

February 15, 2013

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ICSC Lauds Reintroduction of Marketplace Fairness Act

On February 13, the bipartisan Senate and House sponsors of "The Marketplace Fairness Act of 2013" (S. 336 and HR 684) held a press conference in the Capitol in conjunction with the introduction of their bill, which is aimed at leveling the playing field between online-only sellers and brick and mortar retailers. Senators Mike Enzi (R-WY), Lamar Alexander (R-TN), Dick Durbin (D-IL), authors of the Senate bill in the previous Congress, were joined this time by freshman Senator Heidi Heitkamp (D-ND) as an original cosponsor. Heitkamp is the former Tax Commissioner for North Dakota, who nearly 20 years ago filed an action in state court to force the Quill Corporation, an out-of-state mail-order office equipment retailer, to charge a North Dakota use tax on Quill merchandise to be used within the state. Eventually the Quill case reached the U.S. Supreme Court where the high court ruled that the problem "is not only one that Congress may be better qualified to resolve, but also one that Congress has the ultimate power to resolve."

Two decades later, ICSC and others in the business community believe the time has come. "The Marketplace Fairness Act of 2013" would require states to provide a minimum level of simplification, including the simplification called for by the Streamlined Sales and Use Tax Agreement. Some of the simplification requirements for a state include providing a single point of remittance, a more uniform sales and use tax base and free software for remote sellers that assists in calculating and filing sales and use taxes. Also included is a generous small seller exemption to businesses with \$1 million in total remote sales per year. A group of 18 Senators and 35 Representatives have joined as sponsors in the reintroduction. Senator Richard Durbin (D-IL) particularly mentioned the strength of the Marketplace Fairness Coalition, a business and retail group ICSC is leading. For more information on this issue, please visit www.21stcenturyretail.org.

House Tax-Writing Committee Announces Bipartisan Tax Reform Working Groups

On February 13 the Chairman of the House Ways and Means Committee, Congressman David Camp (R-MI) and his Democratic counterpart, Congressman Sander Levin (D-MI) announced the formation of 11 separate Ways and Means Committee Tax Reform Working Groups.

The groups will be led by one Republican Member serving as Chair and one Democratic Member serving as Vice Chair. Each of the 11 groups will review current law in its designated issue area and then identify, research and compile feedback related to the topic of the working group. The working groups will be responsible for compiling feedback on its designated topic from: (1) stakeholders, (2) academics and think tanks, (3) practitioners, (4) the general public and (5) colleagues in the House of Representatives. Once the work of those groups has been completed, the Joint Committee on Taxation will prepare a report for the full Committee, due by April 15, 2013, that describes current law in each issue area and summarizes the other information gathered by the Committee Members.

Announcing the formation of the groups, Chairman Camp stated, "I am pleased to be working collaboratively with Ranking Member Levin and all of our Committee Members as we continue our efforts to fix our broken tax code. Regardless of party or politics, everyone can agree that comprehensive tax reform should result in a simpler, fairer tax code for families and more jobs for American workers. In addition to Committee hearings, these working groups will be one more way for the Committee to gather the necessary information to produce the best possible legislation."

Ranking Member Levin added, "Tax reform must build on a full understanding of present provisions as a path to a simpler, fairer and adequate tax code. These working groups provide a framework to undertake in-depth fact-finding on a variety of important issues related to tax reform."

Ways and Means Tax Reform Working Groups

Charitable/Exempt Organizations	David Reichert (R-WA)	John Lewis (D-GA)
Debt, Equity and Capital	Kenny Marchant (R-TX)	Jim McDermott (D-WA)
Education and Family Benefits	Diane Black (R-TN)	Danny Davis (D-IL)
Energy	Kevin Brady (R-TX)	Mike Thompson (D-CA)
Financial Services	Adrian Smith (R-NE)	John Larson (D-CT)
Income and Tax Distribution	Lynn Jenkins (R-KS)	Joseph Crowley (D-NY)
International	Devin Nunes (R-CA)	Earl Blumenauer (D-OR)
Manufacturing	Jim Gerlach (R-PA)	Linda Sanchez (D-CA)
Pensions/Retirement	Pat Tiberi (R-OH)	Ron Kind (D-WI)
Real Estate	Sam Johnson (R-TX)	Bill Pascrell, Jr. (D-NJ)
Small Business/Pass Throughs	Vern Buchanan (R-FL)	Allyson Schwartz (D-PA)

ICSC will be closely following the activities of the working groups and their work. For more information, contact Jennifer Platt (jplatt@icsc.org), Vice President of Federal Operations, or Betsy Laird (blaird@icsc.org), Senior Vice President, Global Public Policy.

FL: Sales Tax Fairness, Expanded Physical Nexus

The Florida Senate Committee on Commerce and Tourism held a public hearing on February 5 for S.B. 316 (Senator Nancy Detert, R). S.B. 316 seeks to establish a substantial nexus for the purposes of requiring out-of-state Internet retailers to collect and remit Florida sales tax at the point of sale.

The bill contains two methods of establishing nexus:

- 1.) Affiliate Nexus, which recognizes electronic affiliate advertising relationships;
- 2.) Expanded Physical Nexus works by connecting a subsidiary that is located in-state to the out-of-state retailer.

ICSC continues to maintain a neutral position on the strategy of establishing nexus via affiliate relationships, but is in support of efforts to pass expanded physical nexus language in the states.

During the hearing a number of organizations testified in favor of the bill highlighted by the Florida Retail Federation and ICSC member Arnold Gibbs (Terracon). The bill was passed out committee that same day by a vote of 10 to one. S.B. 316 is currently in the Senate Appropriations Subcommittee on Finance and Tax awaiting further action.

MA: Boston Energy Disclosure Plan to Cost Millions?

According to the Boston Herald, Mayor Thomas M. Menino (D) is drafting a city ordinance intended to fight global warming that would increase costs for commercial property owners by \$838 million over the next seven years. Spurred on by his Green Ribbon Commission, the Mayor is expected to submit his Building Energy Disclosure Ordinance to the City Council in the next few months.

The first step in the Mayor's plan would be to require annual energy efficiency reports for all non-residential buildings of at least 50,000 square feet. The remainder of the plan would be phased in over time.

VA: Governor's Sale Tax Increase Goes to Conference Committee

On February 13 in Richmond, Virginia a conference committee was appointed to resolve the differences between proposed House and Senate transportation plans. As was previously reported, Governor Bob McDonnell's (R) transportation plan seeks to increase the state's sales tax in exchange for an elimination of the tax on gasoline. Speaker of the Virginia House of Delegates Bill Howell (R) sponsored and passed the Governor's transportation plan, while the Senate passed a transportation plan authored by Senator Frank Wagner (R), which does not make changes to the state's sales tax rate, but does increase the tax on gasoline. In addition to the gas tax and sales tax, the Governor called on the 113th Congress to pass the Marketplace Equity Act and included estimated uncollected sales taxes as part of his overall transportation plan. Senator Wagner did not include a sales tax fairness component.

Rules in Virginia call for this negotiation to be completed by February 18, but there is an expectation that the vast differences in the two plans will force the negotiations past that deadline. The Virginia legislature adjourns sine die on February 23.

WA: Sales Tax Holiday Bills Heard in House and Senate

S.B. 5529, sponsored by Senator Ann Rivers (R-18), was heard in the Senate Trade & Economic Development Committee on February 14. The bill seeks to create a back-to-school sales tax holiday on the retail sale of clothing items that are less than \$100 when purchased during the second weekend in August. School supply items that are less than \$10 are also proposed to be exempt from sales tax if purchased during the same time period. In addition, S.B. 5529 requires the joint legislative audit and review committee to conduct an economic impact study of the sales and use tax exemption and evaluate the direct, indirect, and induced economic impacts of the exemptions and their impact on state general fund tax revenues. The Washington Retail Association is leading a coalition in support of this effort and ICSC submitted a letter of testimony in favor of the bill. The bill has a sunset date of July 1, 2016. H.B. 1329, sponsored by Representative Jim Moeller (D-49), Speaker Pro Tempore of the House, is a companion back-to-school sales tax holiday bill in the House. H.B. 1329 had a hearing on February 4 in the House Committee on Finance. Both bills await action from their respective committees.

Upcoming State GR Events

- **MI Day at the Capitol:** 5-6 March, 2013; Lansing, MI
- **TX Day at the Capitol:** 5-6 March, 2013; Austin, TX
- **CO Day at the Capitol:** 21 March, 2013; Denver, CO
- **CT Day at the Capitol:** 17 April, 2013; Hartford, CT
- **IL Day at the Capitol:** 1 May, 2013; Springfield, IL
- **CA Commercial Real Estate Summit & CBPA Annual Meeting:** 11-12 June, 2013; Sacramento, CA

For more information about participation in the ICSC Days at the State Capitols please contact Lorin Alusic, State and Local Government Relations, at lalusic@icsc.org.

2013 Strategic Leadership Summit

For more than 20 years the shopping center industry has assembled in Washington, DC to deliver its legislative agenda to Capitol Hill. ICSC will hold the 2013 Strategic Leadership Summit on April 9-10. Make your voice heard on legislation ranging from tax reform to the environment to workforce matters. SLS provides an opportunity to have face-to-face meetings with Members of Congress or their staff where you can articulate your views on issues of importance to your company and the shopping center industry. [Click here for more information.](#)

ICSC Global Public Policy

555 12th Street, N.W., Suite 660
Washington, DC 20004
202-626-1400

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For inquiries about the Global Public Policy office, contact gpp@icsc.org or call +1 202 626 1400.