fruits of the information highway. The oldest of these taxes – the federal excise tax on telecommunications – was a telegraph tax enacted to pay for the Spanish American war. Any inequitable taxation and compliance burden on the telecommunications industry is an impediment to universal access to the emerging digital world. The telecommunications tax system should be reformed to reduce the overall tax burden on consumers and simplified so consumers can have lower access costs to the nation's information highway. State and local governments, at the behest of the telecommunications industry, have already begun the process of formulating a strategy for achieving these goals.

Proposal

- Phase-out of the 3-percent federal excise tax on communications services is a worthy policy objective that should be considered. It must be weighed against other proposed tax reductions and must not be allowed to threaten the important priorities of maintaining fiscal discipline, paying down the national debt, extending the solvency of Medicare and Social Security, and maintaining core government functions such as health care and education.
- State and local governments should continue to work cooperatively with the telecommunications industry and other relevant groups to dramatically reduce the complexity and cost of complying with state and local telecommunications taxes, and to create more uniform telecommunication state tax laws. This is not an issue of the amount of tax, but of the onerous nature of the current compliance mechanisms. Consistent with the proposal submitted to the Commission by the representatives of the telecommunications industry, the simplification should consider the adoption of common definitions and sourcing rules.

- State and local governments are encouraged to address taxes that appear to be discriminatory toward the telecommunications industry, largely because they were enacted during an era when telecommunications services were provided by a price-regulated monopoly. Such taxes are no longer appropriate in a deregulated environment.

Revenue Neutrality

The Advisory Commission on Electronic Commerce was not established to increase the revenues available to states and localities. No Commissioner wants the recommendations to be an excuse for increasing the tax burden on citizens or increasing the size of government. At the same time, state and local elected officials should be trusted to make choices between expending available tax revenues on services desired by the citizens and reductions in the overall tax burden. That is, after all, one of the primary jobs they were given when the voters elected them. Likewise, it should be the voters of the state or local jurisdiction that determine whether they have exercised appropriate stewardship over the revenues entrusted to them. To assist in this effort, citizens will require information on which to base their decisions.

Proposal

We recommend that states adopt a process to provide information, sunshine and accountability to the citizenry in determining the impact of these proposals on state revenues and tax burdens. Citizens should be provided information on the effects of these recommendations and the use of any additional revenues they may produce. They can then evaluate the propriety of the actions of their elected officials. We believe this to be a very significant part of our proposal. We believe it is important to create a fair and level playing field and to protect the states from the potential of future tax revenue losses, but we are not in favor of any tax increase arising from our proposals.

Digital Products and Services

The taxation of on line digital goods and services and on line digital supply of data and information services is a complex matter. Several states under current law have in place statutes, predating the Internet Tax Freedom Act, taxing on line services or data and information. Additionally, several states have interpreted their statutes as they existed prior to ITFA to impose use taxes on digital goods and services that are transmitted by the seller and consumed by the buyer on line without ever being converted into tangible personal property. If not handled properly, attempts to determine some reasonable site of use or consumption of purely digital goods either invites an unacceptable invasion of a buyer's privacy or an unacceptable level of complexity or both. We believe that these issues can be resolved by the states.

Proposal

We propose that prior to December 31, 2003 the states develop a uniform, simple, non-burdensome system to tax these on line digital products without violating individual privacy or creating a compliance burden.

Further Study on Items Outside the Commission's Scope

The Commission's efforts focused attention on several areas beyond its scope and ken. We believe that Congress should request additional empirical research on:

- **The Digital Divide.** We believe that it is clearly in the best interest of all Americans to eliminate the digital divide expeditiously. Congress should address the causes and potential solutions of this growing problem with the sense of urgency that it deserves. This work

should therefore be done with one eye on the problem, and the other eye focused continually on the steps that can be taken NOW to bring all Americans into the mainstream of the emerging digital economy. We believe that no other item in this proposal addresses a problem as important to the country as does the elimination of the digital divide.

- **Impact of E-commerce.** Because of the speed of the beneficial changes in the economy brought about by e-commerce there was a very wide range of views presented to us by responsible parties on the likely future impacts of e-commerce on state and local revenues. We believe that Congress should establish an ongoing review measuring and projecting the impacts of the new digital economy on the revenues and functions of the federal, state and local governments.

The "Majority" Report: Permanent Special Privileges at the Expense of the Public Interest

The so-called "majority report" of the Advisory Commission on Electronic Commerce would create special tax privileges that would benefit e-commerce businesses at the expense of small businesses, working families, homeowners and local retailers. Conservatively estimated, the proposals in the document would cause at least a \$20 billion annual tax shift from privileged e-commerce businesses to small businesses, working families and homeowners in the form of higher income and property taxes. The "majority" proposals will also undermine state sovereignty and reduce the capacity of state and local governments to fulfill their vital roles in meeting the needs of their citizens and supporting the national economy.

The "majority" produced a document that violates the Internet Tax Freedom Act. The document failed to receive the necessary 2/3 majority required by law (and under the original version of the Commission's rules) for submitting a report to Congress. The document also violates the requirement that the recommendations of the Commission be "tax and technologically neutral." Far from being neutral, the "majority" report picks "winners and losers" by substantially favoring a select group of businesses and technologies over other businesses and technologies. No amount of procedural maneuvering can overcome the hard fact that this document is not a legitimate report under both the procedural and substantive standards set by Congress.

The business members of the Commission represented a narrow range of high-tech companies, but Main Street retailers and small businesses were not included within the business membership. Thus, it is not surprising that an unbalanced membership has produced an unbalanced result. The proposals included in the document submitted to Congress would:

- Provide special new tax breaks to each industry directly represented on the Commission.
- Impose a greater tax burden on those least able to afford it.
- To an unprecedented degree, turn over key control of state and local property, income and sales taxes to the federal government, guaranteeing higher property taxes on homeowners and Main Street businesses and higher income taxes on working families.

On the other hand, the proposal would not:

- Solve the problems Congress asked the Commission to address, but rather introduces significant new complexities and indefinite delays to any solutions.

- Level the playing field for businesses or consumers, but would guarantee years and years of complex litigation, with tax lawyers and lobbyists enjoying windfall gains.

Special Tax Privileges

A listing of some of the special tax privileges proposed in the “majority” document illustrates why that document is inconsistent with the direction from Congress that the recommendations of the Commission be “tax and technologically neutral.” Under the proposals Congress would mandate these tax privileges through an unprecedented interference in state and local tax policy. The proposals in the “majority” document would:

- Expand and make permanent the unfair advantage that remote sellers into a state enjoy over local retail stores. (The so-called “pathway” in the proposal to ending this inequity is weak and uncertain and would be trumped by permanent exceptions to nexus granted under the proposal. Those exceptions to nexus cement in place the unfair competition confronted by traditional retailers.)
- Allow high-volume sellers of high value goods—primarily durable products such as computers, electronic equipment, jewelry and furniture—to avoid the collection of sales and use taxes on their products even where they maintain a physical presence through display stores, “stores within stores,” “internet kiosks,” and contract repair services.” (This circumstance will create unfair competition for primarily local stores without the means of taking advantage of the sophisticated business operations and technology necessary to use the marketing loopholes created under the Commission proposal.)
- Create special sales and excise tax exemptions for all movies, music, newspapers, magazines, digital satellite and cable TV services, telecommunications services and other forms of entertainment and information services, thus shifting the burden of taxation to other products and services.
- Allow a broad range of service sector industries—primarily successful companies employing modern information technology—to shelter income from state income and business taxation through sophisticated income shifting made legal under the proposal. (The burden of income and business taxes would be shifted to working families, small businesses, and natural resource and manufacturing companies among others.)
- Create the potential for special treatment of some companies under the property tax, with the threat of a shift of that burden to homeowners and small businesses.

These special tax privileges primarily arise from the combined effect of (a) the proposed tax exemptions for "digital products and their conventional counterparts" and (b) nine special dispensations from state taxing authority—"nexus carve outs"—granted to certain business operations and technologies. These proposals violate the principles of tax and technological neutrality. Instead, of encouraging the movement of the state and local tax system toward a level playing field, the “majority” recommendations tip the field steeply in favor of high-tech, e-commerce businesses.

The exemption for "digital products and their conventional counterparts" would create a major tax advantage for entertainment, software, and information industries and for any other industry that can “digitize” its products. It pretends to advance "tax neutrality" by treating conventional movies, tapes and CD's, magazines, newspapers, and boxed software the same as the new digital forms of such items. However, if the advocates of this tax break were consistent in their support of neutrality, they would support requiring sales taxes to be collected on all items sold over the Internet and by catalog just as those taxes are collected in local stores. Far from being neutral, the

digital tax break constitutes special treatment for a privileged industry. Moreover, this tax break will spawn a host of litigation over whether a product qualifies as a digital product or its conventional counterpart. Finally, through this tax break, Congress would intervene in determining the tax base of state and local governments on an unprecedented scale and would open the floodgates to other industries seeking broad state and local tax exemptions in the future.

The nine special dispensations from state taxing authority—"nexus carve outs"—would confront local businesses and traditional store retailers with an even higher level of unfair competition from out-of-state sellers than they face under current law. Charged by Congress with solving the problem of the absence of a level playing field among retailers, the proposals in the "majority" document run away from the solution and would make the problem worse. The nine special dispensations from state tax authority are a laundry list of special tax treatment for certain technologies and business operations and directly violate the requirement that the Commission send to Congress recommendations that are "tax and technologically neutral."

In the hands of skilled tax planners and litigators, these nine special dispensations will be used in combination with each other to ensure that the remote sale of virtually any product and service is free of the collection of any sales and use tax and free of the payment of any tax on the income earned from such sales. The nine dispensations can even be used to forgive taxes on "display stores within stores" and will allow some sellers to avoid taxes even though they are physically present in a state. Litigation over the extent of the privileges granted under the nine dispensations will explode.

State Sovereignty and the Role of States and Localities in the National Economy

The nine dispensations from state tax authority are an affront to state sovereignty and will undermine federalism. These dispensations restrict the jurisdiction of states to tax by linking state authority to outmoded concepts of physical presence. These concepts are out-of-date because it is possible for companies to make enormous sales, earn large quantities of income and benefit from the services of state and local governments through contacts other than traditional stores or offices. State and local governments provide services that benefit the national economy as well as local residents. State and local governments need to be able to ask those who benefit from these services to share in their costs. Indeed, the U.S. Supreme Court has recognized that states have the right to tax a fair share of interstate commerce. That right will have no practical meaning if the concept of nexus continues to be tied to outmoded notions of physical presence. Nexus in the modern economy needs to be updated to reflect measures of economy activity.

Those who argue that the national economy—as represented by multistate and multinational enterprises—do not benefit from state and local services ignore some fundamental facts about the role of state and local government in our society. Where would e-commerce and the entire information economy be today if state and local governments did not invest trillions of dollars in the last century in elementary and secondary education and a vast network of public colleges and universities? How would remote sellers ship products to customers in states if state and local governments did not make huge investments in highways and byways that enable, among other benefits, express deliveries to their customer's doorstep? How would these remote sellers secure payment for goods and services and earn their profits if the states did not provide a system of laws and courts to ensure collection? How would the marvelous networks of telecommunications be linked together and operate were it not for access to the public rights of way established and maintained by state and local governments and for the police and fire protection provided to these networks? How can, in the face of these and a host of other benefits to the national economy provided by state and local services, some industries be granted favored exemptions from sharing in the cost of these services?

The “majority” document interferes with state sovereignty in an even more fundamental way. The U.S. Supreme Court recognizes that taxation is a core element of state sovereignty. Without the independent authority to raise revenues, states will not be able to set independent policy. If states and localities are not able to perform their historic functions in our system of government, citizens will inevitably turn to Washington for answers to state and local issues. The nine dispensations combined with the digital product tax exemption would preempt state authority to a degree that demonstrably weakens federalism and centralizes power in Washington.

The “majority” document does more than ask for special tax breaks; it asks representatives of state and local governments to compromise permanently the sovereign authority of the state and the autonomy of local governments. That authority ultimately belongs to the citizens of each state and cannot and should not be bargained away to grant special privileges to a favored few.

Respectfully Submitted,

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