



E-fairness: Parity for Community-Based Businesses

OUR POSITION

Federal action is needed to restore parity for brick-and-mortar businesses. For too long, online-only sellers have been allowed to avoid collecting sales taxes. Under the current interpretation of the 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.**

The U.S. Supreme Court will resolve this issue in 2018. We are hopeful that the Court will overturn the previous ruling from the 1992 Quill decision. At some point, Congress may need to act to provide clarity for the rules governing the collection of sales and use taxes for online sales. H.R. 2193, the Remote Transactions Parity Act (RTPA), and S. 976, the Marketplace Fairness Act (MFA), would provide a legislative counterpart to the upcoming litigation with safeguards such as audit protections and compensation for compliance costs.

- **Updating the law for local economies and jobs** – Local retailers are job creators, property and income taxpayers, 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 update and enforce their sales tax laws on online-only retailers selling to consumers in their state to reflect the economic realities of today’s marketplace.
- **Defending the free-market and eliminating government intervention** – By not requiring the collection of sales taxes across all channels of commerce, the government gives preferential treatment to online-only retailers. 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. When online retailers don’t collect the sales tax at the time of sale states lose billions annually (\$33 billion projected in 2018). Streamlining collection of a tax that is legally owed can lower tax rates overall, lessening the need to increase income and property taxes to make up for the lost revenue.

ICSC supports H.R. 2193, the Remote Transactions Parity Act, and S. 976, the Marketplace Fairness Act.

“If the advantage of tax-free Internet commerce marginally closes out local industry, reforms are required.”

William F. Buckley

“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.’”

*U.S. Supreme Court Justice Neal Gorsuch**

*Direct Mktg. Ass’n v. Brohl, 814 F.3d 1129, 1150 (10th Cir. 2016) (Gorsuch, J., concurring), cert. denied, 137 S. Ct. 591 (2016).

\$33 Billion

Projected loss of sales tax revenue to the states in 2018

ICSC & National Conference of State Legislatures (NCSL)

70%

Americans supporting federal legislation that would require online-only sellers to collect sales tax at the time of purchase

Opinion Research Organization, 2014

82%

Americans who think it would be easier to collect sales tax from online-only vendors at the time of purchase

Opinion Research Organization, 2014

For more information contact Jennifer Platt at jplatt@icsc.org.