

Statement of David Bullington
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Testimony Before the Senate Finance Committee
Cybershopping and Sales Tax: Finding the Right Mix
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Mr. Chairman, Senator Grassley and members of the Committee, my name is David Bullington. I am the Vice President of Taxes for Wal-Mart Stores, Inc. Wal-Mart is a founding member of the e-Fairness Coalition, which includes brick-and-mortar and online retailers, realtors, retail and real estate associations, publicly- and privately-owned shopping centers, and several major high-tech-related companies. Wal-Mart is also a member of the International Mass Retail Association, a trade association representing the mass retail industry. Each of these organizations and entities is committed to the establishment of a level playing field for retailing, in which sales of goods are taxed in the same manner regardless of the medium of sale. We all agree that it is simply unfair that brick and mortar retailers are required to collect sales taxes while remote, online competitors are exempt.

Wal-Mart has participated in the Internet economy for some time now and, like a lot of companies, has modified its approach to on-line selling as it went. A year and a half ago, we adjusted our corporate structure so that our Wal-Mart.com online site would reside in a separate subsidiary corporation. One of the reasons for taking this step was so the site would not have to collect sales taxes for the vast majority of states and, accordingly, would be more price competitive with other online sellers. This posturing so as not to have to collect sales tax has become prevalent among other major retailers as they strive to compete head-on with their pure-play competitors. For example, you see this in the collection policies of the online arms of Borders, Barnes & Noble, K-Mart, Target and Gateway Computer. The planning gymnastics being encouraged by today's environment run counter to sound, consistently applied tax policy. At Wal-Mart, we believe the time has come to put in place the mechanism whereby a level playing field can be created between companies so that all large companies participate in across-the-board collection of existing state and local sales taxes.

I should mention our samsclub.com which collects sales tax on all taxable sales to our Sam's Club members. The Sam's Club online business is structured to more closely integrate the club member with his or her local Sam's Club. For shipments to home and business addresses, sales tax collection occurs at the local rates for the jurisdictions into which delivery is made. I mention samsclub.com because on a very tight developmental budget it put in place the underlying infrastructure and software necessary to collect taxes for all of the 6,500 jurisdictional possibilities, a feat that has so often been referred to as an impossibility.

Now back to Wal-Mart.com, it is currently beginning the process of moving its online business to one that is fully integrated with the operations of the Wal-Mart physical stores. As Walmart.com adds interactive kiosks in our stores or undertakes other activities within a state, it will start collecting sales taxes within each such state. We envision that by some time in early 2002, Walmart.com will be collecting for almost every state. Nevertheless,

nothing today prohibits us at a later date from setting up a new online subsidiary business devoted to delivering certain products strictly in interstate commerce without sales tax collection. Competitive formats and price sensitive product lines may demand such a result. The states are committed to solving the collection issue, but can only go so far. Mr. Chairman, Congress can provide that needed sense of direction as to what has to be achieved. With this Committee's leadership, the sales tax loophole on remote commerce can be eliminated. The existing loophole discriminates against an important part of our customer base, the lower-income family. That family pays the sales tax day-in and day-out but likely has neither Internet access nor the banking and credit card relationships necessary to order online. Wal-Mart and most other retailers are only seeking equitable tax treatment – where a product is taxed the same regardless of how it is ordered or delivered.

As a final matter, I would like to respond to an argument that some opponents of this approach have made in recent months. The argument is that resolution of the sales tax issue is too controversial and complicated for Congress to address at this time, and that the only feasible course, therefore, is for Congress to extend the current Internet Tax Freedom Act moratorium now and resolve the sales tax issue at a later time. In response, it can fairly be said that most of the interests currently participating in the debate on this matter have developed a consensus on the major points involved in that debate. First, there is agreement among most of those who have testified before Congress — including a number of major e-tailers — that there should in fact be a level playing field. There is also agreement that substantial sales tax simplification should precede congressional action to create the level playing field. And there is agreement on the very large majority of the elements of simplification that have been considered as possible components of an acceptable sales tax system. The very few elements that remain in dispute we believe can be addressed quickly and without great difficulty by Congress prior to the expiration of the moratorium.

Moreover, if the Committee should disagree with that assessment — which we strongly hope it will not — we have a related recommendation. In that event, the moratorium should be extended for only so long as it takes for the Congress to resolve whatever issues it cannot resolve before October 21st. While we do not believe the moratorium should be allowed to expire, the only simple extensions that should be considered are those that are measured in months, not years. Any longer extension would send precisely the wrong message to states that are now addressing simplification — that is, a message that Congress is less than committed to addressing the issues identified by the Supreme Court's decision in *Quill*, to providing adequate guidance to the states regarding simplification, and to establishing a level playing field on an expeditious schedule. It is a message that we hope this Committee would be reluctant to send.

Mr. Chairman, Wal-Mart appreciates your invitation to provide its views on this matter and would welcome the opportunity to elaborate further on these comments.