



AMERICAN COMMITMENT



September 8, 2014

**An Open Letter to the United States Congress:**  
**Oppose the Marketplace and Internet Tax Fairness Act!**

Dear Member of Congress,

On behalf of the millions of citizens represented by the undersigned organizations, we write in strong opposition to S. 2609, the so-called "Marketplace and Internet Tax Fairness Act." This confused legislation is a strange combination of a common sense extension of the federal ban on state efforts to tax Internet access with highly unpopular and misguided legislation to grant states cross-border tax authority for businesses located outside their jurisdiction. While we support a ban on Internet access taxes, the provision previously known as the "Marketplace Fairness Act," would dismantle proper limits on state tax collection authority while causing serious damage to electronic and interstate commerce.

The "Marketplace Fairness Act" would countenance an enormous expansion in state tax collection authority by wiping away the "physical presence standard," a baseline protection that shields taxpayers from harassment by out-of-state collectors. Far from a "loophole" intended to advantage the Internet, it is the result of a Supreme Court decision grounded in a bedrock foundational principle of tax policy: states must not be allowed to extend their taxation and regulatory authorities beyond their borders. Dismantling this protection for remote retail sales would create a very slippery slope for states to attempt collection of business or even income taxes from out-of-state entities.

Furthermore, the bill would create a decidedly "uneven" playing field between brick-and-mortar and online sales. Brick-and-mortar sales across the country are governed by a simple rule that allows the business to collect sales tax based on its physical location, not that of the item's buyer. Under the "Marketplace Fairness Act," that convenient collection standard would be denied for online sales, forcing remote retailers to determine the appropriate rules and regulations in as many as 46 different states with sales taxes, and then collect and remit sales tax for that distant authority.

Imposing this unworkable collection standard on remote retail sales but *not* on brick-and-mortar retail sales would not only be unfair, it would result in enormous complexity while damaging interstate commerce. Online sellers would be weighed down by substantial compliance burdens and the bill's paltry "small seller exception" of just \$1 million (when the Small Business Administration sets the limit as high as \$30 million in some cases) in remote sales does little to mitigate the damage.

In seeking to address the failures of the “use tax” systems employed by states, the “Marketplace Fairness Act” ends up giving a federal blessing to a massive expansion in state tax collection authority, the dismantling of a vital taxpayer protection upon which virtually all tax systems are based, while harming a segment (online sales) that despite its dramatic expansion still only accounts for roughly \$0.07 of every \$1 in retail spending.

We urge you to oppose attaching this destructive language to an uncontroversial extension of a ban on Internet access taxes and moving it through procedural sleight-of-hand, once again bypassing the committee of jurisdiction.

Sincerely,

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R Street Institute

Mike Needham  
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