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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

MARCH 9, 2001

Mr. DORGAN (for himself, Mr. ENZI, Mr. GRAHAM, Mr. VOINOVICH, Mr. BREAU, Mr. THOMAS, Mr. DURBIN, Mr. CHAFEE, Mrs. LINCOLN, Mrs. HUTCHISON, and Mr. ROCKEFELLER) 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 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 Congress that States and localities should
 15 work together to develop a streamlined sales and use tax
 16 system that addresses the following in the context of re-
 17 mote sales:

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

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

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

25 (4) Uniform procedures for—

1 (A) the treatment of purchasers exempt
2 from sales and use taxes; and

3 (B) relief from liability for sellers that rely
4 on such State procedures.

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

8 (6) A uniform format for tax returns and re-
9 mittance forms.

10 (7) Consistent electronic filing and remittance
11 methods.

12 (8) State administration of all State and local
13 sales and use taxes.

14 (9) Uniform audit procedures, including a pro-
15 vision giving a seller the option to be subject to no
16 more than a single audit per year using those proce-
17 dures; except that if the seller does not comply with
18 the procedures to elect a single audit, any State can
19 conduct an audit using those procedures.

20 (10) Reasonable compensation for tax collection
21 by sellers.

22 (11) Exemption from use tax collection require-
23 ments for remote sellers falling below a de minimis
24 threshold of \$5,000,000 in gross annual sales.

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

3 (13) Such other features that the States deem
4 warranted to promote simplicity, uniformity, neu-
5 trality, efficiency, and fairness.

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

11 (c) STUDY.—It is the sense of Congress that a joint,
12 comprehensive study should be commissioned by State and
13 local governments and the business community to deter-
14 mine the cost to all sellers of collecting and remitting
15 State and local sales and use taxes on sales made by sell-
16 ers under the law as in effect on the date of enactment
17 of this Act and under the system described in subsection
18 (a) to assist in determining what constitutes reasonable
19 compensation.

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

21 (a) AUTHORIZATION AND CONSENT.—In general, the
22 States are authorized to enter into an Interstate Sales and
23 Use Tax Compact. Subject to subsection (c), Congress
24 consents to their entry into that Compact. The Compact
25 shall describe a uniform, streamlined sales and use tax

1 system consistent with section 4(a), and shall provide that
 2 States joining the Compact must adopt that system.

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

6 (c) CONGRESSIONAL CONSENT WITHDRAWN IF COM-
 7 PACT DISAPPROVED.—

8 (1) ADOPTING STATES TO TRANSMIT.—Upon
 9 the 20th State becoming a signatory to the Com-
 10 pact, the adopting States shall transmit a copy of
 11 the Compact to Congress.

12 (2) CONGRESSIONAL ACTION.—The consent of
 13 Congress to the Compact is withdrawn if Congress,
 14 by law, disapproves the Compact within 120 days
 15 (computed in accordance with section 154 of the
 16 Trade Act of 1974 (19 U.S.C. 2194)) after the
 17 adopting States transmit the Compact to Congress.

18 **SEC. 6. AUTHORIZATION TO SIMPLIFY STATE USE-TAX**

19 **RATES THROUGH AVERAGING.**

20 (a) IN GENERAL.—Subject to the exception in sub-
 21 section (e), a State that adopts the Compact authorized
 22 under section 5 and that levies a use tax shall impose a
 23 single, uniform State-wide use-tax rate on all remote sales
 24 on which it assesses a use tax for any calendar year for
 25 which the State meets the requirements of subsection (b).

1 (b) AVERAGING REQUIREMENT.—A State meets the
 2 requirements of this subsection for any calendar year in
 3 which the single, uniform State-wide use-tax rate is in ef-
 4 fect if such rate is no greater than the weighted average
 5 of the sales tax rates actually imposed by the State and
 6 its local jurisdictions during the 12-month period ending
 7 on June 30 prior to such calendar year.

8 (c) COMPUTATION OF RATE NO GREATER THAN
 9 WEIGHTED AVERAGE.—For purposes of subsection (b), a
 10 State-wide use-tax rate is no greater than the weighted
 11 average of the sales tax rates imposed during a 12-month
 12 period described in subsection (b) only if, had such rate
 13 been assessed during such period on all sales subject to
 14 the sales and use tax by such State and its local jurisdic-
 15 tions, such rate would not have yielded a greater total as-
 16 sessment of taxes than the total taxes actually assessed
 17 on such sales during such period.

18 (d) ANNUAL OPTION TO COLLECT ACTUAL TAX.—
 19 Notwithstanding subsection (a), a remote seller may elect
 20 annually to collect the actual applicable State and local
 21 use taxes on each sale made in the State.

22 (e) ALTERNATIVE SYSTEM.—A State that adopts the
 23 dramatically simplified sales and use tax system described
 24 in the Compact authorized under section 5 so that remote
 25 sellers can use information provided by the State to iden-

1 tify the single applicable rate for each sale, may require
 2 a remote seller to collect the actual applicable State and
 3 local sales or use tax due on each sale made in the State
 4 if the State provides such seller relief from liability to the
 5 State for relying on such information provided by the
 6 State.

7 **SEC. 7. AUTHORIZATION TO REQUIRE COLLECTION OF USE**
 8 **TAXES.**

9 (a) GRANT OF AUTHORITY.—

10 (1) STATES THAT ADOPT THE SYSTEM MAY RE-
 11 QUIRE COLLECTION.—Any State that has adopted
 12 the system described in the Compact is authorized,
 13 notwithstanding any other provision of law, to re-
 14 quire all sellers not qualifying for the de minimis ex-
 15 ception to collect and remit sales and use taxes on
 16 remote sales to purchasers located in such State
 17 after the expiration of the 120 day period described
 18 by section 5(c)(2) unless the Compact is disapproved
 19 under section 5(c).

20 (2) STATES THAT DO NOT ADOPT THE SYSTEM
 21 MAY NOT REQUIRE COLLECTION.—Paragraph (1)
 22 does not extend to any State that does not adopt the
 23 system described in the Compact.

24 (b) NO EFFECT ON NEXUS, ETC.—No obligation im-
 25 posed by virtue of authority granted by subsection (a)(1)

1 or denied by subsection (a)(2) shall be considered in deter-
2 mining whether a seller has a nexus with any State for
3 any other tax purpose. Except as provided in subsection
4 (a), nothing in this Act permits or prohibits a State—

5 (1) to license or regulate any person;

6 (2) to require any person to qualify to transact
7 intrastate business; or

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

10 **SEC. 8. LIMITATION.**

11 In general, nothing in this Act shall be construed as
12 subjecting sellers to franchise taxes, income taxes, or li-
13 censing requirements of a State or political subdivision
14 thereof, nor shall anything in this Act be construed as af-
15 fecting the application of such taxes or requirements or
16 enlarging or reducing the authority of any State or polit-
17 ical subdivision to impose such taxes or requirements.

18 **SEC. 9. DEFINITIONS.**

19 In this Act:

20 (1) STATE.—The term “State” means any
21 State of the United States of America and includes
22 the District of Columbia.

23 (2) GOODS OR SERVICES.—The term “goods or
24 services” includes tangible and intangible personal
25 property and services.

1 (3) REMOTE SALE.—The term “remote sale”
2 means a sale in interstate commerce of goods or
3 services attributed, under the rules established pur-
4 suant to section 4(a)(3), to a particular taxing juris-
5 diction that could not, except for the authority
6 granted by this Act, require that the seller of such
7 goods or services collect and remit sales or use taxes
8 on such sale.

9 (4) LOCUS OF REMOTE SALE.—The term “par-
10 ticular taxing jurisdiction”, when used with respect
11 to the location of a remote sale, means a remote sale
12 of goods or services attributed, under the rules es-
13 tablished pursuant to section 4(a)(3), to a particular
14 taxing jurisdiction.

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