



FAQs about the Marketplace Fairness Act and the Marketplace Equity Act

Why does Congress need to get involved, isn't this a matter for the states? For the past 20 years, States have been unable to enforce their own sales and use tax laws on sales by out-of-state, catalog, and online sellers due to the 1992 Supreme Court decision *Quill Corp v. North Dakota*.

Congress has been debating solutions for more than a decade, and some States have been forced to take action on their own, leading to greater confusion and further distorting the marketplace. Because this is a matter of interstate commerce, Congress **MUST** grant the authority needed for states enforce sales tax collection and remittance from out-of-state sellers.

On average, States depend on sales and use taxes for 20% of their annual revenue. At a time when State budgets are under increasing pressure, Congress should give States the ability to enforce their own laws.

Why now? Internet-based commerce continues to grow, and States will be unable to collect as much as \$23 billion in revenue in 2012 unless Congress acts.

Won't this raise taxes? No. Consumers are required under state laws to pay sales and use taxes on the goods they purchase, but online sellers simply are not required to collect the tax in the same way that local businesses do – which puts local businesses at a disadvantage. Consumers can be audited and charged with penalties for failing to pay sales and use taxes, but too often States are unable to enforce this requirement. Five states have no sales tax – Delaware, Montana, Oregon, New Hampshire and Alaska.

Will this help Businesses? Yes. Thousands of businesses are forced to do business at a competitive disadvantage because they have to collect taxes and online sellers do not, which in some states can mean a 5 to 10% price advantage.

Will this help States? Yes. Both bills empower the States and allow them to collect sales and use taxes two ways: States can collect under the Streamlined Sales and Use Tax Agreement (SSUTA) or they can adopt minimum simplification requirements. States would have the option to choose the best solution for them, and not be required to conform to a one-size-fits-all model.

Are there other bills in Congress on this issue? Yes, in July Senator Dick Durbin and Congressman John Conyers introduced the Main Street Fairness Act in their respective chambers (S. 1452/HR 2701). While the ultimate goal is the same as the Marketplace Fairness Act and the Marketplace Equity Act, the Durbin/Conyers bill only provides authorization for states that are part of the SSUTA. Currently there are 24 such states; there are no alternatives in the bill to implement remote sales tax collection for the remaining 21 states that have a sales and use tax. Both the Marketplace Fairness Act (S. 1832 introduced in the Senate in November) and the Marketplace Equity Act (HR 3179 introduced in the House in October) do provide for such an alternate path - - minimum requirements - - as previously noted.

Will small sellers be protected from new requirements? Yes. Under the Marketplace Fairness Act, online sellers with less than \$500,000 in remote sales annually will be exempt from collection requirements. Under the Marketplace Equity Act, online sellers with less than \$1 million in remote sales annually, or less than \$100,000 in remote sales in a specific state will be exempt.

What can I do to help? Talk to your Senators and ask them to support S. 1832; ask your House members to support HR 3179 - - it's time to level the playing field for all retailers.

How can I find out more information? Visit www.icsc.org/salestaxfairness. Information is being added on a regular or as-needed basis.