



AMERICANS for TAX REFORM

May 14, 2009

The Honorable Tim Pawlenty
Governor, State of Minnesota
130 State Capitol
75 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Dear Governor Pawlenty,

I urge you to oppose any effort to require out-of-state retailers to collect and remit the state's sales tax on products purchased by Minnesotans. Not only does this effort circumvent federal interstate commerce law and the Dormant Commerce Clause of the U.S. Constitution, but it would put Minnesota at a competitive disadvantage, encourage online black-markets, and - worst of all - raise taxes on Minnesotans.

Current law, under *Quill v. North Dakota*, requires a business have a physical presence or "nexus" in a state in order for the state to compel that business to collect and remit sales taxes. However, earlier this year, an Affiliate Nexus Tax (HF 401/SF 282), commonly referred to as an "Amazon Tax," was introduced in Minnesota in an attempt to circumvent this federal law by presuming that a company has a physical nexus if business is solicited through a third-party advertiser based in Minnesota. While the measure has not moved in either legislative chamber, I urge you to oppose its inclusion in the budget or any other legislative vehicle.

Firstly, the affiliate nexus tax is a net tax increase on Minnesota residents and consumers. As a signer of the Taxpayer Protection Pledge, you have honorably maintained your commitment to Minnesota taxpayers to oppose and veto any and all efforts to increase taxes. I urge you to maintain that commitment by opposing this effort.

Additionally, this effort puts Minnesota at a competitive disadvantage by inadvertently punishing in-state advertisers and other businesses. This tax expands the definition of doing business to include a retailer that, while based out of state, advertises on a Minnesota-based website using a banner ad or other link. If advertising with Minnesota-based websites were to create a nexus for out-of-state retailers, these retailers will simply chose to terminate advertising agreements with Minnesota-based websites.

Finally, **taxing consumers that download products such as music and movies from out-of-state retailers will encourage illegal downloading** at a time when legitimate providers of these digital goods are working hard to establish an online market. The bill would essentially incentivize online piracy, reversing a hard fought trend toward legal downloads.

For these reasons, I urge you to oppose any effort to enact an affiliate nexus tax in Minnesota. If you have any questions, please contact Kelly Cobb, state affairs manager, at (202) 785-0266.

Onward,

Grover Norquist

CC: Minnesota Legislature
Commissioner Ward Einess, Department of Revenue
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