

106TH CONGRESS
2D SESSION

S. 2775

To foster innovation and technological advancement in the development of the Internet and electronic commerce, and to assist the States in simplifying their sales and use taxes.

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2000

Mr. DORGAN (for himself, Mr. ENZI, Mr. VOINOVICH, Mr. BREAU, Mr. GRAHAM, Mr. HUTCHINSON, Mrs. LINCOLN, Mr. BENNETT, Mr. BRYAN, Mr. CLELAND, and Mr. THOMAS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To foster innovation and technological advancement in the development of the Internet and electronic commerce, and to assist the States in simplifying their sales and use taxes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Internet Tax Morato-
5 rium and Equity Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress makes the following findings:

1 (1) The moratorium of the Internet Tax Free-
2 dom Act on new taxes on Internet access and on
3 multiple and discriminatory taxes on electronic com-
4 merce should be extended.

5 (2) States should be encouraged to simplify
6 their sales and use tax systems.

7 (3) As a matter of economic policy and basic
8 fairness, similar sales transactions should be treated
9 equally, without regard to the manner in which sales
10 are transacted, whether in person, through the
11 mails, over the telephone, on the Internet, or by
12 other means.

13 (4) Congress may facilitate such equal taxation
14 consistent with the United States Supreme Court's
15 decision in *Quill Corp. v. North Dakota*.

16 (5) States that adequately simplify their tax
17 systems should be authorized to correct the present
18 inequities in taxation through requiring sellers to
19 collect taxes on sales of goods or services delivered
20 in-state, without regard to the location of the seller.

21 (6) The States have experience, expertise, and
22 a vital interest in the collection of sales and use
23 taxes, and thus should take the lead in developing
24 and implementing sales and use tax collection sys-
25 tems that are fair, efficient, and non-discriminatory

1 in their application and that will simplify the process
2 for both sellers and buyers.

3 (7) Online consumer privacy is of paramount
4 importance to the growth of electronic commerce
5 and must be protected.

6 **SEC. 3. EXTENSION OF INTERNET TAX FREEDOM ACT MOR-**
7 **ATORIUM THROUGH 2005.**

8 Section 1101(a) of the Internet Tax Freedom Act (47
9 U.S.C. 151 note) is amended by striking “3 years after
10 the date of the enactment of this Act—” and inserting
11 “on December 31, 2005:”.

12 **SEC. 4. STREAMLINED SALES AND USE TAX SYSTEM.**

13 (a) DEVELOPMENT OF STREAMLINED SYSTEM.—It is
14 the sense of the Congress that States and localities should
15 work together, with the advice of the National Conference
16 of Commissioners on Uniform State Laws, to develop a
17 streamlined sales and use tax system that addresses the
18 following in the context of remote sales:

19 (1) A centralized, one-stop, multi-state registra-
20 tion system for sellers.

21 (2) Uniform definitions for goods or services,
22 whose sale may, by State action, be included in the
23 tax base.

24 (3) Uniform rules for attributing transactions
25 to particular taxing jurisdictions.

1 (4) Uniform procedures for—

2 (A) the designation and identification of
3 purchasers exempt from sales and use taxes;
4 and

5 (B) immunization from liability for sellers
6 that rely on such State procedures.

7 (5) Uniform procedures for the certification of
8 software that sellers rely on to determine sales and
9 use tax rates and taxability.

10 (6) Uniform bad debt rules.

11 (7) A uniform format for tax returns and re-
12 mittance forms.

13 (8) Consistent electronic filing and remittance
14 methods.

15 (9) State administration of all State and local
16 sales and use taxes.

17 (10) Uniform audit procedures, including a pro-
18 vision giving a seller the option to be subject to no
19 more than a single audit per year using those proce-
20 dures; provided that if the seller does not comply
21 with the procedures to elect a single audit, any
22 States can conduct an audit using those procedures.

23 (11) Reasonable compensation for tax collection
24 by sellers.

1 (12) Exemption from use tax collection require-
2 ments for remote sellers falling below a de minimis
3 threshold of \$5,000,000 in gross annual sales.

4 (13) Appropriate protections for consumer pri-
5 vacy.

6 (14) Such other features that the States deem
7 warranted to promote simplicity, uniformity, neu-
8 trality, efficiency, and fairness.

9 (b) NO UNDUE BURDEN.—The Congress finds that,
10 if adopted, the system described in subsection (a) will not
11 place an undue burden on interstate commerce or burden
12 the growth of electronic commerce and related tech-
13 nologies in any material way.

14 **SEC. 5. INTERSTATE SALES AND USE TAX COMPACT.**

15 (a) AUTHORIZATION AND CONSENT.—In general, the
16 States are authorized to enter into an Interstate Sales and
17 Use Tax Compact. Subject to subsection (c), the Congress
18 consents to their entry into that Compact. The Compact
19 shall describe a uniform, streamlined sales and use tax
20 system consistent with section 4(a), and shall provide that
21 States joining the Compact must adopt that system.

22 (b) EXPIRATION.—The authorization and consent in
23 subsection (a) shall expire if the Compact has not been
24 formed before January 1, 2006.

1 (c) CONGRESSIONAL CONSENT WITHDRAWN IF COM-
2 PACT DISAPPROVED.—

3 (1) ADOPTING STATES TO TRANSMIT.—Upon
4 the 20th State becoming a signatory to the Com-
5 pact, the adopting States shall transmit a copy of
6 the Compact to Congress.

7 (2) CONGRESSIONAL ACTION.—The consent of
8 the Congress to the Compact is withdrawn if the
9 Congress, by law, disapproves the Compact within
10 120 days (computed in accordance with section 154
11 of the Trade Act of 1974 (19 U.S.C. 2194)) after
12 the adopting States transmit it to the Congress.

13 **SEC. 6. AUTHORIZATION TO SIMPLIFY STATE USE-TAX**
14 **RATES THROUGH AVERAGING.**

15 (a) IN GENERAL.—A State that levies a use tax shall
16 impose a single, uniform State-wide use-tax rate on all re-
17 mote sales on which it assesses a use tax for any calendar
18 year for which the State meets the requirements of sub-
19 section (b).

20 (b) AVERAGING REQUIREMENT.—A State meets the
21 requirements of this subsection for any calendar year in
22 which the single, uniform State-wide use-tax rate is in ef-
23 fect if such rate is no greater than the weighted average
24 of the sales tax rates actually imposed by a State and its

1 local jurisdictions during the second calendar year prior
2 to such calendar year.

3 (c) COMPUTATION OF RATE NO GREATER THAN
4 WEIGHTED AVERAGE.—For purposes of subsection (b), a
5 State-wide use tax rate is no greater than the weighted
6 average of the sales tax rates imposed in a prior calendar
7 year only if, had such rate been assessed during such prior
8 calendar year on all sales on which a sales tax was actually
9 assessed by such State and its local jurisdictions, such rate
10 would not have yielded a greater total assessment of taxes
11 than the total taxes actually assessed on such sales during
12 such year.

13 (d) ANNUAL OPTION TO COLLECT ACTUAL TAX.—
14 Notwithstanding subsection (a), a remote seller has the
15 annual option of collecting applicable State and local use
16 taxes throughout a State.

17 **SEC. 7. AUTHORIZATION TO REQUIRE COLLECTION OF USE**
18 **TAXES.**

19 (a) GRANT OF AUTHORITY.—

20 (1) STATES THAT ADOPT THE SYSTEM MAY RE-
21 QUIRE COLLECTION.—Any State that has adopted
22 the system described in the Compact is authorized,
23 notwithstanding any other provision of law, to re-
24 quire all sellers not qualifying for the de minimis ex-
25 ception to collect and remit sales and use taxes on

1 remote sales to purchasers located in such State
2 after the expiration of the 120 day period described
3 by section 5(c)(2) unless the Compact is disapproved
4 under section 5(e).

5 (2) STATES THAT DO NOT ADOPT THE SYSTEM
6 MAY NOT REQUIRE COLLECTION.—Paragraph (1)
7 does not extend to any State that does not adopt the
8 system described in the Compact.

9 (b) NO EFFECT ON NEXUS, ETC.—No obligation im-
10 posed by virtue of authority granted by subsection (a)(1)
11 or denied by subsection (a)(2) shall be considered in deter-
12 mining whether a seller has a nexus with any State for
13 any other tax purpose. Except as provided in subsection
14 (a), nothing in this Act permits or prohibits a State—

15 (1) to license or regulate any person;

16 (2) to require any person to qualify to transact
17 intrastate business; or

18 (3) to subject any person to State taxes not re-
19 lated to the sale of goods or services.

20 **SEC. 8. LIMITATION.**

21 In general, nothing in this Act shall be construed as
22 subjecting sellers to franchise taxes, income taxes, or li-
23 censing requirements of a State or political subdivision
24 thereof, nor shall anything in this Act be construed as af-
25 fecting the application of such taxes or requirements or

1 enlarging or reducing the authority of any State or polit-
2 ical subdivision to impose such taxes or requirements.

3 **SEC. 9. DEFINITIONS.**

4 In this Act:

5 (1) STATE.—The term “State” means any
6 State of the United States of America and includes
7 the District of Columbia.

8 (2) GOODS OR SERVICES.—The term “goods or
9 services” includes tangible and intangible personal
10 property and services.

11 (3) REMOTE SALE.—The term “remote sale”
12 means a sale in interstate commerce of goods or
13 services attributed, under the rules established pur-
14 suant to section 4(a)(3) of this Act, to a particular
15 taxing jurisdiction that could not, except for the au-
16 thority granted by this Act, require that the seller
17 of such goods or services collect and remit sales or
18 use taxes on such sale.

19 (4) LOCUS OF REMOTE SALE.—The term “par-
20 ticular taxing jurisdiction”, when used with respect
21 to the location of a remote sale means a remote sale
22 of goods or services attributed, under the rules es-
23 tablished pursuant to section 4(a)(3) of this Act, to
24 a particular taxing jurisdiction.

○