

Marketplace Fairness

No Good Reason to Oppose Sales Tax Collections

By Bill Waltz

States have the right to tax activities that take place within their borders. States do not have the right to burden interstate commerce – unless Congress approves. The Marketplace Fairness Act of 2013 (MFA) involves both principles.

MFA would require online sellers who have no physical presence in a state to collect sales tax from that state's residents. It recognizes that Internet purchases take place within the buyer's state, but that compelling the seller to collect the sales tax affects interstate commerce.

The 69 U.S. senators who voted for the MFA concluded that states should be allowed to require remote sellers to collect the sales tax. But passage in the House is uncertain as opponents raise questions about the legislation.

The legislation should be evaluated on an objective basis. Here are some of the statements and claims being made about the MFA:

- The Internet tax moratorium should not be lifted
- This is a “new” tax
- This will hurt small Internet businesses
- State tax administrators will abuse their power to tax out-of-state businesses
- It will be impossible for sellers to comply with the laws of 8,000 jurisdictions
- Internet businesses will move out of the United States
- Jobs will be lost

Already the law

First, this has nothing to do with the 1998 federal moratorium prohibiting taxing Internet access or imposing a new tax on the conduct of business over the Internet. This is about applying existing state laws on the taxation of retail merchant transactions.

This is not a “new” tax. State sales tax is due on Internet purchases today and purchasers are legally obligated to pay. The problem is few people do so by self-reporting, shifting the burden to all those self-reporting taxpayers who do meet their legal obligations.

As for hurting small businesses, the MFA has a small seller exception for any business having less than \$1 million in annual sales (and this threshold could be raised).

Many of the abuse objections are refuted by the text of the bill. It expressly prevents states from subjecting a seller to “any other type of taxes, other than sales and use taxes.” It further specifies that “This Act shall not be construed to create any nexus between a person and a State or locality.”

Keeping it simple

The text also addresses administrative compliance. It contains provisions on “minimum simplification requirements” to assure some uniformity in how each state identifies what is



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to be taxed and at what level. It calls for a single filing and single audits within any given state. The states are required to provide free software to calculate the tax.

Additionally, remote sellers are shielded from liability for inadvertent noncompliance.

There will be complications with any major change in procedure, but the MFA is very friendly to remote sellers. Also, it is in the states' interests to keep things as simple as possible in order to collect the tax.

As for businesses and jobs moving overseas,

Internet businesses are not likely to relocate unless the costs of production motivate them to do so. Internet businesses will continue to grow and thrive in the U.S. – and create jobs – whether or not they must collect sales taxes.

The jobs focus should be on those lost today as in-state brick-and-mortar retailers cut back due to the unfair price advantage enjoyed by online sellers.

Opponents can suggest problems where there are none, foster doubt and cater to viewpoints that have no basis in reality. But once these questions are answered fairly and objectively, there is no good reason not to support the Marketplace Fairness Act.



INFORMATION LINK

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