

110TH CONGRESS  
1ST SESSION

# S. 34

To promote simplification and fairness in the administration and collection  
of sales and use taxes.

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IN THE SENATE OF THE UNITED STATES

MAY 22, 2007

Mr. ENZI introduced the following bill; which was read twice and referred to  
the Committee on Finance

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## A BILL

To promote simplification and fairness in the administration  
and collection of 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 “Sales Tax Fairness  
5       and Simplification Act”.

6       **SEC. 2. CONSENT OF CONGRESS.**

7       The Congress consents to the Streamlined Sales and  
8       Use Tax Agreement.

1 **SEC. 3. SENSE OF THE CONGRESS.**

2 (a) SALES AND USE TAX SYSTEM.—It is the sense  
 3 of the Congress that the sales and use tax system estab-  
 4 lished by the Streamlined Sales and Use Tax Agreement,  
 5 to the extent that it meets the minimum simplification re-  
 6 quirements of section 7, provides sufficient simplification  
 7 and uniformity to warrant Federal authorization to Mem-  
 8 ber States that are parties to the Agreement to require  
 9 remote sellers, subject to the conditions provided in this  
 10 Act, to collect and remit the sales and use taxes of such  
 11 Member States and of local taxing jurisdictions of such  
 12 Member States.

13 (b) PURPOSE.—The purpose of this Act is to—

14 (1) effectuate the limited authority granted to  
 15 Member States under the Streamlined Sales and  
 16 Use Tax Agreement; and

17 (2) not grant additional authority unrelated to  
 18 the accomplishment of the purpose described in  
 19 paragraph (1).

20 **SEC. 4. AUTHORIZATION TO REQUIRE COLLECTION OF**  
 21 **SALES AND USE TAXES.**

22 (a) GRANT OF AUTHORITY.—

23 (1) IN GENERAL.—Each Member State under  
 24 the Streamlined Sales and Use Tax Agreement is  
 25 authorized, subject to the requirements of this sec-  
 26 tion, to require all sellers not qualifying for the

1 small business exception provided under subsection  
2 (d) to collect and remit sales and use taxes with re-  
3 spect to remote sales sourced to that Member State  
4 under the Agreement.

5 (2) REQUIREMENTS FOR AUTHORITY.—The au-  
6 thorization provided under paragraph (1) shall be  
7 granted once all of the following have occurred:

8 (A) 10 States comprising at least 20 per-  
9 cent of the total population of all States impos-  
10 ing a sales tax, as determined by the 2000 Fed-  
11 eral census, have petitioned for membership and  
12 have become Member States under the Agree-  
13 ment.

14 (B) The following necessary operational as-  
15 pects of the Agreement have been implemented  
16 by the Governing Board:

17 (i) Provider and system certification.

18 (ii) Setting of monetary allowance by  
19 contract with providers.

20 (iii) Implementation of an on-line  
21 multistate registration system.

22 (iv) Adoption of a standard form for  
23 claiming exemptions electronically.

24 (v) Establishment of advisory coun-  
25 cils.

1 (vi) Promulgation of rules and proce-  
 2 dures for dispute resolution.

3 (vii) Promulgation of rules and proce-  
 4 dures for audits.

5 (viii) Provisions for funding and staff-  
 6 ing the Governing Board.

7 (C) Each Member State has met the re-  
 8 quirements to provide and maintain the data-  
 9 bases and the taxability matrix described in the  
 10 Agreement, pursuant to requirements of the  
 11 Governing Board.

12 (3) LIMITATION OF AUTHORITY.—The author-  
 13 ization provided under paragraph (1)—

14 (A) shall be granted notwithstanding any  
 15 other provision of law; and

16 (B) is dependent upon the Agreement, as  
 17 amended, meeting the minimum simplification  
 18 requirements of section 7.

19 (b) TERMINATION OF AUTHORITY.—

20 (1) IN GENERAL.—The authorization provided  
 21 under subsection (a) shall terminate for all States  
 22 if—

23 (A) the requirements contained in sub-  
 24 section (a) cease to be satisfied; or

1 (B) any amendment adopted to the Agree-  
 2 ment after the date of enactment of this Act is  
 3 not within the scope of the administration of  
 4 sales and use taxes or taxes on telecommuni-  
 5 cations services by the Member States.

6 (2) LOSS OF MEMBER STATE STATUS.—The au-  
 7 thorization provided under subsection (a) shall ter-  
 8minate for a Member State, if such Member State  
 9 no longer meets the requirements for Member State  
 10 status under the terms of the Agreement.

11 (c) DETERMINATION OF STATUS.—

12 (1) IN GENERAL.—The Governing Board shall  
 13 determine if Member States are in compliance with  
 14 the requirements of subsections (a) and (b).

15 (2) COMPLIANCE DETERMINATION.—Upon the  
 16 determination of the Governing Board that all the  
 17 requirements of subsection (a) have been satisfied,  
 18 the authority of each Member State to require a sell-  
 19 er to collect and remit sales and use taxes shall com-  
 20 mence on the first day of a calendar quarter at least  
 21 6 months after the date the Governing Board makes  
 22 its determination.

23 (d) SMALL BUSINESS EXCEPTION.—No seller shall  
 24 be subject to a requirement of any State to collect and

1 remit sales and use taxes with respect to a remote sale  
 2 if—

3 (1) the seller and its affiliates collectively had  
 4 gross remote taxable sales nationwide of less than  
 5 \$5,000,000 in the calendar year preceding the date  
 6 of such sale; or

7 (2) the seller and its affiliates collectively meet  
 8 the \$5,000,000 threshold of this subsection, but the  
 9 seller has less than \$100,000 in gross remote tax-  
 10 able sales nationwide.

11 **SEC. 5. TRIBAL GOVERNMENTS.**

12 (a) STATUS AS MEMBER STATE.—

13 (1) IN GENERAL.—Any federally recognized In-  
 14 dian Tribe that imposes a generally applicable sales  
 15 tax may, if such Tribe complies with the terms of  
 16 this Act—

17 (A) petition to become a Member State  
 18 under the Agreement; and

19 (B) exercise the authority provided under  
 20 section 4.

21 (2) DECISION OF THE GOVERNING BOARD.—

22 (A) IN GENERAL.—If the effect of any fed-  
 23 erally recognized Indian Tribe’s law, rules, reg-  
 24 ulations, and policies is compliant with each of  
 25 the terms of the Agreement, and the Indian

1 Tribe has entered an agreement with the pri-  
 2 mary State where it is located, the Governing  
 3 Board shall consider such Tribe for admission  
 4 as a Member State to the Agreement on the  
 5 same basis as States.

6 (B) NO STATE-TRIBAL AGREEMENT  
 7 PRESENT.—If a petitioning Indian Tribe and  
 8 the primary State in which it is located have at-  
 9 tempted to negotiate, but have not reached, an  
 10 agreement as described in subparagraph (A)  
 11 within 2 years after the date of the submission  
 12 of such petition, the Governing Board shall con-  
 13 sider such Tribe for admission as a Member  
 14 State to the Agreement on the same basis as  
 15 States without regard to the presence of a  
 16 State-tribal agreement.

17 (3) MEMBERSHIP ON THE GOVERNING  
 18 BOARD.—

19 (A) IN GENERAL.—If any federally recog-  
 20 nized Indian Tribes are accorded Member State  
 21 status under the Agreement under this section,  
 22 those Tribes shall be represented on the Gov-  
 23 erning Board by at least 1 member.

24 (B) MULTIPLE TRIBES.—If 2 or more fed-  
 25 erally recognized Indian Tribes are accorded

1 Member State status under the Agreement  
2 under this section, additional representation of  
3 such Tribes on the Governing Board shall be  
4 determined by the Governing Board, in con-  
5 sultation with those Tribes that are Member  
6 States.

7 (b) RULE OF CONSTRUCTION.—Nothing in this Act  
8 or the Agreement shall be construed as—

9 (1) diminishing an Indian Tribe’s sovereignty  
10 or characterizing an Indian Tribe as a State for  
11 other purposes;

12 (2) affecting existing tax agreements between  
13 Indian Tribal Governments and States;

14 (3) preventing Indian Tribal Governments and  
15 States from entering into bilateral agreements for  
16 the collection and allocation of sales taxes (whether  
17 or not such bodies are admitted as Member States  
18 to the Agreement); or

19 (4) overriding established principles of Federal  
20 law governing—

21 (A) the taxing jurisdiction of Indian Tribal  
22 Governments; and

23 (B) the immunities of Indian Tribal Gov-  
24 ernments and their members from State tax-



1           ation with respect to on-reservation trans-  
2           actions.

3 **SEC. 6. DETERMINATIONS BY GOVERNING BOARD AND JU-**  
4 **DICIAL REVIEW OF SUCH DETERMINATIONS.**

5       (a) PETITION.—At any time after the Governing  
6 Board has made the determination required under section  
7 4(c)(2), any person who may be affected by the Agreement  
8 may petition the Governing Board for a determination on  
9 any issue relating to the implementation of the Agreement.

10       (b) REVIEW IN COURT OF FEDERAL CLAIMS.—Any  
11 person who submits a petition under subsection (a) may  
12 bring an action against the Governing Board in the United  
13 States Court of Federal Claims for judicial review of the  
14 action of the Governing Board on that petition if—

15           (1) the petition relates to an issue of whether—

16               (A) a Member State has satisfied or con-  
17 tinues to satisfy the requirements for Member  
18 State status under the Agreement;

19               (B) the Governing Board has performed a  
20 nondiscretionary duty of the Governing Board  
21 under the Agreement;

22               (C) the Agreement continues to satisfy the  
23 minimum simplification requirements set forth  
24 in section 7; or

1 (D) any other requirement of section 4 has  
2 been satisfied; and

3 (2) the petition is denied by the Governing  
4 Board in whole or in part with respect to that issue,  
5 or the Governing Board fails to act on the petition  
6 with respect to that issue not later than 6 months  
7 after the date on which the petition is submitted.

8 (c) TIMING OF ACTION FOR REVIEW.—An action for  
9 review under this section shall be initiated not later than  
10 60 days after the denial of the petition by the Governing  
11 Board, or, if the Governing Board failed to act on the peti-  
12 tion, not later than 60 days after the end of the 6-month  
13 period beginning on the day after the date on which the  
14 petition was submitted.

15 (d) STANDARD OF REVIEW.—

16 (1) IN GENERAL.—In any action for review  
17 under this section, the court shall set aside the ac-  
18 tions, findings, and conclusions of the Governing  
19 Board found to be arbitrary, capricious, an abuse of  
20 discretion, or otherwise not in accordance with law.

21 (2) REMAND.—If the court sets aside any ac-  
22 tion, finding, or conclusion of the Governing Board  
23 under paragraph (1), the court shall remand the  
24 case to the Governing Board for further action con-  
25 sistent with the decision of the court.

1 (e) JURISDICTION.—

2 (1) GENERALLY.—Chapter 91 of title 28,  
3 United States Code, is amended by adding at the  
4 end the following:

5 **“§ 1510. Jurisdiction regarding the Streamlined Sales**  
6 **and Use Tax Agreement**

7 “The United States Court of Federal Claims shall  
8 have exclusive jurisdiction over actions for judicial review  
9 of determinations of the Governing Board of the Stream-  
10 lined Sales and Use Tax Agreement under the terms and  
11 conditions provided in section 5 of the Sales Tax Fairness  
12 and Simplification Act.”.

13 (2) CONFORMING AMENDMENT TO TABLE OF  
14 SECTIONS.—The table of sections at the beginning  
15 of chapter 91 of title 28, United States Code, is  
16 amended by adding at the end the following new  
17 item:

“1510. Jurisdiction regarding the streamlined sales and use tax agreement.”.

18 **SEC. 7. MINIMUM SIMPLIFICATION REQUIREMENTS.**

19 (a) IN GENERAL.—The minimum simplification re-  
20 quirements for the Agreement, which shall relate to the  
21 conduct of Member States under the Agreement and to  
22 the administration and supervision of such conduct, are  
23 as follows:

24 (1) A centralized, one-stop, multistate registra-  
25 tion system that a seller may elect to use to register

1 with the Member States, provided a seller may also  
2 elect to register directly with a Member State, and  
3 further provided that privacy and confidentiality  
4 controls shall be placed on the multistate registra-  
5 tion system so that it may not be used for any pur-  
6 pose other than the administration of sales and use  
7 taxes. Furthermore, no taxing authority within a  
8 Member State or a Member State that has with-  
9 drawn or been expelled from the Agreement may use  
10 registration with the centralized registration system  
11 for the purpose of, or as a factor in determining,  
12 whether a seller has a nexus with that Member State  
13 for any tax at any time.

14 (2) Uniform definitions of products and prod-  
15 uct-based exemptions from which a Member State  
16 may choose its individual tax base, provided, how-  
17 ever, that all local jurisdictions in that Member  
18 State shall have a common tax base identical to the  
19 State tax base of that Member State. A Member  
20 State may enact other product-based exemptions  
21 without restriction if the Agreement does not have  
22 a definition for the product or for a term that in-  
23 cludes the product. A Member State shall relax the  
24 good faith requirement for acceptance of exemption  
25 certificates in accordance with section 317 of the

1 Agreement, as amended through the date of enact-  
2 ment of this Act.

3 (3) Uniform rules for sourcing and attributing  
4 transactions to particular taxing jurisdictions.

5 (4) Uniform procedures for the certification of  
6 service providers and software on which a seller may  
7 elect to rely in order to determine Member State  
8 sales and use tax rates and taxability.

9 (5) Uniform rules for bad debts and rounding.

10 (6) Uniform requirements for tax returns and  
11 remittances.

12 (7) Consistent electronic filing and remittance  
13 methods.

14 (8) Single, State-level administration of all  
15 Member State and local sales and use taxes, includ-  
16 ing a requirement for a State-level filing of tax re-  
17 turns in each Member State.

18 (9) A single sales and use tax rate per taxing  
19 jurisdiction, except that a State may impose a single  
20 additional rate, which may be zero, on food, food in-  
21 gredients, and drugs, provided that this limitation  
22 does not apply to the items identified in section 308  
23 C of the Agreement, as amended through the date  
24 of enactment of this Act.

1           (10) A Member State shall eliminate caps and  
2 thresholds on the application of sales and use tax  
3 rates and exemptions based on value, provided that  
4 this limitation does not apply to the items identified  
5 in section 308 C of the Agreement, as amended  
6 through the date of enactment of this Act.

7           (11) A provision requiring each Member State  
8 to complete a taxability matrix, as adopted by the  
9 Governing Board. The matrix shall include informa-  
10 tion regarding terms defined by the Agreement in  
11 the Library of Definitions. The matrix shall also in-  
12 clude, pursuant to the requirements of the Gov-  
13 erning Board, information on use, entity, and prod-  
14 uct based exemptions.

15           (12) A provision requiring that each Member  
16 State relieves a seller or service provider from liabil-  
17 ity to that Member State and local jurisdiction for  
18 collection of the incorrect amount of sales or use tax,  
19 and relieves the purchaser from penalties stemming  
20 from such liability, provided that collection of the  
21 improper amount is the result of relying on informa-  
22 tion provided by that Member State regarding tax  
23 rates, boundaries, or taxing jurisdiction assignments,  
24 or in the taxability matrix regarding terms defined  
25 by the Agreement in the Library of Definitions.

1           (13) Audit procedures for sellers, including an  
2           option under which a seller not qualifying for the  
3           small business exception in section 4(d) may request,  
4           by notifying the Governing Board, to be subject to  
5           a single audit on behalf of all Member States for  
6           sales and use taxes (other than use taxes on goods  
7           and services purchased for the consumption of the  
8           seller). The Governing Board, in its discretion, shall  
9           authorize such a single audit.

10          (14) As of the day that authority to require col-  
11          lection commences under section 4, each Member  
12          State shall provide reasonable compensation for ex-  
13          penses incurred by a seller directly in administering,  
14          collecting, and remitting sales and use taxes (other  
15          than use taxes on goods and services purchased for  
16          the consumption of the seller) to that Member State.  
17          Such compensation may vary in each Member State  
18          depending on the complexity of the sales and use tax  
19          laws in that Member State and may vary by the  
20          characteristics of sellers in order to reflect dif-  
21          ferences in collection costs. Such compensation may  
22          be provided to a seller or a third party service pro-  
23          vider whom a seller has contracted with to perform  
24          all the sales and use tax responsibilities of a seller.

1           (15) Appropriate protections for consumer pri-  
2 vacy.

3           (16) Governance procedures and mechanisms to  
4 ensure timely, consistent, and uniform implementa-  
5 tion and adherence to the principles of the stream-  
6 lined system and the terms of the Agreement.

7           (17) Each Member State shall apply the sim-  
8 plification requirements of the Agreement to taxes  
9 on telecommunications services, except as provided  
10 herein. This requirement is applicable to Member  
11 States as of July 1, 2010, except that sales and use  
12 taxes on telecommunications services shall be subject  
13 to the Agreement and the authority granted to the  
14 Member States when the requirements of section  
15 4(a) are met. On or after July 1, 2010, for those  
16 Member States which meet the requirements of this  
17 paragraph, the authority granted such Member  
18 States under section 4 may be exercised by such  
19 Member States, pursuant to the terms of section 4  
20 and section 6, with respect to taxes on telecommuni-  
21 cations services other than sales and use taxes on  
22 such services. The following are exceptions to the re-  
23 quirement established under this paragraph:

24                   (A) The requirement for one uniform re-  
25 turn shall not apply, provided, however, there



1 shall be one uniform return for each type of tax  
 2 on telecommunications services within a State.

3 (B) The requirements for rate simplifica-  
 4 tion are modified to require that each taxing ju-  
 5 risdiction shall have only one rate for each type  
 6 of tax on telecommunications services.

7 (C) The requirements for tax base uni-  
 8 formity in section 302 of the Agreement shall  
 9 apply to each type of tax on telecommunications  
 10 services within a State, but shall not be con-  
 11 strued to require that the tax base for different  
 12 types of taxes on telecommunications services  
 13 must be identical to the tax base for sales and  
 14 use taxes imposed on telecommunications serv-  
 15 ices.

16 (18) Uniform rules and procedures for “sales  
 17 tax holidays”.

18 (19) Uniform rules and procedures to address  
 19 refunds and credits for sales taxes relating to cus-  
 20 tomer returns, restocking fees, discounts and cou-  
 21 pons, and rules to address allocations of shipping  
 22 and handling and discounts applied to multiple item  
 23 and multiple seller orders.

24 (b) REQUIREMENT TO PROVIDE SIMPLIFIED TAX  
 25 SYSTEMS.—

1           (1) IN GENERAL.—The requirements of this  
 2       section are intended to ensure that each Member  
 3       State provides and maintains the necessary sim-  
 4       plifications to its sales and use tax system to war-  
 5       rant the collection authority granted to it in section  
 6       4.

7           (2) REDUCTION OF ADMINISTRATIVE BUR-  
 8       DENS.—The requirements of this section should be  
 9       construed—

10               (A) to require each Member State to sub-  
 11               stantially reduce the administrative burdens as-  
 12               sociated with sales and use taxes; and

13               (B) as allowing each Member State to ex-  
 14               ercise flexibility in how these requirements are  
 15               satisfied.

16           (3) EXCEPTION.—In instances where exceptions  
 17       to the requirements of this section can be exercised  
 18       in a manner that does not materially increase the  
 19       administrative burden on a seller obligated to collect  
 20       or pay the taxes, such exceptions are permissible.

21 **SEC. 8. LIMITATION.**

22       (a) IN GENERAL.—Nothing in this Act shall be con-  
 23       strued as—

1           (1) subjecting a seller to franchise taxes, in-  
 2           come taxes, or licensing requirements of a Member  
 3           State or political subdivision thereof; or

4           (2) affecting the application of such taxes or re-  
 5           quirements or enlarging or reducing the authority of  
 6           any Member State to impose such taxes or require-  
 7           ments.

8           (b) NO EFFECT ON NEXUS, ETC.—

9           (1) IN GENERAL.—No obligation imposed by  
 10          virtue of the authority granted by section 4 shall be  
 11          considered in determining whether a seller has a  
 12          nexus with any Member State for any other tax pur-  
 13          pose.

14          (2) PERMISSIBLE MEMBER STATE AUTHOR-  
 15          ITY.—Except as provided in subsection (a), and in  
 16          section 4, nothing in this Act permits or prohibits a  
 17          Member State from—

18                 (A) licensing or regulating any person;

19                 (B) requiring any person to qualify to  
 20          transact intrastate business;

21                 (C) subjecting any person to State taxes  
 22          not related to the sale of goods or services; or

23                 (D) exercising authority over matters of  
 24          interstate commerce.

1 **SEC. 9. EXPEDITED JUDICIAL REVIEW.**

2 (a) **THREE-JUDGE DISTRICT COURT HEARING.**—

3 Notwithstanding any other provision of law, any civil ac-  
4 tion challenging the constitutionality of this Act, or any  
5 provision thereof, shall be heard by a district court of  
6 three judges convened pursuant to the provisions of sec-  
7 tion 2284 of title 28, United States Code.

8 (b) **APPELLATE REVIEW.**—

9 (1) **IN GENERAL.**—Notwithstanding any other  
10 provision of law, an interlocutory or final judgment,  
11 decree, or order of the court of three judges in an  
12 action under subsection (a) holding this Act, or any  
13 provision thereof, unconstitutional shall be review-  
14 able as a matter of right by direct appeal to the Su-  
15 preme Court.

16 (2) **30-DAY TIME LIMIT.**—Any appeal under  
17 paragraph (1) shall be filed not more than 30 days  
18 after the date of entry of such judgment, decree, or  
19 order.

20 **SEC. 10. DEFINITIONS.**

21 For the purposes of this Act the following definitions  
22 apply:

23 (1) **AFFILIATE.**—The term “affiliate” means  
24 any entity that controls, is controlled by, or is under  
25 common control with a seller.

1           (2) GOVERNING BOARD.—The term “Governing  
2       Board” means the governing board established by  
3       the Streamlined Sales and Use Tax Agreement.

4           (3) MEMBER STATE.—The term “Member  
5       State”—

6           (A) means a Member State as that term is  
7       used under the Streamlined Sales and Use Tax  
8       Agreement as of the date of enactment of this  
9       Act;

10          (B) does not include associate members  
11       under the Agreement; and

12          (C) includes any federally recognized In-  
13       dian Tribe that is accorded Member State sta-  
14       tus under the Agreement pursuant to section 5.

15          (4) NATIONWIDE.—The term “nationwide”  
16       means throughout each of the several States and the  
17       District of Columbia, the Commonwealth of Puerto  
18       Rico, Guam, American Samoa, the Virgin Islands,  
19       the Northern Mariana Islands, and any other terri-  
20       tory or possession of the United States.

21          (5) NONDISCRETIONARY DUTY OF THE GOV-  
22       ERNING BOARD.—The phrase “nondiscretionary  
23       duty of the Governing Board” means any duty of  
24       the Governing Board specified in the Agreement as

1 a requirement for action by use of the term “shall”,  
2 “will”, or “is required to”.

3 (6) PERSON.—The term “person” means an in-  
4 dividual, trust, estate, fiduciary, partnership, cor-  
5 poration, federally recognized Indian Tribe or Tribal  
6 government, State or local government, or any other  
7 legal entity.

8 (7) REMOTE SALE.—The term “remote sale”  
9 refers to a sale of goods or services attributed to a  
10 particular Member State with respect to which a  
11 seller does not have adequate physical presence to  
12 establish nexus under the law existing on the day be-  
13 fore the date of enactment of this Act so as to allow  
14 such Member State to require, without regard to the  
15 authority granted by this Act, the seller to collect  
16 and remit sales or use taxes with respect to such  
17 sale.

18 (8) REMOTE SELLER.—The term “remote sell-  
19 er” means any seller who makes a remote sale.

20 (9) STATE.—The term “State” means any  
21 State of the United States of America and includes  
22 the District of Columbia, Puerto Rico, and any other  
23 territory or possession of the United States.

24 (10) STREAMLINED SALES AND USE TAX  
25 AGREEMENT.—The term “Streamlined Sales and

1       Use Tax Agreement” (or “the Agreement”) means  
 2       the multistate agreement with that title adopted on  
 3       November 12, 2002, as amended through the date of  
 4       enactment of this Act and unless the context other-  
 5       wise indicates as further amended from time to time.

6           (11) TAX ON TELECOMMUNICATIONS SERV-  
 7       ICES.—The term “tax on telecommunications serv-  
 8       ices” or “taxes on telecommunication services” shall  
 9       encompass the same taxes, charges, or fees as are  
 10      included in section 116 of title 4, United States  
 11      Code, except that “telecommunication services” shall  
 12      replace “mobile telecommunications services” when-  
 13      ever such term appears.

14          (12) TELECOMMUNICATIONS SERVICE.—

15           (A) IN GENERAL.—The term “tele-  
 16       communications service” means the electronic  
 17       transmission, conveyance, or routing of voice,  
 18       data, audio, video, or any other information or  
 19       signals to a point, or between or among points.

20           (B) INCLUSION.—The term “telecommuni-  
 21       cation service”—

22           (i) includes transmission services in  
 23       which computer processing applications are  
 24       used to act on the form, code, or protocol  
 25       of the content for purposes of trans-

mission, conveyance, or routing without regard to whether such services are referred to as voice over Internet protocol services or are classified by the Federal Communications Commission as enhanced or value added services; and

(ii) does not include the data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where the primary purpose of such purchaser for the underlying transaction is the processed data or information.

**SEC. 11. SENSE OF THE CONGRESS ON DIGITAL GOODS AND SERVICES.**

It is the sense of the Congress that each State that is a party to the Agreement should work with other States that are also party to the Agreement to prevent double taxation in situations where a foreign country has imposed a transaction tax on a digital good or service.

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