E-FAIRNESS

PARITY FOR COMMUNITY-BASED BUSINESSES

OUR POSITION

Congressional action is needed to restore parity for local brick-and-mortar businesses. Online-only retailers have been allowed to avoid collecting sales taxes for over two decades. Under current law, local retailers are obligated to collect sales taxes on all sales, but many of their online-only competitors are exempt and receive a government-sanctioned price advantage. **A sale is a sale regardless of whether it takes place on Main Street or on the Internet. The same rules that apply to local businesses across our nation should apply to online retailers.**

- **ICSC asks for support of H.R. 2193, the Remote Transactions Parity Act and S. 976, the Marketplace Fairness Act.**
- **U.S. Supreme Court Justice Neal Gorsuch has written that "internet retailers don't seek comparable treatment to their in-state brick-and-mortar rivals, they seek more favorable treatment, a competitive advantage, a sort of judicially sponsored arbitrage opportunity or 'tax shelter.'" *Direct Mktg. Ass'n v. Brohl*, 814 F.3d 1129, 1150 (10th Cir. 2016) (Gorsuch, J., concurring), *cert. denied,* 137 S. Ct. 591 (2016).**
- **According to conservative leader William F. Buckley, "If the advantage of tax-free Internet commerce marginally closes out local industry, reforms are required."**

OVERVIEW

The Remote Transactions Parity Act (RTPA) and the Marketplace Fairness Act (MFA) create a level playing field in the retail marketplace, allow states to collect a tax that is already legally required, safeguard small businesses through audit protections compliance costs, and remove an unnecessary tax burden from consumers.

- **Protecting local economies and jobs** – Local businesses are job creators, economic drivers through property and income taxes, and part of the fabric of our communities. When community-based retailers lose sales to online-only retailers outside of their state because of a price disadvantage, it can drive them out of business and threaten local economies nationwide.
- **Promoting states' rights** – States should have the ability to enforce their existing sales tax laws on online-only retailers selling to consumers in their state.
- **Defending the free-market and eliminating government intervention** – By not requiring the collection of sales tax, the government gives preferential treatment to online-only retailers. Government shouldn't be in the business of choosing winners and losers in the 21st Century marketplace. Local retailers deserve a fair chance to compete on price, products, and customer service.
- **Increasing local revenue and preventing the need for new taxes** – Consumers often do not realize they are responsible for calculating and remitting sales tax directly to the state department of revenue when online retailers don't collect it, resulting in $26 billion of uncollected U.S. sales taxes at the state level. Streamlining collection of a tax that is legally owed can lower tax rates overall, as local lawmakers will have less need to increase income and property taxes to make up for lost revenue.

NATIONWIDE SUPPORT FOR E-FAIRNESS

Americans overwhelmingly support federal legislation that simplifies online sales tax collection, according to an August 2014 poll by Opinion Research Organization.

- 70% of Americans support federal legislation that would require online-only sellers to collect sales tax at the time of purchase.
- 82% of Americans think it would be easier to collect sales tax from online-only vendors at the time of purchase.

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