

**Hearing: “How Much Should Borders Matter?:  
Tax Jurisdiction in the New Economy”  
Senate Finance Subcommittee on International Trade  
Senator Michael B. Enzi  
July 25, 2006**

Thank you, Chairman Thomas, for allowing me to testify this morning about the importance of imposing uniformity, simplification, and fairness concerning the taxation of remote sales over the Internet. I appreciate you and Senator Bingaman holding this hearing today to discuss this important issue.

I have been working on this issue since joining the U.S. Senate in 1997. As a former small business man, it is important to level the playing field for all retailers – in-store, catalog, and online – so an outdated rule for sales tax collection does not adversely impact small businesses and Main Street retailers. I believe S. 2152, The Sales Tax Fairness and Simplification Act achieves this goal in accordance with the simple rules provided for all businesses under the Streamlined Sales and Use Tax Agreement.

On December 20, 2005, I introduced S. 2152, The Sales Tax Fairness and Simplification Act, a bill that will treat all retailers – in-store, catalog, and online – in a similar fashion so each retailer has the same sales tax collection responsibility. All businesses and their retail sales should be treated equally. It is unfair that our current tax structure gives remote sellers an advantage over small businesses and Main Street retailers.

By addressing this collection inequity, the bill will also help states ensure the viability of the sales tax as a major revenue source for state budgets by closing a growing loophole that encourages tax avoidance. This bill is not a disguised attempt to increase taxes or put a new tax on the Internet. Consumers are already supposed to pay sales and use taxes in most states for purchases made over the phone, by mail, or via the Internet. Unfortunately, most consumers are unaware they are required to pay this use tax on purchases the retailer does not choose to collect sales tax on at the time of purchase.

Consumers who buy products online are required by law to keep track of their purchases and then pay the outstanding use tax obligation on their state tax forms. This has proven to be unrealistic, since most people do not know this or do not comply with the requirement. As such, states are losing billions of dollars in annual revenue. This legislation will help both consumers and states by reducing the burden on consumers and providing a mechanism that will allow states to systematically and fairly collect the taxes already owed to them. At a time when states are increasingly turning to the federal government for program funding, it is logical that Congress would instead authorize the states to collect their own revenue instead of raising the federal tax burden to then distribute money back to the states.

This bill is not about new taxes. In fact, it is likely that the states’ dependency on federal dollars could be offset by any increased collection at the state level. If Congress fails to authorize states to collect tax on remote sales, and electronic commerce continues to grow as predicted, are we implicitly blessing a situation where states will be forced to raise other taxes – such as income or

property taxes – to offset the growing loss of sales tax revenue? I want to avoid that. That is why we need to implement a plan that will allow states to generate revenue using mechanisms already approved by their local leaders.

This bill is about economic growth. Sales and use taxes provide critical revenue to pay for our schools, our police officers, firefighters, road construction, and more. It will put local businesses on a level playing field with their online competitors. To some businesses, an even more important aspect of this legislation is that it simplifies the compliance burden faced by business today. By ensuring that the member states and local governments are required to simplify their tax structure, the administrative and audit burden is reduced on all business. The business resources that have historically been spent on tax compliance could now be used, among other things, to hire new employees and buy new equipment.

This bill accomplishes tax simplification in an unprecedented manner. As the Supreme Court identified in the *Quill versus North Dakota* decision in 1992, the complicated state and local sales tax systems across this country have created an undue burden on sellers – one that could not fairly be placed on a remote vendor. The *Quill* decision stated that a multitude of complicated and diverse state sales tax rules made it too onerous to require retailers to collect sales taxes unless they had a physical presence in the state of the buyer. Local brick-and-mortar retailers collect sales taxes, while many online and catalog retailers are exempt from collecting the same taxes if they can argue that they do not have physical presence in the state. This is not only fundamentally unfair to Main Street retailers, most of whom are small businesses, but it is costing states and localities billions of dollars in lost revenue.

S. 2152 will help relieve the expensive burden by requiring states to meet the simplification standards outlined in the Streamlined Sales and Use Tax Agreement. Working with the business community, the states developed the Agreement to harmonize state sales tax rules, bring uniformity to definitions of items in the sales tax base, significantly reduce the paperwork burden on retailers, and incorporate new technology to modernize many administrative procedures. This unprecedented Agreement will increase our nation's economic efficiency and facilitate the growth of commerce by dramatically reducing red-tape and administrative burdens on all businesses and consumers. However, most importantly, the Agreement removes the liability for collection errors from the retailer and places it with the state. This historic Agreement was approved by 34 states and the District of Columbia on November 12, 2002.

The states have made tremendous progress in changing their state tax laws to become compliant with the Agreement. Already, 19 states have enacted legislation to change their tax laws and implement the requirements of the Agreement. On October 1, 2005, the Streamlined Sales and Use Tax Agreement became effective. Since that date over 350 businesses have voluntarily signed up to begin collecting sales tax under the simplified set of rules.

While the states have made great progress, the *Quill* decision held that allowing states to require collection is an issue that, "Congress may be better qualified to resolve, and one that it has the ultimate power to resolve." The states have acted. It is now time for Congress to provide states that enact the Streamlined Sales and Use Tax Agreement with the authority to require remote retailers to collect sales taxes just as Main Street retailers do today.

Senator Byron Dorgan of North Dakota and I have worked tirelessly to assist sellers and state and local governments to find true simplification in almost every aspect of sales and use tax collection and administration. Last year, Senator Dorgan and I worked with all interested parties to try to find a mutually agreeable legislative package to introduce. Many hours have been dedicated in trying to find the right solution to address all concerns, especially the small business exception. Senator Dorgan and I introduced two separate bills, but will continue to work with each other and all interested parties to find compromise on the outstanding policy issues of concern to the stakeholders. Bill introduction does not stop us from negotiating and working together to improve the final product that should be enacted into public law.

The Sales Tax Fairness and Simplification Act provides states that implement the Streamlined Sales and Use Tax Agreement with the authority to collect sales or use taxes equally from all retailers. Adoption of the Agreement and Congressional authorization will provide a level playing field for brick and mortar and remote retailers.

Thank you again, Chairman Thomas, for the opportunity to outline the importance of introducing S. 2152. I look forward to working with you, your staff, and the rest of the Finance Committee on this policy initiative in the future to ensure swift passage of S. 2152.