

Statement of Senator Byron Dorgan
Senate Finance Subcommittee on International Trade Hearing on
“How Much Should Borders Matter?: Tax Jurisdiction in the New Economy”

July 25, 2006

Chairman Thomas and Ranking Member Bingaman, I would like to thank you for holding this Subcommittee hearing today to examine tax issues that are of utmost importance to state and local governments and the businesses that operate inside their borders. I appreciate the opportunity to offer my thoughts on this matter.

For many years, some Internet and catalog sellers have argued that it is unfair to require them to collect and remit sales taxes, and they argue that trying to comply with over 7,000 taxing authorities across the country would be unduly burdensome and costly. Frankly, I think that is a legitimate complaint.

At the same time, however, many states and localities depend on sales taxes to help fund a range of local activities, from education and fire suppression to police protection and road construction. Yet billions of dollars in sales tax revenues go uncollected year after year in many jurisdictions due to a ruling (Quill vs. North Dakota) by the U.S. Supreme Court in 1992 that said current state and local sales tax systems impose an impermissible burden on sellers that do not have a physical presence in each state. The U.S. Supreme Court in the Quill case said that states and localities must dramatically reduce the complexity and burden of their sales tax systems before they could require out-of-state sellers to collect sales taxes.

Senator Mike Enzi of Wyoming and I have been working closely for several years on federal legislation that encourages and rewards state and local governments that radically simplify their sales tax systems by granting them authority to require large sellers to collect taxes on remote sales after such simplifications are implemented. To their credit, the states have stepped up to the challenge outlined in the Quill decision. States have been working with the retail community and local governments for over five years now to develop a streamlined and uniform sales tax system agreement that will alleviate the burden of sales tax collection for both local retailers and remote sellers.

The Streamlined Sales and Use Tax Agreement, which was approved by 34 states and the District of Columbia in November 2002, requires participating states to comply with dozens of stringent simplification requirements that streamline how state sales and use taxes are identified and collected. Today, 19 states have enacted legislation to bring them into compliance with the Agreement.

By harmonizing state sales and use tax rules, bringing uniformity to definitions in the sales tax base, significantly reducing the paperwork burden on retailers, and incorporating a seamless electronic reporting process, states that comply with the Agreement will significantly reduce tax collection burdens on all sellers. In return, we believe these states ought to be able to require large sellers to collect taxes on remote sales. This result would benefit state and local governments that

lose billions in sales tax related revenues under the current system. It would also be good news for local retailers on the nation's Main Streets who already collect sales taxes from their customers and therefore must often compete against remote sellers who are not required to collect the tax.

Let me emphasize an important point. The bills that Senator Enzi and I have authored do not impose new taxes on anyone, and we are certainly not imposing new taxes on Internet sales. We are only talking about taxes that customers already owe under state law but which go uncollected.

Having said that, Senator Enzi and I believe it is critically important that new collection responsibilities under the Streamlined Sales Tax Project do not unduly burden start up and other small remote sellers. That is why the legislation we are advancing provides for a small remote seller exemption.

The bill I introduced, S. 2153, is identical to Senator Enzi's bill in every respect but the small seller exemption. His legislation provides a small business exemption with a specific dollar threshold, while my proposal requires the Small Business Administration (SBA), after considering all relevant factors and soliciting input from the Treasury Department, the Streamlined Sales Tax Governing Board and others, to develop a rulemaking and propose to Congress a definition of those small sellers, including small businesses, which would not be required to collect and remit sales and use taxes. S. 2153 provides for the expedited consideration of SBA's proposal by the U.S. House and Senate and takes steps to ensure that a small seller exemption will ultimately be approved by Congress. States would be allowed to require large remote sellers to collect sales taxes only after federally-mandated simplification is accomplished and a small seller exemption is approved by Congress.

As the volume of remote on-line retail sales grow, states are losing more and more sales tax revenue. This threatens the future ability of states and localities to make critical investments in even the most basic community services, while forcing local retailers who are required to collect sales taxes today to compete with large remote competitors who are not. Senator Enzi and I are determined to address this problem.

I think the general approach that Senator Enzi and I have recommended strikes a reasonable balance between the interests of consumers, local retailers, remote sellers and the states. And I look forward to working with Senator Enzi, you and other members of the Finance Committee to address any remaining questions about our legislation and to move the legislation forward in the U.S. Senate.