



Committee On Finance

Max Baucus, Chairman

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Opening Statement of Chairman Max Baucus
“Cybershopping and Sales: Finding the Right Mix”
August 1, 2001

Today, the Committee will examine a number of issues involving taxation and the Internet. We have an impressive panel of experts to help us to understand these important issues. I want to thank them for appearing and welcome them to the Finance Committee.

When Congress approved the Internet Tax Freedom Act in 1998, we did two things. We imposed a moratorium on multiple and discriminatory taxes on the Internet and on Internet access taxes. We also set up a national Advisory Commission to examine a long list of issues involving taxation and electronic commerce. The Commission reported back to the Congress in April 2000, but was unable to give us clear path on how to proceed. So here we are facing the expiration of the moratorium. We are confronted by a need to act before October 21.

The question is: what should we do? I, frankly, have not made up my mind yet on what is the best way to proceed. It seems though that all sides agree on one thing: Congress should do something.

All of our options, however, have consequences. What if nothing is done and the moratorium is allowed to expire? Will the states begin to treat the Internet and Internet businesses as “cash cows?” I sincerely hope not.

In Montana, as in most large, rural states, we rely on the Internet and the advancements of technology. The Internet enables our residents to take college courses and consult with doctors without leaving home. Farmers can now go on-line to consult with plant specialists a thousand miles away. Citizens can use the Internet to interact with government agencies—like renewing their car registration or driver’s license.

This technology also allows people to shop for things they may not otherwise have access to. The Internet opens up the world to Montana—and Montana to the world. It is truly an essential tool for participating in the New Economy.

A recent study by the Bureau of Economic Research states that of all Montana manufacturers, over 40% maintain a web site, and approximately 15% buy supplies and take orders over the Internet. Governments at all levels should do more to foster, not hamper, the availability of the Internet to low-income and rural families. I would hope that we keep this in mind as we move forward.

Even though the Internet Tax Freedom Act had nothing to do with a state's ability to collect taxes for on-line transactions, this is the issue that seems to dominate the discussions about e-commerce. Sales taxes are paid by the consumer, not by the seller. Consumers in Montana don't pay sales taxes. Montana does not have a sales tax. That is our choice. Just like it is the choice of 45 other states and the District of Columbia to have a sales tax.

The Internet Tax Freedom Act didn't affect the ability of those 45 states and the District of Columbia to impose a sales tax on on-line purchases. If someone walks into a store in any state with a sales tax and buys an end table for their living room, they will pay a sales tax. That same sales tax or use tax would be due if they ordered it by phone or on-line. This is current law. What worries the states, it appears, is that the growth of electronic commerce exacerbates the problem that has existed between states and catalog merchants for decades.

I hope our witnesses will help us understand the true magnitude of this problem and the extent to which some of the problem lies in the states' ability—or inability—to enforce its use tax. There apparently is a problem, or we likely would not be here today. States increasingly are feeling a revenue crunch. Dwindling state revenues threatens funding for essential expenditures on education and health care.

We, the Congress, are being asked to help them. The states want us to enhance their ability to have out-of-state businesses collect sales taxes on sales made to consumers in their states. Again, what we do here has consequences. The Supreme Court said it is up to Congress to decide whether states can require remote sellers to collect sales taxes. Is now the right time? Can businesses of any size and in any location comply with such a requirement if it were imposed on them? What should we require the states to do to minimize burdens on business?

I am concerned that we may not be there yet. I am not sure how long it will take to get us where we need to be. I worry that if we just say to the states "Go ahead, make all businesses collect your sales taxes" then Montana businesses, like TrainNow.net, in Billings, will be threatened by the reach of tax collectors from all over the nation—and possibly all over the globe.

I also want to ensure that we move carefully with regard to "business activity taxes." If changes are made in the area of sales tax collections, could states use this as an opportunity to say to an out-of-state business that it also owes income taxes? This is an important question for the Committee to consider.

Montana does have a corporate income tax and I don't want to make it easier for other states to take tax dollars from Montana businesses. Montana needs those resources to finance state services provide to those businesses and its employees. The states themselves appear to agree that things need to be simpler in order to make this work. I hope we can talk a bit about the progress states are making toward that goal.

I would like to be certain that if we address the need of the states, we don't crush our small businesses at the same time. There must be balance—we must find the right mix. At a minimum, it makes sense to have clear rules so that businesses are easily able to understand their responsibilities.

Given the very nature of electronic commerce, we also need to look at whether additional state tax burdens will encourage businesses to locate outside the United States. There are important international elements to this debate and I know that some of our witnesses will touch upon this subject in their testimony.

As I said before, I have not made up my mind yet on what is the best way to proceed. I hope today's hearing will provide us with useful guidance. I look forward to a hearing from our witnesses and working with my colleagues as we address these complex issues.