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SOUTH DAKOTA V. WAYFAIR, INC.: ONLINE SALES TAXES AND THEIR IMPACT ON MAIN STREET

HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS
UNITED STATES
HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTEENTH CONGRESS

SECOND SESSION

HEARING HELD
MARCH 3, 2020



Small Business Committee Document Number 116–075
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SOUTH DAKOTA V. WAYFAIR, INC.: ONLINE SALES TAXES AND THEIR IMPACT ON MAIN STREET

TUESDAY, MARCH 3, 2020

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
SUBCOMMITTEE ON ECONOMIC GROWTH,
TAX, AND CAPITAL ACCESS,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:05 a.m., in Room 2360, Rayburn House Office Building. Hon. Andy Kim [chairman of the Committee] presiding.

Present: Representatives Kim, Davids, Schneider, Delgado, Hern, and Stauber.

Chairman KIM. Good morning. The Subcommittee will come to order.

I thank everyone for joining us this morning. I want to especially thank the witnesses for being here today.

America's small businesses are a catalyst for creating employment opportunities and driving growth in the U.S. economy. That is because the 30 million small firms in the U.S. represent over 99 percent of all employers and support nearly 56 million jobs. That is why we need to be enacting policies that help small businesses deliver the products, services, jobs, innovation, and income that Americans rely on.

One way for Congress to support small businesses is through well-conceived and targeted tax policy. In my short time in Congress and on this Committee, I have heard that small firms need tax policy that is simple and certain along with policies that level the playing field and create opportunities not just for Wall Street, but for Main Streets across the country to thrive.

The Federal government plays an important role in the setting tax policy, and I have seen firsthand back home now the change in the SALT deductions has negatively impacted homeowners in my district in New Jersey. However, tax laws enacted by states and local jurisdictions also have an impact on small businesses, especially as economy becomes more interconnected.

New Jersey has a fairly simple sales tax system. The state charges a uniform state sales tax of 6.625 percent, and we do not have local sales taxes. Other states choose to do things differently. Texas, for example, has 1,594 sales tax jurisdictions. Nationwide, according to the Tax Foundation, there are 10,769 state and local tax jurisdictions.

This is a critically important issue for small businesses selling their goods and services online and for millions of others that are engaging in interstate commerce. In the U.S. Supreme Court's landmark 2018 decision in South Dakota v. Wayfair, the Court determined that the states could collect sales taxes from out-of-state sellers. The decision overruled a 51-year-old precedent which established that states could only collect sales taxes from businesses that had brick-and-mortar locations in the state.

Even the businesses that sell on Amazon, which collects and remits state sales taxes for small businesses, do not collect local sales taxes, leaving small businesses to collect and remit local taxes in thousands of jurisdictions across the country.

While sales taxes are an important source of revenue for the state and local governments to build roads, maintain parks, and pay teachers, police officers, and firefighters. But small business owners should not be the collection arm for thousands of taxing jurisdictions. Small businesses simply do not have the time and the resources to do so.

Let's also be clear, this is not a tax avoidance issue. Small business owners want to follow the law, but they need clear rules of the road. The landscape post-Wayfair is that millions of small businesses are unfairly faced with overwhelming and expensive compliance burdens. These burdens unfairly limit the ability of small business owners to offer their products and services across state lines.

I have heard from numerous companies in my own district about the heavy financial burdens that they faced in the aftermath of the Wayfair decision. One company I would like to highlight today is the International Products Corporation, a small company that manufactures precision cleaners and assembly lubricants in Burlington, New Jersey. William Herbert, the CFO of the company who has submitted written testimony for today's hearing, has spent thousands of dollars just to account for the many different tax jurisdictions within which they sell their products. Not only this, but he has had to personally spend a couple days each month calculating and filing the returns in each state. Despite the significant cost his company incurred for compliance, they ultimately paid only $958 in total taxes to other jurisdictions last year. It seems downright unfair to put such burdens on our small businesses.

That is why today's hearing is so important. This the first hearing in Congress to solely focus on the small business impacts of the Wayfair decision. We need to shed light on the problems that the Wayfair decision has created for small businesses and explore some actions that Congress can take to bring much needed relief. It should be possible for state and local governments to collect the revenue that pay for the public services we rely on without imposing excessive compliance costs on small businesses.

It is my hope that this hearing will allow the voices of small business owners to be heard. I also hope that this hearing will serve as a springboard for members of Congress to work together to solve this issue together. This is not just an issue in my state but is an issue for all small business owners across the country.

I would now like to yield to Ranking Member Hern for his opening statement.

Mr. HERN. Thank you, Mr. Chairman. Thank the witnesses for being here today.

As a small business owner for the last 35 years, and 17 years on bank boards, small community banks, 13 years as McDonald's Leadership Team representing over 3,500 franchisees that pay multiple taxes in multiple jurisdictions. Even in my own organization, 23 restaurants, 23 different communities, multiple tax issues from city to state to county and the feds, and all the different things that go on, it is a challenge.

Five years on the Systems Economic Team, I got to see this firsthand, the impact; 5 years on the McDonald's Tax Policy Team; and many years on the McDonald's Insurance Company Board. So, I am in sort of a unique position to be on this Committee, and the Ranking Member to know what happens to small business.

Again, multiple businesses across multiple jurisdictions, it is always a challenge for the small businessmen and women who are trying to put their ideas to work, find capital, and create jobs and put Americans to work.

The Chairman and I work well together to ensure small businesses operate in an economic and tax environment that allow them to grow and expand and create jobs. Beyond my background though, I am also a firm believer in our 10th Amendment. The Constitution says the states can do it better than we can in Washington, D.C., and so I think it is also that we find that right balance to have a vitally important, thriving democracy.

This hearing will combine many of these elements together. With the explosive growth of the Internet in this country, small businesses are building the next great product and creating the next great service in ways that prior generations have never imagined.

Being connected to the Web has also introduced novel ways to reach new customers. And while catalogue companies started to chip away at proximity barriers, the Internet and ecommerce sites have completely leveled any roadblocks. With new customers in new locations, the question of taxes has become instrumental not only for businesses but also states across the country. For years, sales tax jurisdiction questions were answered by U.S. Supreme Court cases, including Bella Hess v. Illinois in 1967, and Quill v. North Dakota in 1992. These cases which focused on companies' physical presence were the long-held standards for decades.

As ecommerce grew and matured, sales tax jurisdictional questions became even more instrumental.

At today's hearing, we are going to be discussing the impact of the Supreme Court's most recent decision, South Dakota v. Wayfair. Specifically, we are going to be hearing how the Wayfair decision has impacted and infected small businesses across this country. Our Nation's smallest firms create nearly 70 percent of new private sector jobs in America. Small businesses, entrepeneurs, and startups are transforming neighborhoods and communities from my state of Oklahoma to Minnesota and beyond. And while driving the country's economic engine forward, these small businesses often operate with limited staff and resources.

This hearing will explore how these job creators have reacted to the duly rights of states to enact sales tax requirements for remote sellers after the Wayfair decision.

Again, I want to thank each of you for being here today to join us in this conversation. And as I mentioned earlier, we know that you have limited staff, so we appreciate you for taking your time to be here today to talk to us about this very important issue. Your thoughts and comments on this matter and all matters within our economy are instrumental.

And with that, Mr. Chairman, I yield back.

Chairman KIM. Thank you. Thank you, Mr. Hern.

I always have to say, it is been great being able to do this in a partnership with the Ranking Member, having the opportunity for us to work together across the aisle. Very much committed together on just trying to do what we can to help small businesses cut through some of the bureaucracy and the red tape and the difficulties that they have had while pursuing a level of just fairness across the board. And that is exactly what he just said in his statement. You know, what we are trying to figure out here is that right balance, that right fairness. And I am glad to be able to continue to work on that together with you.

I just wanted to take a second here. If other Committee members have an opening statement prepared, we would ask that they be submitted for the record.

I would like to just take a minute to explain the timing rules. Each witness gets 5 minutes to testify and the members get 5 minutes for questioning. There is a lighting system to assist you right in front of you. The green light comes on when you begin, a yellow light comes on when you have 1 minute remaining, and a red light comes on when you are out of time. And we ask that you stay within that timeframe to the best of your abilities.

I would now like to just introduce our witnesses here.

Our first witness, Mr. Jamie Yesnowitz. Mr. Yesnowitz is a principal at Grant Thornton, and also serves as the state and local tax practice and national tax office leader. He is a recognized leader in the state corporate income and sales tax legislation and policy, state tax conformity to Federal tax provisions and state corporate income tax apportionment rules. He holds an LLM in Taxation and a JD from the University of Miami School of Law.

Welcome. Thanks for coming.

Our second witness is Ms. Linda Lester. And I would like to yield to my colleague, Representative Schneider, for this introduction.

Mr. SCHNEIDER. Thank you, Chairman. And I want to welcome all the witnesses. I am grateful you are here to share your stories.

It is my great privilege and pleasure to introduce our next witness, Ms. Linda Lester, who lives in my district. Ms. Lester is the vice president of K-Log, a family owns business in Zion, Illinois, that distributes quality, affordable, commercial furniture across the country. I am proud that K-Log and its 30 employees call Zion home. She holds a BA from the University of Illinois, Urbana-Champaign, and has worked at K-log for the last 10 years. She has been an invaluable resource for my office, in particular in understanding the impact of the Wayfair decision that it has on real day-to-day businesses in our community and beyond.

Linda, thank you for joining us today.

Chairman KIM. Great. Thank you.

Welcome, Ms. Lester.

Our third witness today is Mr. Kevin Mahoney. Mr. Mahoney is the founder and president of Findtape.com. Findtape.com is an ecommerce business that sells tape, glue, adhesives, and dispensers, located in North Brunswick, New Jersey. Mr. Mahoney holds an M.S. in Information Systems from NYU Stern School of Business and a B.S. in Finance from Penn State. So welcome, Mr. Mahoney.

I would now like to yield to our Ranking Member, Mr. Hern, to introduce our final witness.

Mr. HERN. And our final witness is Brad Scott. Mr. Scott is the financial director of Halstead Bead, Inc., a jewelry component wholesale company located in Prescott, Arizona. With 30 employees, Halstead Bead is a second-generation, family-owned small business that has been in operation since the early 1970s. With nearly 20 years of service at Halstead Bead, Mr. Scott directs the company's accounting operation and all tax matters. You are a busy man.

Mr. Scott, we appreciate you taking the time away from your business, and thanks for coming today to talk to us.

Chairman KIM. Yeah. Thank you so much. It is a real honor to have all of you here, and it means a lot that you came here to share your experience, your knowledge, and expertise with us.

With that, why don't we jump right in.

Mr. Yesnowitz, you are recognized for 5 minutes. Over to you.

STATEMENTS OF JAMIE YESNOWITZ, PRINCIPAL, GRANT THORNTON, LLP; LINDA LESTER, VICE PRESIDENT, K-LOG, INC.; KEVIN MAHONEY, PRESIDENT AND FOUNDER, FINDTAPE.COM; BRAD SCOTT, FINANCIAL DIRECTOR, HALSTEAD BEAD, INC.

STATEMENT OF JAMIE YESNOWITZ

Mr. YESNOWITZ. Thank you, Chairman Kim, Ranking Member Hern, and members of the Subcommittee. Thank you for the opportunity to testify on behalf of the AICPA.

In 2018, the Supreme Court expanded the states' right to require out-of-state sellers, commonly referred to as "remote sellers," to collect and remit sales tax by modifying the longstanding nexus test.

With this ruling, the Court endorsed a South Dakota statute requiring remote sellers to register, collect and remit sales tax if they meet at least one of two economic thresholds—either gross revenue from sales delivered into the state over $100,000, or engaging in at least 200 transactions involving items delivered into the state.

So how have the states responded? As a whole, they responded quickly but not consistently. About half of the states adopted the same economic thresholds as South Dakota. The other half adopted variations, such as different sales thresholds or requiring that both the transaction and sales thresholds are met. In at least one state, the rules apply once the first sale is made to an in-state customer.

There is also a lack of uniformity in determining how and when the economic thresholds apply. For example, some states count only taxable sales while others use gross sales. So how does this impact small businesses?

Businesses that traditionally maintained a physical footprint in just one or two states now must consider whether their sales to customers in a national marketplace subject them to the newer rules. Nexus standards, threshold calculations, rate determinations, and filing compliance are only some of the burdens on remote businesses, and especially small businesses that do not have the resources, revenue, or time to accurately comply with the various rules across the Nation.

There are also situations where businesses have to register even when their sales are tax exempt and file zero-dollar tax returns. In that case, a business spends time complying with the law even though the state will not get any additional revenue. Similar problems arise when states use a threshold based on the number of transactions. For example, a business selling a product valued at $10 to 200 customers with an 8 percent sales tax must collect a grand total of $160. The compliance cost clearly exceeds this amount.

Taken as a whole, there are often prohibitive costs attached to ensuring that the compliance is performed correctly. If left unchecked, the lack of uniformity in which the states have reacted could impair small business growth, result in a loss in productivity, and hamper their accountants' ability to efficiently and effectively serve them.

So how can we help small businesses? If Congress decides to address these small business issues, we have a few suggestions. To start, small businesses need more consistency between sales and income tax nexus rules. Businesses are faced with a challenge when it comes to the question of nexus. Are they subject to sales tax, income tax, or both? The answer in many cases is unclear.

While it is impossible to completely align all sales and income tax rules, it is possible for Congress to address the minimum standards for which these rules apply. A natural starting point is the standard established by the Multistate Tax Commission [the MTC] back in 2002. It provides a safe harbor to determine if businesses are subject to business activity taxes. However, it is time to modernize the approach since the MTC has not changed the amounts for almost 20 years.

We recommend a uniform three-part test. If you exceed one part, you have nexus in the state. First, for sales, there should be one dollar threshold applicable for all of the states. The threshold should apply to taxable sales for the sales tax and gross sales for the income tax. The second part, for property located in the state, we would suggest a $100,000 threshold for sales and income tax. And finally, the third part, for payroll, we also suggest a $100,000 threshold.

There are several approaches to determining what is the right dollar threshold for sales. Some states use the $500,000 amount from the 2002 MTC standard. However, if inflation is taken into account, that amount would be roughly $750,000. Finally, a $1 million threshold would ensure that more small businesses are covered under a safe harbor.

I don't have time to get into all of our other suggestions, but I want to note one area of growing concern. Small businesses selling both directly and through a marketplace facilitator must deal with

even more complicated and inconsistent rules. In order to simplify compliance and avoid situations in which double collection of sales tax may occur, businesses need consistent and clear definitions, including what constitutes a marketplace facilitator.

Thank you for the opportunity to testify, and I am happy to answer any questions.

Chairman KIM. Great, thank you.

Well, why do we not get through all the witnesses first.

So, Ms. Lester, over to you for 5 minutes.

STATEMENT OF LINDA LESTER

Ms. LESTER. Good morning Chairman Kim, Ranking Member Hern, and distinguished members of the Subcommittee and staff. Thank you for inviting me to testify here today.

My name is Linda Lester and I am the vice president of K-Log, a family-owned small business with 30 employees in Zion, Illinois. Our company sells furniture primarily to public agencies, the majority of which are tax exempt.

Let me say right from the start, I am not opposed to collecting and remitting sales taxes in all states. My struggle is with the chaotic manner in which remote sales tax has been mandated, as well as the expense and time, money, and energy these mandates have imposed.

I am here today as someone who has actually gone through the process of registering for nationwide sales tax collection to try to convey to you just how difficult it really is. It has taken us a year to comply and register in 42 states, even though the majority of our sales are tax exempt. I estimate that we have spent well over 1,500 hours so far at the cost of $75,000.

I have heard many times that there is a streamline process with free software available to handle this. I am here to tell you that it is not streamlined, and it is not free. First of all, only 24 states have joined the Streamlined Sales Tax Coalition where uniform standards have been set. The biggest states did not join because they are too complex and could not meet the requirements.

Secondly, while the streamlined states might pay for the filing fees, they do not pay for the cost of tying the software into our systems, exemption certification collection, training our staff, nor reconciling data. All of these expenses are much higher than the miniscule filing fees paid by the states.

Here is the bottom line. If compliance were as easy as just implementing free software, I would not be here today. If it were easy, Illinois would have far more than only 5,000 or so remote sellers currently collecting and remitting to the Illinois Department of Revenue. Let that sink in. Out of the 30 million businesses in the U.S., only 5,000 have registered as a remote seller in Illinois. I did a FOIA request for that one. That tells me that there are a lot of businesses nationwide struggling to comply.

I know very small businesses in compliance. Some are still unaware, and when I discuss it they look at me like I am crazy or just plain wrong, while others are trying to comply and failing miserably. The majority it seems are hoping that they can keep under the radar and wait it out until the Federal government steps in

and comes up with a comprehensive solution because this simply cannot be the way things will be from now on.

I fear that when all the states start notifying businesses that they owe thousands of dollars for taxes on past sales that they never collected in the first place, companies will start shutting down and jobs will be lost, all because of a tax due that they did not even know about in the first place. This is already happening to Fulfilled by Amazon sellers.

I am here today to ask for your help in bringing order to the marketplace, but I am not the only one asking. The state legislatures of Arizona and New Hampshire have both passed resolutions asking the Federal government to help with this. When I first spoke to congressional staffers about this in October of 2018, I felt like the canary in the coal mine trying to warn of impending doom. While people listened sympathetically, the universal support that I had hoped for just was not there. But it is now.

We need a simple, straightforward system that will not impose an undue burden on businesses leading to increased compliance and thus, increased revenue to the states. Any proposed solution for a remote sales tax collection must include one rate per state, a single filing point for all states, time to implement free of penalties, and a comprehensive program to educate businesses and consumers of the change.

I have some ideas on how to make this happen, and I am hoping that now is the time to bring everyone to the table to start working on sensible solutions to this complex problem.

There is far more to this than I can cover in just 5 minutes, but I am going to give you just a few of the complexities while time permits.

Colorado sales tax form is over 2,000 pages long and is filed monthly. We had to compose a sales tax exemption booklet that is 248 pages long that has all the exemption certificates from all of the states. Connecticut has 43 different tax exemption certificates, so we have to look up on every transaction which one applies to this specific customer and make sure we got the right one.

While Alabama collects local sales tax for its counties and cities, a remote seller is required to register for accounts with the state, plus four different private collection agencies and over 100 self-administered counties and cities.

And now, when I thought I was finally compliant, having registered in the 42 states where we have nexus, I am starting to realize that we have to address a franchise tax in Texas, a gross receipts tax in Ohio, an income tax in Pennsylvania, and I do not know how many other tax obligations the states are demanding. I am asking, no, begging you, to please work with me and the others here to pass legislation that will fix this before more companies go out of business and people lose their jobs. Thank you.

Chairman KIM. Thank you.

I appreciate your testimony there, and it helps me. I was wondering what those binders were about, so it is good to see in person. I was not sure if it was a revised testimony or something.

Ms. LESTER. I mailed them. I did not bring them on the plane.

Chairman KIM. Well, thank you for bringing those in.

Mr. Mahoney, over to you for 5 minutes.

STATEMENT OF KEVIN MAHONEY

Mr. MAHONEY. Good morning. My name is Kevin Mahoney and I want to start off by saying what an honor it is to be given this opportunity to testify at today's hearing.

I am the president and founder of Findtape.com, a specialty retailer founded in 2004. Including myself, we have eight full-time employees and are based out of Montgomery Township, New Jersey. Our company sells tape, glue, and dispensers throughout the U.S., and we currently ship to over 50 countries worldwide. Besides our website, we also sell on marketplaces, such as Amazon, Walmart, eBay, and Newegg.

After the Wayfair decision, many felt compliance for small businesses like mine would be made relatively easy by using software to handle this new burden or by selling through a marketplace like Amazon.

I am here to tell you that my experience has been anything but easy. In reference to selling on marketplaces, we are currently undergoing an audit by the State of Washington. The state's claim is that because Amazon transshipped our products between their own interstate warehouses, the transshipping gave us physical nexus, even though we never shipped anything directly into an Amazon fulfillment center in the state.

Washington State retroactively claimed sales taxes from the prior 5 years going back to 2013. Back in 2013, FindTape was only a two-person company who never shipped direct into one of Amazon's Washington fulfillment centers, but they still came after us. If you look at Washington State's own law regarding consignees, it fits Amazon's FBA's (Fulfilled by Amazon) program to a tee. Amazon solely controls the entire buying experience, yet Washington State is claiming we meet the old school definition of quill or physical nexus even though we did not transfer the goods or make the sale ourselves.

This has been going on for over a year, and we have not received back our final assessment. Since their sales tax rate can be as high as 10.4 percent in some localities, the assessment will most likely be in the tens of thousands of dollars. Washington State has now even created a remote seller relief program, which we signed up for because they say they will waive penalties and interest. This program must have been created because there is a plethora of other small businesses like ours that they are retroactively going after. If we get assessed the full amount, we may have to lay off some personnel, unfortunately.

Many states now have marketplace facilitator laws in place which require marketplaces such as Amazon to collect and remit sales taxes directly to the state. However, the economic nexus laws do not provide any clarity if companies like mine are able to use a separate threshold for our direct orders; rather, they get lumped in with the orders that marketplaces are facilitating tax collection on. And from a volume perspective, Amazon currently makes up about 90 percent of the orders we get.

FindTape sells adhesive tape, not high-end jewelry or electronics. When we sell 200 of our best-selling item on the Amazon marketplace, we make roughly $140 in profit. Because of the 90/10 split between Amazon and our website, those additional 20

Findtape.com transactions would have brought in an extra 28 dollars in profit. Therefore, for a total of $169 in profit, we have now hit the economic nexus threshold of 200 transactions and would be required to file in the state.

Just to be clear, we are not underestimating our transaction numbers. If we look at all nonmarketplace orders in 2019, we had 15 transactions in Wyoming, 21 in South Dakota, and 35 in West Virginia. We use the services of a company called TaxJar to calculate our sales taxes owed and to file and remit them to the state. We pay them just over $2,100 per year to get access to these services. Primarily, the service allows us to request rates on which of the 10,000-plus taxing jurisdictions the customer is shipping into. We also pay TaxJar $20 per state filing they make for us. So, if we are in a month where we have to file all 30 returns, since Wayfair we are now currently registered and collecting taxes in 30 dates, that additional cost for the month is $600. While those costs are an issue, the bigger challenge is the time it takes me to reconcile the filings, plus I have to go through the daily correspondence of sales tax related letters we receive from the states. It is incredibly stressful to open up your mail and see a stack of letters from a state you have no real presence in. This all typically takes me 1 to 2 days per month.

As a small business owner, my scarcest resource is time. Even if economic nexus thresholds are altered to something more reasonable, at the end of the day they end up being irrelevant since states like Washington and Massachusetts are going after Amazon FBA sellers for having physical, not economic nexus. All states already have the ability to enact marketplace facilitator laws which will allow them to receive tax dollars for the majority of online owners anyway.

Back in 2018, Amazon already had a 49 percent share of the U.S. ecommerce market, and if you threw eBay and Walmart into the mix, that would have gotten states up to a 60 percent share.

We opened our first brick-and-mortar store in 2019 in New Jersey. I understand how hard it is to compete with the likes of Amazon and Walmart, and it would not be fair for brick-and-mortar retailers to have to collect sales tax while an online order company would not. But when someone comes into my store, I do not have to ask them which of the 10,000-plus tax jurisdictions they live in. Plus, I get the benefit of police and fire protection, roads are plowed and repaired, good schools exist to supply talented employees and so forth from the taxes I am paying. If the local portion of the sales tax rate could be eliminated for online sellers, that would greatly simplify things.

Thank you for your time, and I look forward to your questions.

Chairman KIM. Thank you for your testimony there.

Mr. Scott, we are going to turn to you now. You are recognized for 5 minutes.

STATEMENT OF BRAD SCOTT

Mr. SCOTT. Chairman Kim, Ranking Member Hern, and members of the Committee, thank you for inviting me to testify.

My name is Brad Scott, and I am the finance director at my wife's family-owned small business, Halstead Bead. My wife, Hillary, is the president of the company.

To date, our small business has spent more than $183,000 to collect less than $80,000 in sales tax. Breaking that down, we are spending $2.31 for every dollar we collect. We have diverted more than 3,800 hours away from our business operations to act as unpaid surrogate staff to 30 departments of revenue where we are currently filing. If we fail to deliver, the consequences are grave.

Halstead is a second generation, privately owned, small wholesale business that was started in the early '70s by my wife's parents. Over the years, their two-person side hustle has grown into the team of 27 employees we have now. Today, 94 percent of our sales originate from our website. We distribute raw materials and supplies to silver jewelers around the world. Our clients include the smallest microbusinesses selling through sites like Etsy, as well as traditional brick-and-mortar jewelry retailers.

We have spent decades developing an independent website and IT infrastructure to maintain full control over our business model. We do not sell on any marketplace facilitator websites because we are unwilling to pay their commissions or cede control of our operational independence. Prior to the Wayfair decision, we had no sales tax software in place.

Through our experience, we see four key issues to address, which I have detailed in my written testimony.

Registration and filing, which is the obvious hurdle; software requirements, which are the misunderstood hurdle; exemption certificate management, which is the unknown and underestimated hurdle; and finally, the unprecedented liability and lack to due process.

The Wayfair decision is often described as a court case aimed at major online retailers, but that is misleading. The majority of states are using gross sales as their threshold metric. This encompasses all forms of businesses across state lines, not just Internet retail activity. What's more, in 2018, Wayfair, the defendant in the case, reported approximately $6.8 billion in revenue. They are more than 1,000 times bigger than us. A company like Wayfair has the resources to staff a state and local tax department. We are trying to navigate this new landscape with a single accountant. The expectation is that one person can bring a company into compliance as effectively as an entire SALT department at a major corporation. I am that one person, and I can tell you it is not possible.

The sales tax solution that is so often discussed was and is not free. There were substantial integration costs and there are monthly filing transactions for non-streamlined states. The software is also inadequate. In 2019 alone, I received 36 notices from 12 streamlined states that the filings and/or remittances that our certified software provider is contracted to submit on our behalf were, in fact, not submitted. It took months to get these addressed, though some are still not fully resolved.

One cannot stress enough the anxiety caused by receiving one notice from a Department of Revenue, let alone 36. One of those notices from the State of Tennessee, was over $38.22 in penalties and interest due to a failure to report by our software company.

In February, concurrent memorials passed through both the Arizona House and Senate with unanimous approval. These memorials are entitled "Urging the United States Congress to enact uniform national legislation for remote sellers to collect and remit sales taxes." We are grateful to our state's elected officials for recognizing the challenges facing constituent small businesses and for making this formal request for Federal intervention.

At Halstead, we have a successful, profitable small business. We have prospered in our 47 years, but nothing has shaken us like Wayfair. We have considered closing our doors because of the stress and liability. We could literally lose everything.

We urgently need Federal intervention. In our opinion, there are two suggestions that stand above the rest. First, due process is beyond our reach because of the Tax Anti-Injunction Act. Allow a small business to use their home state's court system or Federal courts to fight assessments. And second, a single statewide remote seller sales tax rate should be the standard. Penny parity causes unnecessary complexity and burden. Our written statement includes additional recommendations.

We ask the Subcommittee to please elevate this issue to legislation for uniformity to relieve this tremendous burden on small businesses.

Thank you, and I look forward to taking your questions.

Chairman KIM. Thank you, Mr. Scott.

Your testimony was very strong, and as you were talking about having to even make that thought of having to close the doors because of this type of problem, that is exactly why we are here today and trying to figure out what we can do to provide relief and consistency to across the board.

I am going to start by just jumping in with a few questions here. You know, most states have adopted that similar economic nexus levels following the Wayfair decision where businesses reaching certain revenue levels or numbers of transactions in a given state are subject to tax collection by that state. Each of you have run through that in terms of how it has affected you of other businesses that you know.

I want to sort of establish sort of a baseline across the board, so I would love to go across the panel here and just get your sort of baseline assessment here.

Do you think that the most common standard of the $100,000 in sales and $200,000 in transactions is a reasonable standard? And if not, what do you think would be a reasonable threshold just so that we have sort of clarity across all four of you?

Mr. Yesnowitz, why do we not start with you and then we will move down the line.

Mr. YESNOWITZ. Sure. As noted in the testimony, regarding the $100,000 and 200 transaction thresholds that were adopted by South Dakota and adopted by about half the states, the AICPA does not think that would be a sufficient level. The Multistate Tax Commission set forth the $500,000 sales standard for factor presence nexus. I believe they use the $50,000 standard for payroll and property. So, if you had a little bit of physical presence in the state, that would be protected. I think with the new economy and over the past 20 years, changes in the pricing and the like, we think

that from the perspective of sales, $500,000 might not be sufficient to protect the small businesses out there. And so, we have suggested as possibilities a $750,000 standard or $1 million standard to cover even more small businesses and to increase the payroll and property factor, or the payroll and property levels from $50,000 to $100,000 each.

Chairman KIM. Okay, great.

Ms. Lester, what are your thoughts on this?

Ms. LESTER. I have kind of a different approach to this in that I think it is complicated and hard to do whether you are a $10 million company or a $100 million company. We sell furniture, office furniture and school furniture. We sell stuff like this here, as well as cafeteria furniture in a school. So, we may have one transaction of cafeteria furniture into Nebraska and it is a $40,000 sale. So, I think it is kind of misleading to just go on numbers. We may have two or three sales into one state, and we hit the nexus just because of the nature of our transaction.

What I really think we need to do, as long as you are asking, is make this simple enough that a nexus is irrelevant. If you have one rate per state and one place to file, then anybody can do this. You could do this with no nexus. Just as in now, I know that my own Illinois rate is 7 percent. If I had a list that here is the 50 states and here is the rates and you pay it here, you would not even have to mess with a nexus. Everybody would know what to do.

But if I had to answer your question and I have to set a nexus level, I would agree that $1 million sounds like the minimum it should be. If you are going to go through all this, you have to have a substantial amount of business into that state to make it worthwhile.

Chairman KIM. Okay.

Ms. LESTER. That would be my opinion.

Chairman KIM. Thank you for that.

Mr. Mahoney, where is your head on this?

Mr. MAHONEY. I think, number one, having a number of transactions threshold should be eliminated. What primarily sells online is inexpensive goods. I mean, we sell adhesive tape. That is not expensive. I am not going to make a lot of money selling 200. But for us, economic nexus really is irrelevant because the states are coming after us as an Amazon FBA seller for having physical nexus.

I have had several conference calls with Washington State during the audit, and I have asked them, I mean, in the Wayfair ruling I think it mentioned having substantial nexus. And when I bring that up they say, well, we are not coming after you for economic nexus. Even if Amazon transshipped one item, that is now giving you physical nexus in the state. So, for an Amazon FBA seller, the economic nexus thresholds are not really relevant.

And if you look at Amazon's 49 percent of U.S. ecommerce in 2018, and that number is just growing so there is a lot of Amazon FBA sellers out there.

Chairman KIM. Mr. Scott, over to you.

Mr. SCOTT. Thank you.

So based on the transactional threshold, I think those should be eliminated altogether. They make no sense based on small sales.

If you want to talk about a threshold, I think a national threshold makes more sense than a state-by-state threshold. And going by the Small Business Administration's definition of what a retail small business is, $30 million and less is a small business. So, if you are going to set a threshold, I think that is the starting point at the bare minimum. Or you could also use the threshold that South Dakota used, which is $100,000, and if it is adjusted for GDP across all the states amounts to closer to $40 million. So a national exemption would make this simpler in the sense that instead of having to comply with states piecemeal, you either have to comply or you are under that threshold, period, in which case you can focus on your business at hand.

Chairman KIM. Okay, great. We will likely have a couple rounds here for questions here, but I want to give the Ranking Member an opportunity.

So, Mr. Hern, over to you.

Mr. HERN. Thank you.

Mr. Yesnowitz, you talked about the marketplace facilitator legislation. Could you walk us through how that works? I could ask Mr. Mahoney, but let's just go with you since you are on the tax side here.

Mr. YESNOWITZ. Sure. With respect to marketplace facilitators, they are operators of online malls. They are intermediaries to transactions. They set up sellers and purchasers. So, they are not a party to the transaction itself that is taking place, but they facilitate the transaction in one of several different ways.

The states decided after Wayfair (and Wayfair did not address this fact pattern), but after Wayfair, the states acted with respect to remote seller legislation and then with respect to marketplace facilitators, they required that if they have a little bit of economic presence in the jurisdiction, they were well placed enough to require the facilitator to collect and remit sales tax with respect to that transaction.

Mr. HERN. So they are supposed to be the one that identifies all these 10,000 different tax jurisdictions and collect the approrpite tax and then remit those back. I think Mr. Mahoney, you had mentioned it was like a 90/10, 9 percent, or how do they get paid?

Mr. MAHONEY. For our website, 90 percent of the volume of orders are on Amazon, and then just 10 percent on our website.

Mr. HERN. Okay. So how do these facilitators get paid for doing that service? Or is it just part of their monthly marketplace fee?

Mr. MAHONEY. There are a variety of different ways in which they get paid. There are some fee exchanges and the like. I think that from the perspective of the marketplace facilitators that end up being—some of them are very large, sure, the Amazons of the world. But with respect to some they are small businesses and they may feel like they are doing a little bit of facilitation in some jurisdictions. And to be required to comply with all the states once they reach a minimal economic threshold, a couple of activities in each of these states seems somewhat onerous.

Mr. HERN. Mr. Mahoney, you had mentioned 90/10. So, I think what you were trying to describe or did describe earlier was the 90 percent that were sold through your marketplace would be charged at a gross rate currently because of the taxes applied locally

through the marketplace. And the 10 percent would be some other price based on trying to determine what those taxes would be. So, somebody buying form two different jurisdictions would say why is this same product more expensive here at a retail price or at a sticker price, if you will, because the tax is included and the other side it is not. Is that——

Mr. MAHONEY. I mean, for us, if it is selling on the Amazon Marketplace and it is a marketplace facilitated state, it is pretty easy. TaxJar just automatically imports those orders and remits, so we do not really have to worry about it. For us, for the 10 percent of orders that come on the Findtape.com website, I use that TaxJar service and it tells me, you know, which of the 10,000 jurisdictions I am shipping into and it gives me the tax breakdown. And then we remotely send that order to TaxJar and at the end of the month they file it.

Mr. HERN. Okay.

Mr. MAHONEY. So.

Mr. HERN. Mr. Scott, given that small businesses have limited resources and limited staff, knowing the rules of the road is paramount to growing, expanding, and creating jobs. Do you believe that small businesses are aware of the rules and requirements on collecting and remitting sales tax? And what resources are available to help you better know?

Mr. SCOTT. Well, anecdotally speaking, in all of the companies that we have had conversations with surrounding sales tax, unless they are in this room currently, they are usually not aware. Or they are aware but they are also aware of how expensive it is to comply and the fact that they are so far behind the starting date at this point in time they are unwilling to put themselves out there because when you do register, if you are delayed at your registration point you typically get a call from that Department of Revenue expecting an immediate audit.

Mr. HERN. You say people, if they know, and they are learning as they go along here, they just say catch me if you can, basically?

Mr. SCOTT. I do not think it is catch me if you can so much as this is a hurdle that there is no way for us to realistically get over. And so what we are hoping for is that Congress will act and force some degree of uniformity and protections for small businesses so that when we do come forward in good faith, because most of us do, that we are not going to be punished just because of a court decision that happened 2 years ago that we were not made aware of until, you know, potentially 3 hours ago.

Mr. HERN. Yeah. Yeah, so it does create the problem we have here with the Federal government interacting with states; right? I mean, I get it. Obviously, as you heard me say in my introduction, the Federal government trying to identify single tax per state, I mean, I get the ease of that. But that would be a statewide sales tax; right? But every jurisdiction inside the state also has a particular county tax or city tax that also has to be collected somehow or the other if it is sold within a metropolitan area.

I will get that on the second round because I have some more clarity, I want to talk to you about, Mr. Lester.

Chairman KIM. Yeah, we want to make sure we kind of dive into this.

So, Mr. Mahoney, I wanted to return to you. In your opening statement you were talking about sort of the issues with nexus that you had with Washington State, and I thought that was very powerful just to hear how difficult that was.

I wanted to ask you if you have had any other states contact you about additional nexus? I am just curious. Beyond Washington State in terms of the difficulties that were provided. Have you experienced that elsewhere as well?

Mr. MAHONEY. Yeah. Right now, the only audit we have had is Washington State. We have received letters. Arizona has sent us a letter. We actually received a letter from California, but we registered back in 2009, so they just had our account number wrong, so they thought we were not paying but we have been paying for a while.

But we tried to, in good faith, as soon as Wayfair got announced, we went from collecting in five states to 30 pretty much right at the end of 2018. So, I feel like the companies that tried to do the right thing and immediately collected, we have this burden on us. And there are a lot of companies that just are not aware of the competition. And they are not incurring the same costs we are.

Chairman KIM. Mr. Scott, I wanted to just get your thoughts on this in terms of, you know, states that have contacted you about nexus. Just want to get your feel for this.

Mr. SCOTT. So the decision came down on June 21st almost 2 years ago, and to date we have received a single notification from the State of Pennsylvania that we may have an obligation to collect and remit sales tax. The other 44 states and District of Columbia, nobody has ever reached out to us. I should say 43 because we already knew about Arizona.

What is more, we also are now aware that we have a topline tax requirement with some of these states. California has a franchise tax and Washington has a business and occupation tax. We voluntarily disclosed that we were unaware of those and were assessed back taxes in those regards as well.

Chairman KIM. Okay. I wanted to turn over to Ms. Lester. I wanted to ask you a question just from your own experiences. What states are the easiest to comply with and why? And what states would say are the most difficult to comply with and why? I just want to sort of set—so it is the boundaries, left and right limits here.

Ms. LESTER. It is a great question. It is hard to keep them all straight, so I am going to refer to my notes here.

Chairman KIM. Sure.

Ms. LESTER. Indiana, Kentucky, Michigan, New Jersey, and Rhode Island get high marks in my opinion because—but I think it is more important to focus on why they get high marks. And that is because they have one rate per state, and it is an EZ filing form.

The other two that I would say that we found to be helpful are Texas and Louisiana. Both take a unique approach in that they are complicated states; however, they allow remote sellers the option of doing one rate per state. When you register with them you get your choice. You can either do one rate per state or you can follow all the jurisdictions for remote seller. Louisiana calls it——

Chairman KIM. That was Texas and which?

Ms. LESTER. Louisiana. Louisiana calls it their direct marketer form.

So, if I was selling a type of a product that had a lower tax rate than the statewide they presented, then I could maybe choose to do that for my customers, or I can choose the other one. So that was a good approach in my opinion.

As far as the worst, Colorado. That is one month's form. They require you to submit it electronically for obvious reasons. I printed it just to bring it here today to show you. All the rest of the states are right here. This is all the rest of the states we do.

I would say that Colorado's problem is that they have 682 taxing jurisdictions that they collect on behalf of the local jurisdictions, and there are three pages for each one of those jurisdictions, which is why the book is so big. We had actually four sales into the state that month and had to produce a document this big.

My concern with this is that our software generates the report, but I obviously cannot read it to see if it is accurate. I have to sign off on a report that I can proof the total, but I cannot go through it.

Some of the other complicated states are all the ones that have lots of taxing jurisdictions. Alabama requires us to file two forms, an Alabama state form and a local tax form. And on the local tax form, the first time we did not know we have to file it, we had zero taxes due and they assessed us a $100 penalty for not filing our zero tax report because we did not know we had to do it. And then the following month, once we did do it, we realized we had to get tax ID numbers. For about half of the local jurisdictions you had to contact someone else to get your Tax ID Number because they did not use the state one. It is insane what they do.

The bottom line is one rate per state with an EZ filing form is not too much to ask because a lot of states already do it.

Chairman KIM. Thanks for that.

I still have a few more questions, but I am going to turn it over to the rnaking member for his second round.

Mr. HERN. Actually, I am just going to continue on. Went down the same line of thinking.

I appreciate what you said about having no thresholds because my experience is that anytime any government applies a threshold to anything there is always gaming of that system. And sometimes that is not good. Curtailing growth of a small business, when we talked about—we could talk about the Affordable Care Act on small business not going beyond 49 employees. The list goes on. It is a truth that is out there. Anytime you put a threshold, people will figure out how to stay under that. Even going to the extent of creating another business with dissimilar ownership so that you can stay under that. It is just a fact. I mean, that is what businesspeople do. They figure how to make the amount of money out of current law. You tell me the rules, I will play the game.

So, I appreciate you saying that. That is a true entrepreneur that understands. I understand what you are saying about the one rate. I do want to ask you that because I appreciate you pointing out that two states do that, or maybe more, but you specifically called out Texas and Louisiana. Why do you think they do that, have one rate? You have the ability, the option, the choice as a

businessperson doing business in their state to either go through and fill out all the forms or just do one rate. And I am assuming the one rate is encapsulating all the rates, the highest rates, and they distribute those to the local municipalities where you do business in those states. Why do you think those two states do that?

Ms. LESTER. I do not know. I did not ask them. But my assumption would be because that is an easy way for people to then comply. I will say that Mr. Scott and I met in November at a similar forum and I asked him what state do you think is the most complicated and he said one of his most complicated was Louisiana. And I said, oh, really? Did you know they have the direct marketer form that you can pay one rate? And he said, no, I did not know that. So even when it is simple, not everybody knows that the options are available. We had several states where we filed and had to redo it a different way. So, I can only assume it is because they feel that, well, I will get more people to comply.

Mr. HERN. Or encourage you to do more business there because it is easier to do business there possibly.

Ms. LESTER. Possibly. In our case, we mail catalogues. We sell office and school furniture, and we mail catalogues all over the country. So, we do business in every state. We actually cater to governments that we mail to the Department of Revenue in every state which is one of the other reasons why we have now signed up in every state.

Mr. HERN. Just for the record, and I think someone said it, just for the record, nobody that is in business is opposed to collecting tax and remitting tax to the proper jurisdiction. It is just the complications that are required to do that and the risk that you have if you miss. Like you said, just not even—and trust me, I have been where you have been, and it is extraordinarily frustrating. I did not owe you anything but now I do.

Ms. LESTER. Well, and we had six states where we did not meet the $100,000 threshold, but some of the states say, as soon as you meet the threshold, that month you have to register. Or there are a few states that I am sorry I cannot name which one says on the day you meet threshold you have to register. So, we thought, am I going to have to like every week say did I meet the threshold yet? Did I meet it yet? Did I meet it yet? So, to me if I was going to do 36 states, I might as well do 42 and be done with registering everywhere.

Mr. HERN. Not that I am proposing this but would an acceptable solution be that encouraging states to have a single tax that encapsulates all of their tax, deal with this franchise tax, income tax, whatever it may be, sales tax, a singular rate, do you think that would be acceptable to online retailers?

Ms. LESTER. I would not go there. I do not feel that, you know, in Texas, for example, has said that we have to pay a franchise tax, and it is probably going to cost us $2,000 to $3,000 this year. We have no employees there. No assets there. No nothing there other than our customers happen to reside there. And yet we would be subject to all these other taxes. I am also concerned that once we get one tax, they are going to throw other ones in, too.

I personally believe that sales tax makes sense. The customer is there. It is a sale. That is the only thing that is happening there

in that state. So yes, I will collect the sales tax on your behalf, and I will send it. But having to answer to all of these other taxes does not make sense.

Mr. HERN. Mr. Chairman, I yield back.

Chairman KIM. I wanted to turn to Mr. Yesnowitz for a question here.

Even though this hearing has been focused in on sales taxes, are there now income tax implications as well from states that small firms must worry about? I just want to get your thoughts on this.

Mr. YESNOWITZ. There definitely are because of the fact that when Wayfair came out, Wayfair required all these new businesses to come into the state for sales tax purposes. It does not prevent the states from reaching back and looking to see, well, have you done stuff in the state in the past that would require you to pay corporate income taxes? And so, we have already seen some activity in that area where states are now more interested in the income tax. There are a few jurisdictions in 2019 that decided to throw on an economic nexus threshold for purposes of their corporate income taxes. And so that is definitely a level of concern. In addition, with respect to looking at financial statements, you have to make adjustments with respect to corporate income tax liability, things that have changed. And so when a company recognizes that they were in a state, and from an economic nexus threshold, they were in a state and it did not matter that they did not have physical presence, companies have to reevaluate that from a financial statement perspective. And so, the accounting firms have certainly had to deal with that.

Chairman KIM. Okay.

Mr. MAHONEY. We paid over $5,000 in income tax in California just last year. Last time we shipped direct into a California Amazon warehouse was probably over 3 years ago. So, we pay income tax. I have no presence in that state. I cannot vote in that state. I mean, taxation without representation. You know, I am paying income tax in a state I do not even have any presence there, so.

Chairman KIM. Yeah. No, thanks for that.

Actually, I would like to stay with you, Mr. Mahoney. When I was going through your testimony, the written testimony, you mentioned the marketplace facilitator laws. Are the states that have marketplace facilitator laws in place easier to sell in, file with, or pay taxes in?

Mr. MAHONEY. You know, for us it does not really make a difference. I mean, one thing, when we collect sales tax, the other thing I do not think we mentioned, you know, it is a credit card fee. So, I am losing 2-1/2 to 3-1/2 percent if it is an Amex card right off the bat on that. One thing I like with marketplace facilitated, when Amazon is collecting, at least I am not losing the credit card swipe fee. But at the end of the day it does not really make that much of a difference for us.

Chairman KIM. And Mr. Scott, I wanted to turn to you. What resources have you used to work your way through this? And particularly, was the Small Business Administration helpful at all? Just trying to get a sense of what tools are and what approaches you have taken.

Mr. SCOTT. Well, I mentioned earlier in my testimony that we have spent more than 3,800 hours on this, and a lot of that has been time by my wife, the president of the company, and myself, plowing through different departments of revenues websites trying to understand the legalese, the threshold terminology, and the requirements that have been put on us in the last year and a half.

So, are there any resources? Not really. There are places where you can get little bits of information here and there that span more than a few states, but by and large, most of our research had been from the Department of Revenue websites themselves primarily because the information changes with such regularity that looking at online resources, collecting all of that information in our opinion is not really fully trustworthy. And maybe that is not fair. But in a sense, you know, just being overly concerned about our own liability we prefer to see these things for ourselves. With the Small Business Administration, this is not really something that is under their purview as of right now. The Office of Advocacy has been helping us to a degree in the sense that they are letting us know that, yeah, things are moving forward in slow methodical ways, but they are an office of resources financially or of statistics, but not with assistance as far as determining what we can do with the states.

Chairman KIM. Mr. Mahoney, just going off of what you were talking about earlier, I just wanted to kind of clarify. Does Amazon collect the local tax? And if not, what has been your experience through that process?

Mr. MAHONEY. Amazon typically collects both the state and local. Sometimes there are issues. I think Illinois this last month there was an Amazon—actually, I have received several emails from Amazon. They did not calculate, and Linda may know more about what changed in Illinois, but they only set the state taxes in and did not calculate on the local. So, there was a lot of back and forth. And then they sent a correction email out. So, there was some complexity. But typically, they collect all sales tax taxes for us.

Chairman KIM. Ms. Lester, did you have anything you wanted to add to this?

Ms. LESTER. We do not sell on Amazon, so this is not first-hand experience. But 2 weeks ago, my accountant called me and said, I have a customer who sells on Amazon, and since you know so much about this maybe you can help. Apparently, what Amazon does is it collects the 6.25 percent state tax but does not collect the local tax in Illinois, which is another, for where I am, another .75 percent. And so, my accountant was asking how do we collect this extra money? Amazon did not collect it from the customer, but we know we still owe it. I do not even know how to report it on the form. Amazon has sent a notice to its sellers in Illinois telling them we do not do the local tax. Sorry, we will get to it. At some point, hopefully, we will have it solved.

I actually reached out to the tax authority at the Illinois Chamber of Commerce asking them what to do and he said, that is not right. And he contacted Amazon directly and came back and said, yeah, you are right. They do not do it and we are stuck right now, so.

Chairman KIM. Thanks for sharing that.

I want to turn it back to the Ranking Member.

Mr. HERN. Yeah, just a question for you, Ms. Lester. And just as a point of clarity, I was asking counsel this, and we are not sure of the answer. You have a book there. I think you said it was 182 taxing jurisdictions in Colorado.

Ms. LESTER. Actually, it is 682.

Mr. HERN. Six hundred eighty two.

Ms. LESTER. Times three pages each.

Mr. HERN. So a question for you, and you may not know this answer, but it is something that we need to find out the answer to. If you are an online retailer in Denver and you sell across the state, inside the state, so you are required as that retailer in the state to collect the state, the city, each one of those jurisdictions and remit to each jurisdiction within the state?

Ms. LESTER. Well, 682 of them you just file with the state and the state does it on their behalf. Okay? However, the form is three pages for each jurisdiction. So, it is only one point. But I will say there is an additional 97 jurisdictions that the state does not do on their behalf. And you would have to register with each one of those individually and do them. Denver is one of them, as well as Colorado Springs. So, for those I have to check every month and say did we hit Denver yet, a nexus? We are kind of up in the air to be honest with you what we are supposed to do with the other 97 jurisdictions. It is bad enough dealing with this one.

Mr. HERN. But it does create a little bit of an awkward scenario for us as far as authority from the Federal government going inside of a state and telling a state how they are to collect their own taxes in their own state when the business resides in the state. And this is sort of the predicament we are in. That is why we are here collecting a lot of information from you all and to get a better understanding of how this process is going to have to work going forward.

Mr. Scott, I can see you wanted to say something so badly.

Mr. SCOTT. Yes, sir. Thank you.

Colorado is a special state. We are a wholesaler predominantly.

Mr. HERN. Some would agree with you.

Mr. SCOTT. Right. Right.

We are a wholesaler predominantly, and there are reasons why we do collect retail sales tax on some transactions. But if you look at the nature of our sales, we are a wholesaler. And Colorado is a state where we have prohibited any sales into the state that are not wholesale. Meaning, we have to have an exemption certificate for them. And we are also limiting sales into that state, too stay below a threshold because we do not want to run afoul of their Department of Revenue.

Mr. HERN. Okay.

Mr. Miller, did you want to say something to that or no? Okay.

Mr. MILLER. We find with Colorado.

Mr. Yesnowitz, what are your thoughts on that being in the tax business?

Mr. YESNOWITZ. Well, I mean, with regard to states and localities and the Federal government being able to intervene, the Federal government does have the ability to do that. They have acted

in the area of corporate income tax, for example. Sixty years ago, you had Public Law 86-272, and that protects companies that do limited solicitation activities within a state from taxation if they are selling tangible personal property and take the orders outside the state. So, the government has acted in the past. So, understanding that there is a sensitivity to trying to deal with a state issue here, I think Congress does have that power. With respect to this particular issue, I think that Congress needs to be concerned about the fact that in the 18 months since Wayfair, you have all these states acting independently and in a nonuniform manner, and it makes it really difficult for small businesses like these to be able to handle all that in such a short period of time and that is why the AICPA is recommending some level of uniformity here.

Mr. HERN. So is AICPA also recognizing of states' ability to call back use tax when individuals go to states that have a lower use tax and buy high-ticket items and take them back to their state and then the state goes after these particular individuals from circumventing use laws?

Mr. YESNOWITZ. Well, the AICPA wants compliance.

Mr. HERN. Okay.

Mr. YESNOWITZ. They understand the fact that the use tax is an important component of the sales tax.

Mr. HERN. Okay.

Mr. YESNOWITZ. I know that we had a recent experience where my daughter wanted to buy something online, in the state of Maryland. The company was based out in California and she really wanted it and bought it. And no sales tax applied to it. I am like, you realize what I have to do now. And she said, what do we have to do? I said, we have got to pay the use tax on this, clearly. I am not going to get myself into trouble over it. So, she did not get it [the use tax concept], but a lot of people do not. And understandably, the states really do need to do more in the area of use tax enforcement. They put line items on the income tax returns for folks to self-report. But yes, there is a tax gap there. I understand that.

Mr. HERN. Any thoughts? I mean, I know this is not your area because you are more policy than you are in the competitive world. Do you see any states that would take this as an opportunity, especially higher populated states that would take this as an opportunity to make this more compliant easy, if you will, so that online retailers would do business in their state more regularly than elsewhere?

Mr. YESNOWITZ. I am not sure from a competitiveness standpoint that one state would go over another. I know that some of the states have applied these new economic thresholds using a market threshold. For example, South Dakota is a much smaller market than California. So, California is putting in a higher standard than South Dakota. So, we are seeing some of that. The advantage there is, well, for small businesses, it is much easier to trip a threshold in a big market state if everything were the same. From the simplicity standpoint it is a little bit difficult when you have got to deal with all these different numbers and using a market amount for that might be problematic.

Mr. HERN. Mr. Chairman, I thank all the witnesses that have obviously done a lot of work in this area. It is near and dear. That is where you get your best thinking, from the people who are actually experiencing the issues. I appreciate your time, being away from your businesses, and from what you do, and thanks for giving us suggestions of what to look at here so we can work on this as we go forward.

And Mr. Chairman, I would yield back my time except I have none. So, thank you.

Chairman KIM. I just want to echo what the Ranking Member just said. As we have gone through a number of different hearings over the time to just continue to have small business owners and experts and others take time to be able to come to our humble chamber here and talk to us about what it is that we can try to do to help small businesses. It really means a lot. The stories you have told are not just compelling in terms of the facts, in terms of the numbers and the information, the recommendations, but we can really see in each of you just the frustrations that you have had, but the real passion that you bring to try to get this done, to try to have something that is going to be fair for small businesses. So, I just wanted to say thank you for taking time out of your busy schedules to come.

As we started out at the beginning of this hearing, we said that one way for Congress to support small businesses is through well-conceived and targeted tax policy. As we heard today, small businesses need tax policy that is simple and certain, not everchanging. Small businesses also need tax policy that levels the playing field and creates opportunities for their businesses to thrive.

Following the Wayfair decision, many small businesses are facing compliance costs and burdens that are hurting their businesses' abilities to succeed. This calls upon Congress to try to take steps to think through this thoughtfully and try to find some solutions to these problems that you have presented to us today.

I look forward to working with my members on both sides of the aisle to solve these issues for America's small businesses.

With that I would ask unanimous consent that members have 5 legislative days to submit statements and supporting materials for the record.

Without objection, so ordered.

And if there is no further business to come before the Subcommittee, we are adjourned. Thank you so much.

[Whereupon, at 11:14 a.m., the subcommittee was adjourned.]

APPENDIX

WRITTEN STATEMENT OF JAMIE C YESNOWITZ

ON BEHALF OF THE

AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

BEFORE

THE UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON SMALL BUSINESS
SUBCOMMITTEE ON ECONOMIC GROWTH, TAX,
AND CAPITAL ACCESS

Hearing On

"*South Dakota v Wayfair, Inc* How Main Street is Fairing and Whether Federal Intervention is Necessary"

March 3, 2020

Chairman Kim, Ranking Member Hern, and Members of the Subcommittee, thank you for the opportunity to testify today on behalf of the AICPA regarding the effect of the *Wayfair* Supreme Court decision on small businesses Our testimony will focus on what the Supreme Court specifically determined in *Wayfair*, the states' reaction to the case, and how small businesses are affected We will also provide recommendations for Congress to assist in its consideration of whether federal legislation should address these pressing issues

Overview of the *Wayfair* Decision

On June 21, 2018, the U S Supreme Court issued its decision in *South Dakota v Wayfair Inc* , overturning the long-standing "physical presence" nexus standard previously established under Court precedent With this ruling, the Court endorsed a South Dakota statute requiring remote sellers to register, collect and remit sales tax if they meet at least one of two economic thresholds in the prior or current calendar year – either gross revenue from sales delivered into the state exceeding $100,000, or engaging in at least 200 separate transactions involving items delivered into the state

In finding in favor of South Dakota, the Court noted that while small businesses benefitted from the historic physical presence rule, the South Dakota statute afforded small businesses "a reasonable degree of protection" from potential undue burdens caused by an economic presence rule The Court stated that the South Dakota statute had three features designed to prevent discrimination or undue burdens on interstate commerce the economic thresholds protecting remote sellers that do not perform a considerable amount of business in the state, the statute not applying retroactively, and South Dakota's adoption of the Streamlined Sales and Use Tax Agreement To the extent states might adopt economic presence rules that are burdensome on small businesses, the Court reasoned that reasonably-priced software eventually

would ease the burden The Court also stressed that to the extent problems ensued, Congress had the ability to legislate in this area if it deemed necessary to enact such legislation

States' Responses to the Wayfair Decision

Lack of Uniformity on the Level of Economic Thresholds

Collectively, we have seen swift and dramatic state legislative and administrative responses to *Wayfair*, but such responses are not entirely consistent from state to state Almost every state imposing a general sales tax has adopted some form of economic presence requirement on remote sellers through new statutes, regulations, and/or policy About half of the states adopted the same alternative economic thresholds at issue in *Wayfair* – more than $100,000 in sales or at least 200 separate transactions to the in-state market will subject a remote seller to the sales tax The other half of the states have adopted discrete variations on what constitutes economic presence subjecting a remote seller to the sales tax, including higher thresholds of $500,000 (such as, California and Texas), a requirement that both the transaction *and* sales thresholds are met (such as, Connecticut and New York), or currently in at least one state, Kansas, economic presence once the first sale is made to an in-state customer

Lack of Uniformity in Determining How and When Economic Thresholds Apply

In addition to the distinct differences between the economic threshold tests adopted by the states, there is a significant lack of uniformity in determining how the economic threshold tests are satisfied and when remote sellers need to comply with the sales tax For example, in calculating the economic threshold based on sales, some states count only the amount of taxable sales that remote sellers have made to a state's customers (leaving the exempt sales out) Other states use the aggregate gross sales amount, raising the possibility that a remote seller must register (unless a state says otherwise), even in the case where the vast majority of the remote

seller's sales are not subject to the sales tax because the item is for resale or subject to an exemption Other states may specifically exclude sales for resale, but not other exempt sales, in the gross sales calculation

In addition, businesses have no definition for the term "transaction" It is unclear whether a transaction is considered each line within an invoice, an entire invoice or a contract that is billed in installments

Since states adopted these provisions independently, different enactment and effective dates result in a lack of uniformity with respect to when each rule begins to apply, which forces taxpayers to navigate different implementation dates from state to state

Expansion of Economic Nexus Beyond Wayfair Fact Pattern

Inconsistent economic presence thresholds among the states that impose a general sales and use tax only scratches the surface of what small businesses must deal with in a post-*Wayfair* landscape The *Wayfair* decision has also inspired states to adopt economic nexus legislation that reaches well beyond the sales tax issues specifically addressed in *Wayfair* For example, since *Wayfair*, most of the states that impose a sales tax have also adopted marketplace facilitator legislation, under which remote businesses that facilitate transactions on online platforms, often between unrelated purchasers and sellers, are required to register, collect and remit sales taxes on these transactions Further, since *Wayfair*, a number of states, including Massachusetts, Pennsylvania and Hawaii, have adopted legislation or policy imposing economic nexus standards subjecting remote businesses to these states' *income* taxes

Issues for Small Businesses Since *Wayfair*

Given the rapid pace of change in the state and local tax treatment of remote sellers since *Wayfair*, small businesses and their accountants (many of which operate as, or are part of, small

businesses themselves) face issues on a number of fronts Prior to *Wayfair*, small businesses with physical presence in multiple jurisdictions already had to comply with a variety of sales tax registration requirements, taxability questions, invoice and exemption certificate management, collecting and remitting the proper amount of sales tax, filing returns in numerous state and local taxing jurisdictions, and responding to notices and audits from these jurisdictions At the same time, small businesses also had to ensure compliance with widespread state and local income tax requirements

Since *Wayfair*, it has become even more challenging to meet these requirements Even those small businesses historically compliant in states where they are physically present are resource constrained and face financial limitations to either internally implement or outsource new and complex compliance processes *Wayfair* and the states' response have resulted in a web of inconsistent, complicated, and burdensome state and local sales and income tax nexus rules across the country

Prohibitive Expense of New Sales Tax Compliance Obligations

With the advent of remote seller and marketplace facilitator rules, it is markedly more expensive and time-consuming for small businesses to comply and ensure that the proper amount of sales tax is paid to state and local jurisdictions Small businesses that traditionally maintained a small physical footprint in one or two states now must consider whether their sales to customers in a national marketplace subject them to the new rules Small businesses must track ongoing developments in the states as remote seller legislation is addressed, while analyzing recent levels of sales and transactional data by state to determine if they have crossed an economic threshold

If these small businesses are subject to the new rules, they must determine whether the products they sell are taxable or exempt depending on the existing rules in each state in which

they are selling To the extent such sales are exempt, small businesses must ensure that a proper exemption or resale certificate document is available If the sales are taxable, small businesses must determine the correct state and local tax rates to charge and comply with each state's specific collection and remittance compliance obligations Taken as a whole, there are often prohibitive costs attached to ensuring that the compliance is performed correctly, whether completed in-house with dedicated tax staff, or completely outsourced

If left unchecked, the lack of uniformity in which the states have reacted to *Wayfair* could impair the ability of small businesses to grow, result in a loss in productivity that impairs the economy as a whole, and hamper their accountants' ability to efficiently and effectively serve them

Unnecessary Sales Tax Registration Requirements for Businesses Making Exempt or Minimally Taxable Sales

While the post-*Wayfair* legislation adopted by the states was intended to capture additional sales tax revenue by requiring remote sellers to collect and remit sales taxes, there are instances in which remote seller registration has not led to additional revenue for the states In states that have adopted remote seller legislation based on an economic presence threshold on the amount of gross revenue rather than taxable revenue, a small business that primarily sells goods for resale or is otherwise exempt from taxation may have to register for the sales tax and file "zero dollar" tax returns In that case, the small business expends unnecessary time in complying with the law, and the state does not receive any additional revenue for those efforts

Similar problems may arise when states utilize economic threshold tests based on a 200-transaction economic threshold standard rather than an economic threshold based on the value of the sales made to customers within the jurisdiction For example, a small business selling a taxable product valued at $10 each to 200 customers in a state with an 8% sales tax in a taxable

year is required to register, collect and remit a grand total of $160 (8% of the aggregate $2,000 in sales) to the state The cost of collection borne by the small business in this instance, which includes determining when the registration requirement became effective, the effort required to ensure that the transactions are taxable, the systemic changes that the small business must make to reflect the tax on transactions to a particular state, and the tax filings required to remit the tax amounts due, clearly exceeds the $160 collected for the state

Special Issues for Small Businesses Selling Directly and Through Marketplaces

The new rules are particularly problematic for small businesses that sell through their own websites, as well as through unrelated online marketplaces These remote sellers must determine and navigate burdensome compliance obligations under both the remote seller and marketplace facilitator rules that most states have adopted Some states aggregate direct sales and marketplace sales to determine whether the remote seller meets the economic threshold, which disadvantages small businesses that make significant marketplace sales and only minor quantities of direct sales

In conclusion regarding the small business impact of *Wayfair*, small sellers are subject to an extraordinarily fragmented landscape of inconsistent and varying compliance obligations in the post-*Wayfair* world Nexus standards, threshold calculations, rate determinations, and filing compliance are only some of the burdens on remote businesses, and especially small businesses, that do not have the necessary resources, revenue, or time to consistently and accurately comply with sales and use tax rules across the nation Small businesses must act quickly to replicate the resources more readily available to larger, more established multistate businesses or face significant penalties

Recommended Legislative Solutions

The AICPA has several recommendations for Congress to consider if it decides to assist small businesses with state tax simplification in light of *Wayfair* Overall, we suggest a reasonable balance between the states' rights to tax income and sales within their borders and the needs of individuals and businesses to operate efficiently in this economic climate Our recommendation provides a simple and reasonable economic threshold, applicable to income and sales taxes in a consistent manner across the states In addition, we provide recommendations designed to simplify the sales tax treatment of marketplace facilitators and marketplace sellers and suggest guidelines for effective tax administration that will ease the burden on small businesses

Consistency Between Sales and Income Tax Nexus Rules

The states' efforts to subject remote sellers to tax has highlighted for remote sellers the dual challenge when it comes to the question of nexus – are they subject to sales tax, income tax, or both? The answer in many cases is unclear, and following *Wayfair*, there is a divergence between how the sales tax and income tax nexus rules work On the sales tax side, there are widely divergent economic threshold tests in effect On the income tax side, most states use "doing business" standards and a few states use economic threshold tests In addition, there is an important protection that Congress has provided pursuant to Public Law 86-272, under which businesses with limited solicitation activities (within a state with respect to sales of tangible personal property shipped from outside the state) are not subject to the state's income tax

While it is impossible to completely align all sales and income tax regimes into one set tax policy that is uniform for all states and in all circumstances, it is possible for Congress to address the minimum standards for which both income and sales taxes will apply to a remote seller

The MTC Factor Presence Nexus Standard for Business Activity Taxes as a Starting Point for Determining Economic Nexus Thresholds

A natural starting point in considering a consistent set of minimum economic threshold standards is the model factor presence nexus standard established by the Multistate Tax Commission (MTC) in 2002 for business entities organized outside a state The MTC's minimum standards provide the following bright-line safe harbor *de minimis* thresholds for small businesses for each state for the purposes of imposing business activity taxes

i $500,000 sales in the state,

ii $50,000 in property in the state,

iii $50,000 in payroll in the state, or

iv 25% of total property, total payroll or total sales in the state

The MTC's model presence nexus standard also has rules governing inflation adjustments, sourcing rules that help determine when the sales threshold is met, and confirmation that the protections under Public Law 86-272 still apply

Given that the MTC has not updated its factor presence nexus standard since its adoption in 2002, the AICPA recommends an update of the uniform minimum state economic nexus threshold that states could apply in a consistent manner for both the sales and income taxes Under this recommendation, substantial nexus would apply on a prospective basis following adoption, only when at least one of the following three thresholds is met

i One designated threshold amount of taxable sales (for sales tax) or gross sales (for income tax) in the state,

ii $100,000 property located in the state (for both sales and income tax), or

iii $100,000 payroll located in the state (for both sales and income tax)

There are several potential approaches to determining an appropriate designated threshold amount of sales As a minimum, the $500,000 amount used in the 2002 MTC's factor presence nexus standard equates to what some of the larger-market states have decided to use in their post-*Wayfair* remote seller statutes As an alternative approach, if inflation is taken into account since the MTC's adoption of its standard in 2002, the economic threshold is approximately $750,000 As an additional approach, a $1 million in-state sales threshold is similar to the threshold for paying the Oregon gross receipts tax and would ensure that small businesses are protected from the substantial burdens of multistate sales and income tax compliance

For the in-state sales threshold, because the taxable bases for the sales tax and the income tax substantially differ, we recommend the use of "taxable sales" for sales tax purposes, and "gross sales" sourced to the state for income tax purposes The factor presence standard would eliminate the current transaction thresholds adopted by many states post-*Wayfair* that have negatively affected small businesses Eliminating the transaction threshold would decrease the complexity and financial costs for small businesses, especially those businesses selling relatively low-priced products

A factor presence threshold offers taxpayers transparency to understand if and when a tax is imposed, while offering state governments an appropriate level of predictability It is rooted in "bright-line" standards adopted by the MTC nearly twenty years ago that would be increased for inflation and retain protections that Congress afforded to businesses in Public Law 86-272 A prospective application of the standards allows for taxpayer accountability when there is accessibility and visibility of information on tax laws It also eliminates the use of the transactional economic threshold test that already has proven impractical for small businesses to apply, as reflected in several states rejecting the use of this test in their post-*Wayfair* legislation

Consistent and Clear Definitions for Marketplace Facilitators

In the rush to adopt legislation post-*Wayfair* to cover the activities of marketplace facilitators, states adopted several approaches that make it exceedingly difficult on marketplace sellers that are already dealing with the remote seller rules for their own direct sales, as well as marketplace facilitators, which in many cases are small businesses themselves As a means to simplify the analysis for marketplace sellers and facilitators and avoid situations in which the unintended double collection of sales tax may occur, we recommend a consistent and clear definition of what constitutes a marketplace facilitator (or marketplace provider, the term that many states use in place of marketplace facilitator) New York's definition of "marketplace provider" requires that a business (i) facilitate sales of tangible personal property via agreement with a marketplace seller, (ii) provide the forum in which the sale occurs, and (iii) collect receipts paid by a customer to a marketplace seller for a sale of tangible personal property (or contract with a third party to collect such receipts) To be required to register, collect and remit sales tax, marketplace providers with no physical presence in New York also must meet the economic threshold tests applicable to remote sellers Congress should provide a set of rules defining (and providing a mechanism for determining) who (whether it is the seller or marketplace facilitator) is required to collect and remit sales tax The rules should include an exception to (and waiver out of) the general rule, allowing the parties to enter into an agreement on who will collect and remit the sales tax A set of uniform rules governing marketplace facilitators will result in equity, fairness and neutrality with respect to how taxpayers engage in marketplace transactions

Encouraging Effective Tax Administration

Finally, while the above recommendations are integral in providing a measure of uniformity at the state and local level post-*Wayfair*, we suggest additional guidelines for

effective tax administration that would ease the burden on small businesses and accountants alike

i *Standardized Measurement Periods for Measuring Economic Thresholds*

We recommend a standardized measurement period for small businesses to determine if they exceeded economic thresholds Specifically, the measurement period should look to the prior fiscal or calendar year to determine whether the business has met the economic thresholds for both the sales tax and income tax That period would provide certainty, convenience, consistency, and sufficient time for small businesses to implement new systems and devise a workplan and minimize noncompliance

ii *90-Day Grace Period Prior to Sales Tax Obligations*

In many instances, small businesses will not know if they have reached the economic threshold in a particular state until the very end of the fiscal or calendar year Given that uncertainty and the effort that it will take for a small business to comply with its sales tax obligations, any federal legislation should set forth an automatic 90-day grace period following the close of the fiscal or calendar year before a remote seller is required to register to collect and remit the sales tax Providing a remote seller 90 days after exceeding the prior year threshold allows a reasonable amount of time for a remote seller to prepare to register, collect and remit the sales tax to a new jurisdiction

iii *Taxability Matrices*

Congress should also encourage all states to provide easily accessible taxability matrices that are updated on a regular basis to promote uniformity, certainty, and transparency The matrices should contain definitions, treatment, statutory, administrative or other references, and comments to assist taxpayers in determining if a state includes or excludes an item from the sales price, and if a product or service is taxable or exempt Such guidance and uniformity would

substantially reduce complexity and result in easier and faster tax determinations, thereby encouraging overall taxpayer compliance as well as decreasing the burdens and costs associated with erroneous tax decisions

Thank you for the opportunity to testify, and I am happy to answer any questions

Testimony before the
Subcommittee on Economic Growth, Tax, and Capital Access
Committee on Small Business

United States House of Representatives
Hearing on
South Dakota v Wayfair, Inc
How Main Street is Fairing and Whether Federal Intervention is Necessary

March 3, 2020
Linda Lester
Vice President, K-Log, Inc

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Disclaimer All of the information referenced in this testimony is accurate as I know it to be as of February 24, 2020 The rules change all the time If any of it is incorrect, that shows just how hard it is for someone running a small business, and not a tax authority, to keep track of everything in this complex environment

Introduction

Good morning Chairman Kim, Ranking Member Hern, distinguished members of the Subcommittee and staff Thank you for inviting me to testify today to discuss the impact the *Wayfair* Supreme Court decision has had on my business

My name is Linda Lester and I am the Vice President of K-Log, a family-owned small business with 30 employees, proudly headquartered in Zion, Illinois Our company sells school, library and office furniture throughout the country as marketed through our printed catalogs and online through our website Our customers are schools, colleges and public and government agencies at the local, state and federal levels, the majority of which are tax exempt

While I appreciate the opportunity to speak with you today, I wish there wasn't a need for my testimony As Vice President, I am in charge of the day-to-day operations of K-Log, and have had to divert my time away from running the business in order to implement nationwide sales tax collection I estimate that we have spent well over 1,500 hours on this thus far, with a total cost of over $75,000

Supreme Court Ruling

As you know, the Supreme Court's ruling in the *South Dakota v Wayfair* case enabled states to require out-of-state or remote sellers, with no physical presence inside the state, to collect and remit sales taxes on transactions with customers inside their borders Forty-five states and the District of Columbia have some form of sales or general revenue tax, forty-three of those have established "remote seller" requirements But it's not just the states the majority of states also allow their cities, counties and other local jurisdictions to impose additional taxes In reality, there are well over 10,000 taxing jurisdictions in the US

Supreme Court Justice Anthony Kennedy, writing for the majority, opined that

" *South Dakota's tax system includes several features that appear designed to prevent discrimination against or undue burdens upon interstate commerce First, the Act applies a safe*

harbor to those who transact only limited business in South Dakota Second, the Act ensures that no obligation to remit the sales tax may be applied retroactively S B 106, §5 Third, South Dakota is one of more than 20 States that have adopted the Streamlined Sales and Use Tax Agreement This system standardizes taxes to reduce administrative and compliance costs It requires a single, state-level tax administration, uniform definitions of products and services, simplified tax rate structures, and other uniform rules It also provides sellers access to sales tax administration software paid for by the State Sellers who choose to use such software are immune from audit liability See App 26–27 Any remaining claims regarding the application of the Commerce Clause in the absence of Quill *and* Bellas Hess *may be addressed in the first instance on remand"*

States' Response to Court Ruling

How has this borne out in the year and a half since the decision was announced? Unfortunately, most states have been quick to act, passing new sales/use tax collection regulations without regard for the undue burden they places on businesses Many states did not follow Justice Kennedy's ruling stating states should not only set a reasonable nexus threshold, but also exclude retroactivity, and provide a streamlined set of rules and filing forms, with software paid for by the state

Please understand my company is not opposed to collecting and remitting sales taxes We have done this with Illinois customers for over 30 years Our struggle, however, is with the chaotic manner in which overwhelmingly complex requirements have been mandated, as well as the expense in time, money, and energy these mandates have imposed on us

Economic Nexus Thresholds Set

Let's take a look at the individual points in Justice Kennedy's opinion, the first of which is establishing a "*safe harbor to those who transact only limited business*" in a state, commonly referred to "economic nexus" Even among just the states that impose sales taxes (leaving aside cities, counties, special districts and the like) there is no standard for exactly what

- **Types of sales** count towards the thresholds (retail sales? gross sales? only taxable sales? digital sales?),
- **Number of transactions** that count towards the thresholds (taxable transactions? all transactions? any transactions? only transactions over a certain dollar amount?), and,
- **Time period** is covered by the thresholds (sales after the threshold is met? sales for the entire fiscal OR calendar year in which a threshold is reached? and if so, is that regardless of whether that's the first or last day of the period?)

In practice, "economic nexus" thresholds are nearly meaningless – particularly those based on number of transactions For example, many states have a dollar threshold OR a volume threshold – typically 200 transactions Now, imagine your side business sells T-shirts at $10 a piece via your website

In our case, winning just one contract can cause K-Log sales to exceed a threshold where we typically would not For example In a state where the threshold is based on $100,000 gross sales, K-Log typically expects gross sales of $60-70,000 One $40,000 sale of cafeteria tables to outfit a new community college campus would put us over the threshold

We're not going to stop selling into a state just because we're close to a threshold Do we then continually monitor every sale in every state just in case one puts us over? It made more sense for us to register everywhere it's possible we could exceed a threshold, even if we haven't yet For K-Log, this has meant registering in 42 of the 45 states which impose sales or gross receipts taxes, excluding Missouri (which as of this writing has not established remote seller requirements) and Alaska and Hawaii (into which we do very little business) Note that, once registered, a seller generally has to continue to file forever after even if they have no sales to report

Raising thresholds is no solution, as this does not eliminate any of the complexity or difficulties facing a remote seller It just reduces the pool of sellers facing the problem Moreover, there's

a point for every taxing authority (different for every one) where it is either economically or politically infeasible to change the threshold any further

Retroactivity Imposed

Justice Kennedy opined that "*the Act ensures that no obligation to remit the sales tax may be applied retroactively*" South Dakota's law explicitly rules out demanding taxes for any period before their law took effect (which ultimately was November 1, 2018) However, that still meant there was only four months for every remote seller in the US to have software, systems and training in place before the clock started – in South Dakota alone Vermont, Hawaii and Maine laws went into effect 1 July 2018 – barely a week after *Wayfair* New York's law became effective immediately on June 21, 2018 – the moment the ruling was announced A total of 23 states had remote seller nexus laws become effective before January 1, 2019 Laws in Massachusetts, Ohio, Pennsylvania and Rhode Island had effective dates before June, 2018 (Pennsylvania and Rhode Island revised their statutes to make remittance mandatory after July 1, 2019)

So, even if a state declines to pursue taxes from a period before the *Wayfair* decision removed the physical presence rule, there's still potentially a year and a half since the decision where a business might have been liable – whether they were ready to collect, or even knew they might have to do so

Streamlined Sales Tax (SST) Process

Justice Kennedy's third point was that South Dakota joined the Streamlined Sales Tax (SST) Governing Board, a coalition of states joined together in 2000, to simplify voluntary sales tax collection by imposing uniform standards, long before the Supreme Court's ruling The SST's own website (https //www streamlinedsalestax org/) states "The goal of this effort is to find solutions for the complexity in state sales tax systems that resulted in the U S Supreme Court holding (*Bellas Hess v Illinois* and *Quill Corp v North Dakota*) that a state may not require a seller that does not have physical presence in the state to collect tax on sales into the state **The**

Court ruled that the existing system was too complicated to impose on a business that did not have a physical presence in the state "

Unfortunately, our experience is that the SST, while mildly helpful, doesn't solve the problem of nationwide remote sales tax complexity The SST is a compact between just 24 states The largest states, as well as some of those with the most complex taxes, are not part of it No state has joined the compact since 2014, and it's not likely that any new ones will The requirements for uniform definitions of products and services, as well as simplified tax structures, almost certainly will prevent any new members from joining

Fallacy of "Free" Software

At first glance, the primary benefit to registering through the SST is access to a state-subsidized Certified Software Provider (CSP) for tax administration Because of the complexity and volatility of state and local tax laws, rates and requirements, a small business has virtually no choice but to work with a specialized tax administration service Using an approved CSP to calculate and file the required taxes, as well as relieve the risk of liability in an audit, is a distinct benefit

However, the subsidized services and liability immunity are not available for the largest (in terms of population and business activity) and most complex states Outside of the SST, only Pennsylvania (as of this writing) has implemented a similar CSP program Moreover, certain services may not be subsidized even amongst SST member states For instance, the Agreement stipulates that a CSP may charge additional fees for managing exemption records if more than 30% of your transactions are exempt, or with exempt entities In K-Log's case, over 80% of our business is with entities that are typically exempt from paying sales taxes The cost of tax exemption certificate management for K-Log from the CSP's was quoted at $7,000 - $10,000 annually

Choosing a tax administration software package is not as straightforward as picking a meal off a menu because one size does not fit all Besides features and cost, you have to find one that will work with your business practices K-Log investigated all the available CSP packages We tried implementing TaxCloud (too difficult), then Avalara (too expensive for the non-SST states) before finally settling on Taxify by Sovos, one of the CSP's listed on the SST website

Once the tax administration software has been selected, you still have to integrate it with your internal business systems In the best case, your company uses an off-the-shelf enterprise management system with little to no customization, and there is an easily-implemented, pre-written software module that will interface it with the CSP software In the worst case, your company uses a heavily-modified or home-grown enterprise management system and you have to hire a developer to make it "talk" with the CSP software In either case, there will be some non-trivial expense if money and man-hours to implement and test the integration, and then train your staff to use it

We embarked on a months-long project to integrate Taxify into our existing systems, calculate tax for our home state of Illinois, and file the monthly Illinois tax form Once we had worked through any issues with just our home state, we contacted Taxify to register with all of the streamlined member states That's when we were told that although Sovos Taxify was certified by the SST, they had decided "not to onboard any clients into that program " After another month of discussions with staff at the SST, and getting no resolution, we decided to stick with Sovos Taxify, because the cost of starting over with another software provider would have cost us too much time and money [Of note, Taxify by Sovos is (as of this writing) still listed as a CSP on the SST website but according to Sovos, it is a Model 4, and not a Model 1 certified solution, meaning that while it meets the requirements, states do not subsidize the software costs]

In the end, it took our company most of a year and $75,000 to find tax administration software, integrate it with our in-house system, research our tax responsibilities in all 50 states, and then set up accounts with all the various tax collection agencies (and this last we had to do with all

the states, even the SST members) During this time, we had to defer hiring a Sales Manager and delay expansions to our GSA and other contract offerings

Rates Determined at Local Jurisdiction, Not Just State, Levels

As for Justice Kennedy's reference to *"simplified tax rate determination"* Most states allow local jurisdictions to impose additional sales taxes (Only 9 states - Connecticut, Hawaii, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan and Rhode Island – plus the District of Columbia - do not) For instance, Iowa, an SST member, has a 6% state-wide sales tax In addition to the state tax, local jurisdictions may impose a local option sales tax of 1% Within a county, some cities may have the local option tax, some may not Also, the unincorporated rural area of a county may or may not have the tax Arkansas, also an SST member, imposes state sales tax statewide at 6 500% With local taxes across 791 cities and counties, the total sales tax rate may be between 6 500% and 11 625% The only states that specifically implemented optional simplified rates for remote sellers (as of this writing) are Louisiana and Texas – neither of which are part of the SST

Furthermore, local rates are always changing For instance, in Iowa, a jurisdiction may enact the local option sales tax on January 1 or July 1 As of January 1, 2020, there were five new Iowa localities charging the local option sales tax In Arkansas, changes are allowed quarterly This reinforces the necessity of certified tax administration software, but doesn't help the "simplified sales rates" argument much

No Uniform Taxability Rules

Uniform definitions of products and services is very important to sellers with a wide variety of offerings, or selling in particular niche markets (One real-world example is a potted tomato plant taxed as a plant? A fruit? A vegetable? Something else? It varies by state) K-Log is not affected as much, since our products are exclusively categorized as "tangible personal property" On the other hand, the way delivery charges are taxed from state to state is bewildering – with or without standardized definitions

No Uniform Tax Exemption Standards

Almost every jurisdiction that levies a sales or gross receipts tax exempts certain organizations from having to pay it, either because of the nature of the organization or because the buyer intends to resell the property The rules for which entities are exempt, which transactions may be exempt even to a buyer who normally would pay tax, and how sales are documented, vary wildly Some states issue "exempt ID numbers" or "reseller numbers", others issue certificates (which may expire annually, after a longer period, or never) Many states require sellers to collect and retain a copy of the exempt or resale certificate, in other states the certificate number or exempt ID is enough In still others, a purchase order or invoice on the organization's letterhead is sufficient documentation Some states require exemption documentation for every transaction, others only require the seller to collect that information once Some states require the seller to verify the buyer's exemption documentation through the state taxing authority before accepting it To add to the complexity, an organization that pays sales tax to the state may be exempt from local taxes – and if that's not enough, some organizations that are exempt by state statute don't need to provide documentation at all

In general, the burden of proof for proving a sale was exempt from tax is on the seller The seller can meet the burden of proof by obtaining properly completed exemption documentation – but what form that takes, and how long it has to be retained, also vary wildly Is a digital copy enough, or is a signed paper copy required Which person in the organization must sign or authorize the documents? Must a digital document be signed or is the typed name of the company officer sufficient? How long must records be kept in case of audit, and is that period after the sale, after the date the return was filed, or some other period? Must the seller get the exemption documentation at the time of the sale or is there a grace period?

Filing Returns is Not Standardized

The SST states do have a uniform, digital return and it is helpful that our provider submits these electronically on our behalf One area of concern for us is the format of the Simplified Returns to SST states, in that all we are given by our CSP is an XML file, and no human-readable "paper

trail" How this will work out when we are inevitably audited is of great concern for us Filing for the other 22 states (and DC) is done through their individual web portals, something done by our CSP at a per-filing fee

States Using Sales Tax Registrations to Impose Income Taxes

Texas sent us a letter stating that we are now subject to a "Franchise Tax", which will probably cost us at least $3,000 this year So because we have customers located in Texas, we are now required to pay what amounts to an income tax to Texas, a state in which we have no employees, no sales reps, and no physical connection in any way Several other states, including Hawaii, Idaho and Pennsylvania are doing the same

Examples of Overwhelming Complexity

I could talk for days about the difficulties we continue to face, and in fact I have, as Congressman Schneider and his staff can attest I have reams of documentation on this, including a 284 page Tax Exemption Guidebook that we created for our sales and accounting staff to use There's far more to this than I can even begin to cover in this document, but here are just a few of the most egregious examples of what I've experienced

Colorado's Massive Tax Filing Form

Colorado has over 750 taxing jurisdictions, with reporting required individually for each one The state sales tax form is 2,046 pages, with three pages for each of the 682 jurisdictions where the state collects on their behalf Due to its length, Colorado requires that the form be filed electronically But, also due to its size, I am unable to review the report generated by our CSP to verify its accuracy I can only check the grand total and hope that the rest is completed properly In addition to that, we are required to file individually with the 97 additional jurisdictions if we sell to customers in any of them, including Denver and other large cities

Complicated Shipping Taxability Determination

I've had to figure out how shipping is treated in each state and how it applies to my business, one state at a time In some states, shipping is taxable, and in others, it's not That part is fairly straight-forward But in some states, the actual cost of shipping is non-taxable, but if we mark it up a bit to cover any unforeseen issues, that markup is taxed, even if we don't separate it out on the customers invoice as a handling fee We sell furniture It is big and heavy and expensive to ship There is no good way I can tell a customer that their shipping amount is $250, but only $25 of that is taxable

Alabama's Local Tax Reporting

Alabama assigned us a State sales tax license number as well as a Local tax license number Our CSP filed the Alabama state form for the first month on our behalf A few weeks later, we received a notice from Alabama stating that we hadn't filed the additional Local tax form, not realizing a separate form was required as well The four transactions for that month were tax exempt and no tax was due, but we were charged a $100 late filing fee, even though the tax liability was zero A few weeks later, we received a notice from one of the counties stating that we had used an incorrect tax ID, discovering that the State only collects for roughly half the counties and cities Eleven counties and roughly 50 cities are "self-administered", meaning we have to register individually with each to get a sales tax account Roughly 100 other counties and cities have their sales taxes collected by one of four private companies, each of which requires us to register for an account as well We have decided to register as needed and file the forms ourselves rather than pay Taxify to do it for us (each local return they file on our behalf currently costs $27)

Arizona's Rules on Sales to the Federal Government

Instead of sales and use taxes on buyers, Arizona has a "Transaction Privilege Tax" (TPT) levied on sellers The TPT "acts" as a sales tax in that sellers are allowed to pass on the cost to the buyer The Federal government, its entities and instrumentalities are exempt from tax in every other state with a sales or gross receipts tax However, Arizona Revised Statute §42-5061

states that sales to the Federal Government by a "manufacturer, modifier, assembler or repairer" are tax exempt, but sales by others, including a retailer like K-Log, are taxed at 50% of the normal tax rate Taxify, our software provider, doesn't account for this But more importantly, our federal government customers insist that their transactions are 100% tax exempt, and not 50% tax exempt K-Log has had to make the business decision to not charge sales tax to federal government agencies in Arizona and just pay the tax due out of pocket, rather than arguing with our customers

Congress Must Act to Protect Businesses

Here's the bottom line If compliance were as "easy" as just implementing so-called "free software", it wouldn't have taken us over a year to do that at a cost of over $75,000 We would not have deferred hiring a Sales Manager because of the resources being sucked up trying to comply with all the issues created by this ruling We wouldn't be concerned that we're even doing it correctly And, if it were that "easy", Illinois would have far more than just 5,000 or so remote sellers currently remitting sales tax to the Illinois Department of Revenue

Instead of encouraging the success and growth of small businesses, sales tax collection is pushing small businesses to large marketplaces facilitators, who promote that they can collect and remit on your behalf Think about this The profit that businesses could once enjoy are being instead reaped by the likes of Amazon and other large marketplaces State legislatures are forcing businesses to either close up shop or pay exorbitant fees to marketplace facilitators just to stay in business

I know very few small businesses in compliance Some are still unaware and when I discuss it, they look at me like I'm crazy and just plain wrong Others are trying to comply and failing miserably The majority are hoping that they can keep "under the radar" and wait it out until the federal government steps in to come up with a comprehensive nationwide solution because this simply can't be the way things will be from now on

The lobbyists for the marketplace facilitators and software providers have a vested interest in keeping sales tax administration complicated Small businesses like K-Log need Congress to regulate interstate commerce in such a way that we can fulfill our obligations without being driven out of business

As the Supreme Court stated in their *Wayfair* decision "The Constitution grants Congress the power [t]o regulate Commerce among the several States This Court has long held that in some instances it imposes limitation on the States absent congressional action Of course, when Congress exercises its power to regulate commerce by enacting legislation, the legislation controls "

I'm here today to ask for your help in bringing order to the marketplace A simple-straightforward taxing regime will not only alleviate the burden on our businesses, but also lead to increased compliance, and thus increased revenues to the States Collecting and remitting sales taxes across thousands of jurisdictions nationwide is nightmarishly complex for a small business To "prevent discrimination against or undue burdens upon interstate commerce" requires legislative action, not case-by-case rulings by the courts Any proposed solution for remote sales tax collection must include one rate per state, a single filing point for all states, time to implement free of penalties, and a comprehensive program to educate businesses and consumers on the changes that have taken place I have some ideas on how to make this happen and I'm hoping that now is the time to bring everyone to the table to start to work on sensible solutions to this complex problem

Thank you again for having me here today, and I look forward to providing additional information to you and your staffs, sharing my recommendations on how Congress can address these issues, and I stand ready to answer any questions you may have

Solution Simplification + Education = Compliance

A Workable Solution to Post-*Wayfair* Remote Sales Tax Collection

Premise

In *South Dakota v Wayfair*, the Supreme Court ruled that businesses with a significant *economic* nexus in a state should be required to collect and remit sales/use tax as the prior standard of a *physical presence* no longer applies in today's digital and interconnected economy Since that June 2018 ruling, the Departments of Revenue in most states have enacted some type of regulation to require sellers to collect and remit sales/use tax for purchases sent to buyers in their state

It is not our intention to advocate to overturn this decision nor do we, summarily, disagree with it Imposing a sales tax on all transactions, whether made at a traditional brick and mortar store, or in an online marketplace should be treated the same Parity is what we are striving for The current situation does not impose parity as the rules for local stores are not the same for remote sellers We seek a resolution that does not impose an undue burden on neither the traditional merchant nor the remote seller

While the reasons for non-compliance with the new state laws vary by company, we present that they fall into two general categories (1) Businesses are either unaware of the changes or don't think they apply to them or (2) the process of compliance is so complicated and expensive that they simply haven't been able to comply

It is our belief that with a solution that makes it simple for businesses to know what rate to charge and make reporting easier, compliance will jump from the low percentage that it is now, to near full compliance rates This is a win-win for both the states who will receive more tax revenue and businesses as it minimizes implementation costs

Proposed Solution – One Rate per State, Collected and Remitted to the Home State

We propose that businesses report and collect interstate sales tax on their home state sales tax return Each state would set a state-wide interstate sales tax rate Businesses would collect sales tax at the destination state rate, but report and remit it to their home state The states would then be responsible for transferring collected funds to the appropriate states An example of the sales tax form is included on the next page

This filing form accomplishes the goal of simplification and education In this example on the next page, the business has a home state of Illinois, with physical locations also in Indiana and Wisconsin They had additional sales in Alabama, Arizona and Colorado during the month The shaded box with the tax rate would be pre-printed on the form

OUT OF STATE SALES TAX REPORTING FORM – ILLINOIS EXAMPLE

State	Status	Gross Sales	Exempt Sales	Taxable Sales	Tax Rate	Sales Tax Due
Alabama	Remote Seller	$23 000 00	$17 400 00	$5 600 00	8 0%	$448 00
Alaska	STATE DOES NOT REQUIRE SALES TAX COLLECTION					
Arizona	Remote Seller	$1 500 00	0 00	$1 500	7 6%	$114 00
Arkansas	Remote Seller	0 00	0 00	0 00	8 5%	0 00
California	Remote Seller	0 00	0 00	0 00	9 25%	0 00
Colorado	Remote Seller	$8,450 00	$2,100 00	$6 350 00	6 9%	$311 15
Connecticut	Remote Seller	0 00	0 00	0 00	6 35%	0 00
Delaware	STATE DOES NOT REQUIRE SALES TAX COLLECTION					
District of Columbia	Remote Seller	0 00	0 00	0 00	8 0%	0 00
Florida	Remote Seller	0 00	0 00	0 00	8 0%	0 00
Georgia	Remote Seller	0 00	0 00	0 00	6 0%	0 00
Hawaii	Remote Seller	0 00	0 00	0 00	6 0%	0 00
Idaho	Remote Seller	0 00	0 00	0 00	8 0%	0 00
Illinois	Filed in State	Illinois Acct # 39884593 98873				
Indiana	Filed in State	Indiana Acct # 8484893939				
Iowa	Remote Seller	0 00	0 00	0 00	8 0%	0 00
Kansas	Remote Seller	0 00	0 00	0 00	8 5%	0 00
Kentucky	Remote Seller	0 00	0 00	0 00	8 0%	0 00
Louisiana	Remote Seller	0 00	0 00	0 00	6 45%	0 00
Maine	Remote Seller	0 00	0 00	0 00	7 5%	0 00
Maryland	Remote Seller	0 00	0 00	0 00	8 0%	0 00
Massachusetts	Remote Seller	0 00	0 00	0 00	8 25%	0 00
Michigan	Remote Seller	0 00	0 00	0 00	8 0%	0 00
Minnesota	Remote Seller	0 00	0 00	0 00	8 875%	0 00
Mississippi	Remote Seller	0 00	0 00	0 00	9 0%	0 00
Missouri	Remote Seller	0 00	0 00	0 00	6 225%	0 00
Montana	STATE DOES NOT REQUIRE SALES TAX COLLECTION					
Nebraska	Remote Seller	0 00	0 00	0 00	7 5%	0 00
Nevada	Remote Seller	0 00	0 00	0 00	8 85%	0 00
New Hampshire	STATE DOES NOT REQUIRE SALES TAX COLLECTION					
New Jersey	Remote Seller	0 00	0 00	0 00	8 625%	0 00
New Mexico	Remote Seller	0 00	0 00	0 00	7 125%	0 00
New York	Remote Seller	0 00	0 00	0 00	6 0%	0 00
North Carolina	Remote Seller	0 00	0 00	0 00	6 75%	0 00
North Dakota	Remote Seller	0 00	0 00	0 00	7 0%	0 00
Ohio	Remote Seller	0 00	0 00	0 00	7 75%	0 00
Oklahoma	Remote Seller	0 00	0 00	0 00	6 5%	0 00
Oregon	STATE DOES NOT REQUIRE SALES TAX COLLECTION					
Pennsylvania	Remote Seller	0 00	0 00	0 00	8 0%	0 00
Rhode Island	Remote Seller	0 00	0 00	0 00	9 0%	0 00
South Carolina	Remote Seller	0 00	0 00	0 00	8 0%	0 00
South Dakota	Remote Seller	0 00	0 00	0 00	6 5%	0 00
Tennessee	Remote Seller	0 00	0 00	0 00	9 0%	0 00
Texas	Remote Seller	0 00	0 00	0 00	8 25%	0 00
Utah	Remote Seller	0 00	0 00	0 00	6 7%	0 00
Vermont	Remote Seller	0 00	0 00	0 00	8 0%	0 00
Virginia	Remote Seller	0 00	0 00	0 00	6 3%	0 00
Washington	Remote Seller	0 00	0 00	0 00	8 5%	0 00
West Virginia	Remote Seller	0 00	0 00	0 00	8 0%	0 00
Wisconsin	Filed in State	Wisconsin Acct # 120 48459499				
Wyoming	Remote Seller	0 00	0 00	0 00	4 0%	0 00
Total Interstate Sales Tax Due						$873 15

Simplification

- One rate per state, set by the state Our recommendation is to use the state's base rate plus 1% for county taxes and 1% for local taxes, but states can set their own remote seller rate
- States would decide on their own allocation factors to distribute any county or local amounts Louisiana and Texas already allow a flat rate per state option for remote sellers, with the local portion allocated based on population
- Remote sales tax state rates can change once per year, on January 1st Unlike the current system, businesses would not need to continually look for changing rates The annual sales tax rate changes would become standard practice
- All sales to all states are taxable at the same rate, unless the customer is tax exempt For a tax exempt sale, a Tax Exempt, Resale or other certificate would need to be collected and stored on file, just as they are now for tax exempt sales
- Business would not need to register nor file returns in any state where they had no physical presence
- If a business would prefer to register and file in any additional states for any reason (lower in-state rates for example), they could elect to do so, but it would not be required
- The collected tax would be remitted to the home states, and the states would be responsible for reporting and remitting to each other

Education

- With sales tax rates pre-printed on the forms, businesses would know exactly what rate is due in each state
- The new rates would be published by October 1st of the prior year and included in notifications sent by the Department of Revenue to the home state of each business Businesses would have plenty of notice to the new rates and would have no reason not to know that changes are coming

Benefits to the States

- States would process the same number of forms that they do now – only for businesses with a physical presence in their state There is no need to add hundreds of thousands of out of state businesses to their monthly processing
- States would still retain the option to audit a company's reported amounts, just as they do now We propose that the audit request would need to go through the home state's Department of Revenue first, then additional details requested from the business, if needed

Case Study K-Log's Cost/Benefit Analysis of Sales Tax Collection Post-*Wayfair*
February 24, 2020

Company Name **K-Log, Inc**
Industry **School and Office Furniture Sales Primarily to Public Agencies**
Primary Location **Zion, Illinois**
Physical Presence in these states **Only Illinois**
Number of states with nexus post *Wayfair* **42 states**
Company size **32 Employees**

Costs to Implement Remote Sales Tax Nationwide

One-Time Implementation Expense	**Amount**
Software Expense	$ 7,830
Labor – Programming and Implementation	43,000
Training & Support	1,200
State Registrations	320
Legal, Research and Professional Fees	26,422
Total Implementation Expense	**$78,772**

Estimated Ongoing Annual Expenses	**Amount**
Software Expense	$10,260
Labor – Programming	5,000
Tax and Exempt Certificate Collection – Labor and Expenses	18,000
Filing Fees – Labor and Expenses	12,000
Legal, Research and Professional Fees	10,000
Audit and Compliance Expense	10,000
Total Ongoing Annual Expense	**$65,260**

State & Federal Agencies Cost/Benefit Analysis	**Amount**
Total Actual New Sales Tax Collected (90% to California)	$63,865
Est Loss of Tax Revenue to Illinois (Income & Payroll Taxes)	($41,509)
Est Loss of Tax Revenue to Fed Government (Income & Payroll Taxes)	($49,386)
Net Change for Government Revenues	**($27,030)**

Impact on Our Business and Government Revenues

We are spending tens of thousands of dollars to collect very little tax in most states 81% of our customers are tax exempt schools and government agencies However, since most states have passed economic laws with thresholds measured in **GROSS** sales, not **TAXABLE** sales, we are required to comply even though little or no tax dollars are being remitted Not only that, but **the net change for government revenue is also negative**

Good morning My name is Kevin Mahoney and I want to start off by saying what an honor it is to be given this opportunity to testify at today's hearing I am the President and Founder of FindTape com, a specialty retailer founded in 2004 Including myself we have 8 full-time employees and are based out of Montgomery Township, NJ Our company sells tape, glue, and dispensers throughout the U S and we currently ship to over 50 countries worldwide Besides our website we also sell on marketplaces such as Amazon, Walmart, eBay and Newegg, plus 9 other Amazon international sites (we currently have a GST/HST registration in Canada and maintain 7 VAT registrations in the EU) The orders we get from marketplaces are typically direct to consumer, but half of the orders we get on FindTape com are to resellers, manufacturers who use tape in their final product, and to not-for-profit organizations like churches and public education institutions We also sell to the military and government agencies at all levels Therefore, a fair majority of the orders placed on FindTape are tax-exempt

After the Wayfair decision, many felt that compliance for small businesses like mine would be made relatively easy by using software to handle this new burden or by selling through a marketplace like Amazon I am here to tell you that my experience has been anything but easy

In reference to selling on marketplaces, we are currently undergoing an audit by the State of Washington The state's claim is that because Amazon trans-shipped our products between their own interstate warehouses, the trans-shipping gave us physical nexus even though we never shipped anything directly into an Amazon fulfillment center in the state We

only ship directly into 1 of Amazon's 175 U S fulfillment centers - the one in Florence, NJ - the state in which FindTape is located

Washington State retroactively claimed sales taxes from the prior five years, going back to 2013 However, Amazon told us they could not provide us with transactional data that far back - they could only go back 2 years Therefore, Washington State is going to estimate for the years Amazon could not provide the data for In 2013, FindTape was only a 2-person company who never shipped direct into one of Amazon's Washington fulfillment centers, had no drop shippers in Washington State, nor any employees there, but they came after us This was all because of the Amazon's interstate trans-shipping If you look at Washington State's own law regarding consignees it fits Amazon's FBA (Fulfilled-By-Amazon) program to a tee Amazon controls the entire buying experience and we don't even have access to customer-related data for those orders, yet Washington State is claiming we meet the old school definition of Quill, or physical, nexus even though we did not transfer the goods or make the sale ourselves Some marketplaces such as NewEgg understood this distinction from the start – as they highlight on their site *"Newegg is the seller of record on any sellers' products sold on Newegg websites "*

This has been going on for over a year, and we have not received back our final assessment Since their sales tax rate can be as high as 10 4% in some localities, the assessment will most likely be in the tens of thousands of dollars

Washington State has now even created a "Remote Seller Relief" program which we have now signed up for since they say they will waive penalties and interest This program must have been created because there is a plethora of other small businesses like us that they are

retroactively going after If we get assessed at the full amount, we'll have to lay off some personnel unfortunately

Many states now have marketplace facilitator laws in place which require marketplaces such as Amazon to collect and remit sales taxes directly to the state However, the economic nexus laws do not provide any clarity if companies like mine are able to use a separate threshold for our direct orders, rather they get lumped in with the orders the marketplaces are facilitating tax collection on For example, if a state has a 200-transaction threshold and we get 200 transactions on Amazon into that state during a year and say only 20 more come from the FindTape com web site that would still put us over the threshold From a volume perspective, Amazon *is* about 90% of the orders we get If that state has a marketplace facilitator law in place we would end up having to file and pay for just 20 yearly non-marketplace transactions into that state

We sell adhesive tape, not high-end jewelry or electronics – our best-selling item on Amazon by units sold is a ¾-inch wide by 15-foot roll of adhesive-backed felt tape That currently sells on Amazon for $7 15 which includes free Prime shipping After Amazon FBA pick-pack/ship fees, storage fees, their referral/commission, fee, our cost to pack and ship it into one of Amazon's fulfillment centers, plus our cost for the actual product itself we make 70 cents per roll Some of the tape and dispensers we sell is priced higher, but our margins are pretty consistent at around 10% on Amazon So, for those 200 marketplace transactions we would have made roughly $140 in profit and for the 20 transactions on our web site, while our margins are slightly better, that would have only brought is an additional $28 in profit **Therefore, for a total of $169 in profit we have hit the economic nexus threshold of 200**

transactions And just to be clear we're not underestimating our transaction numbers If we look at non-marketplace orders in all of 2019, we had 15 transactions in Wyoming, 21 in South Dakota and 35 in West Virginia

In terms of software available, under Streamlined, CSPs (Certified Service Providers) are only free to volunteer sellers who were not previously registered in a state, plus not all states are Streamlined members anyway The software we use is from a company called TaxJar

We pay TaxJar $2,148 per year to get access to their web service The web service allows us to request rates on which of the 10,000+ taxing jurisdictions the customer is shipping into Since TaxJar will only automatically import in Amazon orders, the service also enables us to send them all our other orders – the ones coming from FindTape, Walmart, eBay and NewEgg We also pay TaxJar $20 per state filing they make for us so if we are in a month when we have to file all 30 returns (since Wayfair we are now currently registered and collecting taxes in 30 states), that additional cost is $600 for that month While those costs are an issue, the bigger challenge is the time it takes me to reconcile the filings plus I have to go through the daily correspondence of sales-tax-related letters we receive from states This typically takes me one to two days per month As a small business owner my scarcest resource is time Before Wayfair when I was manually filing in five states it would take me one full day just to file California If anyone has not seen the Schedule A form on their sales and use tax return – that local taxes section by itself is 11 pages long

It is incredibly stressful to open up your mail and see a stack of letters from a state you have no real presence in For example, this past October we received 7 Indiana proposed

assessment letters saying we owed them $5,471 67 The reality was they had updated our subaccount number from 001 to 900 so we didn't owe anything This month we received a return adjustment notice from Tennessee which didn't state what the issue was The result was TaxJar overpaid some local taxes by $2 so again nothing was owed, but they had to file an amended return *Sample letters included*

So how do we fix this problem? I have a few suggestions While you could get rid of all # of transaction thresholds from economic nexus laws and make the dollar minimums something more reasonable like $250,000 for out-of-state sellers (unlike Oklahoma's threshold of just $10,000), but at the end of the day economic nexus thresholds end up being irrelevant anyway since states like Washington and Massachusetts are going after Amazon FBA sellers for having physical, not economic, nexus

All states already have the ability to enact marketplace-facilitator laws which would allow them to receive tax dollars for the majority of the online orders anyway Back in 2018 Amazon already had a 49% share of the U S ecommerce market and if you threw in eBay and Walmart that would have gotten you to 60%

Second, enable online sellers to be able to pay one rate per state and be able to remit to all states in one filing to either their home state or to a federal agency which can divide it up

We opened our first brick & mortar store in 2019 in NJ I understand how hard it is to compete will the likes of Amazon and Walmart, and it would not be fair for a brick-and-mortar to have to collect sales tax while an online-only company would not But, when someone comes into my store, I don't have to ask them which one of the 10,000+ taxing jurisdictions they live in, plus I

get the benefit of police and fire protection, roads are plowed and repaired, good schools exists to supply talented employees, etc from the taxes I am paying

Should an out-of-state merchant have to collect at the same rate as a retailer with physical presence in that jurisdiction who is receiving these benefits? If the local portion of a state's sales tax rate could be eliminated for online sellers that would greatly simplify things

If either option is enacted, we need to make it easy for companies to de-register from a state without now being on that state's radar for potential audits Once registered with a state to collect sales tax in opens up the floodgates for other fee assessments Currently we are also paying extra for income taxes in California (thousands of dollars per year), B&O (Business & Operation) taxes in Washington State, and for items like annual report registration fees in states like Nevada where we pay an extra $350 per year In addition, some states make you have an in-state address, even though we are a remote seller, so we have to pay extra fees to have a registered agent in that state For example, in Colorado and Indiana we pay a company called Registered Agent Solutions an extra $160 per state per year to get an in-state address There needs to be easy way to un-register if changes are put into place

Thank you for your time I look forward to your questions

WAC 458-20-159 Consignees, bailees, factors, agents and auctioneers A consignee, bailee, factor, agent or auctioneer, as used in this ruling, refers to one who has either actual or constructive possession of tangible personal property, the actual ownership of such property being in another, or one calling for bids on such property The term "constructive possession" means possession of the power to pass title to tangible personal property of others

Business and Occupation Tax

Retailing and wholesaling Every consignee, bailee, factor, agent or auctioneer having either actual or constructive possession of tangible personal property, or having possession of the documents of title thereto, with power to sell such tangible personal property in his or its own name and, actually so selling, shall be deemed the seller of such tangible personal property and taxable under the retailing or wholesaling classification of the business and occupation tax, depending upon the nature of the transactions In such case the consignor, bailor, principal or owner shall be deemed a seller of such property to the consignee, bailee, factor or auctioneer and taxable as a wholesaler with respect to such sales

The mere fact that consignee, bailee or factor makes a sale raises a presumption that such consignee, bailee or factor actually sold in his or its own name This presumption is controlling unless rebutted by proof satisfactory to the department of revenue

Agents and brokers Any person who claims to be acting merely as agent or broker in promoting sales for a principal or in making purchases for a buyer, will have such claim recognized only when the contract or agreement between such persons clearly establishes the relationship of principal and agent and when the following conditions are complied with

(1) The books and records of the broker or agent show the transactions were made in the name and for the account of the principal, and show the name of the actual owner of the property for whom the sale was made, or the actual buyer for whom the purchase was made

(2) The books and records show the amount of gross sales, the amount of commissions and any other incidental income derived by the broker or agent from such sales

Service and other business activities Every consignee, bailee, factor, agent or auctioneer who makes a sale in the name of the actual owner, as agent of the actual owner, or who purchases as agent of the actual buyer, is taxable under the service and other business activities classification upon the gross income derived from such business

Retail Sales Tax

Consignees, bailees, factors, agents or auctioneers Every consignee, bailee, factor, agent or auctioneer authorized, engaged or employed to sell or call for bids on tangible personal property belonging to another, and, so selling or calling, is deemed a seller, and shall collect the retail sales tax upon all retail sales made by him, except sales of certain farm property as hereinafter provided The tax applies to all such sales even though the sales would have been exempt if made directly by the owner of the property sold

It shall be the duty of every consignee, bailee, factor, agent or auctioneer to collect and remit the retail sales tax directly to the department with respect to all retail sales made or called by them Provided, however, That if the owner of the property sold is engaged in the business of selling tangible property and the sale by the con-

signee, bailee, factor, agent or auctioneer has been made in the owner's name and the owner continues to engage in business, the owner may report and pay the tax collected directly to the department

If the owner of the property sold discontinues business either before or at the time of the sale, the owner and the consignee, bailee, factor, agent or auctioneer will be held jointly responsible for payment of the tax

The foregoing does not apply to auction sales made by or through auctioneers of tangible personal property (including household goods) which have been used in conducting a farm activity when the seller thereof is a farmer and the sale is held or conducted upon a farm, since such sales are specifically exempted from the retail sales tax

Bailees will be relieved from liability for the collection of the sales tax from buyers in those cases where they merely receive a commission on the sale and the entire transaction is closed directly between the owner and the buyer, if such sales are reported to the department by such bailees, within ten days after receipt of the sales commission and such report shows the following

(1) Name and address of seller,
(2) Name and address of buyer,
(3) Amount for which sold,
(4) Approximate date of sale,
(5) Description of property sold

Those failing to submit such report to the department within the time stated will be held responsible for payment of the sales tax to the state

Note For tax liability of certain independent selling agents for the collection of the use tax see WAC 458 20 221

[Statutory Authority RCW 82 32 300 WSR 83-07-033 (Order ET 83-16), § 458-20-159, filed 3/15/83, Order ET 70-3, § 458-20-159 (Rule 159), filed 5/29/70, effective 7/1/70]

Published on *Washington Department of Revenue* (https //dor wa gov)

Tax reporting for consignment sales

The sale of goods through a consignment arrangement is taxed in the following manner

A business making retail consignment sales must collect sales tax Generally, consignment sellers remit sales tax directly to the Department (on behalf of the owner of the consigned goods) Examples of items sold on consignment at convenience stores and gas stations include crafted items such as handmade greeting cards and handmade jewelry

"Consignee" (or selling agent) is one who has either actual or constructive possession of tangible personal property (although someone else actually owns that property), or one calling for bids on the property

"Constructive possession" means possession of the power to pass title to tangible personal property of others WAC 458-20-159 [1]

Reporting instructions are provided below

Consignee selling in the name of the owner

- Report consignment sales under the Retailing B&O tax classification A deduction may be taken from retailing B&O tax, if the consignee segregates such sales income and maintains records in accordance with WAC 458-20-159 [1] The deduction is itemized on the deduction detail page (0215 – Consignment Sales)
- Report consignment sales under the Retail Sales tax classification Generally, the consignee is responsible for remitting the sales tax to the Department However, if the owner of the goods is registered with the Department and otherwise reports sales tax, the consignee can remit the sales tax to the owner to report In this case, a deduction would be allowed under retail sales tax The deduction is itemized on the deduction detail page (0199 – Other (write in Sales Tax Remitted to Owner)
- Report commissions earned from consignment sales under Service & Other Activities B&O tax classification RCW 82 04 290 [2]

Consignee that sells in their own name

- Report consignment sales under the Retailing B&O tax classification

For tax reporting instructions for the owner of the goods, see our Special Notice - Tax Reporting for Consignment Sales [3]

STATE OF WASHINGTON
DEPARTMENT OF REVENUE

August 9, 2019

FINDTAPE COM LLC
1378 US HIGHWAY 206 #149 STE 6
SKILLMAN NJ 08558-1923

Remote Seller Relief Enrollment Confirmation

Why am I receiving this letter?

This letter is to confirm receipt of your request for participation in the Washington State Marketplace Fairness Remote Seller Relief Program By enrolling, you have elected to have your past due liabilities assessed by the Department Participation in this program will provide the following advantages to businesses

- Reduced uncollected retail sales tax liability for Quarter 4, 2018,
- The ability to file uncollected retail sales tax at a single 9 4% tax rate for the covered period,
- Penalties will be waived, and
- The audit period will be reduced to four calendar years plus the current year from seven calendar years plus the current year

What do I need to do?

In order to qualify for the Marketplace Fairness Remote Seller Relief Program, please provide the information listed below by **August 30, 2019** Failure to provide any of the requested information by the due date will result in disqualification from the program and loss of program benefits

- Provide itemized gross income data as specified,
- Complete a Confidential Tax Information Authorization (if necessary), and
- Provide any additional information requested by the Department necessary to establish the liability

What are the next steps?

Once the requested information is received, the Department will prepare an assessment covering the entire liability Penalties and any reporting periods reduced through the Remote Seller Relief Program will be waived via a settlement after the assessment is issued The total amount due under the Remote Seller Relief Program will be detailed in the settlement, and full payment must be received according to the payment instructions Additional interest and

late payment penalties will accrue on the original assessment amount if the settlement is not paid in full by the due date

Please contact me directly at (360)704-5849 or KiriN@dor wa gov for more information about the Marketplace Fairness Remote Seller Relief Program

Kiri Nibler
Revenue Agent

Compliance Division
PO Box 47486 ♦ Olympia WA 98504 7486
Phone (360)704 5849 ♦ Fax (360) 704-5899

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BUSINESS

Sales-Tax Ruling Strains Small Online Sellers

Businesses are still trying to adjust to Supreme Court's collection ruling in Wayfair case last year

By Ruth Simon
Dec 29, 2019 5 30 am ET

Eighteen months after the Supreme Court gave states the green light to tax online transactions, small companies that sell things as diverse as recycled yarn and gold bullion are struggling to adjust

Nicole Snow, chief executive of Darn Good Yarn Inc in Clifton Park, N Y , hired a part-time chief financial officer and purchased new sales-tax software in response to the court ruling Darn Good Yarn plans to spend about $25,000 this year to collect and remit about $90,000 in taxes on $5 4 million in sales to buyers in 34 states

"It's quite a big lift for us," said Ms Snow, whose company has 21 employees "There is a lot of complexity for a small company"

In its June 2018 ruling, the Supreme Court held that states had the authority to make online retailers collect sales taxes even if they didn't maintain a store, warehouse or other physical presence Before the decision, consumers were supposed to pay what is known as use tax on out-of-state purchases, but most didn't The decision came in a lawsuit filed by South Dakota against home-furnishings retailer Wayfair Inc and other online sellers

WSJ NEWSLETTER



What's News

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What is taxed and how often those taxes are paid varies from state to state Some states, such as Colorado, allow localities to administer their own taxes Some states share definitions and procedures to make it easier for companies to comply, but some of the biggest jurisdictions have their own rules



Darn Good Yarn CEO Nicole Snow 'It's quite a big lift for us,' she says of a Supreme Court ruling that held that states had the authority to make online retailers collect sales taxes
PHOTO RICHARD BEAVEN FOR THE WALL STREET JOURNAL

"Small businesses are definitely the ones that are really adversely affected," said Clark Calhoun, a state and local tax attorney in Atlanta "A bigger business is typically going to have more robust sales-tax software," he said, as well as "a better sense of where their products are going and will be well over the sales thresholds every single year"

Verenda Smith, deputy director of the Federation of Tax Administrators, which represents state taxing authorities, said the state laws were never intended to affect small businesses But "the fairness issue is equally on the table, and it can be at odds with the burden issue," she said

Most states have tried to limit the impact on the smallest companies, with many following the lead of South Dakota, which exempted out-of-state sellers with $100,000 or less in sales or fewer than 200 transactions in the state a year But limits vary, with a threshold of $500,000 in California and none in Kansas

NEW RULES

A Supreme Court ruling is causing problems for some small companies Here's why

- The ruling said states have the authority to make online retailers collect sales taxes even if they don t maintain a physical presence in the state
- The rules on what is taxed and how often those taxes are paid vary from state to state
- Many states have set sales and transaction minimums to limit the impact on the smallest companies but those minimums vary
- Software tools have helped small businesses but need to be tailored for that company

In another step to make it easier for smaller sellers, 38 states and the District of Columbia have enacted laws requiring marketplaces such as Amazon com Inc , Etsy Inc and eBay Inc to collect and remit sales tax for third-party sellers, according to the National Conference of State Legislatures

Still, business owners have struggled to determine whether they exceed the state cutoffs and how to comply Joe Wood, owner of TechWholesale com, which sells two-way radios in all 50 states, said it took more than a week to determine that his one-person company didn't trip any state sales-tax requirements, though it came close in a handful of states

"It's the biggest single moment of anxiety I've had businesswise in the last 10 years," said Mr Wood, who runs his business from the bedroom of his Covington, Ky , home "We would have had to bring on an accountant, and I can't fit one in my bedroom "

Software tools can simplify tax collection and reporting, but business owners typically must first categorize a product or service to make sure it receives proper tax treatment "You need to do it with granularity," said Scott Peterson, a vice president with tax-compliance-software company Avalara Inc



An order filled a basket at Darn Good Yarn ahead of packing and shipping this month
PHOTO RICHARD BEAVEN FOR THE WALL STREET JOURNAL

JM Bullion Inc , an online seller of precious-metal bars and coins, created a custom sales-tax collection system after determining the big tax-software vendors didn't understand the intricacies of its industry That turned out to be a three-month job for the company's 10-person software-development team

"It was a huge resource drain on our organization," said Michael Wittmeyer, CEO of the 50-person company, which has about $600 million in revenue

Some small sellers are juggling a number of tax challenges Kevin Mahoney, president of FindTape com in Skillman, N J , now spends a full day or two each month on the sales-tax requirements of 35 states Abandonment rates for smaller orders have jumped as customers balk at paying sales tax on purchases of adhesive tape

The growth of internet sales has created an additional tax challenge The $6 5 million retailer is being audited by Washington state, which says it has a physical presence in the state because products the tape company shipped to an Amazon warehouse in New Jersey were then transshipped by Amazon to a fulfillment center in Washington state



Kelsie Conroy of Darn Good Yarn worked to fill a customer's order this month
PHOTO RICHARD BEAVEN FOR THE WALL STREET JOURNAL

After the Wayfair decision, Washington state began "working to bring remote sellers into compliance with our laws," said Patti Wilson, head of the marketplace-fairness team for the state's Department of Revenue Through those conversations, the state found that "some remote sellers are selling through a marketplace and have goods stored in our state " As of October 2018, marketplaces are required to collect sales taxes on behalf of individual sellers, whether or not they have a physical presence, she said

Some businesses are still getting everything in place Gruber Industries Inc , a manufacturer of low-voltage cable products and a provider of power services, spent about a year figuring out its tax obligations and, in September, began moving to a new tax-calculation software The Phoenix company now collects sales taxes in 36 states, up from 11 before the Wayfair ruling

"We should be done by January 2020," Gruber Chief Financial Officer Mark Schaeffner said "The biggest surprise to us was the amount of complexity "

Write to Ruth Simon at ruth simon@wsj com

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SF 43530 (R4 / 11-17)

PROPOSED ASSESSMENT
INDIANA DEPARTMENT OF REVENUE

REFER TO THIS NUMBER ON ANY CONTACT WITH THE DEPARTMENT → Liability Number 2019-***
Notice Number ***
Date Issued 10/21/2019

000065

1900160375634
FINDTAPE COM LLC
1378 US HIGHWAY 206 STE 6
SKILLMAN, NJ 08558-1923

Taxpayer TID ***
FID ***
Form Number ST-103
DLN ***
Account ID ***
Liability Period January 31, 2019
Tax Type Sales

IMMEDIATE ACTION REQUIRED A review of your Indiana Sales tax for the period ending January 31, 2019 shows you may owe $ 786 75, including penalty and interest YOU MUST TAKE ACTION IMMEDIATELY TO RESOLVE THIS DEBT You must pay the amount owed or protest this assessment in writing within 60 days (by December 20, 2019) If you fail to do so, this debt will continue to accrue interest and could convert into a tax warrant for collection action For more information on protesting the assessment, visit www in gov/dor/5691 htm To pay your bill online, make a payment arrangement, or ask questions, visit www epay in gov or call (317) 233-4015 **If you closed your business, please visit** www in gov/dor/3749 htm to complete the official paperwork immediately **If you are in Bankruptcy, this notice is for your information only, no collection actions will occur** Thank you for your immediate attention to this matter ***SEE REVERSE SIDE FOR IMPORTANT DETAILS AND MAILING ADDRESSES ***

EXPLANATION OF TAX DUE FOR PERIOD ENDING January 31, 2019

Original Tax (Sales)	$	700 00
Penalty	$	70 00
Interest – Daily Amount $0 06	$	16 75
Amount you owe – Due Date December 20, 2019	$	786 75

Please place your Taxpayer TID number (see above) on your check made payable to Indiana Department of Revenue and mail with the form provided below

FINDTAPE COM LLC

Taxpayer TID ***
Liability Number ***
Notice Number ***

Due Date December 20, 2019

AMOUNT
PAID $

Indiana Dept of Revenue
PO Box 1028
Indianapolis IN 46206-1028

AMOUNT YOU OWE 786 75

0101645873650020190420094505000000000786 75

Continued from previous page
Notice Number ***

Issued 10/21/2019
FINDTAPE COM LLC

EXPLANATION OF TAX DUE FOR January 31, 2019

YOU HAVE FAILED TO SUBMIT THE APPROPRIATE TAX FORM AND THEREFORE THIS NOTICE IS AN ESTIMATED AMOUNT DUE BASED UPON THE BEST INFORMATION AVAILABLE IF YOU DO NOT OWE THIS FOR ANY OF THE REASONS LISTED, YOU MUST SUBMIT ONE OF THE FOLLOWING IN ORDER TO CLEAR THIS

1 A COPY OF THE TAX RETURN AND THE FRONT AND BACK OF YOUR CANCELLED CHECK, IF PAID

2 IF THERE WAS NO ACTIVITY THAT OCCURRED WITH YOUR BUSINESS, YOU ARE STILL REQUIRED TO FILE TAX RETURNS FOR THE PERIODS INDICATED IF YOU NEED TAX FORMS, PLEASE CONTACT US AT (317) 233-4015 OR VISIT OUR WEBPAGE AT HTTP //WWW INTAX IN GOV

3 IF THE BUSINESS WAS CLOSED, THE RESPONSIBLE OFFICER OF THE CORPORATION, PARTNER, OR SOLE PROPRIETORSHIP MUST SUBMIT A COMPLETED INDIANA FORM BC-100 YOU MAY DOWNLOAD THIS FORM FROM OUR WEBPAGE AT HTTP //WWW IN GOV/DOR/TAXFORMS/PDFS/BC-100 PDF, OR CALL (317) 233-4015

If you have any questions about **WHY** this tax is due, you may call between 8 00 AM and 4 30 PM Monday through Friday Eastern Standard Time or write to

CUSTOMER SERVICE
PO BOX 1028
INDIANAPOLIS, IN 46206-1028
(317)233-4015

AR-80
SF 43530 (R4 / 11-17)

PROPOSED ASSESSMENT
INDIANA DEPARTMENT OF REVENUE

REFER TO THIS NUMBER ON ANY CONTACT WITH THE DEPARTMENT →

Liability Number 2019-***
Notice Number ***
Date Issued 10/21/2019

000066

1900160375635

FINDTAPE COM LLC
1378 US HIGHWAY 206 STE 6
SKILLMAN, NJ 08558-1923

Taxpayer TID ***
FID ***
Form Number ST-103
DLN ***
Account ID ***
Liability Period February 28, 2019
Tax Type Sales

IMMEDIATE ACTION REQUIRED A review of your Indiana Sales tax for the period ending February 28, 2019 shows you may owe $ 785 13, including penalty and interest YOU MUST TAKE ACTION IMMEDIATELY TO RESOLVE THIS DEBT You must pay the amount owed or protest this assessment in writing within 60 days (by December 20, 2019) If you fail to do so, this debt will continue to accrue interest and could convert into a tax warrant for collection action For more information on protesting the assessment, visit www in gov/dor/5691 htm To pay your bill online, make a payment arrangement, or ask questions, visit www epay in gov or call (317) 233-4015 **If you closed your business, please visit** www in gov/dor/3749 htm to complete the official paperwork immediately **If you are in Bankruptcy, this notice is for your information only, no collection actions will occur** Thank you for your immediate attention to this matter ***SEE REVERSE SIDE FOR IMPORTANT DETAILS AND MAILING ADDRESSES ***

EXPLANATION OF TAX DUE FOR PERIOD ENDING February 28, 2019

Original Tax (Sales)	$	700 00
Penalty	$	70 00
Interest – Daily Amount $0 06	$	15 13
Amount you owe – Due Date December 20, 2019	$	785 13

Please place your Taxpayer TID number (see above) on your check made payable to Indiana Department of Revenue and mail with the form provided below

FINDTAPE COM LLC

Taxpayer TID ***
Liability Number ***
Notice Number ***

Due Date December 20, 2019

AMOUNT
PAID $

Indiana Dept of Revenue
PO Box 1028
Indianapolis IN 46206-1028

AMOUNT YOU OWE 785 13

01016458736500201904200946020000000078513

Continued from previous page
Notice Number ***

Issued 10/21/2019
FINDTAPE COM LLC

EXPLANATION OF TAX DUE FOR February 28, 2019

YOU HAVE FAILED TO SUBMIT THE APPROPRIATE TAX FORM AND THEREFORE THIS NOTICE IS AN ESTIMATED AMOUNT DUE BASED UPON THE BEST INFORMATION AVAILABLE IF YOU DO NOT OWE THIS FOR ANY OF THE REASONS LISTED, YOU MUST SUBMIT ONE OF THE FOLLOWING IN ORDER TO CLEAR THIS

1 A COPY OF THE TAX RETURN AND THE FRONT AND BACK OF YOUR CANCELLED CHECK, IF PAID

2 IF THERE WAS NO ACTIVITY THAT OCCURRED WITH YOUR BUSINESS, YOU ARE STILL REQUIRED TO FILE TAX RETURNS FOR THE PERIODS INDICATED IF YOU NEED TAX FORMS, PLEASE CONTACT US AT (317) 233-4015 OR VISIT OUR WEBPAGE AT HTTP //WWW INTAX IN GOV

3 IF THE BUSINESS WAS CLOSED, THE RESPONSIBLE OFFICER OF THE CORPORATION, PARTNER, OR SOLE PROPRIETORSHIP MUST SUBMIT A COMPLETED INDIANA FORM BC-100 YOU MAY DOWNLOAD THIS FORM FROM OUR WEBPAGE AT HTTP://WWW IN GOV/DOR/TAXFORMS/PDFS/BC-100 PDF, OR CALL (317) 233-4015

If you have any questions about **WHY** this tax is due, you may call between 8 00 AM and 4 30 PM Monday through Friday Eastern Standard Time or write to

CUSTOMER SERVICE
PO BOX 1028
INDIANAPOLIS, IN 46206-1028
(317)233-4015

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PROPOSED ASSESSMENT
INDIANA DEPARTMENT OF REVENUE

REFER TO THIS NUMBER ON ANY CONTACT WITH THE DEPARTMENT → Liability Number 2019-***
Notice Number ***
Date Issued 10/21/2019

000067

Taxpayer TID ***
FID ***
Form Number ST-103
DLN ***
Account ID ***
Liability Period March 31, 2019
Tax Type Sales

1900160375636
FINDTAPE COM LLC
1378 US HIGHWAY 206 STE 6
SKILLMAN, NJ 08558-1923

IMMEDIATE ACTION REQUIRED. A review of your Indiana Sales tax for the period ending March 31, 2019 shows you may owe $ 783 47, including penalty and interest YOU MUST TAKE ACTION IMMEDIATELY TO RESOLVE THIS DEBT You must pay the amount owed or protest this assessment in writing within 60 days (by December 20, 2019) If you fail to do so, this debt will continue to accrue interest and could convert into a tax warrant for collection action For more information on protesting the assessment, visit www in gov/dor/5691 htm To pay your bill online, make a payment arrangement, or ask questions, visit www epay in gov or call (317) 233-4015 **If you closed your business, please visit** www in gov/dor/3749 htm to complete the official paperwork immediately **If you are in Bankruptcy, this notice is for your information only, no collection actions will occur** Thank you for your immediate attention to this matter ***SEE REVERSE SIDE FOR IMPORTANT DETAILS AND MAILING ADDRESSES ***

EXPLANATION OF TAX DUE FOR PERIOD ENDING March 31, 2019

Original Tax (Sales)	$	700 00
Penalty	$	70 00
Interest – Daily Amount $0 06	$	13 47
Amount you owe – Due Date December 20, 2019	$	783 47

Please place your Taxpayer TID number (see above) on your check made payable to Indiana Department of Revenue and mail with the form provided below

FINDTAPE COM LLC

Taxpayer TID ***
Liability Number ***
Notice Number ***

Due Date December 20, 2019

AMOUNT
PAID $

Indiana Dept of Revenue
PO Box 1028
Indianapolis IN 46206-1028

AMOUNT YOU OWE 783 47

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Continued from previous page
Notice Number ***

Issued 10/21/2019
FINDTAPE COM LLC

EXPLANATION OF TAX DUE FOR March 31, 2019

YOU HAVE FAILED TO SUBMIT THE APPROPRIATE TAX FORM AND THEREFORE THIS NOTICE IS AN ESTIMATED AMOUNT DUE BASED UPON THE BEST INFORMATION AVAILABLE IF YOU DO NOT OWE THIS FOR ANY OF THE REASONS LISTED, YOU MUST SUBMIT ONE OF THE FOLLOWING IN ORDER TO CLEAR THIS

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If you have any questions about **WHY** this tax is due, you may call between 8 00 AM and 4 30 PM Monday through Friday Eastern Standard Time or write to

CUSTOMER SERVICE
PO BOX 1028
INDIANAPOLIS, IN 46206-1028
(317)233-4015

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SF 43530 (R4 / 11-17)

PROPOSED ASSESSMENT
INDIANA DEPARTMENT OF REVENUE

REFER TO THIS NUMBER ON ANY CONTACT WITH THE DEPARTMENT → Liability Number 2019-***
Notice Number ***
Date Issued 10/21/2019

000068

Taxpayer TID ***
FID ***
Form Number ST-103
DLN ***
Account ID ***
Liability Period April 30, 2019
Tax Type Sales

1900160375637
FINDTAPE COM LLC
1378 US HIGHWAY 206 STE 6
SKILLMAN, NJ 08558-1923

IMMEDIATE ACTION REQUIRED A review of your Indiana Sales tax for the period ending April 30, 2019 shows you may owe $ 781 74, including penalty and interest YOU MUST TAKE ACTION IMMEDIATELY TO RESOLVE THIS DEBT You must pay the amount owed or protest this assessment in writing within 60 days (by December 20, 2019) If you fail to do so, this debt will continue to accrue interest and could convert into a tax warrant for collection action For more information on protesting the assessment, visit www in gov/dor/5691 htm To pay your bill online, make a payment arrangement, or ask questions, visit www epay in gov or call (317) 233-4015 **If you closed your business, please visit** www in gov/dor/3749 htm to complete the official paperwork immediately **If you are in Bankruptcy, this notice is for your information only, no collection actions will occur** Thank you for your immediate attention to this matter ***SEE REVERSE SIDE FOR IMPORTANT DETAILS AND MAILING ADDRESSES ***

EXPLANATION OF TAX DUE FOR PERIOD ENDING April 30, 2019

Original Tax (Sales)	$	700 00
Penalty	$	70 00
Interest – Daily Amount $0 06	$	11 74
Amount you owe – Due Date December 20, 2019	$	781 74

Please place your Taxpayer TID number (see above) on your check made payable to Indiana Department of Revenue and mail with the form provided below

FINDTAPE COM LLC

Taxpayer TID ***
Liability Number ***
Notice Number ***

Due Date December 20, 2019

AMOUNT
PAID $

Indiana Dept of Revenue
PO Box 1028
Indianapolis, IN 46206-1028

AMOUNT YOU OWE 781 74

0101645873650020190420079480700000000078174

Continued from previous page
Notice Number ***

Issued 10/21/2019
FINDTAPE COM LLC

EXPLANATION OF TAX DUE FOR April 30, 2019

YOU HAVE FAILED TO SUBMIT THE APPROPRIATE TAX FORM AND THEREFORE THIS NOTICE IS AN ESTIMATED AMOUNT DUE BASED UPON THE BEST INFORMATION AVAILABLE IF YOU DO NOT OWE THIS FOR ANY OF THE REASONS LISTED, YOU MUST SUBMIT ONE OF THE FOLLOWING IN ORDER TO CLEAR THIS

1 A COPY OF THE TAX RETURN AND THE FRONT AND BACK OF YOUR CANCELLED CHECK, IF PAID

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If you have any questions about **WHY** this tax is due,
you may call between 8 00 AM and 4 30 PM Monday
through Friday Eastern Standard Time or write to

CUSTOMER SERVICE
PO BOX 1028
INDIANAPOLIS, IN 46206-1028
(317)233-4015

AR-80
SF 43530 (R4 / 11-17)

PROPOSED ASSESSMENT
INDIANA DEPARTMENT OF REVENUE

REFER TO THIS NUMBER ON ANY CONTACT WITH THE DEPARTMENT → Liability Number 2019-***
Notice Number **********
Date Issued 10/21/2019

000069

1900160375636
FINDTAPE COM LLC
1378 US HIGHWAY 206 STE 6
SKILLMAN, NJ 08558-1923

Taxpayer TID ***
FID ***
Form Number ST-103
DLN ***
Account ID ***
Liability Period May 31, 2019 Tax
Type Sales

IMMEDIATE ACTION REQUIRED A review of your Indiana Sales tax for the period ending May 31, 2019 shows you may owe $ 779 90, including penalty and interest YOU MUST TAKE ACTION IMMEDIATELY TO RESOLVE THIS DEBT You must pay the amount owed or protest this assessment in writing within 60 days (by December 20, 2019) If you fail to do so, this debt will continue to accrue interest and could convert into a tax warrant for collection action For more information on protesting the assessment, visit www in gov/dor/5691 htm To pay your bill online, make a payment arrangement, or ask questions, visit www epay in gov or call (317) 233-4015 **If you closed your business, please visit** www in gov/dor/3749 htm to complete the official paperwork immediately **If you are in Bankruptcy, this notice is for your information only, no collection actions will occur** Thank you for your immediate attention to this matter ***SEE REVERSE SIDE FOR IMPORTANT DETAILS AND MAILING ADDRESSES ***

EXPLANATION OF TAX DUE FOR PERIOD ENDING May 31, 2019

Original Tax (Sales)	$	700 00
Penalty	$	70 00
Interest – Daily Amount $0 06	$	9 90
Amount you owe – Due Date December 20, 2019	$	779 90

Please place your Taxpayer TID number (see above) on your check made payable to Indiana Department of Revenue and mail with the form provided below.

FINDTAPE COM LLC

Taxpayer TID ***
Liability Number ***
Notice Number ***

Due Date December 20, 2019

AMOUNT
PAID $

Indiana Dept of Revenue
PO Box 1028
Indianapolis, IN 46206-1028

AMOUNT YOU OWE 779 90

0101645873650020190420079490400000000077990

Continued from previous page
Notice Number ***

EXPLANATION OF TAX DUE FOR May 31, 2019

Issued 10/21/2019
FINDTAPE COM LLC

YOU HAVE FAILED TO SUBMIT THE APPROPRIATE TAX FORM AND THEREFORE THIS NOTICE IS AN ESTIMATED AMOUNT DUE BASED UPON THE BEST INFORMATION AVAILABLE IF YOU DO NOT OWE THIS FOR ANY OF THE REASONS LISTED, YOU MUST SUBMIT ONE OF THE FOLLOWING IN ORDER TO CLEAR THIS

1 A COPY OF THE TAX RETURN AND THE FRONT AND BACK OF YOUR CANCELLED CHECK, IF PAID

2 IF THERE WAS NO ACTIVITY THAT OCCURRED WITH YOUR BUSINESS, YOU ARE STILL REQUIRED TO FILE TAX RETURNS FOR THE PERIODS INDICATED IF YOU NEED TAX FORMS PLEASE CONTACT US AT (317) 233–4015 OR VISIT OUR WEBPAGE AT HTTP //WWW INTAX IN GOV

3 IF THE BUSINESS WAS CLOSED, THE RESPONSIBLE OFFICER OF THE CORPORATION, PARTNER, OR SOLE PROPRIETORSHIP MUST SUBMIT A COMPLETED INDIANA FORM BC–100 YOU MAY DOWNLOAD THIS FORM FROM OUR WEBPAGE AT HTTP.//WWW IN GOV/DOR/TAXFORMS/PDFS/BC–100 PDF, OR CALL (317) 233–4015

If you have any questions about **WHY** this tax is due, you may call between 8 00 AM and 4 30 PM Monday through Friday Eastern Standard Time or write to

CUSTOMER SERVICE
PO BOX 1028
INDIANAPOLIS, IN 46206–1028
(317)233–4015

AR-80
SF 43530 (R4 / 11-17)

PROPOSED ASSESSMENT
INDIANA DEPARTMENT OF REVENUE

REFER TO THIS NUMBER ON ANY CONTACT WITH THE DEPARTMENT → Liability Number 2019-***
Notice Number ***
Date Issued 10/21/2019

000070

1900160375639
FINDTAPE COM LLC
1378 US HIGHWAY 206 STE 6
SKILLMAN, NJ 08558-1923

Taxpayer TID ***
FID ***
Form Number ST-103
DLN ***
Account ID ***
Liability Period June 30, 2019
Tax Type Sales

IMMEDIATE ACTION REQUIRED -A review of your Indiana Sales tax for the period ending June 30, 2019 shows you may owe $ 778 23, including penalty and interest YOU MUST TAKE ACTION IMMEDIATELY TO RESOLVE THIS DEBT You must pay the amount owed or protest this assessment in writing within 60 days (by December 20, 2019) If you fail to do so, this debt will continue to accrue interest and could convert into a tax warrant for collection action For more information on protesting the assessment, visit www in gov/dor/5691 htm To pay your bill online, make a payment arrangement, or ask questions, visit www epay in gov or call (317) 233-4015 **If you closed your business, please visit** www in gov/dor/3749 htm to complete the official paperwork immediately **If you are in Bankruptcy, this notice is for your information only, no collection actions will occur** Thank you for your immediate attention to this matter ***SEE REVERSE SIDE FOR IMPORTANT DETAILS AND MAILING ADDRESSES ***

EXPLANATION OF TAX DUE FOR PERIOD ENDING June 30, 2019

Original Tax (Sales)	$	700 00
Penalty	$	70 00
Interest – Daily Amount $0 06	$	8 23
Amount you owe – Due Date December 20, 2019	$	778 23

Please place your Taxpayer TID number (see above) on your check made payable to Indiana Department of Revenue and mail with the form provided below

FINDTAPE COM LLC

Taxpayer TID ***
Liability Number ***
Notice Number ***

Due Date December 20, 2019

AMOUNT
PAID $

Indiana Dept of Revenue
PO Box 1028
Indianapolis, IN 46206-1028

AMOUNT YOU OWE 778 23

0101645873650020190420095005000000077823

Continued from previous
page Notice Number ***

EXPLANATION OF TAX DUE FOR June 30, 2019

Issued 10/21/2019
FINDTAPE COM LLC

YOU HAVE FAILED TO SUBMIT THE APPROPRIATE TAX FORM AND THEREFORE THIS NOTICE IS AN ESTIMATED AMOUNT DUE BASED UPON THE BEST INFORMATION AVAILABLE IF YOU DO NOT OWE THIS FOR ANY OF THE REASONS LISTED, YOU MUST SUBMIT ONE OF THE FOLLOWING IN ORDER TO CLEAR THIS

1 A COPY OF THE TAX RETURN AND THE FRONT AND BACK OF YOUR CANCELLED CHECK, IF PAID

2 IF THERE WAS NO ACTIVITY THAT OCCURRED WITH YOUR BUSINESS, YOU ARE STILL REQUIRED TO FILE TAX RETURNS FOR THE PERIODS INDICATED IF YOU NEED TAX FORMS, PLEASE CONTACT US AT (317) 233-4015 OR VISIT OUR WEBPAGE AT HTTP //WWW INTAX IN GOV

3 IF THE BUSINESS WAS CLOSED, THE RESPONSIBLE OFFICER OF THE CORPORATION, PARTNER, OR SOLE PROPRIETORSHIP MUST SUBMIT A COMPLETED INDIANA FORM BC-100 YOU MAY DOWNLOAD THIS FORM FROM OUR WEBPAGE AT HTTP //WWW IN GOV/DOR/TAXFORMS/PDFS/BC-100 PDF OR CALL (317) 233-4015

If you have any questions about **WHY** this tax is due,
you may call between 8 00 AM and 4 30 PM Monday
through Friday Eastern Standard Time or write to

CUSTOMER SERVICE
PO BOX 1028
INDIANAPOLIS, IN 46206-1028
(317)233-4015

AR-80
SF 43530 (R4 / 11-17)

PROPOSED ASSESSMENT
INDIANA DEPARTMENT OF REVENUE

REFER TO THIS NUMBER ON ANY CONTACT WITH THE DEPARTMENT →

Liability Number 2019-***
Notice Number **********
Date Issued 10/21/2019

000071

1900160375640

FINDTAPE COM LLC
1378 US HIGHWAY 206 STE 6
SKILLMAN, NJ 08558-1923

Taxpayer TID ***
FID ***
Form Number ST-103
DLN ***
Account ID ***
Liability Period July 31, 2019 Tax
Type Sales

IMMEDIATE ACTION REQUIRED A review of your Indiana Sales tax for the period ending July 31, 2019 shows you may owe $ 776 45, including penalty and interest YOU MUST TAKE ACTION IMMEDIATELY TO RESOLVE THIS DEBT You must pay the amount owed or protest this assessment in writing within 60 days (by December 20, 2019) If you fail to do so, this debt will continue to accrue interest and could convert into a tax warrant for collection action For more information on protesting the assessment, visit www in gov/dor/5691 htm To pay your bill online, make a payment arrangement, or ask questions, visit www epay in gov or call (317) 233-4015 **If you closed your business, please visit** www in gov/dor/3749 htm to complete the official paperwork immediately **If you are in Bankruptcy, this notice is for your information only, no collection actions will occur** Thank you for your immediate attention to this matter ***SEE REVERSE SIDE FOR IMPORTANT DETAILS AND MAILING ADDRESSES ***

EXPLANATION OF TAX DUE FOR PERIOD ENDING July 31, 2019

Original Tax (Sales)	$	700 00
Penalty	$	70 00
Interest – Daily Amount $0 06	$	6 45
Amount you owe – Due Date December 20, 2019	$	776 45

Please place your Taxpayer TID number (see above) on your check made payable to Indiana Department of Revenue and mail with the form provided below

FINDTAPE COM LLC

Taxpayer TID ***
Liability Number ***
Notice Number ***

Due Date December 20, 2019

AMOUNT
PAID $

Indiana Dept of Revenue
PO Box 1028
Indianapolis, IN 46206-1028

AMOUNT YOU OWE 776 45

0101645873650020190420095102000000000077645

Continued from previous
page Notice Number ***

Issued 10/21/2019
FINDTAPE COM LLC

EXPLANATION OF TAX DUE FOR July 31, 2019

YOU HAVE FAILED TO SUBMIT THE APPROPRIATE TAX FORM AND THEREFORE THIS NOTICE IS AN ESTIMATED AMOUNT DUE BASED UPON THE BEST INFORMATION AVAILABLE IF YOU DO NOT OWE THIS FOR ANY OF THE REASONS LISTED, YOU MUST SUBMIT ONE OF THE FOLLOWING IN ORDER TO CLEAR THIS

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If you have any questions about **WHY** this tax is due,
you may call between 8 00 AM and 4 30 PM Monday
through Friday Eastern Standard Time or write to

CUSTOMER SERVICE
PO BOX 1028
INDIANAPOLIS, IN 46206-1028
(317)233-4015

Kevin Mahoney @ FindTape

From TaxJar Support <support@taxjar com>
Sent Wednesday, October 30, 2019 4 36 PM
To Kevin Mahoney @ Findtape
Subject Re FindTape Indiana letters

Hi Kevin,

I can confirm that Indiana has resolved these notices by moving your returns to your correct sub-account number and there's no further action required

If you have any other questions or if there's anything else we can help with, please let me know

Cheers,
Evan Simon
Tax Filing Specialist
support@taxjar com

Did you know that TaxJar can automatically file your returns for you? Enroll in AutoFile and your first return is on us! Learn more
---

- Here's everything you'll need to enroll in AutoFile in any state
- Learn more about Marketplace Facilitators and your TaxJar Reports

NOTE The information provided by TaxJar support is for informational purposes only and is not intended to be legal advice Please consult a tax professional for specific tax guidance

Let us know how we're doing!
Great Okay Not Good

On Wed, Oct 23, 2019 at 8 27 AM CDT, TaxJar Support <support@taxjar com> wrote
You're welcome Kevin, always happy to help!

Cheers,
Evan Simon
Tax Filing Specialist
support@taxjar com

Did you know that TaxJar can automatically file your returns for you? Enroll in AutoFile and your first return is on us! Learn more
---

- Here's everything you'll need to enroll in AutoFile in any state
- Learn more about Marketplace Facilitators and your TaxJar Reports

NOTE The information provided by TaxJar support is for informational purposes only and is not intended to be legal advice Please consult a tax professional for specific tax guidance
On Wed, Oct 23, 2019 at 8 27 AM CDT, Kevin Mahoney @ Findtape <kevin@findtape com> wrote
Thank you for the quick resolution

Kevin Mahoney

President/Founder

FindTape.com
YOUR SOURCE FOR CONNECTING EVERYTHING

1378 US Highway 206

Unit/Suite 6-149

Skillman, NJ 08558

Direct 201-693-4467

Phone 800-806-7580 x103

Fax 1-866-698-9890

Email kevin@findtape com

Retailer of Tape, Glues/Adhesives & Dispensers

* #974 on Internet Retailer's Top 1000 E-Retailers in North America for 2017

* #496 on Internet Retailer's Mobile 500 list for 2017

* *1st brick & mortar store location* https //www findtape com/store/08902

On Wed, Oct 23, 2019 at 8 25 AM CDT, TaxJar Support <support@taxjar com> wrote
Hi Kevin,

Evan here with the TaxJar AutoFile team Thanks for sharing the notices you received from Indiana

Upon reviewing your state account, we found that your account number was updated from 0164587365-**001** to 0164587365-**900**

To resolve the notices, we contacted the state They informed us that a message should be sent through your Indiana state efile account requesting that these seven returns filed under '001' be moved to '900' This request was sent today and the state should respond within 3-5 business days We will also monitor your state account to be sure they complete moving these correctly

We also updated your account number in your enrollment so that future returns are filed appropriately

No action is required at this time and we will get back to you in a few days when we're able to confirm this has been resolved Thanks, and have a great day!

Cheers,

Evan Simon
Tax Filing Specialist
support@taxjar com

Did you know that TaxJar can automatically file your returns for you? Enroll in AutoFile and your first return is on us! Learn more
---

- Here's everything you'll need to enroll in AutoFile in any state
- Learn more about Marketplace Facilitators and your TaxJar Reports

NOTE The information provided by TaxJar support is for informational purposes only and is not intended to be legal advice Please consult a tax professional for specific tax guidance
On Wed, Oct 23, 2019 at 7 29 AM CDT, TaxJar Support <support@taxjar com> wrote
Hello Kevin,

Thank you for sending this over!

I'm going to pass this notice to our filing team and they will take a look and determine the next steps for your account

You should hear from them soon with more details

Cheers,
Karolyn Schultz
Customer Success Specialist
support@taxjar com

Did you know that TaxJar can automatically file your returns for you? Enroll in AutoFile and your first return is on us! Learn more
---

- Here's everything you'll need to enroll in AutoFile in any state
- Learn more about Marketplace Facilitators and your TaxJar Reports

NOTE The information provided by TaxJar support is for informational purposes only and is not intended to be legal advice Please consult a tax professional for specific tax guidance
On Wed, Oct 23, 2019 at 7 00 AM CDT, Kevin Mahoney @ Findtape <kevin@findtape com> wrote
Also tried to download filings to send them, but getting back

taxjar-prod-bucket s3 amazonaws com's server IP address could not be found

Thank you

Kevin Mahoney
President/Founder
FindTape.com
YOUR SOURCE FOR CONNECTING EVERYTHING
1378 US Highway 206

00049 1 of 1

STATE OF TENNESSEE
DEPARTMENT OF REVENUE

Return Adjustment Notice

February 10, 2020

FINDTAPE COM LLC
1330 US HIGHWAY 206 # 103-149
SKILLMAN NJ 08558-1921

Letter ID	L1387461376
Account ID	***
Account Type	Sales and Use Tax
Filing Period	January 31, 2020

Dear FINDTAPE COM LLC

You are receiving this letter because your sales and use tax return for the January 31, 2020 period has been modified This is **not** a bill If the changes to your return have resulted in any additional tax liability, a separate notice will be mailed to you

	Corrected Amount
Gross Sales	$6,920 00
Cost of Personal Property	$0 00
Out-of-State Purchases and Property	$0 00
Tangible Personal Property	$0 00
Total Sales	$6,920 00
Exempt Transactions	$996 00
State Net Taxable Total	$5,924 00
State Sales Tax	$415 00
State Food Tax	$0 00
Local Sales Tax	$147 00
Tax Collected in Excess of State and Local Levies	$1 00
State Tax on Transactions Subject to Single Article and Reduced Rates	$0 00
Local Tax on Transactions Subject to the Special Rate Tax	$0 00
Central Business Improvement District Fee	$0 00
Prepaid Wireless 911 Surcharge	$0 00
Total Tax Before Penalty and Interest	$563 00

Explanation of Modifications

- Local Tax calculated incorrectly
- Total Tax amount calculated incorrectly

Please use the contact information at the bottom of this letter for any inquiries you have All inquiries should make reference to the letter ID L1387461376

CDTFA 401 A (FRONT) REV 116 (11 19)

STATE OF CALIFORNIA

STATE, LOCAL, AND DISTRICT SALES AND USE TAX RETURN

CALIFORNIA DEPARTMENT
OF TAX AND FEE ADMINISTRATION

DUE ON OR BEFORE	PERIOD BEGIN DATE	PERIOD END DATE
	YOUR ACCOUNT NUMBER	

CDTFA USE ONLY
EFF
PM

READ INSTRUCTIONS BEFORE PREPARING

CALIFORNIA DEPARTMENT OF
TAX AND FEE ADMINISTRATION
PO BOX 942879
SACRAMENTO CA 94279-8062

☐ Please check this box if this filing represents an **AMENDED RETURN**

ELECTRONIC FILING INFORMATION AND RETURN INSTRUCTIONS (CDTFA-401 INST) ARE AVAILABLE AT *WWW CDTFA CA GOV* OR BY CALLING 1-800-400 7115 (CRS 711)

1	Total sales	1	$ 00
2	Purchases subject to use tax	2	00
3	Total *(add line 1 and 2)*	3	00
	IF YOU HAVE DEDUCTIONS, FILL OUT SECTIONS A AND B ON PAGE 2 OF THIS RETURN **IF YOU HAVE NO DEDUCTIONS, ENTER "0" ON LINE 11 AND PROCEED TO LINE 12**		
11	Total nontaxable transactions reported *(enter the total from Section B, line 6)*	11	00
12	Transactions subject to tax *(subtract line 11 from line 3)*	12	00
13	State tax 6 00 percent *(multiply line 12 by 0600)*	13	00
14	County tax 1/4 percent *(multiply line 12 by 0025)*	14	00
15	Local tax 1 percent *(multiply line 12 by 01, additional schedules may apply — see line 15 instructions)*	15	00
16	District tax *(you must complete CDTFA-531-A2, Schedule A2, if you are engaged in business in a transaction and use tax district)*	16	00
17	Total state, county, local, and district tax *(add lines 13, 14, 15, and 16)*	17	00
18	Excess tax collected *(enter excess tax collected, if any)*	18	00
19	Total tax amount *(add line 17 and 18)*	19	00
20a	Credit for current period partial tax exemptions *(enter the total from Section D, line 6)*	20a	00
20b	Credit for prior period tax recovery *(enter the Total Prior Period Tax Recovery Amount from CDTFA-531-Q)*	20b	00
20c	Credit for tax paid to other state(s) *(enter the credit as calculated from CDTFA-531-P)*	20c	00
20d	Credit for aircraft common carrier partial exemption *(CDTFA-531-X is required to claim this credit)*	20d	00
21	Net tax *(subtract lines 20a, 20b, 20c, and 20d from line 19)*	21	00
22	Less tax prepayments *(see line 22 instructions)* — 1st prepayment (tax only) $ ☐ No taxable transactions; 2nd prepayment (tax only) $ ☐ No taxable transactions	22	00
23	Remaining tax *(subtract line 22 from line 21)*	23	00
24	PENALTY *(multiply line 23 by 10 percent [0 10] if payment made after due date shown above)* — PENALTY	24	
25	INTEREST One month's interest is due on tax for each month or fraction of a month that payment is delayed after the due date The adjusted monthly interest rate is INTEREST RATE CALCULATOR — INTEREST	25	
26	TOTAL AMOUNT DUE AND PAYABLE *(add lines 23, 24, and 25)*	26	$ 00
27	Sales at state-designated fairgrounds *(see instructions)*	27	$ 00

I hereby certify that this return including any accompanying schedules and statements has been examined by me and to the best of my knowledge and belief is a true correct and complete return

SIGNATURE	PRINT NAME AND TITLE	EMAIL ADDRESS	TELEPHONE	DATE

PAID PREPARER S USE ONLY	PAID PREPARER S NAME	PAID PREPARER S TELEPHONE NUMBER

Make check or money order payable to California Department of Tax and Fee Administration
Write your account number on your check or money order Make a copy of this document for your records

A

CDTFA 401 A (BACK) REV 116 (11 19)

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

STATE, LOCAL, AND DISTRICT SALES AND USE TAX RETURN

YOUR ACCOUNT NUMBER	REPORTING PERIOD

SECTION A Nontaxable Sales (deductions)

4	Sales to other retailers for purposes of resale	28	$	00
5	Nontaxable sales of food products	29		00
6	Nontaxable labor *(repair and installation)*	30		00
7	Sales to the United States government	31		00
8	Sales in interstate or foreign commerce	32		00
9	Sales tax included on line 1 *(if any)*	33		00
10	Other *(clearly explain)*	34		00
11	Total Section A *(add lines 4 through 10)*	35	$	00

SECTION B Current Period Tax Recoveries and Deductions *The amount reported is for current period only The original transaction needs to be included in line 1 on page 1 (To claim a credit for all other prior period tax recovery items, complete CDTFA-531-Q, Schedule Q – Tax Recovery)*

1	Bad debt losses on taxable sales	36	$	00
2	Cost of tax-paid purchases resold prior to use	37		00
3	Returned taxable merchandise	38		00
4	Cash discounts on taxable sales *(see instructions on how to calculate this deduction)*	39		00
5	Total Section B *(add lines 1 through 4)*	40		00
6	Total nontaxable transactions *(add the total from Section A, line 11, and Section B, line 5 and enter total here and on page 1, line 11)*	41	$	00

SECTION C Current Period Partial Tax Exemptions at 05 Partial Exemption Rate *(do not include partial exemptions in Section A, line 11)*

1	Teleproduction equipment	42	$	00
2	Farm equipment and machinery	43		00
3	Diesel fuel used in farming and food processing	44		00
4	Timber harvesting equipment and machinery	45		00
5	Racehorse breeding stock	46		00
6	Subtotal Section C *(add lines 1 through 5)*	47		00
7	Partial exemption rate	48		05
8	Total Section C *(multiply line 6 by line 7)*	49	$	00

SECTION D Current Period Partial Tax Exemptions at 039375 Partial Exemption Rate *(do not include partial exemptions in Section A, line 11)*

1	Manufacturing and research and development equipment	50	$	00
2	Zero-emission transit bus	51		00
3	Subtotal Section D *(add line 1 and 2)*	52		00
4	Partial exemption rate	53		039375
5	Total Section D *(multiply line 3 by line 4)*	54	$	00

6	**Total Current Period Partial Exemptions** *(add the total from Section C, line 8 and Section D line 5 and enter here and on page 1, line 20a)*	55	$	00

CDTFA 531 A2 (S1F) REV 35 (1 20)

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

SCHEDULE A2 – COMPUTATION SCHEDULE FOR DISTRICT TAX — Long Form

DUE ON OR BEFORE

YOUR ACCOUNT NUMBER

A1	ENTER amount from line 12 on CDTFA 401 A or CDTFA 401 GS or from line 1 on CDTFA 401 E	$	00
A2/A3	ENTER all transactions subject to only the state rate of 7 25% *(see instructions)*	–	00
A4	SUBTRACT line A2/A3 from line A1 *(Allocate this amount to the correct district tax areas in column A5)*	$	00

PLEASE READ THE INSTRUCTIONS ON PAGE 12 BEFORE COMPLETING THIS SCHEDULE

DISTRICT TAX AREAS		A5 ALLOCATE LINE A4 TO CORRECT DISTRICT(S)	A6/A7 ADD (+) / DEDUCT ( ) ADJUSTMENTS	A8 TAXABLE AMOUNT A5 plus/minus A6/A7	A9 TAX RATE *	A10 DISTRICT TAX DUE Multiply A8 by A9
ALAMEDA COUNTY	**378**				02	$ 00
City of Alameda	(Eff 4 1 19) **648**				025	00
City of Albany	**429**				025	00
City of Hayward	**430**				025	00
City of Newark	(Eff 4 1 17) **451**				025	00
City of San Leandro	**380**				025	00
City of Union City	**428**				025	00
AMADOR COUNTY	**194**				005	00
BUTTE COUNTY						
City of Oroville	(Eff 4 1 19) **649**				01	00
Town of Paradise	**381**				005	00
CALAVERAS COUNTY						
City of Angels Camp	(Eff 4 1 19) **650**				005	00
COLUSA COUNTY						
City of Williams	**139**				005	00

SUBTOTAL A11a	*(Add amounts in column A10 on this page Enter the total here* ***and*** *on line A11a below)*	$ 00

Continued on page 2

A11a	SUBTOTAL DISTRICT TAX *(Page 1 enter the total from line A11a above)*	$ 00
A11b	SUBTOTAL DISTRICT TAX *(Page 2 enter the total from line A11b on page 2)*	00
A11c	SUBTOTAL DISTRICT TAX *(Page 3 enter the total from line A11c on page 3)*	00
A11d	SUBTOTAL DISTRICT TAX *(Page 4 enter the total from line A11d on page 4)*	00
A11e	SUBTOTAL DISTRICT TAX *(Page 5 enter the total from line A11e on page 5)*	00
A11f	SUBTOTAL DISTRICT TAX *(Page 6 enter the total from line A11f on page 6)*	00
A11g	SUBTOTAL DISTRICT TAX *(Page 7 enter the total from line A11g on page 7)*	00
A11h	SUBTOTAL DISTRICT TAX *(Page 8 enter the total from line A11h on page 8)*	00
A11i	SUBTOTAL DISTRICT TAX *(Page 9 enter the total from line A11i on page 9)*	00
A11j	SUBTOTAL DISTRICT TAX *(Page 10 enter the total from line A11j on page 10)*	00
A11k	SUBTOTAL DISTRICT TAX *(Page 11 enter the total from line A11k on page 11)*	00
A11	TOTAL DISTRICT TAX *(Add lines A11a A11b A11c A11d A11e A11f A11g A11h A11i A11j and A11k Enter here* ***and*** *on line 16 of CDTFA 401 A or CDTFA 401 GS or on line 5 on CDTFA 401 E)*	$ 00

CDTFA 531 A2 (S1B) REV 35 (1 20)

SCHEDULE A2 – COMPUTATION SCHEDULE FOR DISTRICT TAX — Long Form

ACCOUNT NUMBER				REPORTING PERIOD		
DISTRICT TAX AREAS		A5 ALLOCATE LINE A4 TO CORRECT DISTRICT(S)	A6/A7 ADD (+) / DEDUCT (−) ADJUSTMENTS	A8 TAXABLE AMOUNT A5 plus/minus A6/A7	A9 TAX RATE	A10 DISTRICT TAX DUE Multiply A8 by A9
CONTRA COSTA COUNTY	**025**				01	$ 00
City of Antioch	(Exp 3 31 19) **350**	Discontinued			015	00
City of Antioch	(Eff 4 1 19) **652**				02	00
City of Concord	**242**				015	00
City of El Cerrito	**383**				025	00
City of Hercules	**266**				015	00
City of Martinez	(Exp 3 31 19) **453**	Discontinued			015	00
City of Martinez	(Eff 4 1 19) **654**				02	00
Town of Moraga	**301**				02	00
City of Orinda	**303**				015	00
City of Pinole	**385**				02	00
City of Pittsburg	**288**				015	00
City of Pleasant Hill	(Eff 4 1 17) **455**				015	00
City of Richmond	**387**				02	00
City of San Pablo	(Exp 9 30 17) **368**	Discontinued			0175	00
City of San Pablo	(Eff 10 1 17) **609**				015	00
DEL NORTE COUNTY	**388**				0025	00
EL DORADO COUNTY						
City of Placerville	(Exp 3 31 17) **246**	Discontinued			005	00
City of Placerville	(Eff 4 1 17) **457**				01	00
City of So Lake Tahoe	**097**				005	00
FRESNO COUNTY	**099**				00725	00
City of Coalinga	(Eff 4 1 19) **656**				01725	00
City of Fowler	(Eff 4 1 19) **658**				01725	00
City of Huron	**352**				01725	00
City of Kerman	(Eff 4 1 19) **660**				01725	00
City of Kingsburg	(Eff 10 1 18) **636**				01725	00
City of Reedley	**177**				01225	00
City of Sanger	**179**				01475	00
City of Selma	**169**				01225	00
GLENN COUNTY						
City of Orland	(Eff 4 1 17) **458**				005	00
HUMBOLDT COUNTY	**389**				005	00
City of Arcata	**425**				0125	00
City of Eureka	**427**				0125	00
City of Fortuna	(Eff 4 1 17) **460**				0125	00
City of Rio Dell	**391**				015	00
City of Trinidad	**426**				0125	00

SUBTOTAL A11b *(Add amounts in column A10 on this page Enter the total here* ***and*** *on line A11b on page 1 of Schedule A2)*	$ 00

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CDTFA 531 A2 (S2F) REV 35 (1 20)

SCHEDULE A2 - COMPUTATION SCHEDULE FOR DISTRICT TAX — Long Form

ACCOUNT NUMBER				REPORTING PERIOD		
DISTRICT TAX AREAS		A5 ALLOCATE LINE A4 TO CORRECT DISTRICT(S)	A6/A7 ADD (+) / DEDUCT (-) ADJUSTMENTS	A8 TAXABLE AMOUNT A5 plus/minus A6/A7	A9 TAX RATE	A10 DISTRICT TAX DUE Multiply A8 by A9
IMPERIAL COUNTY	**029**				005	$ 00
City of Calexico	**230**				01	00
City of El Centro	(Eff 4 1 17) **462**				01	00
INYO COUNTY	**014**				005	00
KERN COUNTY						
City of Arvin	**198**				01	00
City of Bakersfield	(Eff 4 1 19) **741**				01	00
City of Delano	**170**				01	00
City of Ridgecrest	(Exp 3 31 17) **291**	Discontinued			0075	00
City of Ridgecrest	(Eff 4 1 17) **463**				01	00
City of Wasco	(Eff 4 1-17) **464**				01	00
KINGS COUNTY						
City of Corcoran	(Eff 10 1 17) **603**				01	00
LAKE COUNTY						
City of Clearlake	(Exp 3 31 17) **058**	Discontinued			005	00
City of Clearlake	(Eff 4 1 17) **468**				015	00
City of Lakeport	(Exp 3 31 17) **101**	Discontinued			005	00
City of Lakeport	(Eff 4 1-17) **466**				015	00
LOS ANGELES COUNTY	(Exp 6 30 17) **218**	Discontinued			015	00
LOS ANGELES COUNTY	(Exp 9 30 17) **577**	Discontinued			02	00
LOS ANGELES COUNTY	(Eff 10 1 17) **594**				0225	00
City of Arcadia	(Eff 1-1 20) **754**				03	00
City of Avalon	(Exp 6 30 17) **219**	Discontinued			02	00
City of Avalon	(Exp 9 30 17) **578**	Discontinued			025	00
City of Avalon	(Eff 10 1 17) **595**				0275	00
City of Burbank	(Eff 4 1 19) **662**				03	00
City of Commerce	(Exp 6 30 17) **307**	Discontinued			02	00
City of Commerce	(Exp 9 30 17) **585**	Discontinued			025	00
City of Commerce	(Eff 10 1 17) **596**				0275	00
City of Compton	(Exp 6 30 17) **449**	Discontinued			025	00
City of Compton	(Eff 7 1-17) **589**				03	00
City of Covina	(Eff 4 1 19) **664**				03	00
City of Cudahy	(Eff 4 1 19) **678**				03	00
City of Culver City	(Exp 6 30 17) **305**	Discontinued			02	00
City of Culver City	(Exp 9 30 17) **584**	Discontinued			025	00
City of Culver City	(Exp 3 31 19) **597**	Discontinued			0275	00
City of Culver City	(Eff 4 1 19) **666**				03	00
City of Downey	(Exp 6 30 17) **474**	Discontinued			02	00
City of Downey	(Exp 9 30 17) **592**	Discontinued			025	00
City of Downey	(Eff 10 1 17) **598**				0275	00

SUBTOTAL A11c *(Add amounts in column A10 on this page Enter the total here* **and** *on line A11c on page 1 of Schedule A2)*	$ 00

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CDTFA 531 A2 (S2B) REV 35 (1 20)

SCHEDULE A2 - COMPUTATION SCHEDULE FOR DISTRICT TAX - Long Form

ACCOUNT NUMBER				REPORTING PERIOD		
DISTRICT TAX AREAS		A5 ALLOCATE LINE A4 TO CORRECT DISTRICT(S)	A6/A7 ADD (+) / DEDUCT (-) ADJUSTMENTS	A8 TAXABLE AMOUNT A5 plus/minus A6/A7	A9 TAX RATE	A10 DISTRICT TAX DUE Multiply A8 by A9
City of El Monte	(Exp 6 30 17) **222**	Discontinued			**02**	$ 00
City of El Monte	(Exp 9 30 17) **581**	Discontinued			**025**	00
City of El Monte	(Eff 10 1 17) **599**				**0275**	00
City of Glendale	(Eff 4 1 19) **674**				**03**	00
City of Glendora	(Eff 7 1 19) **752**				**03**	00
City of Hawthorne	(Eff 4 1 18) **611**				**03**	00
City of Huntington Park	(Eff 10 1 18) **638**				**03**	00
City of Inglewood	(Exp 6 30 17) **220**	Discontinued			**02**	00
City of Inglewood	(Exp 9 30 17) **579**	Discontinued			**025**	00
City of Inglewood	(Eff 10 1 17) **600**				**0275**	00
City of La Mirada	(Exp 6 30 17) **309**	Discontinued			**025**	00
City of La Mirada	(Exp 3 31 18) **586**	Discontinued			**03**	00
City of La Puente	(Eff 4 1 19) **670**				**0275**	00
City of Lawndale	(Eff 4 1 19) **676**				**03**	00
City of Long Beach	(Exp 6 30 17) **441**	Discontinued			**025**	00
City of Long Beach	(Eff 7 1 17) **588**				**03**	00
City of Lynwood	(Exp 6 30 17) **470**	Discontinued			**025**	00
City of Lynwood	(Eff 7 1 17) **590**				**03**	00
City of Pasadena	(Eff 4 1 19) **680**				**03**	00
City of Pico Rivera	(Exp 6 30 17) **223**	Discontinued			**025**	00
City of Pico Rivera	(Eff 7 1 17) **582**				**03**	00
City of Pomona	(Eff 4 1 19) **668**				**03**	00
City of San Fernando	(Exp 6 30 17) **348**	Discontinued			**02**	00
City of San Fernando	(Exp 9 30 17) **587**	Discontinued			**025**	00
City of San Fernando	(Eff 10 1 17) **602**				**0275**	00
City of Santa Fe Springs	(Eff 4 1 19) **672**				**0325**	00
City of Santa Monica	(Exp 3 31 17) **250**	Discontinued			**02**	00
City of Santa Monica	(Exp 6 30 17) **472**	Discontinued			**025**	00
City of Santa Monica	(Eff 7 1 17) **591**				**03**	00
City of So El Monte	(Exp 6 30 17) **252**	Discontinued			**02**	00
City of So El Monte	(Exp 9 30 17) **583**	Discontinued			**025**	00
City of So El Monte	(Eff 10 1 17) **601**				**0275**	00
City of South Gate	(Exp 6 30 17) **221**	Discontinued			**025**	00
City of South Gate	(Eff 7 1 17) **580**				**03**	00
MADERA COUNTY	**144**				**005**	00
City of Chowchilla	(Eff 4 1 19) **682**				**015**	00
City of Madera	(Eff 4 1 17) **476**				**01**	00
MARIN COUNTY	**311**				**01**	00
Town of Corte Madera	(Exp 9 30 18) **354**	Discontinued			**015**	00
Town of Corte Madera	(Eff 10 1-18) **640**				**0175**	00

SUBTOTAL A11d *(Add amounts in column A10 on this page Enter the total here* ***and*** *on line A11d on page 1 of Schedule A2)*	$ 00

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CDTFA 531 A2 (S3F) REV 35 (1 20)

SCHEDULE A2 – COMPUTATION SCHEDULE FOR DISTRICT TAX — Long Form

ACCOUNT NUMBER				REPORTING PERIOD		
DISTRICT TAX AREAS		A5 ALLOCATE LINE A4 TO CORRECT DISTRICT(S)	A6/A7 ADD (+) / DEDUCT ( ) ADJUSTMENTS	A8 TAXABLE AMOUNT A5 plus/minus A6/A7	A9 TAX RATE	A10 DISTRICT TAX DUE Multiply A8 by A9
Town of Fairfax	(Exp 3 31 17) **314**	Discontinued			**015**	$ 00
Town of Fairfax	(Eff 4 1 17) **478**				**0175**	00
City of Larkspur	(Exp 3 31 18) **356**	Discontinued			**015**	00
City of Larkspur	(Eff 4 1 18) **613**				**0175**	00
City of Novato	**434**				**0125**	00
Town of San Anselmo	**358**				**015**	00
City of San Rafael	**360**				**0175**	00
City of Sausalito	**393**				**015**	00
MARIPOSA COUNTY	**103**				**005**	00
MENDOCINO COUNTY	(Exp 3 31 18) **269**	Discontinued			**00125**	00
MENDOCINO COUNTY	(Eff 4 1 18) **615**				**00625**	00
City of Fort Bragg	(Exp 3 31 18) **284**	Discontinued			**01125**	00
City of Fort Bragg	(Eff 4 1 18) **616**				**01625**	00
City of Point Arena	(Exp 3 31 18) **271**	Discontinued			**00625**	00
City of Point Arena	(Eff 4 1 18) **617**				**01125**	00
City of Ukiah	(Exp 3 31 17) **273**	Discontinued			**00625**	00
City of Ukiah	(Exp 3 31 18) **480**	Discontinued			**01125**	00
City of Ukiah	(Eff 4 1 18) **618**				**01625**	00
City of Willits	(Exp 3 31 18) **270**	Discontinued			**00625**	00
City of Willits	(Eff 4 1 18) **619**				**01125**	00
MERCED COUNTY	(Eff 4 1 17) **481**				**005**	00
City of Atwater	(Exp 3 31 17) **346**	Discontinued			**005**	00
City of Atwater	(Eff 4-1 17) **485**				**01**	00
City of Gustine	(Exp 3 31 17) **224**	Discontinued			**005**	00
City of Gustine	(Eff 4 1 17) **484**				**01**	00
City of Los Banos	(Exp 3 31-17) **104**	Discontinued			**005**	00
City of Los Banos	(Exp 3 31 19) **482**	Discontinued			**01**	00
City of Los Banos	(Eff 4 1 19) **684**				**015**	00
City of Merced	(Exp 3 31 17) **127**	Discontinued			**005**	00
City of Merced	(Eff 4 1 17) **483**				**01**	00
MONO COUNTY						
Town of Mammoth Lakes	**183**				**005**	00
MONTEREY COUNTY	(Exp 3 31 17) **394**	Discontinued			**00125**	00
MONTEREY COUNTY	(Eff 4 1 17) **487**				**005**	00
City of Carmel by the Sea	(Exp 3 31 17) **400**	Discontinued			**01125**	00
City of Carmel by the Sea	(Eff 4 1 17) **495**				**015**	00
City of Del Rey Oaks	(Exp 3 31 17) **410**	Discontinued			**01625**	00
City of Del Rey Oaks	(Eff 4 1 17) **490**				**02**	00
City of Gonzales	(Exp 3 31 17) **408**	Discontinued			**00625**	00
City of Gonzales	(Eff 4 1 17) **498**				**01**	00

SUBTOTAL A11e *(Add amounts in column A10 on this page Enter the total here* **and** *on line A11e on page 1 of Schedule A2)*	$ 00

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CDTFA 531 A2 (S3B) REV 35 (1 20)

SCHEDULE A2 – COMPUTATION SCHEDULE FOR DISTRICT TAX — Long Form

ACCOUNT NUMBER				REPORTING PERIOD		
DISTRICT TAX AREAS		A5 ALLOCATE LINE A4 TO CORRECT DISTRICT(S)	A6/A7 ADD (+) / DEDUCT (−) ADJUSTMENTS	A8 TAXABLE AMOUNT A5 plus/minus A6/A7	A9 TAX RATE	A10 DISTRICT TAX DUE Multiply A8 by A9
City of Greenfield	(Exp 3 31 17) **436**	Discontinued			**01875**	$ 00
City of Greenfield	(Eff 4 1 17) **494**				**0225**	00
City of King City	(Exp 3 31 17) **402**	Discontinued			**00625**	00
City of King City	(Exp 3 31 19) **496**	Discontinued			**01**	00
City of King City	(Eff 4 1 19) **686**				**015**	00
City of Marina	(Exp 3 31 17) **397**	Discontinued			**01125**	00
City of Marina	(Exp 3 31 19) **492**	Discontinued			**015**	00
City of Marina	(Eff 4 1 19) **688**				**02**	00
City of Monterey	(Exp 3 31 17) **404**	Discontinued			**01125**	00
City of Monterey	(Eff 4 1 17) **497**				**015**	00
City of Pacific Grove	(Exp 3 31 17) **396**	Discontinued			**01125**	00
City of Pacific Grove	(Eff 4 1 17) **491**				**015**	00
City of Salinas	(Exp 3 31 17) **406**	Discontinued			**01625**	00
City of Salinas	(Eff 4 1 17) **489**				**02**	00
City of Sand City	(Exp 3 31 17) **412**	Discontinued			**01125**	00
City of Sand City	(Eff 4 1 17) **499**				**015**	00
City of Seaside	(Exp 3 31 17) **395**	Discontinued			**01125**	00
City of Seaside	(Exp 9 30 17) **488**	Discontinued			**015**	00
City of Seaside	(Eff 10 1 17) **605**				**02**	00
City of Soledad	(Exp 3 31 17) **398**	Discontinued			**01125**	00
City of Soledad	(Eff 4 1 17) **493**				**015**	00
NAPA COUNTY	(Exp 6 30 18) **065**	Discontinued			**005**	00
NAPA COUNTY	(Eff 7 1 18) **631**				**005**	00
City of St Helena	(Exp 6 30 18) **501**	Discontinued			**01**	00
City of St Helena	(Eff 7 1 18) **632**				**01**	00
NEVADA COUNTY	(Exp 3 31 17) **067**	Discontinued			**00125**	00
NEVADA COUNTY	(Eff 4 1 17) **502**				**0025**	00
City of Grass Valley	(Exp 3 31 17) **318**	Discontinued			**00625**	00
City of Grass Valley	(Exp 9 30 18) **504**	Discontinued			**0075**	00
City of Grass Valley	(Eff 10 1 18) **642**				**0125**	00
City of Nevada City	(Exp 3 31 17) **320**	Discontinued			**01**	00
City of Nevada City	(Exp 3 31 18) **506**	Discontinued			**015**	00
City of Nevada City	(Eff 4 1 18) **630**				**01125**	00
Town of Truckee	(Exp 3 31 17) **370**	Discontinued			**00875**	00
Town of Truckee	(Eff 4 1 17) **503**				**01**	00

SUBTOTAL A11f *(Add amounts in column A10 on this page Enter the total here* **and** *on line A11f on page 1 of Schedule A2)*	$ 00

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CDTFA 531 A2 (S4F) REV 35 (1 20)

SCHEDULE A2 – COMPUTATION SCHEDULE FOR DISTRICT TAX — Long Form

ACCOUNT NUMBER					REPORTING PERIOD		
DISTRICT TAX AREAS			A5 ALLOCATE LINE A4 TO CORRECT DISTRICT(S)	A6/A7 ADD (+) / DEDUCT (−) ADJUSTMENTS	A8 TAXABLE AMOUNT A5 plus/minus A6/A7	A9 TAX RATE	A10 DISTRICT TAX DUE Multiply A8 by A9
ORANGE COUNTY		**037**				**005**	$ 00
City of Fountain Valley	(Eff 4 1 17)	**512**				**015**	00
City of Garden Grove	(Eff 4 1 19)	**696**				**015**	00
City of La Habra		**204**				**01**	00
City of La Palma	(Eff 4 1 17)	**508**				**015**	00
City of Placentia	(Eff 4 1 19)	**690**				**015**	00
City of Santa Ana	(Eff 4 1 19)	**692**				**02**	00
City of Seal Beach	(Eff 4 1 19)	**694**				**015**	00
City of Stanton		**414**				**015**	00
City of Westminster	(Eff 4 1 17)	**510**				**015**	00
PLACER COUNTY							
Town of Loomis	(Eff 4 1 17)	**513**				**0025**	00
City of Roseville	(Eff 4 1 19)	**697**				**005**	00
RIVERSIDE COUNTY		**026**				**005**	00
City of Cathedral City		**232**				**015**	00
City of Coachella		**416**				**015**	00
City of Hemet	(Eff 4 1 17)	**515**				**015**	00
City of Indio	(Eff 4 1 17)	**517**				**015**	00
City of La Quinta	(Eff 4 1 17)	**521**				**015**	00
City of Menifee	(Eff 4 1 17)	**525**				**015**	00
City of Murrieta	(Eff 4 1 19)	**701**				**015**	00
City of Norco	(Eff 4 1 19)	**699**				**015**	00
City of Palm Springs	(Exp 3 31 18)	**275**	Discontinued			**015**	00
City of Palm Springs	(Eff 4 1 18)	**621**				**02**	00
City of Riverside	(Eff 4 1 17)	**519**				**015**	00
City of Temecula	(Eff 4 1 17)	**523**				**015**	00
City of Wildomar	(Eff 4 1 19)	**703**				**015**	00
SACRAMENTO COUNTY		**023**				**005**	00
City of Galt		**206**				**01**	00
City of Isleton	(Exp 3 31 17)	**443**	Discontinued			**01**	00
City of Isleton	(Eff 4 1 17)	**527**				**015**	00
City of Rancho Cordova		**418**				**01**	00
City of Sacramento	(Exp 3 31 19)	**322**	Discontinued			**01**	00
City of Sacramento	(Eff 4 1 19)	**705**				**015**	00
SAN BENITO COUNTY	(Eff 4 1-19)	**706**				**01**	00
City of Hollister	(Exp 3 31 19)	**171**	Discontinued			**01**	00
City of Hollister	(Eff 4 1 19)	**707**				**02**	00
City of San Juan Bautista	(Exp 3 31 19)	**106**	Discontinued			**0075**	00
City of San Juan Bautista	(Eff 4 1 19)	**708**				**0175**	00

SUBTOTAL A11g *(Add amounts in column A10 on this page Enter the total here* ***and*** *on line A11g on page 1 of Schedule A2)*	$ 00

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CDTFA 531 A2 (S4B) REV 35 (1 20)

SCHEDULE A2 – COMPUTATION SCHEDULE FOR DISTRICT TAX — Long Form

ACCOUNT NUMBER				REPORTING PERIOD		
DISTRICT TAX AREAS		A5 ALLOCATE LINE A4 TO CORRECT DISTRICT(S)	A6/A7 ADD (+) / DEDUCT (−) ADJUSTMENTS	A8 TAXABLE AMOUNT A5 plus/minus A6/A7	A9 TAX RATE	A10 DISTRICT TAX DUE Multiply A8 by A9
SAN BERNARDINO COUNTY	**031**				**005**	$ 00
City of Barstow (Eff 4 1 19)	**710**				**015**	00
City of Montclair	**108**				**0075**	00
City of San Bernardino	**149**				**0075**	00
Town of Yucca Valley (Eff 4 1 17)	**530**				**015**	00
SAN DIEGO COUNTY	**013**				**005**	00
City of Chula Vista (Exp 9 30 18)	**532**	Discontinued			**01**	00
City of Chula Vista (Eff 10 1 18)	**644**				**015**	00
City of Del Mar (Eff 4 1 17)	**534**				**015**	00
City of El Cajon	**431**				**01**	00
City of La Mesa	**210**				**0125**	00
City of National City	**137**				**015**	00
City of Oceanside (Eff 4 1 19)	**712**				**01**	00
City of Vista	**151**				**01**	00
SAN FRANCISCO COUNTY	**052**				**0125**	00
SAN JOAQUIN COUNTY	**038**				**005**	00
City of Lathrop	**324**				**015**	00
City of Lodi (Eff 4 1 19)	**714**				**01**	00
City of Manteca	**153**				**01**	00
City of Stockton (Exp 3 31 17)	**362**	Discontinued			**015**	00
City of Stockton (Eff 4 1 17)	**538**				**0175**	00
City of Tracy (Eff 4 1 17)	**536**				**01**	00
SAN LUIS OBISPO COUNTY						
City of Arroyo Grande	**154**				**005**	00
City of Atascadero	**419**				**005**	00
City of Grover Beach	**155**				**005**	00
City of Morro Bay	**156**				**005**	00
City of Paso Robles	**325**				**005**	00
City of Pismo Beach	**185**				**005**	00
City of San Luis Obispo	**157**				**005**	00
SAN MATEO COUNTY (Exp 6 30 19)	**327**	Discontinued			**015**	00
SAN MATEO COUNTY (Eff 7 1 19)	**743**				**02**	00
City of Belmont (Exp 6 30-19)	**540**	Discontinued			**02**	00
City of Belmont (Eff 7 1 19)	**745**				**025**	00
City of Burlingame (Exp 6 30-19)	**623**	Discontinued			**0175**	00
City of Burlingame (Eff 7 1 19)	**746**				**0225**	00
City of East Palo Alto (Exp 6 30 19)	**542**	Discontinued			**02**	00
City of East Palo Alto (Eff 7 1 19)	**747**				**025**	00

SUBTOTAL A11h *(Add amounts in column A10 on this page Enter the total here* ***and*** *on line A11h on page 1 of Schedule A2)*	$ 00

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CDTFA 531 A2 (S5F) REV 35 (1 20)

SCHEDULE A2 – COMPUTATION SCHEDULE FOR DISTRICT TAX — Long Form

ACCOUNT NUMBER				REPORTING PERIOD		
DISTRICT TAX AREAS		A5 ALLOCATE LINE A4 TO CORRECT DISTRICT(S)	A6/A7 ADD (+) / DEDUCT (−) ADJUSTMENTS	A8 TAXABLE AMOUNT A5 plus/minus A6/A7	A9 TAX RATE	A10 DISTRICT TAX DUE Multiply A8 by A9
City of Redwood City	(Exp 6 30 19) **716**	Discontinued			02	$ 00
City of Redwood City	(Eff 7 1 19) **748**				025	00
City of San Mateo	(Exp 6 30 19) **328**	Discontinued			0175	00
City of San Mateo	(Eff 7 1 19) **749**				0225	00
City of So San Francisco	(Exp 6 30 19) **438**	Discontinued			02	00
City of So San Francisco	(Eff 7 1 19) **750**				025	00
SANTA BARBARA COUNTY	**030**				005	00
City of Carpinteria	(Eff 4 1 19) **720**				0175	00
City of Guadalupe	**421**				0075	00
City of Santa Barbara	(Eff 4 1-18) **625**				015	00
City of Santa Maria	(Exp 3 31 19) **295**	Discontinued			0075	00
City of Santa Maria	(Eff 4 1 19) **718**				015	00
SANTA CLARA COUNTY	(Exp 3 31 17) **332**	Discontinued			0125	00
SANTA CLARA COUNTY	(Eff 4 1 17) **544**				0175	00
City of Campbell	(Exp 3 31 17) **333**	Discontinued			015	00
City of Campbell	(Eff 4 1 17) **545**				02	00
City of Los Gatos	(Eff 4 1 19) **722**				01875	00
City of San Jose	(Exp 3 31 17) **445**	Discontinued			015	00
City of San Jose	(Eff 4 1-17) **546**				02	00
SANTA CRUZ COUNTY	(Exp 3-31 17) **062**	Discontinued			0075	00
SANTA CRUZ COUNTY	(Exp 3 31-19) **548**	Discontinued			0125	00
Santa Cruz County Unincorporated Area	(Eff 4 1 19) **724**				0175	00
City of Capitola	(Exp 3 31 17) **335**	Discontinued			0125	00
City of Capitola	(Eff 4 1 17) **549**				0175	00
City of Santa Cruz	(Exp 3 31 17) **159**	Discontinued			0125	00
City of Santa Cruz	(Exp 9 30 18) **550**	Discontinued			0175	00
City of Santa Cruz	(Eff 10 1 18) **646**				02	00
City of Scotts Valley	(Exp 3 31 17) **364**	Discontinued			0125	00
City of Scotts Valley	(Eff 4 1 17) **552**				0175	00
City of Watsonville	(Exp 3 31 17) **372**	Discontinued			015	00
City of Watsonville	(Eff 4-1-17) **551**				02	00
SHASTA COUNTY						
City of Anderson	**373**				005	00
SISKIYOU COUNTY						
City of Dunsmuir	**439**				005	00
City of Mt Shasta	**266**				0025	00
City of Weed	**432**				0025	00
City of Yreka	(Eff 4 1 17) **553**				005	00

SUBTOTAL A11i *(Add amounts in column A10 on this page Enter the total here* **and** *on line A11i on page 1 of Schedule A2)*	$ 00

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CDTFA 531 A2 (S5B) REV 35 (1 20)

SCHEDULE A2 – COMPUTATION SCHEDULE FOR DISTRICT TAX — Long Form

ACCOUNT NUMBER					REPORTING PERIOD		
DISTRICT TAX AREAS			A5 ALLOCATE LINE A4 TO CORRECT DISTRICT(S)	A6/A7 ADD (+) / DEDUCT ( ) ADJUSTMENTS	A8 TAXABLE AMOUNT A5 plus/minus A6/A7	A9 TAX RATE	A10 DISTRICT TAX DUE Multiply A8 by A9
SOLANO COUNTY		**066**				00125	$ 00
City of Benicia		**423**				01125	00
City of Fairfield		**337**				01125	00
City of Rio Vista		**339**				00875	00
City of Suisun City	(Eff 4 1-17)	**555**				01125	00
City of Vacaville	(Exp 3 31 18)	**341**	Discontinued			00375	00
City of Vacaville	(Eff 4 1 18)	**557**				00875	00
City of Vallejo		**277**				01125	00
SONOMA COUNTY	(Exp 3 31 17)	**259**	Discontinued			0075	00
SONOMA COUNTY	(Exp 3 31-19)	**559**	Discontinued			00875	00
SONOMA COUNTY	(Eff 4 1 19)	**744**				01	00
City of Cotati	(Exp 3 31 17)	**375**	Discontinued			0175	00
City of Cotati	(Exp 3 31 19)	**565**	Discontinued			01875	00
City of Cotati	(Eff 4 1 19)	**726**				02	00
City of Healdsburg	(Exp 3 31 17)	**343**	Discontinued			0125	00
City of Healdsburg	(Exp 3 31 19)	**564**	Discontinued			01375	00
City of Healdsburg	(Eff 4 1 19)	**727**				015	00
City of Rohnert Park	(Exp 3 31 17)	**262**	Discontinued			0125	00
City of Rohnert Park	(Exp 3 31 19)	**562**	Discontinued			01375	00
City of Rohnert Park	(Eff 4 1 19)	**728**				015	00
City of Santa Rosa	(Exp 3 31-17)	**264**	Discontinued			0125	00
City of Santa Rosa	(Exp 3 31 19)	**561**	Discontinued			01375	00
City of Santa Rosa	(Eff 4 1 19)	**732**				0175	00
City of Sebastopol	(Exp 3 31-17)	**345**	Discontinued			015	00
City of Sebastopol	(Exp 3 31 19)	**560**	Discontinued			01625	00
City of Sebastopol	(Eff 4 1 19)	**729**				0175	00
City of Sonoma	(Exp 3 31 17)	**297**	Discontinued			0125	00
City of Sonoma	(Exp 3 31-19)	**563**	Discontinued			01375	00
City of Sonoma	(Eff 4 1 19)	**730**				015	00
STANISLAUS COUNTY	(Exp 3 31 17)	**059**	Discontinued			00125	00
STANISLAUS COUNTY	(Eff 4 1-17)	**567**				00625	00
City of Ceres	(Exp 3 31 17)	**173**	Discontinued			00625	00
City of Ceres	(Eff 4 1 17)	**568**				01125	00
City of Oakdale	(Exp 3 31 17)	**279**	Discontinued			00625	00
City of Oakdale	(Eff 4 1 17)	**569**				01125	00
TEHAMA COUNTY							
City of Corning		**446**				005	00
City of Red Bluff		**424**				0025	00

SUBTOTAL A11j *(Add amounts in column A10 on this page Enter the total here* ***and*** *on line A11j on page 1 of Schedule A2)*	$ 00

Continued on page 11

CDTFA 531 A2 (S6F) REV 35 (1 20)

SCHEDULE A2 – COMPUTATION SCHEDULE FOR DISTRICT TAX — Long Form

ACCOUNT NUMBER				REPORTING PERIOD		
DISTRICT TAX AREAS	A5 ALLOCATE LINE A4 TO CORRECT DISTRICT(S)	A6/A7 ADD (+) / DEDUCT ( ) ADJUSTMENTS	A8 TAXABLE AMOUNT A5 plus/minus A6/A7	A9 TAX RATE	A10 DISTRICT TAX DUE Multiply A8 by A9	
TULARE COUNTY **162**				005	$	00
City of Dinuba **165**				0125		00
City of Farmersville (Exp 3 31 18) **164**	Discontinued			01		00
City of Farmersville (Eff 4 1 18) **629**				015		00
City of Lindsay (Eff 10 1 17) **607**				015		00
City of Porterville (Exp 3 31-19) **166**	Discontinued			01		00
City of Porterville (Eff 4 1 19) **734**				02		00
City of Tulare **167**				01		00
City of Visalia (Exp 3 31 17) **163**	Discontinued			0075		00
City of Visalia (Eff 4 1 17) **571**				0125		00
City of Woodlake (Eff 4 1 18) **627**				015		00
TUOLUMNE COUNTY						
City of Sonora **093**				005		00
VENTURA COUNTY						
City of Oxnard **213**				005		00
City of Port Hueneme (Exp 3 31 19) **214**	Discontinued			005		00
City of Port Hueneme (Eff 4 1 19) **736**				015		00
City of Santa Paula (Eff 4 1 17) **572**				01		00
City of Ventura (Eff 4 1 17) **573**				005		00
YOLO COUNTY						
City of Davis **376**				01		00
City of West Sacramento (Exp 3 31 17) **081**	Discontinued			005		00
City of West Sacramento (Exp 3 31 19) **575**	Discontinued			0075		00
City of West Sacramento (Eff 4-1 19) **738**				01		00
City of Woodland **236**				0075		00
YUBA COUNTY						
Yuba County Unincorporated Area (Eff 4 1 19) **739**				01		00
City of Marysville **447**				01		00
City of Wheatland **265**				005		00

SUBTOTAL A11k *(Add amounts in column A10 on this page Enter the total here* **and** *on line A11k on page 1 of Schedule A2)*	$ 00

Continued on page 12

CDTFA 531 A2 (S6B) REV 35 (1 20)

INSTRUCTIONS FOR COMPLETING CDTFA-531-A2, SCHEDULE A2 — Long Form COMPUTATION SCHEDULE FOR DISTRICT TAX

Step 1 Enter taxable sales from return

A1 Enter the Taxable Transactions or Total Purchases from line 12 on CDTFA-401-A or line 12 on CDTFA 401 GS or line 1 on CDTFA-401-E in box A1

Step 2 Enter all transactions subject to only the state rate of 7 25% (with no additional collection of district tax) on A2/A3

A2/A3 Enter purchases of items purchased for use in a location where no district tax is in effect Also enter sales of items (excluding vehicles vessels or aircraft) delivered and used (1) at a location where no district tax is in effect or (2) in a district where you are not engaged in business and did not collect the district tax (See publication 105 *District Taxes and Delivered Sales* available on the California Department of Tax and Fee Administration (CDTFA) website at *www cdtfa ca gov* for a definition of engaged in business)

Step 3 Calculate transactions subject to district tax

A4 Subtract A2/A3 from A1 Enter the result on A4

If your line A4 is $0 00 and you have no adjustments for prior periods you are finished with your Schedule A2 Enter $0 00 on line 16 of CDTFA-401-A or CDTFA 401 GS or line 5 of CDTFA-401-E You may want to call our Customer Service Center at 1 800-400-7115 (CRS 711) to see if you qualify for filing the EZ return (CDTFA-401-EZ) Customer service representatives are available Monday through Friday from 8 00 a m to 5 00 p m (Pacific time) except state holidays

Step 4 Report transactions by district

A5 Using the total from line A4 allocate your transaction totals to the correct districts

DO NOT report the same transactions in both a city and county district The tax rate for city districts includes **all** county district tax Report them for the city only Please see the *Reporting transactions by location* example on the next page

Step 5 Enter district adjustments

Please note that district tax adjustments made on this schedule are only for ones realized in the period covered by this return and schedule All prior period adjustments must be made on CDTFA 531 Q *Schedule Q - Tax Recovery*

A6/A7 If you have adjustments for one or more districts, enter amounts in this column Entries in this column will increase or decrease the amount of tax distributed to districts for which you have adjustments

Enter the following adjustments by district (You do not need an entry in column A5 to enter an adjustment in column A6/A7)

Note Please attach an explanation of any adjustments to your Schedule A2

The following examples are positive (+) adjustments

- *Items you purchased without paying district tax* If you paid state and local sales tax on a purchase but not district tax and if you made a taxable use of the item in a tax district add the price of the item for that district
- *Amounts collected for a discontinued district* If you collected taxes for a district that has been discontinued and have not paid those taxes to the CDTFA add the amounts on which you collected those taxes Do not enter those amounts on line A5 If a discontinued district is not listed call 1-800 400-7115 (CRS 711) for assistance

The following examples are negative (-) adjustments

- Transactions included in line A5 that represent the sale or use of merchandise before the effective date of a district
- *Fixed-price contracts* Deduct the sales price or lease payments (excluding amounts collected as tax) for qualifying fixed price contracts A fixed-price contract is one entered into before the effective date of the district tax which (1) fixes the amount of the sales or lease price (2) specifically states the amount or rate of tax based on the rate in effect when the contract was executed and (3) does not give either party the right to terminate the contract upon notice (See Regulation 1661 for information on leases of mobile transportation equipment)
- *Merchandise used outside the district* If you paid district tax on a purchase and first used the item in a different district you may need to enter adjustments on A6/A7 Call 1 800 400-7115 (CRS 711) for assistance

A8 Add or subtract each district amount shown in A6/A7 from each district amount on A5 Enter the total for each district amount in column A8

A9 If you enter adjustments in A6/A7 for a transaction taxed at a rate different from the rate shown on A9 call 1-800 400 7115 (CRS 711) for assistance

A10 Multiply A8 by A9 Enter the result in column A10 Based on adjustments in A6/A7 A10 may result in a negative number

Continued on page 13

CDTFA 531 A2 (S7) REV 35 (1 20)

Step 6 Enter your total district tax due

A11a Page 1 enter the subtotal of column A10 on line A11a

A11b Page 2, enter the subtotal of column A10 on line A11b and on A11b on page 1

A11c Page 3 enter the subtotal of column A10 on line A11c and on A11c on page 1

A11d Page 4 enter the subtotal of column A10 on line A11d and on A11d on page 1

A11e Page 5 enter the subtotal of column A10 on line A11e and on A11e on page 1

A11f Page 6 enter the subtotal of column A10 on line A11f and on A11f on page 1

A11g Page 7 enter the subtotal of column A10 on line A11g and on A11g on page 1

A11h Page 8 enter the subtotal of column A10 on line A11h and on A11h on page 1

A11i Page 9, enter the subtotal of column A10 on line A11i and on A11i on page 1

A11j Page 10 enter the subtotal of column A10 on line A11j and on A11j on page 1

A11k Page 11 enter the subtotal of column A10 on line A11k and on A11k on page 1

A11 Add lines A11a A11b A11c A11d A11e A11f A11g A11h A11i A11j and A11k Enter this amount on line A11 and on line 16 of CDTFA 401 A or CDTFA-401 GS or on line 5 on CDTFA 401-E

Reporting transactions by location example

Example Your sales less deductions is $24 000 which represents

- Transactions of $6 000 subject to district tax in Sacramento County but not in the City of Galt the City of Isleton the City of Rancho Cordova or in the City of Sacramento
- Transactions of $2 000 plus a positive (+) adjustment of $500 subject to district tax in the City of Galt The tax rate for the City of Galt includes district tax for Sacramento County
- Transactions of $1 000 subject to district tax in the City of Isleton The tax rate for the City of Isleton includes district tax for Sacramento County
- Transactions of $2 000 subject to district tax in the City of Rancho Cordova The tax rate for the City of Rancho Cordova includes district tax for Sacramento County
- Transactions of $3 000 plus a negative ( ) adjustment of $1 000 subject to district tax in the City of Sacramento The tax rate for the City of Sacramento includes district tax for Sacramento County
- Transactions of $2 000 subject to district tax in San Benito County but not in the City of Hollister or in the City of San Juan Bautista
- Transactions of $4 000 subject to district tax in the City of Hollister The tax rate for the City of Hollister includes district tax for San Benito County
- Transactions of $4 000 subject to district tax in the City of San Juan Bautista The tax rate for the City of San Juan Bautista includes district tax for San Benito County

DISTRICT TAX AREAS			A5 ALLOCATE TO CORRECT DISTRICT(S)	A6/A7 ADD (+) / DEDUCT ( ) ADJUSTMENTS	A8 TAXABLE AMOUNT	A9 TAX RATE	A10 DISTRICT TAX DUE Multiply A8 by A9
SACRAMENTO COUNTY		**023**	6 000		6 000	**005**	30 00
City of Galt		**206**	2 000	500	2 500	**01**	25 00
City of Isleton	(Eff 4 1 17)	**527**	1 000		1 000	**015**	15 00
City of Rancho Cordova		**418**	2 000		2 000	**01**	20 00
City of Sacramento	(Eff 4 1 19)	**705**	3 000	1 000	2 000	**015**	30 00
SAN BENITO COUNTY	(Eff 4 1 19)	**706**	2 000		2 000	**01**	20 00
City of Hollister	(Eff 4 1 19)	**707**	4 000		4 000	**02**	80 00
City of San Juan Bautista	(Eff 4 1 19)	**708**	4 000		4 000	**0175**	70 00

Fixed-price contract example

To correctly report district tax on your return for fixed price contracts, you must allocate the total amount of the fixed price contract along with any other sales for this district in column A5 (a) at the Current District Tax Rate and then make a negative adjustment for the fixed-price contract amount in the same row column A6/A7 (b) A positive adjustment will be required to properly allocate the fixed price contract amount in column A6/A7 (c) of the district tax that was in effect at the time the contract was entered into

In the example below the taxpayer has $10,000 in taxable sales to report to the City of Commerce Of this total $4 000 is from a fixed price contract entered into between July 1 2017 and September 30 2017

DISTRICT TAX AREAS			A5 ALLOCATE TO CORRECT DISTRICT(S)	A6/A7 ADD (+) / DEDUCT (-) ADJUSTMENTS	A8 TAXABLE AMOUNT	A9 TAX RATE	A10 DISTRICT TAX DUE Multiply A8 by A9
LOS ANGELES COUNTY							
City of Commerce	(Exp 6 30 17)	**307**	Discontinued			**02**	
City of Commerce	(Exp 9 30 17)	**585**	Discontinued	4 000 (c)	4 000	**025**	100 00
City of Commerce	(Eff 10 1 17)	**596**	10 000 (a)	4 000 (b)	6 000	**0275**	165 00

STATE OF CALIFORNIA

CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
OUT OF STATE OFFICE
3321 POWER INN RD STE 130
SACRAMENTO CA 95826
1 916 227 6600 FAX 1 916 227 6641
www cdtfa ca gov

EDMUND G BROWN JR
Governor
MARYBEL BATJER
Secretary Government Operations Agency
NICOLAS MADUROS
Director

KEVIN G MAHONEY
33 CARSDALE CT
BELLE MEAD NJ 08502-5910

Letter Date 13-Dec-2018
Letter ID L0002062809
Case ID 815973

Dear Seller

The California Department of Tax and Fee Administration (CDTFA) has received information that you have inventory that is stored in warehouses or fulfillment centers in California As such, you meet the definition of a retailer engaged in business in California (Revenue and Taxation Code section 6203) and you are, therefore, required to register with the CDTFA, file sales and use tax returns, and pay tax on sales made to consumers in California

The CDTFA prides itself on the fair and uniform treatment of all taxpayers, and it is our intent to treat all taxpayers who voluntarily make attempts to correct past reporting errors with the utmost respect and fairness The CDTFA may, in certain circumstances, relieve penalties imposed in cases where the taxpayer comes forward, registers, and remits the past due taxes and interest

Please register by January 15, 2019 To register, visit www cdtfa ca gov and select *Register*, then select *Register a New Business Activity or Location* The start date on your account should reflect the date you began engaging in business in California You will receive a permit number when your online registration is complete After registering, please complete the *Registration Confirmation* section below and return it in the enclosed self-addressed envelope You may also complete this form online by visiting CDTFA online services and select *Respond to Letter/Inquiry* under the Limited Access Functions, and use *the Letter ID* and *Letter Date* listed above If you need assistance with registering or have any additional questions, please contact our Out-of-State Office at 1-916-227-6600 or email us at OSReg@cdtfa ca gov

California Department of Tax and Fee Administration

REGISTRATION CONFIRMATION

NAME OF PERSON RESPONDING TO THIS LETTER (please print)	TITLE	DATE
SIGNATURE	TELEPHONE NUMBER ( )	
EMAIL ADDRESS	PERMIT NUMBER	

0002062809 01

Case ID 815973

CDTFA 486 (12 18)
mL1107 1

Sales and Use Tax Division
North Carolina Department of Revenue
Post Office Box 25000
Raleigh, North Carolina 27640-0001
www ncdor gov

IMPORTANT NOTICE
ADDITIONAL 0 25% LOCAL SALES AND USE TAX

Effective April 1, 2019, the following counties adopted resolutions to levy an additional 0 25% local sales and use tax

Graham County	**Stanly County**
Moore County	**Swain County**

Effective April 1, 2019, the local rate of sales and use tax in Graham, Moore, Stanly, and Swain Counties is 2 25% Per N C Gen Stat § 105-164(a), the general 4 75% State and 2 25% local rates of sales and use tax (total rate of 7 00%) apply to taxable sales, purchases, and the gross receipts derived from the following when sold at retail and sourced to one of the above counties

- Tangible personal property not specifically subject to another rate of sales tax,
- Sales and leases of certain digital property including an audio work, an audiovisual work, a book, a magazine, a newspaper, a newsletter, a report, or another publication, a photograph, and a greeting card,
- Lease or rental of tangible personal property that is not specifically subject to another rate of sales tax,
- Service contract or renewal of a service contract,
- Prepaid meal plan,
- Admission charges to an entertainment activity,
- Rental of accommodations,
- Receipts from the sale or recharge of prepaid telephone calling service, including prepaid wireless calling service,
- Satellite digital audio radio service,
- Repair, maintenance, and installation services,
- Receipts from laundries, dry cleaning, linen rental or similar businesses but does not include receipts derived from coin, token, or card-operated washing machines extractors and dryers, and
- Alcoholic beverages, tobacco products, prepared food, candy, dietary supplements, soft drinks, and food sold through a vending machine

Retailers and facilitators should collect and are liable for the additional 0 25% local sales and use tax on the sales price of or the gross receipts derived from retail sales, leases, and other transactions sourced to Graham, Moore, Stanly, and Swain Counties, including items sold by a retailer to a customer in another county where the retailer delivers the product to the customer in Graham, Moore, Stanly, or Swain Counties The provisions of the Local Government Sales and Use Tax Law, with respect to a retailer or facilitator required to collect sales and use tax in a taxing county, and the liability for local sales and use tax, are applicable to the new levy

Per N C Gen Stat § 105-164(a), the 0 25% local rate of sales and use tax **does not apply** to the sales price or purchase price of, or the gross receipts derived from the following

- Boats including accessories attached to the boat at the time of delivery to the purchaser (Subject to the 3% State rate with a maximum tax of $1,500 per article)
- Aircraft (Subject only to the general 4 75% State rate with a maximum tax of $2,500 per article)
- Qualified jet engines (Subject only to the general 4 75% State rate)
- Manufactured homes (Subject only to the general 4 75% State rate)
- Modular homes (Subject only to the general 4 75% State rate)
- Video programming (Subject to the 7% Combined General Rate)
- Antique spirituous liquor and spirituous liquor other than mixed beverages (Subject to the 7% Combined General Rate)
- Electricity (Subject to the 7% Combined General Rate)
- Piped natural gas (Subject to the 7% Combined General Rate)
- Aviation gasoline and jet fuel (Subject to the 7% Combined General Rate)
- Telecommunications service and ancillary service (Subject to the 7% Combined General Rate)
- Qualifying food items subject to the 2 00% rate of tax

General State, Applicable Local, and Applicable Transit Rates as of April 1, 2019
Effective April 1, 2019, the total general State, applicable local, and applicable transit rates of sales and use tax is 6 75% in fifty-six counties, 7 00% in Alexander, Anson, Ashe, Buncombe, Cabarrus, Catawba, Cherokee, Clay, Cumberland, Davidson, Duplin, Edgecombe, Gaston, Graham, Greene, Halifax, Harnett, Haywood, Hertford, Jackson, Jones, Lee, Lincoln, Martin, Montgomery, Moore, New Hanover, Onslow, Pasquotank, Pitt, Randolph, Robeson, Rockingham, Rowan, Rutherford, Sampson, Stanly, Surry, Swain, and Wilkes Counties, 7 25% in Mecklenburg and Wake Counties, and 7 50% in Durham and Orange Counties

County Tax Reporting Requirements
A retailer or facilitator required to collect local and transit sales and use tax in more than one county must complete Form E-536, Schedule of County Sales and Use Taxes, and submit it along with Form E-500, Sales and Use Tax Return or enter the applicable local and applicable transit tax information for each county at the time of filing an electronic return through the Department's Online Filing and Payments service Form E-536 or the electronic information should reflect the amount of local and transit tax collected for each county by a retailer or facilitator Form E-536 and the Department's electronic services will be revised to accommodate the applicable 2 25% local tax rates for Graham, Moore, Stanly, and Swain Counties for returns due to be filed for periods beginning April 1, 2019 Purchases of taxable products by a person for storage, use, consumption, or distribution in Graham, Moore, Stanly, and Swain Counties on or after April 1, 2019 are subject to the 2 25% local rate of sales and use tax

Additional Information
For general guidance on the administration and application of the sales and use tax rate increase for Graham, Moore, Stanly, and Swain Counties relating to leases or rentals, real property contracts (lump-sum and unit-price) including change orders, layaway sales, gross receipts derived from the rental of accommodations, taxable service contracts, taxable gross receipts derived from admission charges to an entertainment activity and reporting of tax on the cash basis of accounting for sales and use tax purposes, please review the following publication on the Department's website https //www ncdor gov/documents/general-guidance-local-sales-and-use-tax-rate-increase

Assistance
The revised Form E-536, Schedule of County Sales and Use Taxes, will be available after May 1, 2019, and can be obtained on the Department's website or by calling the Department's Forms Line at 1-877-252-3052 (toll-free) after May 1, 2019

Arizona Department of Revenue
1600 West Monroe Street
Phoenix, AZ 85007-2650

STATE OF ARIZONA
Department of Revenue

September 05, 2019

FINDTAPE COM LLC
1378 ROUTE 206
UNIT 6 BOX 149
SKILLMAN New Jersey 8558

ATTN FINDTAPE COM LLC

Re Out-of-State Sellers Tax Laws

Reference # 642970

Greetings,

The purpose of this letter is to inform taxpayers of upcoming changes to Arizona's tax laws for out-of-state retailers, manufacturers, and wholesalers, which require remote sellers and marketplace facilitators to start filing and paying Arizona transaction privilege tax (TPT), commonly referred to as sales tax, beginning October 1, 2019

The Arizona Department of Revenue (ADOR) has become aware that your current business activities may be subject to Arizona TPT If you are a remote seller or marketplace facilitator, and meet the minimum established thresholds, you will need to obtain a TPT license and file your October monthly return by November 20, 2019

A remote seller makes direct sales to Arizona customers and ships products into Arizona but does not itself have a physical presence in the state Physical presence includes having a storefront, people or equipment in Arizona Remote sellers will be required to pay TPT if their gross proceeds or gross income (prior to deductions) derived from sales into Arizona is more than $200,000 in 2019, $150,000 in 2020, and $100,000 in 2021 and beyond

A marketplace facilitator is any business facilitating the sale of goods by listing or advertising items on behalf of others, itself or accepting payment on behalf of the seller and remitting payment to the seller Marketplace facilitators will be required to collect and remit TPT if in the current or previous calendar year their gross proceeds of sales or gross income (prior to deductions) exceeds $100,000 into Arizona

Remote sellers and marketplace facilitators will be able to start registering with ADOR on September 9, 2019 Please visit www AZTaxes gov to register and apply for a license The website includes user tutorials to assist you

If you have already registered, please contact a Licensing Specialist at **833-AZESALE (833-293-7253), option 1** so we can update our records

To learn more, please visit the Out-of-State Sellers resource page at azdor gov/out-of-state-sellers, which includes information on the legislation, definitions, filing requirements and frequently asked questions You may also scan the QR code on the front of this letter with your mobile device to access the website

We look forward to the opportunity of serving you

Best Regards,
E-Commerce Compliance Office
Discovery Team
1-833-AZESALE (293-7253)
AZESALE@azdor gov

Sales Tax

Are sellers responsible for collecting sales tax?

Newegg is the seller of record on any sellers' products* sold on Newegg websites Newegg will calculate display and charge customer sales tax for sellers product orders shipped to certain states Newegg will remit sales taxes to the tax authority of those jurisdictions respectively See the complete list of states for more details

What about ISO sellers?

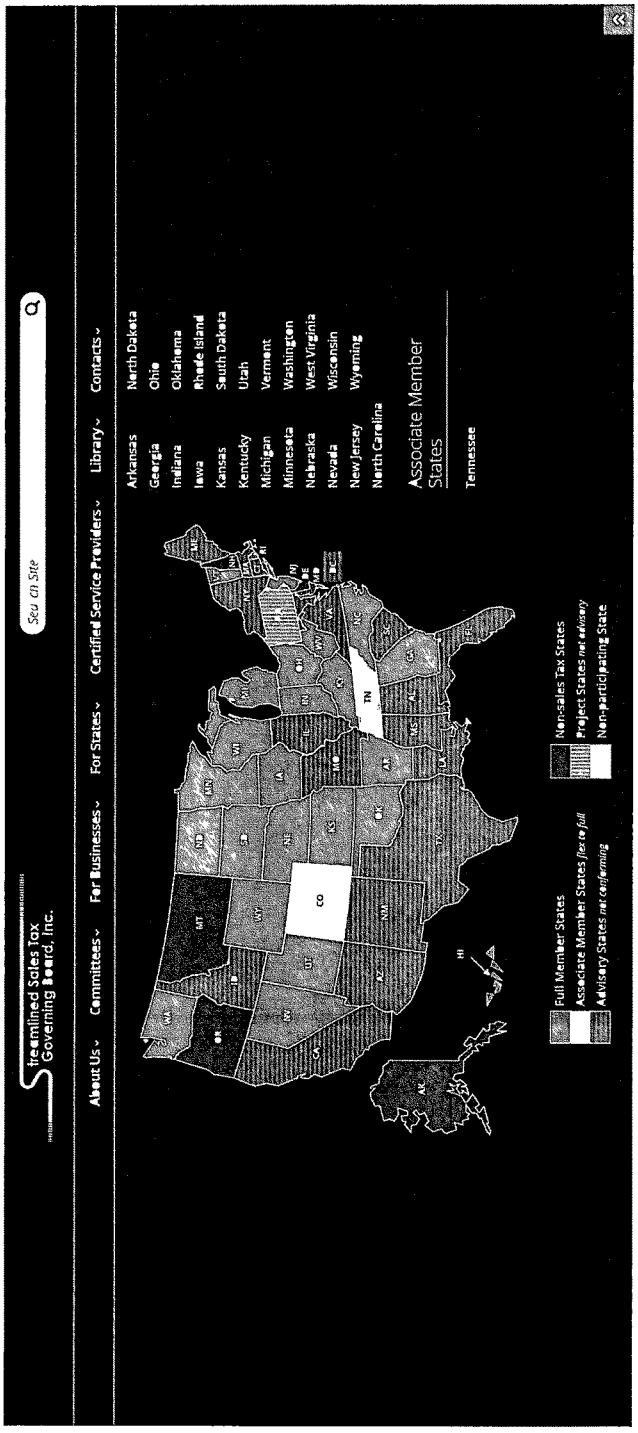
*ISO Sellers – ISO sellers will be collecting sales taxes and remitting to tax authorities according to their own state Nexus

Due to the changes in state sales tax law marketplace providers like Newegg are now required to collect sales tax in a number of states on behalf of third party sellers As such Newegg will not be able to offer the same flexibility for sales tax collections in the following jurisdictions due to these states Marketplace Facilitator' sales tax collection rules

Beginning 7/15/2019 Newegg will charge its sales tax collection process for ISO sellers in response to new rules enacted by various states See the complete list of states for more details

Seller Account Settings

- My seller accoun status is INACTIVE how do I activate t?
- My account has been deactivated can I have it reactivated?
- My company will be closed for a period o me is there a vacation setting?


Streamlined Sales Tax Governing Board, Inc.
Search Site
About Us
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For States
Certified Service Providers
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Contacts
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Indiana
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Kansas
Kentucky
Michigan
Minnesota
Nebraska
Nevada
New Jersey
North Carolina
North Dakota
Ohio
Oklahoma
Rhode Island
South Dakota
Utah
Vermont
Washington
West Virginia
Wisconsin
Wyoming
Associate Member States
Tennessee
Full Member States
Associate Member States (key to full)
Advisory States (not conforming)
Non-sales Tax States
Project States (not advisory)
Non-participating State

Current Plan

Plan	Price	Transactions	Frequency
Basic 50K (Annual)	$2,148/year	50,000	Yearly

Change Plan

Please cancel my paid subscription

AutoFile Enrollments

State	Frequency	Price
South Dakota	Quarterly	$20 00
Nebraska	Annual	$20 00
Wyoming	Annual	$20 00
California	Quarterly Prepay	$20 00
North Carolina	Quarterly	$20 00
Iowa	Quarterly Prepay	$20 00
Colorado	Monthly	$20 00
Wisconsin	Monthly	$20 00
Pennsylvania	Monthly	$20 00
Nevada	Monthly	$20 00
Georgia	Monthly	$20 00
Illinois	Monthly	$20 00
New Jersey	Quarterly	$20 00
Tennessee	Monthly	$20 00

State	Frequency	Price
Michigan	Monthly	$20 00
Washington	Quarterly	$20 00
Utah	Quarterly	$20 00
Kansas	Monthly	$20 00
Arkansas	Monthly	$20 00
New York	Quarterly	$20 00
Vermont	Monthly	$20 00
Rhode Island	Quarterly	$20 00
North Dakota	Quarterly	$20 00
Ohio	Monthly	$20 00
Kentucky	Quarterly	$20 00
Minnesota	Quarterly	$20 00
West Virginia	Monthly	$20 00
Indiana	Monthly	$20 00
Maryland	Monthly	$20 00

Transaction History

Month	Transactions
Feb 2020 (current)	9657
Jan 2020	15282
Dec 2019	15307
Nov 2019	16301
Oct 2019	19555
Sep 2019	24057

Month	Transactions
Aug 2019	25525
Jul 2019	24752
Jun 2019	24113
May 2019	27614
Apr 2019	26663 (overage)
Mar 2019	28860 (overage)
Feb 2019	24042 (overage)
Jan 2019	21005 (overage)
Dec 2018	14812 (overage)
Nov 2018	17291 (overage)
Oct 2018	11468 (overage)
Sep 2018	7562 (overage)
Aug 2018	7106 (overage)
Jul 2018	5695 (overage)

Subscription Payment History

Date	Amount	Description	Receipt
Jan 4, 2020	$320 00	AutoFile fee for Arkansas in November 2019 AutoFile fee for California in Nov 2019 Payment AutoFile fee for Colorado in November 2019 and 14 more items	View

Date	Amount	Description	Receipt
Dec 4, 2019	$320 00	AutoFile fee for Arkansas in October 2019 AutoFile fee for California in Oct 2019 Payment AutoFile fee for Colorado in October 2019 and 13 more items	View
Nov 4, 2019	$480 00	AutoFile fee for Arkansas in September 2019 AutoFile fee for California in Q3 2019 Filing AutoFile fee for Colorado in September 2019 and 21 more items	View
Oct 4, 2019	$320 00	AutoFile fee for Arkansas in August 2019 AutoFile fee for California in Aug 2019 Payment AutoFile fee for Colorado in August 2019 and 14 more items	View
Sep 4, 2019	$320 00	AutoFile fee for Arkansas in July 2019 AutoFile fee for California in Jul 2019 Payment AutoFile fee for Colorado in July 2019 and 13 more items	View
Aug 4, 2019	$400 00	AutoFile fee for Arkansas in June 2019 AutoFile fee for California in Q2 2019 Filing AutoFile fee for Colorado in June 2019 and 17 more items	View
Jul 9, 2019	$2,228 00	Subscription to Basic 50K (Annual) ($2148 00/year) AutoFile fee for Georgia in June 2019 AutoFile fee for Iowa in Q2 2019 Filing and 2 more items	View
Jul 4, 2019	$320 00	AutoFile fee for Arkansas in May 2019 AutoFile fee for California in May 2019 Payment AutoFile fee for Colorado in May 2019 and 13 more items	View
Jun 4, 2019	$280 00	AutoFile fee for Arkansas in April 2019 AutoFile fee for California in Apr 2019 Payment AutoFile fee for Colorado in April 2019 and 11 more items	View
May 4, 2019	$195 05	Remaining time on Basic 50K (Annual) after 04 Ma Unused time on Premier (Annual) after 04 May 2019	View

Date	Amount	Description	Receipt
May 4, 2019	$440 00	April 2019 Overage Fee AutoFile fee for Arkansas in March 2019 AutoFile fee for California in Q1 2019 Filing and 15 more items	View
Apr 4, 2019	$400 00	AutoFile fee for Arkansas in February 2019 AutoFile fee for California in Feb 2019 Payment AutoFile fee for Colorado in February 2019 and 13 more items	View
Mar 4, 2019	$240 00	AutoFile fee for California in Jan 2019 Payment AutoFile fee for Colorado in January 2019 AutoFile fee for Indiana in January 2019 and 5 more items	View
Feb 4, 2019	$200 00	AutoFile fee for California in Q4 2018 Filing AutoFile fee for Nevada in December 2018 AutoFile fee for New Jersey in Q4 2018 and 3 more items	View
Jan 4, 2019	$180 00	AutoFile fee for California in Nov 2018 Payment AutoFile fee for Nevada in November 2018 AutoFile fee for Pennsylvania in November 2018 and 2 more items	View
Dec 4, 2018	$160 00	AutoFile fee for California in Oct 2018 Payment AutoFile fee for Nevada in October 2018 AutoFile fee for Tennessee in October 2018 and 1 more items	View
Nov 4, 2018	$100 00	October 2018 Overage Fee	View
Oct 28, 2018	$601 56	AutoFile fee for Nevada in September 2018 Remaining time on Premier (Annual) after 28 Oct 2 Unused time on Basic (Annual) after 28 Oct 2018	View
Oct 4, 2018	$80 00	September 2018 Overage Fee	View
Sep 4, 2018	$80 00	August 2018 Overage Fee	View
Aug 4, 2018	$80 00	July 2018 Overage Fee	View
Jul 9, 2018	$204 00	Subscription to Basic (Annual) ($204 00/year)	View

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South Dakota v Wayfair, Inc

Online Sales Taxes and their Impact on Main Street

March 3, 2020

Testimony before the

Subcommittee on Economic Growth, Tax, and Capital Access,

Committee on Small Business,

United States House of Representatives

Brad Scott

Finance Director

Halstead Bead Inc

Chairman Kim, Ranking Member Hern, and Members of the Committee

Thank you for inviting me to testify My name is Brad Scott and I am the Finance Director at my wife's family-owned small business, Halstead Bead, Inc My wife, Hilary Halstead Scott, is the President of the company We are in the trenches on this issue We have been up close and personal with the implementation of remote seller laws for over a year and a half now In short, it has brought us to our knees and that is why I am here today We need your help We intimately know the impact on operations and human resources The devil is in the details And these details need federal intervention to be resolved

There are a lot of misconceptions about the impact of *Wayfair* It does not just affect online retailers Since many state remote seller laws define thresholds by gross sales activity, regardless of sales channel, all interstate commerce business models are swept into compliance requirements Our firm, for example, operates out of a warehouse in an industrial park Most of our business is B2B We are not on main street nor would we identify ourselves as an online retailer We are subject to *Wayfair* laws simply because we transact business across state lines That means economic drivers ranging from the agricultural industry in Kansas to pharmaceutical manufacturing in New Jersey are impacted as well

In February, the Arizona Legislature passed concurrent memorials through both the House and Senate with unanimous approval These Memorials are entitled, "Urging the United States Congress to Enact Uniform National Legislation for Remote Sellers to Collect and Remit Sales Taxes "[1] We are grateful to the Arizona Legislature for recognizing the challenges facing constituent small businesses and for making this formal request for federal intervention

Background on Halstead Bead, Inc

We are a second generation, privately-owned, small business The company was started in the early 1970's by my wife's parents who made jewelry as a hobby Their side hustle evolved away from finished jewelry into a wholesale mail order catalog business for beads and jewelry components Over decades, it steadily grew from two people to the team of 27 employees we have today

The company adapted to globalization and the internet age We still publish an annual catalog, but 94% of our sales are now from the website We don't sell a lot of beads anymore We now distribute raw materials and supplies to silver jewelers around the world Our clients include the smallest micro-businesses that sell art jewelry on sites like Etsy or at craft shows as well as traditional brick and mortar jewelry retailers

We have spent decades developing an independent website and IT infrastructure to maintain full control over our business model We do not sell on any marketplace facilitator websites Prior to the *Wayfair* decision we had no sales tax software in place

Remote seller sales tax compliance is complex It includes a patchwork of laws, guidelines, and forms It requires elaborate, expensive software solutions It demands constant vigilance and continuing education for small business leaders It exposes owners to unprecedented liability to continue operating There are many areas to discuss and analyze

[1] AZ Concurrent Memorials HCM2006 sponsored by Representative Steve Pierce (Appendix A) and SCM1003 sponsored by Senator Vince Leach (Appendix B) are included in the appendices to this testimony

Our case highlights one of the ironies of the new remote seller environment We sell mostly wholesale, so we face a disproportionate new burden for compliance in order to collect a very small amount of sales tax revenue for states

Through January 31, 2020, we have spent $183,500 to collect just $79,423 in sales tax across 32 states This equates to $2 31 for every $1 00 of sales tax collected [2] Averaging our total expenses across the 32 states to which we have collected and remitted, we have spent $5,734 38 per state [3] There are only two states, California and Washington, where tax remittances exceed that cost to our company We are spending more to comply in 30 states than we have collected

Each state's sales tax laws viewed in isolation seem reasonable But, when you look at the breadth and depth of the complete set of 51 laws,[4] it is completely overwhelming While five states do not yet have sales tax, several of them are considering it at either the state or local level So, we must continue to monitor even those jurisdictions We are now required to tackle sales tax compliance at an enormous scope Our small business does not have that skill set in-house I doubt many do

Summary of Our Experience with Remote Seller Compliance

In June 2018, the Supreme Court handed down the *South Dakota v Wayfair* decision Wayfair Inc [5] is a $6 8 billion dollar corporation that is more than 1,100 times larger than our small business Despite that difference in scale, the same compliance expectations apply to a company our size with only a tiny fraction of their resources



Figure 1 Relative size of Wayfair Inc compared to Halstead by Gross Revenue

[2] Summary of Costs to Halstead Since the *Wayfair* Decision Through January 2020, Brad Scott, February 21, 2020 included as Appendix C
[3] Cost to Collect, Brad Scott, February 21, 2020 included as Appendix D
[4] 50 states and the District of Columbia
[5] Business Wire, https //www businesswire com/news/home/20190222005060/en/Wayfair Announces Fourth Quarter Full Year 2018, February 22, 2019

While large corporations already had many employees in state and local tax (SALT) departments, prior to *Wayfair* our company had one part-time person to handle all our accounting, tax, payroll, benefits, accounts payable, and finance requirements I am that person We do not have a tax attorney, a compliance officer, or a certified public accountant (CPA) on staff The expectation is that one person at a small business can get the company 50-state compliant

We acted quickly after the *Wayfair* ruling to find software and to begin our compliance efforts Almost two years after the landmark *Wayfair* decision, we have only received a notice from one state (Pennsylvania) informing us of the new remote seller landscape and alerting us that we may be required to comply Many other small businesses in our personal network are still unaware that state sales tax law changes may impact them

Following a rushed integration project, we launched sales tax software in October 2018 to begin collecting sales tax on transactions where we did not have valid exemption certificates on file We believed software would "automate" compliance We were wrong Our experience is that, while the software is necessary, it is far from a complete solution

We sought help from local CPAs, but we found that they were not fully informed, nor capable, of assisting us with other states When we approached large, national accounting firms, most would not even speak with us because our business is too small That leaves a small business like ours caught in a dangerous gap in professional services

State sales tax laws are complex, and none are identical There are 50 states and the District of Columbia, and each has independently developed its own sales tax protocols There is no single resource that instructs on all 51 departments of revenue, there are 51 playbooks that we must learn This is an impossible task

To date, we have diverted more than 3,800 labor hours away from operations for *Wayfair* compliance even with sales tax software in place I would not call that "automation " Much of that time spent is from top managers at our company who have had to suspend all other projects in order to jump on this new mandate

We have also changed our business practices to adapt to new economic nexus requirements We dropped an entire product line that would trigger more complex product tax codes We are limiting our sales into Colorado because we cannot handle the enormity of their sales tax filing requirements and must stay below their threshold As a home rule state, Colorado has perhaps the most onerous sales tax collection and filing mandate in the country

We are watching Missouri carefully because if they pass their economic nexus law we will limit or stop sales there to stay below thresholds due to the complexity of their sales tax system Missouri has 1,393 jurisdictions[6] and onerous filing procedures as well Louisiana and Alabama are in the same category Thankfully, we are significantly below their thresholds right now, but thresholds may change at any time, as we have experienced in the past

[6] Tax Foundation, https //taxfoundation org/growing number state sales tax-jurisdictions makes south dakota v wayfair much imperative/

Monitoring and interpreting the patchwork of state jurisdictions is one of the biggest burdens of the new environment That task requires new data and reporting that we did not have prior to our compliance roll-out It requires constant vigilance from our president and me Neither of us are trained tax attorneys, nor can we afford to keep one on staff

The monitoring and interpretation burden continues to grow as local jurisdictions such as Philadelphia and cities in Alaska are now passing their own remote seller laws We are already overwhelmed by state-level compliance We have neither the time nor the expertise to handle the exponential increase in workload of local level compliance

Simultaneously, economic nexus is now being applied to gross receipts and income taxes We just filed for the first time in California and Washington Soon, we will have to tackle Hawaii, Massachusetts, and Pennsylvania All of this is beyond what an organization our size can bear

In addition to new compliance responsibilities on our top executives, significant labor hours are required by our staff team on an ongoing basis Our customer service team must ensure accurate, complete exemption certificates are appropriately applied to client accounts and every sales transaction Our IT team must maintain our sales tax software integration and assist with monthly reconciliation and filing protocols We estimate that going forward, multistate sales tax and exemption certificate compliance will cost our small business approximately $76,330[7] per year in fees and labor That equals more than 50% of our annual business net income

We use a Certified Service Provider (CSP) sales tax software solution because software is necessary to properly quote state and local tax rates for every shipping address we serve across 12,000+ jurisdictions The CSP firm that we use is FedTax, also known as TaxCloud [8] The CSPs are certified by the Streamlined Sales Tax Governing Board (SSTGB) [9] That certification means that if we elect to register with all 24 SSTA states and Pennsylvania, the CSP will file and remit our sales tax to each of those states without transaction fees [10] There are still fees for the 20 remaining non-member states and the District of Columbia Competing CSPs charge annual subscription costs on top of those fees There is no software solution that offers free sales tax services for all 50 states and the District of Columbia

None of these compliance obligations enhance our customers' experience, nor do they grow our business, but each of them imparts an administrative cost In 2019, we increased prices by 9 26%, more than the last five years combined We are not able to plan a solid operating budget The incredible complexity and the pace at which the laws, rules, and regulations are changing makes decision-making extraordinarily challenging We are allowing our staff size to shrink by attrition We have no idea what the months and years ahead will look like

Registration and Filing

It is not straightforward to determine when registration is necessary Prior to *Wayfair*, small businesses were not required to monitor state laws unless they had a physical presence in a state It is an unrealistic

[7] Based on ongoing monthly expenses of $6,361, an average of the 9 months between April 2019 and January 2020
[8] https //taxcloud net/
[9] https //www streamlinedsalestax org/certified service providers/certified service providers list
[10] Pennsylvania has a bilateral agreement with TaxCloud while the 24 SSTA member states cover filing transaction fees https //taxcloud com/pricing/automated compliance

expectation that small business owners can stay on top of state tax law and guidance changes posted on 51 different department of revenue websites at irregular intervals The states are not effectively communicating new tax requirements to remote sellers

Nexus studies are not one-time investments Every month, we run sales reports by state to compare against thresholds requirements and testing period definitions that are shifting constantly It consumes an enormous amount of time and is difficult to get right Guidelines issued by the various departments of revenue are often incomplete and unclear This work must be completed outside our CSP software

Twenty four states have joined the Streamlined Sales Tax Agreement (SSTA) to help simplify the sales tax registration and collection process, but the majority, including the most populous states, have not

So far, we have registered with eight other non SSTA states Each state requested different information about our business, as well as the personal and private information of the owners and responsible parties Two of the eight states changed their threshold definitions, allowing us to de-register At our size, bouncing above and below thresholds will be a common issue

The CSP handles filing in the 24 member states, but we independently file sales tax reports to the other eight states, none of them are the same They are not even all on the same schedule

The first step we must take before we are able to begin processing the monthly and/or quarterly filings is to do a complete audit of all sales transactions, reconciling the reports our accounting system produces with those that our CSP sales tax system produces We must reconcile product returns in order to credit customers for sales tax We also must reconcile any erroneous transactions to reimport corrections These processes take our accounting and IT teams hours each month Our CSP does not offer a way to handle these normal business reconciliations so software developer skills are required just to complete monthly filings

The next step is the actual file preparation Using data from our CSP and our own sales records, we generate reports for each of the states that we are filing in Data fields in the CSP generated reports don't always match the state online filing portal fields so we must prepare data first After the audit process is complete, I file in each state This process takes between 15 minutes and 3 hours each

To illustrate the painstaking process, this is the typical outline for just one return in California

In California, we are a monthly payer and a quarterly filer The state has 323 different sales tax jurisdictions To file, I sort all of our sales by zip code, then bundle those by city, creating a list of city totals I then have to determine which county each of those cities is in, from which I generate a list of county totals Using these reports, I then complete a California supplied Schedule B[11] spreadsheet that reconciles our report totals against their county reporting requirements Next, I complete a California supplied Schedule A[12] spreadsheet that reconciles our reports against their city and county reporting requirements

If this sounds confusing, it is Note that all this manual work must be done, even with a CSP in place The first time I attempted to complete these reports, it took three days to understand how to accurately input the data for California alone

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[11] California Department of Tax and Fee Administration, https //www cdtfa ca gov/CROS/schedule-b htm
[12] California Department of Tax and Fee Administration, https //www cdtfa ca gov/CROS/schedule-a htm

For SSTA states, we have the benefit of treating them as a single entity for filing While that makes the process a bit simpler, it isn't perfect That is where software issues enter our story

Software Problems and Liability Exposure

The sales tax regime is so complicated that software is necessary, but we are experiencing significant performance problems with that software We registered with the SSTA in September 2018 and selected our CSP We later learned that there was a communication breakdown between the two Throughout 2019, we received 35 notices from SSTA states that taxes we collected were not filed and remitted

Our CSP files and remits to the 24 SSTA member states on our behalf If not for the 35 notices from SSTA states, it would be a painless process for those states However, addressing the many notices and trying to get our CSP to correct for discrepancies has taken more hours than I care to recall Each notice induced a combination of panic and fear

We experienced problems for the first time in late 2018 Sales taxes we collected, and thought were filed & remitted by our CSP, were not sent to the states at all I brought those issues to the attention of our CSP for the first time in November 2018 [13] Despite repeatedly reporting those problems to the software provider for months, we could not get resolution We escalated our complaints to SSTA National Executive Director, Craig Johnson, to get him to intervene for solutions We are grateful to Craig for his help, but it is ridiculous that he had to get involved at all

Because of the CSP issues, we received letter demands for payment Below are summaries of two of the most frightening

- In April of 2019, Tennessee threatened to seize our property over $38 22 in penalties and interest as a result of a failure to report sales tax collections for November and December 2018 [14]
- In April of 2019, Wyoming threatened to put a lien on our property over an estimated tax assessment of $100 00 for the December 2018 period This was a result of a failure to report and remit In point of fact, we had collected $0 00 in sales tax for that period Moreover, since the *Wayfair* Decision, we have collected a total of $123 20 in sales tax for the state of Wyoming [15]

This was the most terrifying period in my tenure at the company Note that problems we first reported in November were not resolved until the following May, only after we involved the SSTA leadership to force our CSP to address them We attempted to comply with this mandate in good faith We felt defenseless and frustrated

To date, we have received and addressed notices of filing errors due to issues tied to our CSP in the 35 SSTA states as described above and one non-SSTA state In every single case we were complying, but had to spend significant time researching, reporting, and troubleshooting to reconcile those accounts with the states None of these were full-scale audits, yet we are already overwhelmed with the burden

[13] Notification to TaxCloud About Concern, Brad Scott, November 27, 2018 included as Appendix E
[14] State of Tennessee Department of Revenue, Final Demand Notice, April 25, 2019 included as Appendix F
[15] Wyoming Department of Revenue Excise Tax Division, Best Information Assessment, April 2, 2019 included as Appendix G

of regular requirements to prove our innocence on top of the new monthly procedures for reporting and filing

When addressing the 36 state notices, I reached out to each state in question to determine at what point in the registration/filing/remittance stage the process had gone off the rails This required phone calls to the various departments of revenue Often, I would wait on hold for up to 30 minutes before speaking with a staff member More often than not, the first, and even the second person I spoke with could not properly answer my questions The staff at the departments of revenue, it seemed to me, were as mystified by interstate sales tax as we were Eventually, I would receive a response like this

> Halstead Bead, Inc is not authorized to inquire about transactional history between the state and TaxCloud However, as Halstead Bead, Inc is the licensed business, it is the responsibility of Halstead Bead, Inc to remit Halstead Bead, Inc should remit as soon as possible and address the problem with TaxCloud Because of the third-party relationship that Halstead Bead, Inc has with TaxCloud, the issues you have had with registration/filing/remittance are not the concern of the state Halstead Bead, Inc must address those issues directly with TaxCloud [16]

The frustrating and infuriating aspect of that response is that TaxCloud was not a partner we voluntarily chose There are five CSPs At the time we selected TaxCloud, only a few of those CSPs were able to manage exemption certificates, a necessary product feature given that most of our business is wholesale We could not afford the two more expensive CSP options TaxCloud was the only real option It was a forced choice required for compliance with state laws

Additionally, while TaxCloud's services for the filing transactions with 24 SSTA member states are free, that is not the complete picture All told, we spent roughly $27,900 to integrate TaxCloud's software into our own IT framework between consultant integration fees and labor from our in-house software developer The project took hundreds of man-hours to tightly integrate TaxCloud with our IT infrastructure as shown in the graphic below It would have cost significantly more if we did not have internal software development IT talent This was a major project that would normally take 6-9 months for proper development, de-bugging, and launch We had to rush it into the 99 days between the Supreme Court ruling and October 1, 2018, the date most states made remote collection required

[16] Paraphrased response from conversations with 12 state departments of revenue between the months of January – November, 2019

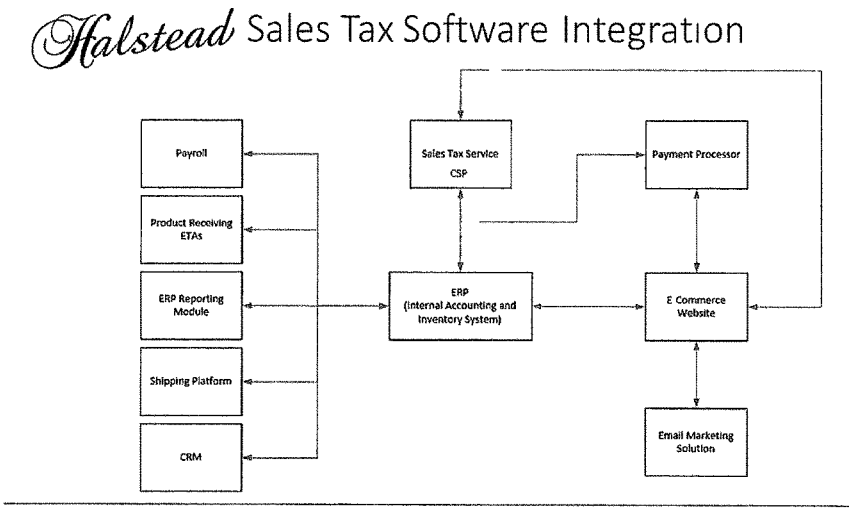


Figure 2 IT Architecture of our CSP Sales Tax Software Integration and data flow

Since implementing a sales tax CSP, we learned that there is no federal agency with oversight authority on interstate sales tax administration or the software providers serving this niche We learned that neither our CSP nor the SSTA had established complaint tracking and resolution protocols to handle problems with filings on behalf of taxpayers We learned that we are liable for any third-party software errors in states that are not members of the SSTA

We also learned that the Tax Anti-Injunction Act prevents us from pursuing recourse in Arizona courts or Federal courts Our only option is to sue state government agencies through their own home-state court systems across the country That is far beyond the reach of an organization of our size These truths terrified us, leading us to advocate for change Under current laws, our entire life's work, and the work of the preceding generation, is at risk

In discussions with different departments of revenue, I have often heard the term "trust fund tax" used when referring to sales tax The reason for this is that when we collect sales tax, we are holding it in trust for the department of revenue to which it will be remitted We do not technically own the money If a business does not remit sales tax that it has collected, that business has committed a crime This stands to reason The tools that a department of revenue has to collect that sales tax are extensive They can seize that business' assets If those assets are not sufficient, the owners' personal assets can also be seized If the assets of the business and the owners are not enough, the personal assets of the responsible party can also be seized Because a crime has occurred, none of the above listed entities can seek relief through bankruptcy Again, this all stands to reason However, in the wake of *Wayfair* and because of the incredible complexity of the current interstate sales tax regime, we are at risk of running

afoul of 51 departments of revenue The same liability exists whether a small business intentionally commits fraud or inadvertently fails to collect or file sales taxes correctly We are trying our best to comply, but the stakes are high and the opportunity to make mistakes is equally high

Exemption Certificates

Exemption certificate management is perhaps the greatest liability for B2B remote sellers after *Wayfair* The process consumes the most labor hours and exposes our company to the highest risks for audit assessments That's because any small technicality on an exemption certificate form in non-SSTA states moves the sales tax liability off the buyer residing in the auditing state and onto the remote seller If an exemption certificate is on file and used for many years, back taxes, penalties, and interest on all transactions with that buyer can later be assessed to the remote seller at audit This exposes many industries to new risks including logistics & transportation in Florida, biotech firms in Illinois, and advanced manufacturing in Colorado Leaders in every state should be concerned about new liabilities for their constituent businesses

Most of our sales are B2B and exempt from sales tax This presents a challenge because the documents that we are required to collect and maintain vary between states and can be quite confusing There are often exception scenarios that make applying exemptions difficult to program into digital order processing For example, Maryland exemption certificates are only valid for invoices over $200, any invoice for less than that amount is subject to sales tax even for wholesale accounts purchasing for resale

We have valid exemption certificates for approximately 2,400 customer accounts Lately, we are receiving about 20 submissions per day Of those, only 8 5 will be complete and valid Because many of these forms and license types are confusing, it may take several rounds of submissions from our customers before we have the documents filled out correctly

While exemption certificate forms may seem like an administrative detail, due to the enormous liability involved with exemption certificate management, they become a key part of Wayfair compliance risk It is important to understand the mechanics of exemptions and the opportunities for them to go awry

Exemption Certificate Forms & Data

When a new customer places a first order we must note the destination state of the shipment The point of delivery tells our customer service department which exemption certificate we need to collect We have winnowed down our internal procedures from the confusing array of exemption documents available None are accepted in every state It is a confusing patchwork of what documents will be recognized by each state government

- An Exemption Certificate form created by the specific state where the shipment will be delivered, such as an Arizona Form 5000A[17]
- An SSTA issued Exemption Certificate for participating states (F0003)[18]

[17] Arizona Form 5000A Arizona Resale Certificate, AZ Dept of Revenue, May 1, 2017 included as Appendix H
[18] Streamlined Sales Tax Agreement Certificate of Exemption, SSTGB included as Appendix I

- An MTC Uniform Sales & Use Tax Exemption Certificate[19] for participating states This exemption certificate covers 39 states but includes 3 pages and 26 different itemized exceptions that require additional documentation
- Louisiana and New Mexico require our customers to apply online through their departments of revenue for an exemption certificate specific to each vendor-buyer relationship A certificate is then issued to them just for purchases from our company
- A data exemption certificate submitted through our CSP – note the CSP does not verify the correct type of license is submitted, or even that the license number meets standard state formatting conventions It does not validate licenses as required by multiple states For most non-SSTA states, we are liable if we allow those exemptions to stand
- Some states do not use exemption certificates and instead require us to keep copies of sales tax licenses on file[20]

Exemption Certificate Business Identifiers

For exemption certificates to be valid, they must include a business entity identifier Different states have different laws allowing one or more of the following We must know which identifiers are acceptable in each state

- A state issued general Business License number
- A state issued Sales Tax License, Reseller Permit, Use Tax License, Certificate of Authority, or Seller's Permit Number
- A Federal Employers Identification Number (FEIN)

Exemption Certificate Verification Requirements

Once we have the documentation in hand and correctly completed, some states require us to verify that the exemption certificate is valid To do this we must complete one of the following steps Note that this requirement is not fulfilled by CSPs and must happen outside automation Below are examples of the verification processes we must use

- Verification by phone with a state's department of revenue, 15 states offer only this method Some put you through phone trees and hold times Some only man the phones during limited operating hours For example, Vermont only verifies licenses during phone hours on Mondays or Wednesdays Sometimes phone lines are down altogether as we experienced for several days in February with New Jersey
- Verification through a state portal online, we use this method for most other states New Jersey's verification tool does not function cleanly The online tool requires a character-by-character matching of a registered business name Even when we have a copy of the business license and enter the name exactly as shown, verification will often fail and return a message requiring us to call instead

[19] Multistate Tax Commission , http //www mtc gov/getattachment/Resources/Uniform Sales Use Tax Exemption Certificate/Uniform Sales and Use Certificate 3 13 2019 pdf aspx?lang=en-US
[20] Alabama, Colorado, Florida, and Mississippi

- Alabama will not verify licenses unless we register as a seller with the state We do not meet thresholds there currently but would be required to have exemptions on file immediately if we cross thresholds in the future

Exemption certificate processing and verification takes at best 15 minutes each, at worst all day when repeated back and forth is required with the client and the state

In our experience, the rules and regulations in the 50 states change often and unexpectedly We aren't even certain the benefits of SSTA registration outweigh the costs and may elect to dissolve our membership and only register with member states where we meet nexus thresholds For these reasons, we validate all submitted exemption certificates for fear of unexpected future liability exposure

Exemption Certificates Expirations & Renewals

After an exemption certificate has been validated, our customer service team must determine how long the certificate is valid to enter an expiration date on the document or data record Periods range from one year in Arizona and Florida to indefinite in some states There is no standard New Mexico only allows an exemption certificate to be used five times by a customer before we must request a new one Each month, we must screen our open exemption certificates and request renewals from clients with expiring documents

Our CSP does not note expirations or track them We must handle it manually outside the automation We maintain exemption certificate expiration information in spreadsheets outside our operational enterprise resource planning software and outside sales tax software because neither can support the complexity involved Our employee documentation on the exemption certificate screening and account set-up process is 11 pages long Significant human involvement is required That is not automation

Exemption Certificate Record Storage

When we are satisfied that an exemption certificate is valid, we must determine which version of the exemption certificate to store for audit requirements Again, this varies by state according to our research

- Five departments of revenue require a hard paper copy with a "wet" signature in pen ink (CA, DC, MA, NY, TX)
- Three departments of revenue require printable data (CO, LA, MD)
- Four departments of revenue require data with some special exception (MO & PA with a signature, WA requires verification, NM requires verification with a confirmation code plus a wet signature)
- Twenty-three SSTA member state departments of revenue require only data (AR, GA, IA, IN, KS, KY, MI, MN, NC, ND, NE, NJ, NV, OH, OK, RI, SD, TN, UT, VT, WI, WV, WY)
- Twelve non SSTA member state departments of revenue require only data (AK, AL, AZ, CT, DE, HI, ID, IL, ME, MS, MT, VA)
- Two departments of revenue do not require anything (NH, OR)

In effect, exemption certificate management burden removes administration costs from state departments of revenue and disburses them to small businesses like ours It also moves back taxes, penalties, and interest liability away from the entity who is responsible for the tax and onto out-of-state

remote sellers We should not shoulder the liability for this complicated vetting process when state systems are often poorly conceived and crafted Whereas, we were once subject to that scrutiny in just Arizona where we have physical presence, we must now be audit-ready for every state in the country

Recommendations

Based on our daily experiences with implementation, we can offer concrete insights into solutions that would help to alleviate the significant burden on small businesses Please consider the following suggestions for legislation

Registration and Filing Recommendations

Some states' filings are easy For Massachusetts and Maryland, we do not have to report revenues by individual taxing jurisdictions within their borders, instead, we report total sales figures into the state as a whole These states determine how the remitted sales tax is to be distributed to their taxing jurisdictions Filing is quick, easy, and reasonable More states should follow their simplifications

Taxing software would not be necessary if all state filings were like Massachusetts and Maryland We could run general sales reports from our accounting software and have all the information we need for sales tax filings Instead, states with hundreds or thousands of local jurisdictions require that we integrate software to administer their sales taxes for them As a small business in Arizona, we should not be tasked as unpaid department of revenue surrogates

- The single most helpful step that could be achieved with Federal intervention would be to allow for a unified tax rate in each state for remote sellers Currently, court precedent is interpreted to require penny parity for remote sellers and local sellers This precedent cannot be reconciled with the need to alleviate undue burden for remote sellers juggling up to 12,000 different jurisdiction rates Texas and Illinois tried this unified rate approach to relieve undue burden, but they face pushback based on demands for penny parity Compromise is needed
- Ideally, small businesses could deal with their own home state department of revenue for all remote seller tax obligations If we could submit a report detailing the taxable sales and sales tax collected for each of the other states to our own Arizona Department of Revenue, they could broker the filings and remittances to the appropriate authorities in each of the other states This again eliminates the need for certified sales tax software because we could use general sales reporting by state to complete online tax filings It removes burden from small businesses and obligates states to work together for mutual benefit
- A second best option would be the simplification of the extraordinarily complex network of tax jurisdictions by requiring a single filing point in each state
- Each of these recommendations assumes that a single, state-wide, remote seller sales tax rate exists in each of the sales tax collecting states
- Notification with ample time to implement a software solution should be required This outreach could come from a federal oversight agency, our own Arizona Department of Revenue on behalf of the other states, or from those states' respective departments of revenue

Thresholds Uniformity Recommendations

- Testing period definition uniformity – ideally calendar year January – December

- Threshold criteria definitions
  - Limit to taxable, retail sales Gross Receipts capture all businesses including wholesale and manufacturing
  - Drop transaction count thresholds, low dollar sales quickly obligate sellers to register at a net loss when tackling compliance
  - Do not include sales on marketplace facilitator sites Those sales already count towards marketplace facilitator thresholds and should not be double-counted
- Threshold amounts should be progressively tiered based on the complexity of compliance in the state Those states with more jurisdictions and filing complexity should have higher thresholds This approach is more logical than a standardized dollar figure or GDP-based tiers States with unified rates, a single filing point, and data based exemption certificates should have lower thresholds This would incentivize simplification and alleviate remote seller burdens by providing greater safe harbors from the most difficult states

  Example Formula for setting Retail Sales Threshold

  $100,000 + $25,000 x N = Threshold

  $100,000 = *de minimus* threshold

  N = the number of tax jurisdictions + the number of tax rates across those jurisdictions

Software & Liability Recommendations

- If complex software is required to administer state sales taxes, the states should be covering the software subscriptions costs, all filing fees, and integration costs
- Software companies should be required to meet certain taxpayer protection standards Error tracking and resolution procedures should be documented and enforced
- Small businesses should never be subject to liability for back taxes, penalties, and interest from software failures or disruptions
- If a company chooses to move from one CSP to another, data migration between CSPs must be seamless and free As it stands right now, we will have to endure another costly integration if we choose to move from TaxCloud to another CSP We are trapped
- Prior to *Wayfair*, we faced audit risk with the Arizona Department of Revenue and the Internal Revenue Service (IRS) We now face audit risk with 50 states, the District of Columbia, and the IRS One audit is a nightmare, how would we handle several? How would we handle several per year? Small businesses need to be shielded from an excessive number of state audits The Arizona Department of Revenue could be tasked with audit responsibility for all 51 departments of revenue, reporting its findings to the others Or, a limit could be set on audits per year
- In the event of a state audit dispute, because of the Tax Anti Injunction Act, our only recourse is to sue that department of revenue in their home state We do not have the resources for even one lawsuit We could effectively be extorted into compliance because departments of revenue know that the cost to defend ourselves would be greater than the cost of an aggressive assessment That is not due process Small businesses need a path to recourse

Oversight & Watchdog Recommendations

- Currently, the Multistate Tax Commission (MTC) and the Streamlined Sales Tax Governing Board (SSTGB) dominate the state tax policy debate They both represent the interests of state governments trying to maximize revenue generation There is no federal agency that is looking

out for the interests of small business taxpayers in this arena If small businesses had been included in the discourse in the years prior to *Wayfair*, perhaps this nightmare could have been avoided There needs to be a federal agency representing our interests and acting as a watchdog This could be put under the purview of the Small Business Administration's Office of Advocacy or National Ombudsman

- An oversight agency should have the authority to certify software performance based on both state rates and boundaries standards as well as taxpayer protection measures
- Small businesses need a single, free agency resource that keeps an up to date reference of all the state sales tax laws in simple language Sometimes, we must interpret legal statute, which is very difficult to read and understand Laws seem to change every single month Small businesses should be relieved of the liability of adjusting to changes that are not properly posted to the unified resource record with an appropriate notification period

Exemption Certificates Uniformity Recommendations

- Require states to accept data exemption certificates without requiring a signature Paper records are cumbersome and difficult to manage in the current age of digital transactions
- Standardize required data fields for exemption The following should be enough
    - Business name
    - Owner/officer name
    - License number
    - Reason for exemption
    - Submission date
- If states require a verification step, they should be required to offer a digital interface and API for software integration to automate that process Phone trees should never be necessary
- Establish consistent terminology across states We maintain a matrix guide for employees on all the different terms that each state uses You need a translator to have conversations with different departments of revenue It's incredibly confusing
    - States administer *sales tax, use tax, excise tax,* and *transaction privilege tax*
    - States use different terminology to refer to *licenses* and *permits* Some states have many types of licenses which causes confusion for both buyers and sellers
    - Some states use the term *Taxable Sales* Others use *Retail Sales* Some states include both wholesale and resale sales in the statutory term *"retail"* Some states say *"exempt"* for sales for resale whereas others only say *"exempt"* for non-profit or government purchasing It is bewildering to interpret for small business owners It is easy to get it wrong
- Require states to issue licenses over a uniform time period For example, Arizona and Florida issue licenses that expire annually, while other states issue licenses that expire on schedules that range from two, three, or four years to indefinite The license cycle and expiration cycle should be the same A solution could be that all states issue five-year licenses All licenses in a state could expire on December 31, 2020, for example For the purpose of consistency, any license issued before that date should expire on that date Any license issued on or after January 1, 2021 would expire on December 31, 2025
- Allow businesses to use their FEIN on exemption forms If not their FEIN, then a standard, interstate, federally recognizable license ID format Multiple licenses and permits in some states make it extremely difficult to know which license numbers are permissible Some have letters, leading zeroes, or other prefixes Some include dashes or slashes Sometimes you must drop

prefixes and special characters to get licenses to verify Sometimes you don't Verification often requires multiple attempts to get all the variables right This adds to burden and confusion for administering sellers

Related Policy Area Recommendations

- The MTC is working to re-define the 1959 Public Law 86-272 While *Wayfair* was directed at interstate sales tax, there are states that are now applying economic nexus definitions to their income taxes or gross receipts taxes Federal intervention is needed to ensure the *Wayfair* ruling applies to only sales tax collection efforts
- We are concerned that any Federal intervention to limit economic nexus will incentivize states to impose aggressive physical presence definitions once again Congress should revisit adopting the Business Activity Tax Simplification Act (BATSA), which would provide strong guardrails to state actions related to income or gross receipts taxes
- In a post-*Wayfair* world, the Tax Anti Injunction Act needs to be reviewed Small businesses with limited resources have no recourse against aggressive states while this law stands

Conclusion

Under the best of circumstances, running a small business is not easy It challenges us every day In the 47 years we have been operating, we have survived the digital revolution, globalization, recessions, precious metal commodity runs up and back down, and a generational succession, but nothing has shaken us like *Wayfair* Overnight our compliance burden became 50 times greater as our small business suddenly became subject to the scrutiny of 50 new government entities We are exhausted We do not have the skill set or the resources to absorb these new expectations We have a successful, profitable small business Yet, we have considered closing because this is simply more than we can handle We urgently need Federal intervention We ask the Subcommittee to please elevate this issue to legislation for uniformity to relieve this tremendous burden on small businesses Thank you and I look forward to taking your questions

House Engrossed

State of Arizona
House of Representatives
Fifty fourth Legislature
Second Regular Session
2020

HOUSE CONCURRENT MEMORIAL 2006

A CONCURRENT MEMORIAL

URGING THE UNITED STATES CONGRESS TO ENACT UNIFORM NATIONAL LEGISLATION FOR REMOTE SELLERS TO COLLECT AND REMIT SALES TAXES

(TEXT OF BILL BEGINS ON NEXT PAGE)

H C M 2006

To the Congress of the United States of America

Your memorialist respectfully represents

Whereas, the United States Supreme Court in South Dakota v Wayfair, Inc overturned decades of legal precedent, allowing states to require businesses, which are subject to audit, to register and collect and remit taxes on sales from transactions in the state regardless of physical presence and

Whereas, the Wayfair decision greatly impacts remote sellers which are generally small businesses that have a physical presence in one state but sell tangible property, digital products or taxable services for delivery into other states, and

Whereas, the decision led almost every state to enact laws requiring remote sellers to collect sales tax for states where the sellers conduct business, and

Whereas, the decentralized nature of the internet and destination-based sourcing requirements make remote sellers uniquely susceptible to numerous conflicting and complex tax requirements across a patchwork of thousands of state and local taxing jurisdictions, causing business development obstacles and making commerce cumbersome for both sellers and consumers, and

Whereas, this labyrinth of state laws includes differing sales or transaction thresholds, tax rates, categories of goods that are taxed and start dates for collecting sales taxes, and

Whereas, the Supreme Court also stated in Wayfair that "Congress may legislate to address these problems if it deems it necessary and fit to do so", and

Whereas, clarity and uniformity are necessary to streamline sales tax collection, alleviate confusion for remote sellers, simplify tax administration and reduce the burden of tax compliance and

Whereas, Congress has proposed legislation to address these issues including requirements related to tax rates, a timeline for tax collection a phase in of compliance obligations remission standards and small business exemptions

Wherefore your memorialist, the House of Representatives of the State of Arizona the Senate concurring, prays

1 That the United States Congress enact uniform national legislation to simplify sales tax or similar tax collection to reduce the burden of tax compliance on remote sellers

2 That the Secretary of State of the State of Arizona transmit a copy of this Memorial to the President of the United States Senate the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona

Appendix B

Senate Engrossed

State of Arizona
Senate
Fifty fourth Legislature
Second Regular Session
2020

SENATE CONCURRENT MEMORIAL 1003

A CONCURRENT MEMORIAL

URGING THE UNITED STATES CONGRESS TO ENACT UNIFORM NATIONAL LEGISLATION FOR REMOTE SELLERS TO COLLECT AND REMIT SALES TAXES

(TEXT OF BILL BEGINS ON NEXT PAGE)

Appendix B

S C M 1003

To the Congress of the United States of America

Your memorialist respectfully represents

Whereas, the United States Supreme Court in South Dakota v Wayfair, Inc overturned decades of legal precedent, allowing states to require businesses, which are subject to audit, to register and collect and remit taxes on sales from transactions in the state regardless of physical presence, and

Whereas, the Wayfair decision greatly impacts remote sellers which are generally small businesses that have a physical presence in one state but sell tangible property, digital products or taxable services for delivery into other states and

Whereas, the decision led almost every state to enact laws requiring remote sellers to collect sales tax for states where the sellers conduct business, and

Whereas the decentralized nature of the internet and destination-based sourcing requirements make remote sellers uniquely susceptible to numerous conflicting and complex tax requirements across a patchwork of thousands of state and local taxing jurisdictions causing business-development obstacles and making commerce cumbersome for both sellers and consumers and

Whereas this labyrinth of state laws includes differing sales or transaction thresholds, tax rates, categories of goods that are taxed and start dates for collecting sales taxes, and

Whereas, the Supreme Court also stated in Wayfair that "Congress may legislate to address these problems if it deems it necessary and fit to do so", and

Whereas, clarity and uniformity are necessary to streamline sales tax collection, alleviate confusion for remote sellers simplify tax administration and reduce the burden of tax compliance and

Whereas, Congress has proposed legislation to address these issues, including requirements related to tax rates a timeline for tax collection, a phase in of compliance obligations remission standards and small business exemptions

Wherefore your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, prays

1 That the United States Congress enact uniform national legislation to simplify sales tax or similar tax collection to reduce the burden of tax compliance on remote sellers

2 That the Secretary of State of the State of Arizona transmit a copy of this Memorial to the President of the United States Senate the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona

Appendix C

Summary of Costs to Halstead since the Wayfair Decision through January 2020

$ Spent on Compliance Through January 2020^	$ 183,500 25
Sales Tax Collected by Halstead Through January 2020*	$ 79,423 59

We have spent $2 31 for every $1 00 we have collected in Sales Tax

We are a small company of 27 employees, meaning we have spent $6,796 31 per employee to collect sales tax so far

1) **One Time Expenses**

Software Integration (Consulting fees to integrate with our ERP)	$ 9,457 50
Back Taxes to Hawaii (July September)	$ 797 52
Billing Discrepancies	$ 89 40
Postage for Customer Notices (collecting exemption certificates)	$ 1,875 00
Sales Tax Legal and Professional Services	$ 30,245 66
Total One Time Expenses	$ 42,465 08

2) **Costs to Date for Halstead**

Labor	$ 138,192 64
Gross Receipts Taxes to CA & WA States	$ 4,058 30
TaxCloud Monthly Fees**	$ 2,842 53
One Time Upfront Expenses (from section 1)	$ 42,465 08
Total Expense To Date	$ 187,558 55

3)

Ongoing Monthly Expenses into the Foreseeable Future

Labor	$ 6,260 79
TaxCloud Monthly Fees (approximation due to inconsistent monthly billing)	$ 100 00
Ongoing Monthly Expenses	$ 6,360 79

Annualized Monthly Expenses Moving Forward $ 76,329 51

Equal to $2,827 02 per employee per year

^Compliance Costs equal to Total Expense less Gross Receipts Tax to CA & WA States

*Launched sales tax software October 16, 2018 Effective date for most states was Oct 1, 2018

**These fees are low after considerable negotiation plus manually filing for states where fees would be very high

Appendix D

Cost to Collect $ 183,500 25 Through January 31, 2020

State	Sales Tax Collected Cumulative	Average Cost per State	Cost Exceeds Collection
AR	$ 547 98	$ 5,734 38	YES
*CA	$ 9,617 01	$ 5,734 38	
GA	$ 4 403 95	$ 5,734 38	YES
*HI	$ 4,178 92	$ 5,734 38	YES
IA	$ 893 04	$ 5,734 38	YES
*IL	$ 1,843 66	$ 5,734 38	YES
IN	$ 3,241 45	$ 5,734 38	YES
KS	$ 2,980 40	$ 5,734 38	YES
KY	$ 558 71	$ 5,734 38	YES
*MA	$ 2,297 60	$ 5,734 38	YES
*MD	$ 944 80	$ 5,734 38	YES
MI	$ 2,923 06	$ 5,734 38	YES
MN	$ 1,622 71	$ 5,734 38	YES
NC	$ 4,307 24	$ 5 734 38	YES
ND	$ 54 53	$ 5,734 38	YES
NE	$ 261 67	$ 5,734 38	YES
NJ	$ 4,828 39	$ 5,734 38	YES
NV	$ 1,971 18	$ 5,734 38	YES
*NY	$ 3,738 43	$ 5 734 38	YES
OH	$ 2,530 07	$ 5,734 38	YES
OK	$ 3 158 40	$ 5,734 38	YES
*PA	$ 3,339 40	$ 5,734 38	YES
RI	$ 764 91	$ 5,734 38	YES
SD	$ 406 61	$ 5,734 38	YES
TN	$ 3 951 82	$ 5,734 38	YES
UT	$ 1,889 63	$ 5,734 38	YES
*VA	$ 976 48	$ 5,734 38	YES
VT	$ 565 52	$ 5,734 38	YES
WA	$ 8,113 47	$ 5 734 38	
WI	$ 1,986 60	$ 5,734 38	YES
WV	$ 402 75	$ 5,734 38	YES
WY	$ 123 20	$ 5,734 38	YES
SST States Total	$ 52 487 29	24 States	AR, GA IA IN KS, KY, MI, MN NC, ND, NE NJ NV, OH, OK, RI, SD TN, UT, VT, WA, WI, WV, WY
Non SST States Total (*)	$ 26,936 30	8 States	CA, HI, IL, MA, MD, NY, PA, VA
Total	$ 79,423 59		

In 30 states, we have spent more to collect than we remit

Appendix E
Wednesday, February 26, 2020 at 5 03 54 PM Mountain Standard Time

Subject [TaxCloud Customer Service] Re This is a follow up to your previous request #18514 "TaxCloud Services-Unable to " Hi Jenny, I hate to be a pest, but I am still learning th
Date Tuesday, November 27, 2018 at 4 37 20 PM Mountain Standard Time
From TaxCloud Service
To Bradley Scott

Please type your reply above this line

Your request (#19100) has been updated Reply to this email or follow the link below
http //service taxcloud net/hc/requests/19100

Herschell Maxwell (TaxCloud Customer Service)
Nov 27, 6 37 PM EST

Hi Robert,

Thank you for reaching out to TaxCloud Support, I hope all is well

After reviewing your account it appears that TaxCloud has filed your October sales tax

To view this data please visit the following link https //prev taxcloud com/

Login here and you will be able to see what TaxCloud has filed for you

I'm currently unsure as to why your account is not showing the most updated information but, I will be forwarding your account to our development team for further investigation

If you have any other questions regarding our services, please let me know

Please Note You can still reply to this email, even if it's marked as "solved" to get a response

Best regards,

Herschell Maxwell, Customer Success Agent | TaxCloud Support

Robert Scott
Nov 26 1 31 PM EST

I just received this today Was our filing processed?

This is a reminder that the Nevada Tax Return needs to be filed as follows –

For Sales or Use Tax (SUT/BUS)

If you file monthly, your return is due, on or before, the last day of the month following the month for which you are reporting
If you file quarterly, your return is due, on or before, the last day of the month following the quarter for which you are reporting
If you file annually, your return is due, on or before, the last day of the month following the year for which you are reporting

For Modified Business Tax (MBT)
Your return is due on or before the last day of the month following the quarter for which you are reporting

Please be aware that, even if you have no sales to report, you must file a zero return with the department, either online or using a paper return

---

Please be aware that you can also file these returns electronically by registering to use our interactive website, NevadaTax You can access NevadaTax, by clicking on the following link https //www nevadatax nv gov/web/

If you prefer to print paper returns, and mail them, returns are available on our website, by clicking on the following link http //tax nv gov/Forms/

For general tax information, the State of Nevada, Department of Taxation website can be reached by clicking on the following link http //tax nv gov/ Or, contact our Call Center at (866) 962-3707

*** Please do not reply to this email since this email address is not monitored ***

From TaxCloud Service [mailto service@taxcloud net]
Sent Monday, November 26, 2018 9 39 AM
To Bradley Scott
Subject [Request received] This is a follow-up to your previous request #18514 "TaxCloud Services-Unable to " Hi Jenny, I hate to be a pest, but I am still learning th

Robert Scott
Nov 26 11 38 AM PST

This is a follow-up to your previous request #18514 "TaxCloud Services-Unable to "

Hi Jenny,

I hate to be a pest, but I am still learning the ropes When will the states debit our account for

the sales taxes we collected in October? I still haven't seen any action Thank you

Cheers,

Robert

This email is a service from TaxCloud Customer Service

Appendix F

STATE OF TENNESSEE
DEPARTMENT OF REVENUE

Final Demand for Payment

April 25, 2019

HALSTEAD BEAD INC
6650 INTER CAL WAY
PRESCOTT AZ 86301 6151

Letter ID	L0378804480
Case Number	563273
Amount Due	$38 22

The Department previously notified you of an outstanding tax liability The amount due as indicated above represents the original amount due plus accrued interest through the date of this letter Penalty and interest will continue to accrue until the liability is paid For your current balance please refer to your Tennessee Taxpayer Access Point (TNTAP) account at *tntap tn gov/eservices*

Details of the amount due are attached

Pursuant to the Tax Enforcement Procedures Act Tenn Code Ann Section 67 1 1405 failure to respond or render payment within ten days of the receipt of this notice may result in collection action, including the levy and seizure of the taxpayer's real or tangible property, bank accounts, monies, and accounts receivable If the taxpayer operates as a business, failure to respond or render payment within ten days of the receipt of this notice may also result in the business being seized closed and padlocked pursuant to Tenn Code Ann. Section 67-1-1410

You may make your payment at tntap.tn.gov/eservices or make your check payable to TENNESSEE DEPARTMENT OF REVENUE and mail it to the address listed below Please write your account number on your check and return this page with your payment

PYM
222

TENNESSEE DEPARTMENT OF REVENUE
500 DEADERICK STREET
ANDREW JACKSON STATE OFFICE BUILDING
NASHVILLE TN 37242

bL0027 17745312006
COLPYM

HALSTEAD BEAD INC
6650 INTER CAL WAY
PRESCOTT AZ 86301-6151

LETTER ID	L0378804480
CUSTOMER ID	XX XXX0030
AMOUNT DUE	$38 22
AMOUNT PAID	

Appendix F

Filing Period	Tax	Interest	Penalty	Payments	Balance	Return Filed
1001358111 SST	**Streamlined Sales and Use Tax**					
30 Nov 2018	$284 37	$5 04	$15 00	($284 37)	$20 04	Yes
31-Dec 2018	$323 76	$3 18	$15 00	($323 76)	$18 18	Yes
Subtotal					$38 22	
			Total		$38 22	

Wyoming Department of Revenue Excise Tax Division (50) Appendix G
Best Information Assessment

4-2975316-0-089

HALSTEAD BEAD INC
HALSTEAD BEAD INC
6650 INTER CAL WAY
PRESCOTT AZ 86301-6151

RID 307394
License No 24030692 A
Notice Id 2975316
Notice Date 04/02/2019
6 1241

Filing Period	Due Date
12/01/2018 to 12/31/2018	01/31/2019

Amount of Tax Assessment $100 00

You are delinquent in filing your return for the time period indicated above Per Wyoming Statutes 39-15-107 and 39-16-107 the department shall make a return from the best information available which will be prima facie correct and the tax due therein is a deficiency and subject to penalties and interest as provided by this article Therefore, we are filing a return on your behalf This assessment has been posted as a tax deficiency on your account

Failure to submit your true return and payment within 10 days will result in the following collection action lien filings on all your real and personal property referral to an outside collection agency and/or to the Attorney General's Office for further action or revocation of your Sales and Use Tax license

This is a final administrative decision of the Department of Revenue and is subject to appeal Appeals must be filed with the State Board of Equalization within thirty (30) days of the final administrative decision at issue or of the date of mailing of the final administrative decision as evidenced by a postmark, whichever is later Appeals should be sent to the Board in care of the Executive Secretary, 2300 Capitol Avenue 1st Floor Hathaway Building Room 124, PO Box 448 Cheyenne Wyoming 82003-0448 Appeals should briefly state the issues upon which the appeal is based the contentions of the petitioner, the relief desired and be accompanied by a copy of this notice Appeals should also contain your phone number and mailing address and that of your attorney or other representative You may review the Board's rules at http //taxappeals state wy us/board_rules html

For more information contact the Department of Revenue at the address or phone number shown below

Arizona Form 5000A

Arizona Resale Certificate

- **Use this form to purchase tangible personal property for resale in the ordinary course of business**
- **Wholesalers must have a Transaction Privilege Tax ("TPT") or other state's Sales Tax License to purchase tangible personal property for resale**

This Certificate is prescribed by the Department of Revenue pursuant to A R S § 42 5022 The purpose of the Certificate is to document the purchase of tangible personal property for resale in the purchaser s regular course of business It is to be filled out completely by the purchaser and furnished to the vendor The vendor shall retain this Certificate for single transactions or for specified periods as indicated below This Certificate shall be obtained from the purchaser at the time of the sale Incomplete Certificates are not considered to be accepted in good faith

A Business Name and Address		B Check Applicable Box
Name	*TPT/Sales Tax License No	☐ Single Transaction Certificate
Address		☐ Period From _____ Through _____
City	State ZIP Code	*(You must choose specific dates for which the certificate will be valid You are encouraged not to exceed a 12 month period However a certificate will be considered to be accepted in good faith for a period not to exceed 48 months if the vendor has documentation the TPT license is valid for each calendar year covered in the certificate)*
Vendor s Name		

C Precise Nature of Purchaser's Business

D Description of Property Being Purchased

E

The following sales of tangible personal property do not require the purchaser to provide a TPT or other Sales Tax License (check appropriate box)

- ☐ Sales to the U S government or its departments or agencies for resale (purchased directly by the Federal Government)
- ☐ Sales to an unlicensed Arizona School District for resale (purchased directly by the school district)
- ☐ Sales to a nonprofit charitable I R C § 501(c)(3) organization for resale (Attach I R S determination letter to this form)
- ☐ Sales to a nonprofit charitable I R C § 501(c)(3) (c)(4) or (c)(6) organization associated with a major league baseball team or a national professional golfing association for resale (Attach I R S determination letter to this form)
- ☐ Sales to a nonprofit charitable I R C § 501(c)(3) (c)(4) (c)(6) (c)(7) or (c)(8) organization that sponsors a rodeo featuring farm and ranch animals for resale (Attach I R S determination letter to this form)
- ☐ Sales to a nonprofit charitable I R C § 501(c)(6) organization that produces organizes or promotes a cultural or civic related festival or event for resale (Attach I R S determination letter to this form)

F Certification

A seller that has reason to believe that this Certificate is not accurate, complete, or applicable to the transaction may not accept the Certificate in good faith and the seller will not be relieved of the burden of proving entitlement to the exemption from tax A seller that accepts a Certificate in good faith will be relieved of the burden of proof and the purchaser may be required to establish the accuracy of the claimed exemption from tax as provided in A R S § 42-5009 Subsequent use or consumption of the tangible personal property by the purchaser other than sale in the ordinary course of business will subject the purchaser to the Arizona use tax Willful misuse of this Certificate will subject the purchaser to criminal penalties of a felony pursuant to A R S § 42-1127(B)

I (print full name) _____, hereby certify that these purchases are for resale in the ordinary course of business and that the information on this Certificate is true, accurate and complete Further, if purchasing as an agent or officer I certify that I am authorized to execute this Certificate on behalf of the purchaser named above

SIGNATURE OF PURCHASER _____ TITLE _____ DATE _____

ADOR 10316 (5/17)

Streamlined Sales Tax Governing Board, Inc.

Appendix I

Streamlined Sales Tax Agreement
Certificate of Exemption

Do not send this form to the Streamlined Sales Tax Governing Board Send the completed form to your supplier and keep a copy for your records

This is a multi-state form Not all states allow all exemptions listed on this form Purchasers are responsible for knowing if they qualify to claim exemption from tax in the state that would otherwise be due tax on this sale The seller may be required to provide this exemption certificate (or the data elements required on the form) to a state that would otherwise be due tax on this sale

The purchaser will be held liable for any tax and interest and possible civil and criminal penalties imposed by the member state if the purchaser is not eligible to claim this exemption A seller may not accept a certificate of exemption for an entity-based exemption on a sale made at a location operated by the seller within the designated state if the state does not allow such an entity-based exemption

1. ☐ **Check if you are attaching the Multistate Supplemental form**

☐ **If not, enter the two letter abbreviation** for the state under whose laws you are claiming exemption

2. ☐ Check if this certificate is for a **Single Purchase Certificate** Enter the related invoice/purchase order # _____

3. Print or type

A Name of purchaser

B Business address City State Zip code

C Purchaser s tax ID number State of Issue Country of Issue

D If no tax ID number enter one of the following FEIN

E Driver s License Number/State Issued ID number State of Issue

F Foreign diplomat number

G Name of seller from whom you are purchasing leasing or renting

H Seller s address City State Zip code

4. **Purchaser's Type of business** Circle the number that best describes your business

Circle type of business

☐01 Accommodation and food services	☐ 11 Transportation and warehousing
☐02 Agriculture forestry fishing hunting	☐ 12 Utilities
☐03 Construction	☐ 13 Wholesale trade
☐04 Finance and insurance	☐ 14 Business services
☐05 Information publishing and communications	☐ 15 Professional services
☐06 Manufacturing	☐ 16 Education and health-care services
☐07 Mining	☐ 17 Nonprofit organization
☐08 Real estate	☐ 18 Government
☐09 Rental and leasing	☐ 19 Not a business
☐10 Retail trade	☐ 20 Other (*explain*)_____

5. **Reason for exemption** Circle the letter that identifies the reason for the exemption

Circle or check reason for exemption

A ☐Federal government (*Department*) _____	H ☐Agricultural Production # _____
B ☐State or local government (*Name*) _____	I ☐Industrial production/manufacturing # _____
C ☐Tribal government *(Name)* _____	J ☐Direct pay permit # _____
D ☐Foreign diplomat # _____	K ☐Direct Mail # _____
E ☐Charitable organization # _____	L ☐Other (*Explain*) _____
F ☐Religious organization # _____	M ☐Educational Organization #
G ☐Resale # _____	

6. Sign here

I declare that the information on this certificate is correct and complete to the best of my knowledge and belief

Signature of authorized purchaser Print name here Title Date

SSTGB Form F0003 Exemption Certificate (Revised 5/10/2017 for use 1/1/2018)

Name of Purchaser

State	Reason for exemption	Identification number (if required)
AR		
GA		
IA		
IN		
KS		
KY		
MI		
MN		
NC		
ND		
NE		
NJ		
NV		
OH		
RI		
OK		
SD		
TN		
UT		
VT		
WA		
WI		
WV		
WY		

SSUTA Direct Mail provisions are not in effect for Tennessee

The following nonmember states will accept this certificate for exemption claims that are valid in their respective state SSUTA Direct Mail provisions do not apply in these states

State	Reason for exemption	Identification number (if required)
XX		
XX		
XX		
XX		
XX		

Orthotic Shop Inc
14200 Industrial Center Dr
Shelby Township MI 48315

The Honorable Andrew N Kim
Chairman
U S House Committee on Small Business
Subcommittee on Economic Growth Tax and Capital Access
2361 Rayburn HOB
Washington DC 20515

The Honorable Kevin R Hern
Ranking Member
U S House Committee on Small Business
Subcommittee on Economic Growth Tax and Capital Access
2361 Rayburn HOB
Washington DC 20515

Written Testimony of

Matthew Behnke President of Orthotic Shop Inc
Hearing on *South Dakota v Wayfair Inc* How Mainstreet is Faring and Whether Federal Intervention is Necessary

March 3, 2020

Chairman Kim, Ranking Member Hern and Members of the Subcommittee thank you for holding this hearing on state taxation I am honored to offer my perspective as a Michigan small business owner and to share my story with you

Background

My name is Matthew Behnke and I am the President of Orthotic Shop Inc, we are based in Shelby Township, Michigan selling comfort shoes online that are hard to find in stores I employ ten people most who have small children and deeply depend on a stable source of income I started my eCommerce business in 2005 and always collected and remitted sales tax for orders shipped to customers in Michigan I followed the congressional efforts on the internet sales tax front and also the Wayfair case Nothing seemed to happen until the Supreme Court ruled on the Wayfair case in 2018 After the ruling I scrambled to get things in place for all the economic nexus laws that were about to be passed I spent many late nights reading sales tax laws and also losing sleep over looming threats of massive back taxes This was not a healthy or prosperous period

It was a gigantic effort to setup sales tax collection In 2018 2019 we went from collecting and remitting in one state to over 35 Here's a tally of the fees I incurred

~$10 000 in 2019 in attorney fees
$7,000 in 2018 for attorney fees
~$11 000 for Sales Tax Accounting/Book keeping services in 2019
~$8 600k for Sales Tax Accounting/Book-keeping services in 2018
~$15 000 for Sales Tax Solution Provider service in 2018 2019

200+ hours of custom software development at $200/hr = $40,000
Total $90 000

This doesn t include the amount of money pending that States owe back to us for customer returns Dealing with shoes we get a high amount of customer returns Customers often return items back to us after we remitted the sales tax Many states require that we file amended returns in order to get the sales tax portion of the amount refunded to the customer back that we already remitted to the states This is extremely cumbersome and burdensome as the

software doesn't support an automated way to amend returns Often times we are leaving money behind due to the burdensome effort of amending the returns See https://blog.taxjar.com/returns-sales-tax-filings/

This was an extremely stressful time for me running the business Not only did I have to handle my normal job functions I found myself talking to attorneys, States Department of Revenue agents software providers software developers, accountants and then learning about all the nuances of each State's laws This extra burden seriously hindered our growth and ate into margins to a point that we suffered a small loss in 2018 This was the first year in business that we had ever taken a loss

Back Taxes

On top of the stress of not being able to focus on business operations that really matter (e g growth keeping customers happy providing a stable source of income for our employees) I had to deal with the States claiming that Orthotic Shop Inc owed them hundreds of thousands of dollars in back taxes It felt as if I was getting attacked at multiple fronts over such a simple decision that occurred June 21 2018

In 2018 I received a letter from the State of Washington DOR saying they had a penalty reduction program that was going to expire June 30 2018 I didn't think much about it as Congress who is in charge of regulating interstate commerce per the Commerce Clause (Article 1, Section 8, Clause 3 of the U S Constitution) hadn t passed a law saying that I was liable for sales tax collection in states other than were we were based Additionally I never purposely availed myself in the State of Washington

After the Wayfair ruling I contacted Washington States Department of Revenue (WA DOR) to find out how to get compliant for their Economic Nexus Laws After talking to the WA DOR rep Sadie Siglin she said she required some reports from Amazon She reviewed the reports and she said that Amazon moved inventory attributed to my Amazon Seller account into the State of Washington and I would owe them back taxes WA DOR agents claim Orthotic Shop owes them over **$200,000** in back taxes

This was a HUGE shock Our margins are extremely thin and neither myself nor the company has a stash of cash sitting around to cover what they claim we owe WA DOR's reasoning is based on our use of Amazon s Fulfilment by Amazon (FBA) service After digging into their claims I realized that

- According to the reports that Sadie Siglin reviewed Orthotic Shop had less than 0 5% of our inventory in the state of WA at any given time in the audit period This is way less than $53 000 personal property threshold for substantial nexus https://apps.leg.wa.gov/rcw/default.aspx?cite=82.04.067
- Orthotic Shop was never directed by Amazon to ship inventory to WA
- In most cases Amazon moved Orthotic Shop's inventory into Washington State to deliver items at once to customers similar as to how FedEx sends items to a local depot from a hub
    - Amazon Flex started in WA in 2015 which essentially turns Amazon into a common carrier using local contractors to deliver items from local Amazon distribution centers
    - Orthotic Shop did not maintain a store of goods in the state. Amazon moved things using their distribution network and utilized other carriers or their own delivery contractors for last-mile delivery
        - I have seen case law that says nexus is not established when a company s sole connection to a state is through a common carrier Again, Orthotic Shop did not maintain a warehouse in their state or purposely target Washington customers
    - In most cases items were not even owned by Orthotic Shop that ended up delivered to customers in the State of Washington as Amazon has a commingled inventory service
        - The customer orders from Orthotic Shop on Amazon Amazon is essentially fulfilling the order from the inventory of another seller while giving Orthotic Shop credit for the sale because the other seller's inventory was closer to the customer
- The State of Washington has a consignment law **WAC 458-20-159**, which states if you sell goods (art or craft work etc) through a consignment arrangement, you must collect sales tax Generally the consignment seller remits sales tax directly to the Department (on behalf of the owner of the consigned goods) **"Consignee"** (or selling agent) has either actual or constructive possession of tangible personal property (the goods), although someone else actually owns the property **"Constructive possession"** means possession of the power to pass title of tangible personal property (the goods) to others

- It can be shown that Orthotic Shop was merely a supplier and Amazon who handles the money collection delivery and customer service is the consignee
    - As a seller on Amazon we are instructed not to contact FBA customers and to direct any customer service inquiries related to FBA to Amazon s customer service
    - A seller is not allowed to market to Amazon customers it is prohibited to call, email or contact a customer unless it is related to an order
    - This is fine, I didn't mind Amazon had control of the platform so let them keep bringing customers back to their site Amazon handled it all, except sales tax collection at that time!
- Even though Orthotic Shop never purposely availed ourselves in the State of Washington or setup a storage of goods there and acted as a supplier via Amazon's FBA program I still attempted to negotiate a smaller back-tax bill to move on and put this behind us The WA DOR is not willing to reasonably settle

How do we Fix this?

In order to fix this problem, we need Congress to intervene Small businesses need to be protected by ensuring a truly streamlined system is put in place to handle collection, remittance, customer returns/refund and sales tax return filing

A central clearinghouse / service should be implemented that has a standard API that businesses can connect with to lookup rates and also submit transaction data The central clearing house would submit and file sales tax returns and also handle amending returns in the case where a customer returned the goods in a future tax period The service should be funded by the States to reduce the burden on business owners

Additionally Congress needs to ensure States foster good relationships with out of state businesses going forward instead of targeting small businesses with over reaching back tax assessments

Conclusion

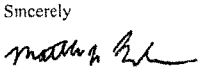
For these reasons I urge you to come up with a law that will create a central system to handle internet sales tax remittance

Allow businesses who have zero representation in a State to be able to defend themselves outside of that State s court system Small businesses are denied the right to go to Federal Court in their home state when a state overreaches because of the Tax Injunction Act This law needs to be adjusted

Congress needs to investigate the behavior of tax administrators' dealings with marketplaces and how that impacted their decision to go after small out-of state businesses, instead of following their black-letter laws

I also urge you to carefully consider the testimony of Online Merchants Guild (OMG') OMG is an eCommerce seller organization and its members are only small eCommerce business owners like me They are my voice, and nobody else s They fought for us during Wayfair and are fighting for us every day and I urge you to work with them going forward to help you solve this issue

Sincerely



Matthew J Behnke



March 11, 2020

Attn: Members of the Subcommittee on Economic Growth, Tax, and Capital Access

Engine is a non-profit technology policy, research, and advocacy organization that bridges the gap between policymakers and startups. Engine works with government and a community of thousands of high-technology, growth-oriented startups across the nation to support the development of technology entrepreneurship. To that end, Engine welcomes the opportunity to provide comment on discussion held at the March 3, 2020 hearing on "South Dakota v. Wayfair, Inc.: Online Sales Taxes and their Impact on Main Street."

We appreciate the committee's thoughtful approach to the implications the Wayfair decision has had for startups and other small businesses. When the decision came down, we warned that it risked creating a complex web of state tax rules that startups would have difficulty navigating and would increase costs for small e-commerce platforms that were able to use the promise of the Internet to quickly grow their businesses and sell across state lines. This is especially important to startups that are hoping to compete with large players in the Internet sector, as forcing early-stage companies to devote scarce resources to understanding what could amount to thousands of different tax jurisdiction rules will put them at a clear disadvantage to incumbents.

As was discussed during the hearing, the Wayfair decision has impacted startups and other small businesses in several ways, including with states setting low transaction and revenue thresholds that create high compliance costs for companies who are least equipped to deal with them. And, as was noted during the hearing, the compliance costs often exceed the price tags of the taxes themselves and are often not offset by the free or low-cost software and filing tools, where available. It can be unreasonably expensive in terms of time and resources just to determine tax obligations in over 10,000 tax jurisdictions.

We appreciate the committee's attention to this consequential issue that disproportionately impacts startups and small businesses today. We look forward to working with the subcommittee to find solutions to prevent the Wayfair ruling from hurting the very startups that are driving our nation's economic growth and innovation.

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The Honorable Kevin R. Hern
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Written Testimony of

Jason Chow, President of Chowren Toys LLC
Hearing on *South Dakota v. Wayfair, Inc.*: How Mainstreet is Fairing and Whether Federal Intervention is Necessary

March 3, 2020

Chairman Kim, Ranking Member Hern, and Members of the Subcommittee, thank you for holding this hearing on state taxation. I am honored to offer my perspective as a rural Washington small business owner, and to share my story with you.

Background

My name is Jason Chow and I am the President of Chowren Toys LLC, a small minority (first generation immigrant from Taiwan) owned ecommerce company based in Poulsbo, Washington. We have 6 employees and we utilize other contract and seasonal workers as needed. We moved to Poulsbo, Washington because my wife accepted a job in the rural community to provide much needed medical care. Being in the rural area there are not many job opportunities. I started the company as a way to spend time taking care of my young family and allowed my wife to work full time and provide some much needed 24 hours medical care to the community. I have always been grateful to the country in providing me with the path to achieve the American dream. First public universities that provided me with technical training. Then the internet and other infrastructures allow me to start a business in a rural part of the country. With our growth and success we were able to provide the rural community with some economic diversification. Our

company allows many stay at home moms with a real chance to re-enter the workforce with real benefits, such 401K plan, paid vacation, flexible schedules, etc.

Back Taxes Issue

In 2018, my company received a letter from the state of California stating that we owe sales taxes. California is requiring companies such as ours to pay sales tax not collected PLUS interest and penalties for prior sales as far back as 8 years. We have always collected and filed all required taxes in our home state of Washington. California's calm is based on the false premise that our company has Nexus in California because we utilizing Fulfillment by Amazon. Fulfillment by Amazon is a service that Amazon offers whereby we send in our products to Amazon warehouses and they will pack and ship our products for us. The Nexus theory is false as Amazon controls the entire process: Amazon dictate which of the distribution that we need to send in our inventory. It then decides where to store the products, how much to charge customers and how to ship the products to customers and from where it will ship the products. We have absolutely no control where our inventories are from day to day when they are in the Amazon's fulfillment centers. Amazon also processes the payment from the customer. The customers are Amazon's customers and we are suppliers to Amazon.

Taxes Post Wayfair

After the Wayfair decision many states have enacted a low sales number (200 orders or $100,000) for economic Nexus as part of their Marketplace Facilitation Law. As a few big platforms dominate the online marketplaces this type of Marketplace Facilitation Law makes it impractical for us to run our website. For example, if we sold 199 orders at $10 each through the marketplaces and sold 1 order at $10 through our own website, now we hit the low economic Nexus requirement. This means that even though the Marketplace has already collected and submitted 99% of the sales tax to the state, because we hit the threshold, we now need to collect, file and pay the $10 order which amount to about $1 of sales taxes to the state. Now multiple that problem by the number of states that requires us to file. This is not an exercise, for the fourth quarter of 2019 we had to file California sales taxes in the amount of $40. California requires us to break taxes down to county, city and other jurisdiction. The state does not provide us with a tool to easily allocate the taxes at each level. When I phone in to ask the state for help. They told me that I will just have to use Google to search for the address and find which jurisdiction that buyer was located then do my best to allocate the taxes. It took me over 2 hours to prepare and remit the taxes to California. As a small company we can't continue to spend limited resources to collect and file for such a small amount of sales tax that we collected on the sales on our own website. This basically forced us to depend on the few online platforms for practically all of our

sales. This type of undue burden took away our resources to expand our business, hire more people and limit consumer choices.

Another question that needs to be answered is that is Congress willing to allow diverse small businesses get wiped out by the unfair practice of the states? If California goes after small business in Washington what is to prevent Washington from doing the same to California? Is an all out war between the states to destroy out of state small business the best course for the country? All the marketplaces are actively courting foreign manufactures and merchants to sell on their platforms. Who will benefit from the online retail market when the states are done wiping out US based small business? Do the states believe they will be able to go after foreign businesses to collect any taxes?

Time for Congress to act

I absolutely believed in leveling the playing field so physical stores can compete with online merchants. Congress needs to require the state to adopt modern technology and make sales taxes collect easier and fair across all business sizes.

I believe it is time for Congress to act and protect small businesses from the overreach of state tax collectors that use bully tactics to unfairly collect back sales taxes.

Conclusion

The amount of time that we are spending on this issue is hindering our ability to run our business. The uncertainty also means we cannot invest in our business. It is the state's responsibility to figure out how to collect sales tax fairly across all merchants, not just put the undue burden on small businesses across the country.

Sincerely,



Jason Chow

Halstead
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South Dakota v. Wayfair, Inc.:

Online Sales Taxes and their Impact on Main Street

March 3, 2020

Additional Statement

Subcommittee on Economic Growth, Tax, and Capital Access;

Committee on Small Business,

United States House of Representatives

Brad Scott

Finance Director

Halstead Bead Inc.

Chairman Kim, Ranking Member Hern, and Members of the Committee:

I would like to provide additional context to a question posed by Chairman Kim during the March 3rd hearing regarding thresholds for economic nexus.

Chairman Kim: "Do you think that the most common standard of the $100,000 in sales and 200 transactions is (a) reasonable standard? And if not, what do you think would be a reasonable threshold?"

During the hearing, I said that I believe the transactional threshold should be removed entirely. Small transactions mount rapidly. A company could easily conduct 200 transactions and come nowhere close to approaching $100,000 in sales. The small amount in sales tax collected on small transactions would not justify the costs incurred by a business in this case.

I added that the threshold should be a national threshold. Using the Small Business Administration's definition of what a small retailer is, the threshold could be set at an estimated $30 million[1] in annual revenue. Or, using the South Dakota threshold of $100,000 and adjusting for the state's GDP, the threshold could be as high as $40 million[2] in annual revenue.

However, I recognize the challenge with regards to states' rights as highlighted by Representative Hern. A higher safe harbor is a temporary solution that does not address the real problem, complexity.

With that in mind, as I explained in my previously submitted written statement, I do believe there is a better solution. Congress has the power to legislate permission for states to offer a unified, average remote seller sales tax rate without running afoul of standing Supreme Court precedents. A legislative solution could also define a factor-based threshold formula[3] for states that do not offer a unified rate. The value in this is that states would not be limited by Federal legislation, rather they would be incentivized to simplify their remote seller sales tax regimes to gain earlier access to a greater tax collection base.

Threshold amounts for states that do not offer unified rates should be tiered based on the complexity of compliance in the state. Those states with more jurisdictions and filing complexity should have higher thresholds. This approach is more logical than a standardized dollar figure or GDP-based tiers. This would incentivize simplification and alleviate remote seller burdens by providing greater safe harbors from the most difficult states.

> Example Formula for setting Retail Sales Threshold
> $100,000 + $25,000 x N = Threshold
> $100,000 = *de minimus* threshold
> N = the number of tax jurisdictions + the number of tax rates across those jurisdictions

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[1] Small Business Administration, https://www.govinfo.gov/content/pkg/FR-2017-09-27/pdf/2017-20705.pdf, page 44889, NAICS 2012 code 454111

[2] Bureau of Economic Analysis,
South Dakota Figure https://apps.bea.gov/regional/bearfacts/pdf.cfm?areatype=STATE&fips=46000&geotype=3
US Figure https://www.bea.gov/news/2019/initial-gross-domestic-product-4th-quarter-and-annual-2018

[3] Written testimony for *South Dakota v. Wayfair, Inc.*: Online Sales Taxes and their Impact on Main Street, , Brad Scott, March 3, 2020

Using the formula would result in the thresholds posted on the following page. Bear in mind, the states could lower their thresholds by reducing their complexity. Louisiana and Texas have already made this accommodation for remote sellers. Several other states already had simplified tax regimes with a single statewide rate.

There are two foreseeable objections that will surface if states create statewide remote seller sales tax rates.

The first is due to the *Complete Auto* Nondiscrimination Test[4], which says that interstate and intrastate taxes should not favor one over the other. In the current lexicon, this is often interpreted as "penny parity," meaning that even a one cent advantage would be discriminatory. However, nondiscrimination must be weighed against the burden of complexity in current sales tax regimes.

Texas, Louisiana, and Illinois recognized the burden of their sales tax systems on remote sellers and created an optional remote seller unified rate. But those states are forced to defend unified rates under the standing precedent set by the *Complete Auto* ruling. Illinois recently repealed their unified rate as a result. Texas is facing pushback now. This is precisely why federal intervention is needed.

This leads us to the second foreseeable objection, that remote sellers will have a competitive advantage due to lower rates. The level playing field argument that an online seller with a 0% sales tax rate enjoyed a material advantage over a brick and mortar seller collecting a sales tax rate of 7.5%, for example, is logical. The difference in those two rates is great enough for many buyers to shop online to save on taxes, especially on a high-priced item. However, if a remote seller collects a unified, averaged sales tax rate of 6.5%, for example, the difference of 1% in sales tax is unlikely to be material in the purchasing decision. Again, complexity and undue burden must be reconciled with legislation.

[4] *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274 (1977)

State	Remote Seller Jurisdictions	de minimus Threshold	Progressive Threshold Increase	Remote Seller Threshold
Alabama	801	$ 100,000.00	$ 20,000,000.00	$ 20,100,000.00
Alaska	107	$ 100,000.00	$ 2,650,000.00	$ 2,750,000.00
Arizona	131	$ 100,000.00	$ 3,250,000.00	$ 3,350,000.00
Arkansas	392	$ 100,000.00	$ 9,775,000.00	$ 9,875,000.00
California	323	$ 100,000.00	$ 8,050,000.00	$ 8,150,000.00
Colorado	328	$ 100,000.00	$ 8,175,000.00	$ 8,275,000.00
Connecticut	2	$ 100,000.00	$ 25,000.00	$ 125,000.00
Delaware	1	$ 100,000.00	$ -	$ 100,000.00
Disctrict of Columbia	1	$ 100,000.00	$ -	$ 100,000.00
Florida	69	$ 100,000.00	$ 1,700,000.00	$ 1,800,000.00
Georgia	162	$ 100,000.00	$ 4,025,000.00	$ 4,125,000.00
Hawaii	2	$ 100,000.00	$ 25,000.00	$ 125,000.00
Idaho	11	$ 100,000.00	$ 250,000.00	$ 350,000.00
Illinois	563	$ 100,000.00	$ 14,050,000.00	$ 14,150,000.00
Indiana	1	$ 100,000.00	$ -	$ 100,000.00
Iowa	1002	$ 100,000.00	$ 25,025,000.00	$ 25,125,000.00
Kansas	521	$ 100,000.00	$ 13,000,000.00	$ 13,100,000.00
Kentucky	1	$ 100,000.00	$ -	$ 100,000.00
Louisiana*	1	$ 100,000.00	$ -	$ 100,000.00
Maine	1	$ 100,000.00	$ -	$ 100,000.00
Maryland	1	$ 100,000.00	$ -	$ 100,000.00
Massachusetts	1	$ 100,000.00	$ -	$ 100,000.00
Michigan	1	$ 100,000.00	$ -	$ 100,000.00
Minnesota	70	$ 100,000.00	$ 1,725,000.00	$ 1,825,000.00
Mississippi	3	$ 100,000.00	$ 50,000.00	$ 150,000.00
Missouri	1393	$ 100,000.00	$ 34,800,000.00	$ 34,900,000.00
Montana	6	$ 100,000.00	$ 125,000.00	$ 225,000.00
Nebraska	230	$ 100,000.00	$ 5,725,000.00	$ 5,825,000.00
Nevada	18	$ 100,000.00	$ 425,000.00	$ 525,000.00
New Hampshire	0	$ 100,000.00	$ (25,000.00)	$ 100,000.00
New Jersey	2	$ 100,000.00	$ 25,000.00	$ 125,000.00
New Mexico	144	$ 100,000.00	$ 3,575,000.00	$ 3,675,000.00
New York	82	$ 100,000.00	$ 2,025,000.00	$ 2,125,000.00
North Carolina	106	$ 100,000.00	$ 2,625,000.00	$ 2,725,000.00
North Dakota	150	$ 100,000.00	$ 3,725,000.00	$ 3,825,000.00
Ohio	98	$ 100,000.00	$ 2,425,000.00	$ 2,525,000.00
Oklahoma	593	$ 100,000.00	$ 14,800,000.00	$ 14,900,000.00
Oregon	0	$ 100,000.00	$ (25,000.00)	$ 100,000.00
Pennsylvania	3	$ 100,000.00	$ 50,000.00	$ 150,000.00
Rhode Island	1	$ 100,000.00	$ -	$ 100,000.00
South Carolina	45	$ 100,000.00	$ 1,100,000.00	$ 1,200,000.00
South Dakota	258	$ 100,000.00	$ 6,425,000.00	$ 6,525,000.00
Tennessee	126	$ 100,000.00	$ 3,125,000.00	$ 3,225,000.00
Texas*	1	$ 100,000.00	$ -	$ 100,000.00
Utah	318	$ 100,000.00	$ 7,925,000.00	$ 8,025,000.00
Vermont	15	$ 100,000.00	$ 350,000.00	$ 450,000.00
Virginia	174	$ 100,000.00	$ 4,325,000.00	$ 4,425,000.00
Washington	371	$ 100,000.00	$ 9,250,000.00	$ 9,350,000.00
West Virginia	43	$ 100,000.00	$ 1,050,000.00	$ 1,150,000.00
Wisconsin	74	$ 100,000.00	$ 1,825,000.00	$ 1,925,000.00
Wyoming	25	$ 100,000.00	$ 600,000.00	$ 700,000.00

* These states have created a single state remote seller tax rate and single filing point



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Written Testimony of
Jeremy Roberts, CEO
Carpe Per Diem, Inc. dba Mommy Makeup

Hearing on *South Dakota v. Wayfair, Inc.*: How Mainstreet is Fairing and Whether Federal Intervention is Necessary

March 3, 2020

Dear Chairman Kim, Ranking Member Hern, Member Espaillat, and Members of the Subcommittee, thank you for holding this hearing on state taxation. I am honored to offer my perspective as a small NY small business owner, and to share my story with you.

Background

My name is Jeremy Roberts and I am the CEO of Carpe Per Diem., Inc. dba Mommy Makeup. We are located in Harlem, New York, NY (NY-13). My wife, Debra Rubin-Roberts, founded Mommy Makeup to offer made-in-USA cosmetic products for busy women, without harmful ingredients such as talc or parabens. Our business sells exclusively online via our website [*mommymakeup.com*] and we are a wholesale supplier to leading marketplaces such as Amazon. We ship from our location in Harlem, New York. We are a family business; we employ 3 people, yet we source our products from USA factories, and we use hired technologies and software services so that we can operate and scale.

Sales Tax Collection Concerns post-*Wayfair*

In the aftermath of the Wayfair decision, states and marketplaces have turned sales tax collection into the "wild west" – without regard to common sense, or the intent of our US Constitution, Article I, Section 8 (the Commerce Clause).

I will present two related issues that affect my small business, related to Wayfair:

1. Nexus/Sales Tax Collection/Income and Franchise Taxes
2. Marketplace Sales Tax (such as Amazon)

Nexus

1. Wayfair opened the floodgates for ALL States to promulgate any and all tax collection demands on every business, with or without physical or operational nexus, for businesses of any size, for operations that begin at $1.00

In the Wayfair majority opinion:
https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/17-494.html

Justice Kennedy wrote:

> *"These burdens may pose legitimate concerns in some instances, particularly for small businesses that make a small volume of sales to customers in many States. State taxes differ, not only in the rate imposed but also in the categories of goods that are taxed and, sometimes, the relevant date of purchase.* ***Eventually, software that is available at a reasonable cost may make it easier for small businesses to cope with these problems."***

But this software DOES NOT EXIST for small businesses!! It is not "eventually" yet. There is enterprise grade software that can accomplish this that can cost upwards of $50,000 or more per year, per business! This will put most small businesses out of business, and **jobs will be lost.**

Justice Kennedy must not have been aware that there are more than 13,000 sales tax jurisdictions in the US, and it is literally impossible for a small business without an "enterprise" size IT team and resources, to consider tax collection.

Justice Kennedy stated, ***"Eventually, software that is available at a reasonable cost may make it easier"***. It doesn't exist. The burden will be business-ending and **jobs will be lost**.

2. States are already claiming income/business operation and franchise taxes are now liable... Collecting and remitting Sales Tax (if there is a simple and easy way to collect and remit) is one thing, but if my business operates entirely in NY, and a customer from MA places an order, shipping the order to MA via US Postal does not mean I have any operational business nexus in MA. But MA thinks otherwise (as do more than 11 states) and we are at risk for audit, quarterly and annual filings for INCOME (business operation) and franchise (foreign corporation) taxes PER STATE (in up to 45 or more states). The costs for this would shut down my business and **jobs will be lost.**

3. The so-called South Dakota $100,000 threshold -- yet 7 states have established threshold at $10,000. And many states including Louisiana don't have any threshold. And only 200 transactions? If you sell items that cost $20, that comes to $4,000 -- if South Dakota (one of the least populous states) has a $100k/200 transaction threshold --vs. NY or CA or FL or TX (with >30 times the population of SD) why shouldn't the threshold be commensurate to population? But that's beside the point. 200 transactions in a state is not representative of a "substantial business activity". It could be less than $4,000 of actual business activity. This is a burden on small business, and **jobs will be lost.**

4. New York has 83 sales tax zones -- and we have automated shopping cart software that calculates and remits the correct sales tax based on the location of the customer's delivery address... and we file and remit to NY because we are a NY business. That is the law. And that is what we agreed to when we started our business in NY. I did not promise to collect or remit tax in States where we have zero business/financial or operational nexus. If this materializes the way some States are attempting to promulgate, this is a burden on a small business, and **jobs will be lost.**

I can't imagine if I had to file in 45 states, with >13,000 sales tax zones.
AND I do not have the resources to tell MA or PA or GA or LA or WI that I disagree with their recklessly loose and arguably unconstitutional interpretation of the Commerce Clause. If forced by one of these states to fight, I would sooner close my business and my employees, suppliers and vendors would all lose. **Jobs would be lost.**

But CONGRESS can fix this!

Marketplace Sales Tax / Amazon

We are a wholesale supplier to Amazon, and our products are sold via their "FBA" platform. FBA stands for "fulfillment by Amazon".

THE MYTH here is Amazon calls third-party suppliers "Sellers" in the first place!

Suppliers to FBA are not sellers in the legal definition.
What Amazon calls "sellers" are technically and legally wholesale suppliers!

a) A Seller controls the transaction. This is Amazon.
b) A Seller collects the money. This is Amazon.
c) A Seller determines where and how to ship the items. Amazon.
d) A Seller has a relationship with the customer. Amazon
e) Amazon built the world's largest consignment store.
f) Amazon does not permit its suppliers to have *any* contact or ongoing relationship with the customer;
g) Amazon is the legal seller of record, regardless of how they frame it or what they call their suppliers.
h)

A few other data points:

As an Amazon FBA supplier, we ship items to the fulfillment center that Amazon specifies. In our case, we ship 100% of our items to a fulfillment center close to New York City. From there, Amazon moves the items around their fulfillment network (they call this "trans-shipping") and the supplier has zero input or influence over this process. Amazon does this to position the items as close as possible to the customers so the customer will receive their items in hours, or 1 or 2 days. That's great for the customers! We all love receiving things we buy quickly. This process gives Amazon a competitive edge and is arguably part of their "secret sauce".

But... the supplier has zero input or control or knowledge if the items they supply have been trans-shipped into CA or anywhere else. Did the sale to the customer in CA ship from CA? Did it ship from NV or AZ? Suppliers have no idea. Once we deliver items to Amazon, it's Amazon's job to collect the money and fulfill the items - hopefully as efficiently as economically as possible so the customers get their stuff quickly. That's what we (suppliers) are paying Amazon to do.

DOES Amazon trans-shipping inventory into CA give a remote wholesale supplier instant nexus in CA? Not if the seller of record is Amazon.

California and Pennsylvania and Massachusetts and a few other states are promulgating back-sales-taxes due from FBA wholesale suppliers. Which is really Amazon's responsibility!

That's absurd! And arguably unconstitutional.
Amazon knew they were the seller and made back-room deals with the States. I don't blame Amazon – States made sweetheart deals with Amazon and States are ignoring the US Constitution.

CONGRESS can fix this.

Conclusions

- Should there be a national sales tax? Perhaps.
- Should there be a national clearing house (automated software) for sales tax collection? Yes! Who is going to build and administer this? Who will pay for development and operation?
- Should a very small business be forced to collect sales tax in thousands of local jurisdictions where there is no nexus or operations? Of course not. Or at least not until there is software that will do this without a financial hardship to the small business.
- Should a State be permitted to claim a small business has to file and pay minimum franchise taxes (income tax) in States where they have zero operational or financial nexus? Of course not.

- Should a State be permitted to claim, "back taxes", for a misguided attempt to collect from an Amazon "supplier"? Of course not.

- Small businesses MUST be protected from State tax administrators who act like overzealous prosecutors who rely on bullying (and promulgating their own laws, even if unconstitutional) to generate revenue from out of state small businesses.

- Small businesses cannot afford the legal defenses that enterprise sized business have on staff.

- Small businesses are denied the right to go to Federal Court in their home state when a state overreaches because of the "Tax Injunction Act" -- this law MUST be changed!

- Congress MUST investigate the behavior of State tax administrators' dealings with Amazon and how that impacted their decisions to go after very small out-of-state businesses, instead of following their black-letter laws. Please refer to the Online Merchant Guild's amicus brief from Wayfair which discusses some of the States' shady dealings:

  https://www.supremecourt.gov/DocketPDF/17/17-494/42306/20180404170521046_17-494bsacOnlineMerchantsGuild.pdf

Would I be willing to use software that makes it easy and inexpensive to collect and remit sales tax (as proposed by Justice Kennedy in Wayfair opinion)?

Yes!!!

Nobody wants to deprive States of sales tax! Congress can make this happen.

100% sales tax compliance is possible, if only States were required to use modern technological solutions. Given all the technological progress our society has made since Quill, States are still blocked from taking a more efficient approach to sales tax due to their internal bureaucracies. This is what we need Congress to fix. We don't want bigger thresholds, or any thresholds; we need efficiency and automation. Time to put the burden on the States, rather than small businesses.

I hope CONGRESS can fix this, and I hope my contribution is useful to the committee.

Thank you for the opportunity to share.

Sincerely,

Jeremy Roberts

National Auctioneers Association
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February 28, 2020

Attention: Honorable Members of the
Subcommittee on Economic Growth, Tax and Capital Growth

We are writing on behalf of the 3600 members of the National Auctioneers Association (NAA) who sell various assets throughout the world. Because of the unintended negative consequences that we identified as a result of the South Dakota v. Wayfair case for our members, 38 state auctioneers' associations together with the NAA filed an amicus brief in April of 2018 in the Supreme Court of the United States on behalf of the entire auction industry. Unfortunately, the Court ruled in favor of South Dakota. Consequently, auctioneers are faced with the challenge of keeping up with a myriad of differing and inconsistent state tax rules, regulations, and rates.

The questions your subcommittee is discussing are how "Mainstreet" is faring and if federal intervention is necessary. Our response to the first question is not well, and the second question is yes.

Through this letter, which includes excerpts taken and adapted from the amicus brief we filed with the Supreme Court and an attached copy of testimony provided to the U.S. Senate Committee on Small Business and Entrepreneurship Remote Online Sales Taxes: Examining the Impact on Small Businesses of the Supreme Court's Decision in South Dakota v. Wayfair, we will illustrate the challenges that auctioneers and other small businesses face.

NAA members conduct auctions in every state of this country and almost a dozen foreign countries. These members work for approximately 2000 companies, 67% of which have only one to four employees. We are the definition of Mainstreet businesses.

There are three significant impacts that the Supreme Court's decision has made on our members' businesses:

1) The inconsistency in tax laws, regulations and procedures among the various states is a critical issue for many auction professionals. The issue is not just about calculating the sales tax to collect, but it is about following ALL the regulations that states require to remit sales tax; some require a license, while others require the filing of different paperwork. There are even different requirements as to the location of the remittance of sales tax (in some cases the state, and in others the local taxing jurisdiction), and what may be taxable in one jurisdiction is not in another jurisdiction. Yes, there are electronic tools available to assist. However, the services that exist to complete the entire suite of paperwork for small businesses are expensive and overly burdensome to these small businesses.

2) States have enacted a wide variety of different thresholds determining when sales tax must be collected. It may be $100,000 as it is in South Dakota, Colorado and several other states, or it could be a higher threshold as it is in Alabama, Mississippi and others, or it could be $0 as it is in Kansas. Keeping up with this kind of information and the accounting of sales is a nightmare within the auction industry. Not to mention, those with thresholds such as Kansas fly in the face of providing a safe harbor for small businesses that the Justices of the Supreme Court envisioned in their decision.

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3) Because the Supreme Court decision abrogated the Court's previous rulings on physical presence as a requirement for nexus, states now can attempt to collect sales tax retroactively on sales that occurred even before the Supreme Court decision. Several have openly discussed this revenue tactic, and Massachusetts has actively been collecting retroactive sales tax. The retroactive collection creates an undue burden on all businesses.

Ailie Byers, an auctioneer who lives in New Hampshire and is a member of the NAA Board of Directors, recently testified to the U.S. Senate Committee on Small Business and Entrepreneurship Remote Online Sales Taxes: Examining the Impact on Small Businesses of the Supreme Court's Decision in South Dakota v. Wayfair. In her testimony, she outlined the system under which auctions operate. She noted that each auction is unique, based on the items sold, the number of items in the auction, etc. Besides, states are already governing the auction industry through the Uniform Commercial Code (UCC). Section 2-328 of the UCC addresses auctions explicitly. Many of the states' rules and regulations regarding remote seller sales tax that have been enacted following the Supreme Court's decision violate the basic tenets of UCC 2-328 (e.g., defining what constitutes a sale, when liability changes hands, and when the sale is final, etc.). Many small businesses in the auction industry will find it hard to maintain a business with these onerous regulations.

As evidenced by this letter and its accompanying attachments, the burden on the auction industry is immense. As a result, NAA began to talk with various legislators about co-sponsoring HR 1933 "Online Sales Simplicity and Small Business Relief Act of 2019." This bill would, at a minimum, reduce the ability of a state to retroactively collect sales tax for sales before January 1, 2019. However, this is not enough. It is essential for the future of the auction industry – and small businesses in general – that Congress addresses the other issues we have identified as well.

The National Auctioneers Association stands ready to assist this subcommittee in any way possible to address these critical issues. We will continue to voice our concern until the development of a solution that is not unduly burdensome on small businesses.

Respectfully submitted,

Jason Winter, CAI, AARE, CES
President
National Auctioneers Association

Hannes Combest, FASAE, CAE
Chief Executive Officer
National Auctioneers Association

Attachments:

Written Testimony for the U.S. Senate Committee on Small Business and Entrepreneurship
South Dakota v. Wayfair, Inc., Overstock.com, Inc. and Newegg, Inc. Excerpts from Amicus Curiae Brief of National Auctioneers Association and 38 State Auctioneer Associations

Written Testimony for the U.S. Senate
Committee on Small Business and Entrepreneurship

Remote Online Sales Taxes: Examining the Impact on Small Businesses of the Supreme Court's Decision in South Dakota v. Wayfair

By Ailie F. Byers, MPA, CAI, BAS, AMM
President Alpenglow Benefit Auctions
National Auctioneers Association Board of Directors

Senator Shaheen and to those on the committee who are not present, thank you for being here, and for inviting me to testify today before the Senate Committee on Small Business and Entrepreneurship on the impact to the Wayfair decision.

My name is Ailie F. Byers, and I am President of Alpenglow Benefits, and CFO of Scofield & Centennial Auctions. I also have a master's degree in public administration from the University of Georgia.

I am a professional auctioneer in a thirty-eight-year-old New Hampshire family business. We have three distinct units of our company. Our parent company, Scofield Auctions, focuses on real estate and appraisal work. Centennial is our division with an exclusive focus on collector coins & stamps. Alpenglow Benefits is our consultation and fundraising event group for our work with non-profit organizations. We are based in North Conway, New Hampshire. Our company has three full-time employees, one part-time employee, and on event/auction days our staff can be as large as twenty.

We began as a small husband and wife firm that facilitated estate sales for families and communities in New Hampshire and Maine. We have since grown and evolved our business model. I was lucky enough to start working for the company when I was seven years old. Six years ago, I came back to New Hampshire to work full time and take over the company. We now service clients all over the United States, with many of them being on the eastern seaboard. Our coin & stamps sales, under the banner of Centennial Auctions, take place in Nashua, NH. Our non-profit business has clients all over the United States and has had fundraising events in ten states.

I am honored to have been elected, in 2018, to the National Auctioneer Association's (NAA) Board of Directors. In that role, I work with auctioneers and staff from all over the United States on issues affecting our business and livelihood. We are working diligently to protect the interest of our members and the auction profession generally. I serve on the Council on Future Practices

workgroup and am chair of the Advocacy Committee and the Sales Tax Taskforce. As such, I am engaged in weekly calls about the Wayfair Decision and how it is impacting NAA members.

The NAA has around thirty-six hundred members in all states of the union. We represent about two-thousand companies. Over 67% of our members work for companies that have four or fewer full-time employees. We are the definition of "mom-and-pop" shops. We are composed of thousands of individuals all of whom decided to take a risk and join a profession that is rather uncommon. Our industry has changed as it has evolved, as any industry must do in order to thrive; however, the basics of our job have not changed.

An auction occurs when consumers gather physically or online to buy an item by bidding against each other until the highest offered price is reached. Often, we refer to this as the open and competitive bidding process. The word "auction" derives from the Latin word "auctus," which means "increasing." In our industry, we can have auctions that are live, online, or simulcast (where the live auction also has bidders who are participating via the internet). Although the delivery method may vary, they all share the method of sale and thus are auctions.

Records handed down from the ancient Greeks document auctions occurring as far back as 500 BCE. In Rome, around the time of Christ, auctions were popular for family estates and the selling of the plunder of war. Roman Emperor Marcus Aurelius sold family furniture at auction to satisfy debts. In 193 CE. the Praetorian Guard put the entire Roman Empire on the auction block.

American auctions date back to the arrival of the Pilgrims on America's eastern shores in the 1600s and continued in popularity during colonization with the sale of crops, imports, livestock, tools, and entire farms. America's first president, George Washington, was an avid auction buyer. Today auctions facilitate the movement of billions of dollars of assets each year.

With the long history of auctions in this country, we are quite proficient at adaption and change. However, the NAA believed, as did our members, that the potential transformations that the Supreme Court's ruling in South Dakota vs. Wayfair, Inc. could precipitate were potentially catastrophic. Thus, the NAA, on behalf of the auction industry and 38 state associations, filed an amicus brief that outlined concerns of auction companies and other smaller remote sellers that were not addressed by the major online retailers[2]. However, in June 2018, the Supreme Court found in favor of South Dakota, 138 S. Ct. 2080, and effectively overturned the longstanding Bellas Hess and Quill decisions that required a physical presence in a state before sales tax could be collected.

Auction professionals have built our business models on the physical-presence rule of Bellas Hess and Quill to determine when to collect and remit sales tax. The certainty afforded by these Supreme Court decisions has allowed the auction profession to evolve and embrace online and other forms of interstate sales. With the South Dakota v. Wayfair decision, however, auction companies now face an overwhelming tax environment charged with financial burden and legal uncertainty. While large retailers may be able to meet the burden of complying with multiple

[2] Dunitz, Warren, and Marshall, "Brief of Amicus Curiae National Auctioneers Association and 38 State Auctioneer Associations in Support of the Respondents."

state and local taxation regimes, many auction companies and other small businesses do not have the resources to absorb the costs of such compliance. As stated by one scholar, "[t]he result is a situation the Founders sought to prevent: states disrupting interstate commerce with a death by a thousand cuts."[3] For NAA members, this ruling represents a threat to our very existence.

As explained in the following synopsis of the auction industry, the imposition of state sales taxes is a particularly acute problem for many smaller auction companies and imposes significant burdens on interstate commerce conducted by all auction companies. Each auction is unique onto itself, in terms of the items we are selling, the number of items (lots) in the auction, the makeup of the buyers, as well as the location of the sale. In the opinion of many[4], the imposition of sales taxes on remote sellers, especially smaller remote sellers such as auctioneers, creates a significant and unacceptable burden on interstate commerce.

We in the auction industry are governed by the Uniform Commercial Code (UCC), a comprehensive set of laws that govern commercial transactions and business dealings in the United States. Section 2-328 of the UCC specifically deals with auctions. Forty-nine of the states have adopted the UCC including section 2-328 into their state regulations. However, many state laws and regulations regarding remote seller sales tax violate the basic tenets of UCC 2-328 (e.g, defining what constitutes a sale, when liability changes hands, and when the sale is final etc.).

More than 94% of auction companies in the NAA have fewer than twenty employees. Although most auction companies are small and often family-owned businesses, auction professionals collectively facilitate commerce in America on a massive scale, selling a diverse variety of goods via live, online and simulcast auctions, as mentioned previously. Auction professionals sell billions of dollars of idle assets each year, putting those assets back to work, and providing a valuable service to businesses, governments, individuals, communities, and the broader society.

A significant difference for our industry, versus retailers at large, is that auction companies do not typically own the goods they sell at auctions, serving instead as agents of the sellers by overseeing the marketing and logistics of the auction. As agents, auction professionals collect and remit sales taxes on the sale of goods sold and delivered in the jurisdiction of the auction. As we facilitate the asset distribution of our sellers, we do not know what we are selling until we have a contract with the seller. We sell a broad range of products from pots and pans to large commercial machinery. It is not uncommon to have a $100,000 John Deere tractor as well as the kitchen table in the same sale.

An overwhelming majority of the assets we sell are non-consumables; therefore, we do not have a large pool of repeat buyers. Our ability to forecast the location of our buyers is limited. We

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[3] Henchman, "Brief of Tax Foundation as Amicus Curiae in Support of Neither Party."

[4] Clement, Murphy, and Rowen, "Brief for Amici Curiae National Taxpayers Union Foundation, Americans for Prosperity, Freedomworks, Freedom Partners Chamber of Commerce, and Institute for Policy Innovation in Support of Respondents"; Myles, Cannon, and Calhoun, "Brief of Americans for Tax Reform as Amicus Curiae in Support of the Respondents"; Dunitz, Warren, and Marshall, "Brief of Amicus Curiae National Auctioneers Association and 38 State Auctioneer Associations in Support of the Respondents"; Henchman, "Brief of Tax Foundation as Amicus Curiae in Support of Neither Party"; Shapiro, Burrus, and Larosiere, "Brieft for the Cato Institute as Amicus Curiae in Support of the Respondents."

know the "types" of buyers we have, but not the specific location demographics on them. Most auctions are open to the public, so anyone from anywhere can show up to register and bid at an auction. Thus we are challenged to forecast what state nexus we may trigger with our sales.

Another challenge we face is the limited turnaround time we have to sell the goods for our consigners. It is not uncommon for a firm to have under a month from the time we sign a contract to the date of sale. One of the major selling points of the auction method is the ability to turn around the assets for cash in a short amount of time. This is a hallmark of the industry, so if auction firms must expend additional time to research and determine all the possible tax implications of each item, we lose one of our major market advantages.

Since the South Dakota v. Wayfair decision, forty-two states have enacted legislation similar to South Dakota. These states changed their statutes to collect sales tax on out-of-state retailers via a range of nexus theories (e.g., economic, marketplace, click-through, affiliate, etc.). Navigating the myriad jurisdictions, requirements, and changes is burdensome and costly. Additionally, states are currently able to impose retroactive tax liability on businesses for prior sales; this only compounds the burdens on small businesses like those in the auction industry.

Nationally there are an estimated 10,000[5] tax jurisdictions in the United States that impose a sales tax (as of June 30, 2017) ranging by state on the high end from 1,277 in Missouri, 1,153 in Texas, and 908 in Iowa, to just one each in other states such as Connecticut, Indiana, Kentucky, Maine, and Maryland. Far from getting fewer, the number of sales tax jurisdictions grows each year.

States that support the South Dakota v. Wayfair decision view it as a means to require out-of-state retailers to pay their "fair share" of state sales tax while purportedly imposing a "negligible burden" on interstate commerce. However, many legislatures used the South Dakota thresholds [minimum dollar threshold (of $100,000 in sales) or a minimum number of transactions (200)] as a basis for their thresholds. South Dakota has a population of 865,000. This de minimis threshold has the effect of excluding sellers with incidental sales into South Dakota. The state established a level that would not create an undue burden on interstate commerce and sellers in fairness to the commerce clause. If applied proportionally by population or economy, the thresholds for larger states would be significantly increased. However, this is not the case. If it were, New York's threshold, strictly on the basis of population would be $2.28 million, but in fact it is $500,000 in sales and a mere 100 transactions.

As a result of this ruling, states are creating the scenario that the Commerce Clause sought to avoid: an un-sound tax policy[6]. States are using the Wayfair decision to levy taxes not only from those in-state businesses and residents who benefit from provided goods and services but also forcing out-of-state sellers into their taxing regime based on as little as one transaction or one dollar, as Kansas has now done[7]. James Madison in The Federalist Papers No. 42 warned against

[5] Email from Tricia Schafer-Petrecz, Pub. Relations & Soc. Media Lead, Vertex, Inc., to Joseph Henchman, Exec. Vice President, Tax Foundation

[6] Wall Street Journal, "Opinion | State Tax Collectors Want You."

[7] Weisgerber, "Notice 19-04 Sales Tax Requirements For Retailers Doing Business in Kansas."

such activity "[T]he mild voice of reason, pleading the cause of an enlarged and permanent interest, is but too often drowned before public bodies as well as individuals, by the clamors of impatient avidity for immediate and immoderate gain.".[8]

States and their legislatures were wooed by the idea of billions of dollars in untapped revenue. Estimates ranged from $8.5 billion to $25.9 billion, by the Government Accountability Office (GAO) and the National Conference of State Legislatures (NCSL), respectively. Although this seems like a considerable additional revenue, it only accounts for less than 2% of states' spending in FY2017. The return on investment is quote low. In fact, estimates coming out of states for FY2018 are showing a much lower return, of around $3.6 billion or 0.7% of general fund revenue. Why? Well per the Census Bureau, 89% of all retails sales are still transacted in brick-and-mortar stores. The GAO estimates that of the remaining 11% of virtual stores, 80% of them were already being collected under pre-South Dakota v. Wayfair agreements[9][10].

The Streamlined Sales Tax and Use Agreement (SSUTA) was designed to achieve more straightforward and uniform state sales tax regulations the imposition of which would not be an undue burden on interstate commerce. The SSUTA is a multistate effort to adopt simplified administration and remittances, establish uniform definitions of items subject to tax, and require uniformity between state and local sales tax bases. Twenty-four states have joined SSUTA[11].

However, as it has not achieved full adaption, SSUTA has been less successful than it could be, mainly due to the nonparticipation by a majority of states, including the large economies of California, Florida, Illinois, Massachusetts, New York, and Texas. Some states refuse to join to maintain idiosyncratic sales tax practices (Maryland's "rounding rule")[12], or Chicago's decision to tax sales of soda, bottled water, non-soda drinks, restaurant meals, groceries, and candy, all at different tax rates. Currently, there has been no clear or clean answer to how states are implementing sales taxes on remote sellers, nor as to what is taxable.

One example of this is that members of the NAA have received instructions from the Minnesota Department of Revenue, which is a part of the SSUTA, "for sales and use tax purposes, a sale takes place where the tangible personal property is received. Risk of loss has no bearing for sales and use tax purposes"[13]. In layman's terms, they do not distinguish on the basis where our auctions take place, whether it be online or in a live auction. We have been told that if the auction house ships the item, then the sale is sourced to the location the item is delivered to (Minn. Stat. 297A.668, subd. 2(c)) not the location of the sale. As a founding member of the

[8] "The Federalist Papers - Congress.Gov Resources - Congress.Gov Resources."

[9] Amazon, Walmart, Apple, The Home Depot, Costco, and Macy's already had business models that required them to collect tax for their web sales. These companies alone represent more than 60 percent of e-commerce sales.

[10] Moylan and Wilford, "Wayfair Revenue Estimates Come Up Short."

[11] Including Arkansas, Georgia, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Nebraska, Nevada, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Rhode Island, South Dakota, Utah, Vermont, Washington, West Virginia, Wisconsin and Wyoming. The District of Columbia is also a member. Tennessee is an associate member.

[12] Requiring vendors to round remainders of 4 and above up, rather than 5 and above- Comptroler of Maryland, Maryland Sales & Use Tax.

[13] Hopkins, Minnisota Department of Revenue.

SSUTA, Minnesota maintains veto power on the SSUTA board. The Minnesota Department of Revenue indicated its ruling is in line with SSUTA provisions and policy for all SSUTA states (SSUTA, Sec 301A(1)).

In practical terms, this means that if we have a live sale in New Hampshire, where all of the staff work, all of the bids taken and executed and all of the payments are made in New Hampshire, but, the item was shipped by the auction firm to Minnesota, then it would be considered a taxable sale to Minnesota by their department of revenue. In fact, the Minnesota Department of Revenue has stated that if the auction house maintains an address on file for a buyer, and on the invoice it shows a Minnesota address, even if the auction house does not ship the item and has no knowledge of how it was transported, then it would be considered a taxable sale to Minnesota by their department of revenue (Minn. Stat. 297A.668, subd. 2(c)), unless the auction house can prove they DID NOT ship it.

At the federal level, S.2350 Online Sales Simplicity and Small Business Relief Act of 2019 sponsored by Senator Jeanne Shaheen, as well as H.R.1933, Sponsored by Representative F. James Sensenbrenner, are bills designed to mitigate the impact of the South Dakota v. Wayfair decision on small businesses.

As previously discussed, one of the hardest problems with compliance is the lack of standardization. Both the thresholds that each state has established as well as what is taxable are not standardized. Auction companies face a complex web of state and local sales tax collection obligations. With customers across the country, these new tax laws mean that auction professionals face the overwhelming and daunting task of determining the correct taxing authority and tax rate for each customer as well as the proper classification of each item sold in nearly 10,000 different taxing jurisdictions in the United States. With the myriad of ways that states set up their taxing regulations, it is almost impossible for a small business to comply with every jurisdiction. Not only are states unaware of all the exceptions within each state, but there are also situations like Alaska, where the state itself does not collect sales tax; however, municipalities within the state can charge and collect sales tax. For a business to know this, they would have to go to each taxable jurisdiction and verify for each such jurisdiction whether there is a tax and how it is to be remitted. Businesses are now required to determine the applicable sales tax, collect, and then remit the tax to the buyer's local taxing jurisdiction. Yet, there is no national clearinghouse for this information. This creates an undue burden on interstate commerce of small businesses.

During the oral arguments of the South Dakota v. Wayfair case, ease of compliance was considered. Both in written testimony and oral arguments, discussion of how tax software was available to alleviate the burdens and make collection easy took place[14]. However, while basic versions of tax software may be available for low monthly fees, substantial fees apply for premium services including support for additional jurisdictions, ready-to-file return preparation, and actual remittance of sales taxes to each taxing authority[15]. Auction companies must also

[14] Deutsch, Hunt, and Pllc, "Brief of The National Association of Certified Service Providers and the Software & Information Industry Association as Amici Curiae in Support of Neither Party."
[15] Sutton, Jr., "Brief of the American Academy of Attorney – Certified Public Accountants as Amicus Curiae in Support of Respondents."

consider the cost and staff time of integrating software into existing accounting and payment systems, which can be particularly challenging as the items and prices vary significantly for each auction with minimal overlap. Small businesses cannot afford to hire tax compliance professionals or spend hours of staff time on compliance. This creates an undue burden on interstate commerce for these small businesses.

Lastly and most troublesome is the retroactive sales tax liability for prior sales that is now possible under the legislation of some states. Due to the court's decision to overturn Quill, all regulations that have been in place at state and local levels before the decision are now fully legal and enforceable. This means that even though a company was not legally required to pay sales tax for remote sales prior to 2018, now states can send tax bills for years prior. How one is to go back to prior year's buyers and collect sales taxes for those items is a most interesting intellectual exercise, but it is impossible in practical terms. This creates an undue burden on interstate commerce for these small businesses.

The argument for the collection of sales taxes by remote sellers is usually characterized as a means to create fairness between small mom-and-pop / brick-and-mortar / Main Street shops and massive behemoth online companies. A common term is "making an equal playing field" for everyone selling. However, the financial, logistical, and staffing requirements necessary to comply with the myriad of taxing jurisdictions does just the opposite. Small mom-and-pop / brick-and-mortar / Main Street shops are the ones that cannot afford to meet the requirements. If anything, an undo consequence of these regulations is forcing these small companies out of business. In Kansas, there is a fifty-year-old auction company that has four full-time employees. As of last month, they had crossed the threshold of remote sales tax regulations of three states. They forecast that within eighteen months they will be out of business due to the overhead costs created by these compliance issues.

Finally, the number one misunderstanding of the South Dakota v. Wayfair ruling is interstate verse online commerce. Of the forty-two states that have enacted legislation, only one has used the term "online" in its regulations. It does not matter if you sell a product through e-commerce on the internet or if an individual comes into your store buys a product and pays for it on site. The final destination of the item sold determines its tax liability. If you walk into a bike shop, test out a bunch of bikes, have the bike fitted for your specific size, and then have the bike shipped to your home, if that home is in a different taxing jurisdiction the tax liability for remote sales tax is based on the destination of that bike and not the point of sale. Therefore, it is not a matter of online merchants selling their wares across state lines; any product that crosses state lines is classified as interstate commerce and thus the seller is a remote seller.

We in the auction world do not want to die a death by a thousand cuts. We have adapted to the changing landscape of the economy and our place in it. We work for our sellers to help them achieve the best price in the marketplace for the property they own. We have mastered the marketing challenges of selling assets in numerous classes. We facilitate an open, transpaprent, and competitive market where all have the ability to buy and sell. The South Dakota v. Wayfair decision is an existential threat to us. Please help us mitigate the impact of this decision on our industry and livelihoods.

I'd like to thank you for the opportunity to testify today. I look forward to responding to any questions you may have today or which are submitted later for the record.

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SOUTH DAKOTA
v.
WAYFAIR, INC., OVERSTOCK.COM, INC., AND NEWEGG, INC.

Excerpts from:

AMICUS CURIAE BRIEF OF NATIONAL AUCTIONEERS ASSOCIATION AND 38 STATE AUCTIONEER ASSOCIATIONS

NOTE: *This is not an exact quotation from and restatement of the NAA's brief. Emphasis has been added to highlight particular comments in the NAA's amicus brief that focused on the unique burdens on* ***small businesses*** *that would result from a Supreme Court ruling in favor of South Dakota making small businesses responsible for collection of sales taxes on interstate/internet sales. Passages from the brief have been rearranged, Citations have largely been omitted, and Footnotes have been omitted. Headings below have been added for the convenience of the Committee, and were not part of the NAA's amicus brief.*

I. Impact on Small Businesses (Overview):

One cannot overstate the adverse impact on auctioneers if this Court overrules the precedent it adopted more than 50 years ago in *National Bellas Hess, Inc. v. Department of Revenue of Illinois*, 386 U.S. 753 (1967) and affirmed 25 years later in *Quill Corp. v. North Dakota,* 504 U.S. 298 (1992). Auctioneers have relied on this rule to determine when to collect and remit sales taxes, and the certainty afforded by the physical presence rule has allowed the auction profession to evolve and embrace online and other forms of interstate sales. If this Court overturns the physical presence rule, auction companies will face a complex web of state and local sales tax collection obligations and may become subject to retroactive sales tax liability for prior sales. While large retailers may be able to meet the burden of complying with multiple state and local taxation regimes, many auction companies **and other small businesses** will simply not have the resources to absorb the costs of such compliance.

II. Principal Arguments Addressing the Circumstances of Small Businesses (such as Auctioneers):

Auction companies are typical of small businesses throughout the country ... More than 94% of NAA's member companies have twenty or fewer staff members and more than 80% have fewer than ten total employees. Businesses this size simply cannot afford to hire tax compliance professionals or spend hours of staff time identifying, collecting, and remitting sales taxes in thousands of different taxing jurisdictions.

The "De Minimis" Exception is Not Adequate Relief for Small Businesses:

South Dakota argues that its statute is appropriately structured to exempt businesses that do not have significant sales in South Dakota. Specifically, South Dakota's statute applies to businesses that do more than $100,000 in sales or more than 200 transactions per year. S.D. CODIFIED LAWS § 10-64-2. Through this claimed de minimis exception, South Dakota may have intended to net only whales, but its bycatch will inevitably include many minnows.

Auctions are a perfect example of how South Dakota's statute will affect small businesses. Hundreds of items may be sold in a single auction, and often a single bidder will purchase dozens or more items. Under South Dakota's statute, if a handful of South Dakota residents become winning bidders on as few as 200 items in an out-of-state auction, whether live or online, South Dakota imposes a sales tax on the auctioneer. Each of those items would then need to be analyzed for exempt status, the appropriate sales tax rates would need to be calculated and collected for each item, and the total amount would need to be filed with South Dakota's Department of Revenue. This burdensome obligation could be triggered for as little as a few thousand dollars of purchases in a single auction.

Moreover, a small business cannot know if it will exceed the exemption thresholds in any given year. Under South Dakota's law, a seller is required to pay sales taxes if it exceeds one of the thresholds "in the previous year or the current calendar year." S.D. CODIFIED LAWS § 10-64-2 (emphasis added). This standard requires a business to predict ahead of time whether it will later exceed the statute's thresholds in a calendar year. As a result, small businesses will likely feel forced to collect sales taxes, even if they are unlikely to exceed the statutory thresholds, since failing to do so and later exceeding one of the thresholds would result in the business absorbing the sales tax and facing possible non-compliance fines and penalties.

For example, if a business does not expect to exceed the revenue or transaction thresholds, it may choose not to collect sales taxes from South Dakota residents. If it then has a better than expected year and exceeds one of the thresholds, it will become responsible for taxes on sales made for the entire year. Unable to collect sales taxes from customers for sales made earlier in the year, it will be forced to pay the taxes itself. To avoid this scenario, the small business needs to charge sales tax on the very first sale it makes to a South Dakota resident. In short, from a practical standpoint, South Dakota's de minimis exemption is illusory.

NAA Predicted a Cacophony of Varying State Standards and Rules, Which Is Exactly What Has Materialized:

> [O]ther states will not be bound to South Dakota's exemption levels and will be free to impose sales tax on any and all sales. While [South Dakota] contends that states are unlikely to ensnare small businesses in minimal collection requirements, logic and experience suggest otherwise. A constitutional standard that depends on fifty states and thousands of taxing jurisdictions working together and agreeing on a single, streamlined collection process and exemption threshold is the height of folly. States already have an interest in protecting their own businesses from burdensome taxation and streamlining sales taxation collection across state lines. Despite this incentive, states have adopted a wide variety of taxation schemes to generate additional sales tax revenue from out-of-state businesses.
>
> This strategy is unsurprising. Out-of-state sellers are an attractive target for states. Unlike their in-state counterparts, out-of-state sellers, especially small businesses, often lack political influence in the taxing state. Elected officials, wary of increasing other taxes on their constituents, will eagerly pursue sales tax revenue from out-of-state sellers.
>
> In fact, some states have already adopted lower exemption thresholds in their expanded physical presence and reporting requirement statutes, as low as $10,000 (in 16 states), $5,000 (in Rhode Island), $2,000 (in Connecticut), and even no exemption whatsoever (in Pennsylvania). These low exemption thresholds illustrate the impact on small businesses in a post-*Quill* world. As Justice Alito put it during oral argument in *Direct Marketing Association v. Brohl* (speaking only to the number of states, not the thousands of other taxing jurisdictions): "Now I will have to submit potentially 50 different forms to all of these States reporting that somebody in South Carolina purchased something from me that cost 23.99."

The "Streamlined Sales Tax" Efforts Have Not Addressed the Wayfair Compliance Problems Faced by Small Businesses:

> [South Dakota] and its Amici attempt to downplay the chaotic mess of state and local sales and use taxes by noting that "many" states have moved toward simplified collection processes. In reality, only 24 states accounting for one-third of the United States' population have joined the Streamlined Sales Tax Agreement. Having a streamlined reporting procedure in a minority of states does nothing to simplify the compliance burden in the states that have not adopted such a procedure.

In fact, it is likely that some states are working together and using carrots to incentivize compliance precisely because of *Quill*. If *Quill* is overruled, states will not need carrots to induce compliance; they will have more effective sticks: the state's enforcement powers. Letters offering compliance assistance and reduced price software will quickly turn into demand letters, audits, and threats of litigation. States rarely offer compliance assistance and free software for their in-state businesses. It is unlikely they would do so for out-of-state businesses. Under our constitutional government the only entity that can harmonize these inconsistent demands on interstate commerce is Congress. As this Court observed in *Quill*, Congress has the authority under the commerce clause to overturn the physical presence requirement. Only Congress can ensure that the burden of inconsistent state and local sales tax regimes does not stifle interstate commerce by standardizing state sales tax collection and providing adequate and uniform exemptions for small businesses.

Small Businesses Cannot Realistically Hire and Compensate the Staff Necessary to Ensure Compliance With Sales Tax Collection and Remittance Obligations on Interstate/Internet Sales:

As noted above, auction companies are small businesses, with 94% of NAA members having fewer than twenty employees and more than 80% having fewer than ten. Businesses this size often operate on small margins. Most lack both the in-house expertise for multi-jurisdiction tax compliance and the resources to hire new staff to handle compliance issues. Like many small businesses, most auction companies have a bookkeeper or office manager or family member with a variety of job responsibilities handling state tax returns rather than a full-time accountant.

The cost of hiring new staff or outside experts to comply with expanded sales tax collection requirements is prohibitive for such small businesses. According to the Aberdeen Group, the average cost of employees dedicated to sales and use tax management is already over $63,000 per year for small businesses. This will only increase if this Court abrogates *Quill*. Engaging outside accountants and tax attorneys for tax compliance assistance will be infeasible for the majority of small businesses including auctioneers.

Software is not the "Easy Answer":

[South Dakota] argues that tax compliance software provides real time compliance support for little to no cost. Minimal investigation reveals that this

sales pitch is vastly overstated. As one provider of tax compliance software put it, "compliance isn't easy or cheap." Basic versions of tax software may be available for low monthly fees, but substantial additional fees apply for "premium" services including support for additional jurisdictions, ready-to-file return preparation, and actual remittance of sales taxes to each taxing authority. In addition, [South Dakota] and its Amici ignore the substantial cost of staff time to integrate the software into existing accounting and payment management systems, including the staff time required to identify and enter product and purchaser information for the software to work.

As [South Dakota] and its Amici appear to acknowledge, tax compliance software is the only realistic way to comply with the quagmire of inconsistent state and local sales tax rules. As an initial matter, this Court should be highly skeptical of the claim that an extremely complex service like multi-jurisdiction sales tax compliance is being offered by private companies for little or no cost. Much of the data cited by [South Dakota] comes from these tax compliance providers themselves. Obviously, these companies have a clear financial interest in making their products appear reasonably priced for potential clients. Tax compliance companies hire teams of tax attorneys and other professionals who constantly monitor changes in each of the more than 10,000 taxing jurisdictions in the country. The notion that these for-profit companies will essentially give away a product that requires such extensive manpower and expertise is patently false.

While the costs to license tax compliance software may start at tens of dollars per month for a limited number of sales and taxing jurisdictions, unlimited access can cost up to $200,000 per year in licensing fees alone. These costs are only for basic service. To access "premium" options, businesses must pay much higher monthly fees. These premium options include tasks such as providing ready-to-file returns and actually remitting sales taxes to the appropriate taxing authorities. If this court eliminates the physical presence rule, it is likely that surging demand would further drive up prices for software.

One NAA member company investigated the cost of tax compliance software in 2017. In that year, this auction company sold 92,105 lots at auction across 12,078 invoices and remitted a total of $856,051 in sales tax to approximately 200 different taxing jurisdictions based on the location of the seller's assets. For this company, the licensing cost for basic service was quoted as $945 per year plus $45 per return filed. Since many states require monthly filings, the cost to this company for filing returns was expected to be more than $2,200 per month. Thus, the total software cost was estimated to be approximately $25,000 per year for this one auction company under current law. While these prices may no

longer be current, this example demonstrates how software costs can be much higher than they initially appear. If the physical presence rule is overturned, this company's software licensing costs would be significantly greater. Instead of applying sales tax based on the location of the seller's assets at each auction, the auction company would be required to look up and calculate sales tax based on where the buyer receives the purchased items, for over 12,000 invoices in the cited example. This would greatly increase the required number of tax returns and corresponding software fees.

Moreover, software fees are just the tip of the iceberg. Once purchased, the software must be integrated into a business's current payment processing and accounting systems. The type of seamless integration described by the National Association of Certified Service Providers is generally limited to integration with a business's online shopping cart system. As the U.S. GAO Report found, "[b]usinesses would either have to incur additional costs to better integrate sales tax software with existing business information systems (such as general ledger accounting system), or regularly reconcile receipts and records manually to prepare sales tax returns for all states where it makes sense." If a business uses custom or uncommon software, integration of the tax software into its operations will be even more expensive and future software changes will be limited to compatible products and require additional integration costs. Businesses may therefore feel "locked in" to a specific provider, unable to switch if they are unhappy with their products or service.

After the software is integrated into a business's existing systems, the tax compliance software is only as good as the information uploaded to it. Much of the compliance burden on businesses will be entering product information into the software, a process known as mapping. Mapping requires the coding of all of a business's products to the specific taxation categories listed in the software. This allows the software to determine whether the item is subject to sales tax in a given jurisdiction and the applicable tax rate. Product mapping must be done "with sufficient precision for the software to assign its tax status based on state laws."

Because state and local tax rules are so varied, mapping requires a substantial amount of staff time and product knowledge to ensure that each product is correctly identified and categorized in the software. Otherwise, taxes may be collected on products that are exempt or vice versa. In the auction business, such product mapping presents an enormous challenge, both because goods sold at auction are often unique or used items and because of the state-by-state differences in what is or is not subject to sales taxation. For example, farm equipment is generally subject to sales tax in South Dakota but there are exemptions for equipment used to raise certain types of animals and other

agricultural products. In Minnesota, farm equipment is generally exempt from sales tax, but the exemption does not apply to certain specific categories of equipment, including equipment used to raise horses and equipment used on hobby farms. Thus, to complete the mapping process for farm equipment correctly, an auctioneer seller must enter detailed information about the product, including: (1) whether the product is farm equipment; (2) whether it is used for commercial purposes or hobby farming; (3) whether the equipment is used to raise animals; and, if so, (4) which specific animal or animals. This is only one example. Other states may apply taxes to new equipment but not used, apply different rates to different types of products, or apply finer distinctions between the type or volume of farm goods and equipment sold. And this example does not even consider local sales tax rules.

Registering and Remitting Sales Taxes Are Unduly Burdensome for Small Businesses:

Integration and mapping are mere precursors to collecting and remitting sales taxes. Businesses must collect and account for all sales tax collections, prepare tax returns for each state and local jurisdiction where they have qualifying sales, and remit payment to the appropriate taxing authority. The process of sales tax remittance varies greatly by state. Many states require monthly filings, others accept quarterly filings, and filing obligations may vary by sales volume. South Dakota requires businesses to file a return for each reporting period, regardless of whether they made any sales during that period. Each business will need to register and obtain a license from applicable taxing jurisdictions, some of which require a registration fee, and all of which require additional time and paperwork. Only after all of these resources in both time and money are expended can the business collect and remit sales taxes for out-of-state sales.

State Sales Tax Audits and Potential Litigation Are Unduly Burdensome for Small Businesses:

Remitting sales taxes does not mark the end of the compliance burden. Many small businesses will face even greater compliance costs in the form of assessments and audits from state and local taxing authorities. Unlike many large businesses, which often have entire compliance departments, small businesses are forced to do the best they can with limited resources. Indeed, the U.S. GAO Report found reason to believe small and medium-sized businesses will be audited because such audits often generate additional state revenue. Audits can be extremely expensive and time consuming for even large businesses

and outright disastrous for small ones. Even if the risk of an audit is low, state taxing authorities have other enforcement tools, such as assessment letters. These letters are mailed to businesses that the state believes may owe sales taxes. The burden is then on each business to prove that the taxing authority is wrong. Small businesses are unlikely to have the wherewithal to challenge a state's assessment, even when they have good reason to conclude that it is incorrect. Challenging an incorrect assessment may require hiring counsel and accountants in the taxing state and traveling to the state to appear before the taxing authority. At a minimum, it will require staff time to investigate and respond to the assessment letter.

If an out-of-state business decides to challenge a state's assessment or tax law, it will be forced to litigate the issue in state court in the taxing state. Under the Tax Injunction Act, federal district courts may not entertain a challenge to the "assessment, levy or collection" of a state tax if there is an acceptable remedy in state court. Thus, not only will a business with little connection to a taxing state be forced to litigate in that state, it will be forced to do so in a forum that may be inherently biased in favor of the state's tax collectors.

While there are ways to minimize the compliance burden on small businesses, they require uniform, voluntary action from all states (which has not yet happened and is unlikely ever to occur). Absent voluntary action by all states, only Congress can mitigate or eliminate the burdens on interstate commerce that would result from the repeal of the physical presence requirement. Congress would be able to guarantee meaningful small business exemptions, guarantee simplified reporting requirements, or even require compensation for compliance. Without such Congressional action, the physical presence requirement is the only bulwark protecting small businesses from a burdensome deluge of tax collection requirements.

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The Honorable Andrew N. Kim
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Written Testimony of

Kurt Frome, President, Roelz Frome Inc.
Hearing on *South Dakota v. Wayfair, Inc.*: How Mainstreet is Fairing and Whether Federal Intervention is Necessary

March 3, 2020

Chairman Kim, Ranking Member Hern, and Members of the Subcommittee, thank you for holding this hearing on state taxation. I am honored to offer my perspective as a small Montana small business owner, and to share my story with you.

Background

My name is Kurt Frome and I am the President of Roelz Frome Inc. We are based in Lavina, Montana, my wife and I started our e Commerce business in Utah in the year 2000 selling baby carriers and toys. We have navigated the changing e commerce world, and I have been able to provide a modest living for my family in this business for almost 20 years. Our children and others have benefited from working part time in our business.

Taxes Post Mayfair

While selling on Amazon has been great for my business, over the years it has become more and more challenging and uncertain. I want to expand my own website but am hesitant to do so given the complexity of the sales tax situation. My local CPA does not pretend to understand multi state sales tax. I have tried to get information from online sales tax groups and joined The Online Merchants Guild because of sales tax. I even spent $3,000 to get a few hours of advice from a multi state sales tax attorney. Small business really are not in the financial position to hire multi state tax attorneys and why should we have to. I have used small business sales tax software and have yet to find one that works adequately for all the sales tax scenarios that even my very small business faces. After having put in great amounts of time trying to figure compliance out, I am left with a sense of uncertainty and confusion regarding sales tax compliance. Why should sales tax compliance be such a disproportionate burden and hindrance to my small business?

How do we Fix this?

In order to fix this problem, we need Congress to intervene. Small businesses need to be protected. We need a simple clearing house solution where we pay one bill to one state. Let the states figure out the distribution details and let us run our businesses instead of being bogged down with acting as tax collectors for a myriad of jurisdictions.

Sincerely,

Kurt Frome

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Written Testimony of

Dean Sweberg, Managing Member of BBD Sales LLC

Hearing on *South Dakota v. Wayfair, Inc.*: How Mainstreet is Fairing and Whether Federal Intervention is Necessary

February 26, 2020

Chairman Kim, Ranking Member Hern, and Members of the Subcommittee, thank you for your leadership in this hearing on state taxation. I feel honored to offer my perspective as a small business owner in Wisconsin and appreciate the opportunity to share my story with you.

Background

My name is Dean Sweberg and I am the Managing Member of BBD Sales LLC, based in the village of Oregon, Wisconsin, a small community with nearly 10,000 residents. I started my eCommerce business eighteen years ago while a student in college. In those days, Amazon was merely a bookstore and I would buy and sell textbooks from other students on campus, keeping tabs on the seasonal price fluctuations to leverage a profit. In the years since, I have grown my business by expanding into many other product categories and also from the Amazon marketplace to also selling on Walmart, Jet and eBay's marketplaces. All of our sales are through these marketplaces; we do not operate our own website. In early 2018 my company had a total of 5 employees, but that is unfortunately no longer the case.

Sales Tax Nightmare Post Wayfair

While selling on Amazon and the other marketplaces has provided a tremendous platform for my business, in recent years it has become more and more challenging. In just the past three months I made the difficult decision to abandon previous plans for growth, decided not to renew our warehouse lease, and I laid off several employees, who are no longer receiving their living wages, let alone health care or the company retirement match. As a direct result of the Wayfair decision, I was forced to obtain sales tax permits in 39 states, each with their own set of filing frequencies/due dates, complex forms, and seemingly endless nuances between what is and isn't taxable and at various rates (shipping, grocery items/food, clothing, sales tax holidays, and so on). Many states, (Arizona, Colorado, and Texas, just to name a few especially egregious examples) have literally hundreds of municipalities, fire and transit districts, parishes, counties, and so on that require itemizing out on a monthly…or if we're lucky, quarterly basis. I am now forced to block my schedule for several days during the first week of every month just to sit in front of the computer and key in sales tax filings, when I could be growing my product selection or re-ordering top sellers to keep up with demand. I pay over $1,000 per year just to use software that breaks down sales into the various jurisdictions, leaving the actual filing responsibilities to me. To hire a third-party service provider to file on my behalf would cost us nearly $10,000 per year, which is out of reach for my company. Profit margins on

marketplace sales are razor thin, and so even as I am selling millions of dollars in product per year, the take home profit is similar to that of a teacher or a plumber. My wife is a school teacher, so this hypothetical analogy is the best I can come up with: imagine if a school teacher was told that because his/her students happened to visit 39 different states with their families during summer/spring break, that teacher now has to file student report cards in each of those municipalities, counties, states on a varying schedule of due dates, some monthly, some quarterly, some biannual, etc...and there would be financial penalties and possibly jail time threatened if these deadlines or filings were missed. How many teachers would stay in the job? This is precisely what small business e-commerce sellers are facing today.

What can be done

In order to fix this problem, we need Congress to intervene. Small businesses need a nationwide standard that includes a mandatory single sales tax rate per state for out of state retailers. While Marketplace Facilitator laws in many states are helping to reduce the burden for businesses like mine, many states are aggregating thresholds and discouraging sellers from trying to be independent from Amazon, because the burden of being a small online retailer is too high. We certainly respect the need and right for states and municipalities to collect sales taxes, and I am sure that 100% sales tax compliance is possible, but only if states are required to use modern technological solutions. We need Congress to put the burden on the states, rather than on us sellers. What we want is not bigger thresholds, or any thresholds, but rather efficiency.

Conclusion

Countless hours have gone into building my business and it was an honor to provide good paying jobs with benefits for several employees. Due to the Wayfair decision creating significant administrative and regulatory burdens on my business, we have been struggling these past two years. I urge you to consider legislation that would address this nightmare scenario for small business owners throughout the United States. I also urge you to carefully consider the testimony of Online Merchants Guild ("OMG"). OMG is an eCommerce seller organization, and its members are only small eCommerce business owners like me. They are my voice, and nobody else's. They fought for us during Wayfair, and are fighting for us every day, and I urge you to work with them going forward, to help you solve this issue.

Sincerely,

Dean Sweberg

SOVOS

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Written Testimony of
Charles P. Maniace
Vice President – Regulatory Analysis & Design
SOVOS, LLC

This written testimony is offered with respect to the subcommittee hearing conducted on March 3, 2020 entitled "South Dakota v. Wayfair, Inc.: Online Sales Taxes and their Impact on Main Street."

My name is Charles P. Maniace, and I serve as Vice President – Regulatory Analysis & Design for Sovos Compliance, LLC[1] and I offer this testimony in that capacity. Sovos is a global technology provider dedicated to supporting our clients through the digital transformation of tax. We provide scalable solutions that manage the cost and complexity associated with compliance. In the U.S. we support more than half the Fortune 500 while also offering affordable tax technology to small and medium size businesses. While my responsibilities at Sovos extend beyond sales and use tax, my primary subject matter expertise lies in sales tax. As you might imagine, the nearly two years between the decision of the Supreme Court in *South Dakota v. Wayfair*[2] and today have been the most interesting of my professional career.

Sovos, through our Taxify solution, provides sales tax determination and filing services to K-Log, Inc. which has offered testimony to this body. As their technology provider, we acknowledge their challenges and remain committed to supporting their compliance requirements.

[1] https://sovos.com/about-us/

[2] https://www.supremecourt.gov/opinions/17pdf/17-494_j4el.pdf

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I am appreciative of this body's deliberate consideration of the challenges facing small businesses in complying with the newly established body of laws, regulations and rules requiring sales and use tax collection and remittance across the vast majority of the U.S. I appreciate the many novel suggestions on tax simplification already offered by the witnesses permitted to offer oral and written testimony during the March 3 hearing. However, I was dismayed that the subcommittee did not seek or receive oral testimony from either the Streamlined Sales Tax Governing Board (SST)[3] or any number of Certified Service Providers[4] and other tax technology solutions, providing manageable and affordable compliance software to thousands of taxpayers across the country. This approach was especially disappointing given that both the Chairman and Ranking Member of the Committee represent jurisdictions that are full member states of SST.

The 24 SST members states have worked tirelessly over the last 20 years to adopt rules and requirements that create meaningful tax compliance simplification for taxpayers. Their successes to-date, as well as their plans for the future, should be considered by this subcommittee. Since I have every reason to believe that they will offer their own testimony, I will afford SST the opportunity to speak on their own behalf and focus my remarks on how technology shapes tax compliance, and offer ideas that Congress may consider as a means of enabling technology as a solution to the small business challenge.

When Congress has considered sales tax legislation in the past, including those deliberations leading to the senate passage of the Marketplace Fairness Act of 2013[5], technology providers were given the opportunity to offer our perspective. We have insight into the global trend towards digitization, and how that trend shapes how governments regulate global taxation, as well as, how organizations comply. We can offer insight as to the types of state requirements easily solvable by technology, as compared to those requiring more significant manual effort. While we recognize the compliance challenges brought to light by the handful of small business owners who offered testimony, our experience in supporting thousands of taxpayers creates a far more expansive perspective on how small businesses have responded to these newly established economic nexus requirements.

It is important to delineate between concerns related to economic nexus and its impact on small sellers, and the other separate and distinct topics that were referenced in the hearing memo and in the oral and written testimonies offered:

1. The prospective and/or retrospective application of the physical presence as articulated by the *Quill v. North Dakota*[6] and *National Bellas Hess v. Department of Revenue*[7]decisions on sellers storing physical inventory in locations owned by third party fulfillment centers, and the application of "cookie nexus" rules in jurisdictions such as Massachusetts as a means of imposing collection and remittance obligations on sellers who store bits of software on in-state computers and mobile devices. Neither of these scenarios is directly related to the principal of economic nexus.

[3] https://www.streamlinedsalestax.org/

[4] http://nacsp.tax/

[5] https://www.congress.gov/bill/113th-congress/senate-bill/743

[6] https://supreme.justia.com/cases/federal/us/504/298/case.pdf

[7] https://supreme.justia.com/cases/federal/us/386/753/

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2. The proliferation of Marketplace Facilitator collection and remittance obligations. While unquestionably linked to economic nexus, the legal and practical questions associated with imposing a collection and remittance obligation on a business entity that never takes legal title to the item being sold are separate and distinct from similar requirements when directly imposed on e-commerce sellers.

These two issues, although worthy of some consideration, should be seen and addressed as separate and distinct issues from the assessment of the impact of economic nexus requirements for small e-commerce businesses.

With the *S.D v. Wayfair* decision less than two years behind us, e-commerce sellers are in the earliest stages of understanding their new obligations. As noted by Ms. Lester, approximately 5,000 remote commerce companies have registered to collect and remit tax with the Illinois Department of Revenue.[8] Likewise, in Texas only 2,200 companies have registered for sales tax under the simplified regime offered to remote sellers.[9] In short, we are in the very beginning stages of compliance. Similarly, states are in the earliest stages of understanding how to best facilitate compliance from a nationwide tax base, searching for that sweet spot that allows them to efficiently and practically collect tax revenue that is properly due and payable. On top of this, sellers are just beginning to understand how automation and software can be deployed to create affordable and manageable nationwide sales tax compliance. While meaningful tax simplifications exist in all the Streamlined Sales Tax Member States as well as in Alabama[10], Texas[11], and Louisiana[12] today, there is no reason to rule out additional states enacting similar measures as a means of ensuring substantial taxpayer compliance. In short, it's far too early to declare the small business compliance burden to be insurmountable.

For example, the Multistate Tax Commission has been facilitating a "Wayfair Implementation and Marketplace Facilitator Work Group"[13] whose objective is to provide guidance to state legislatures on how they may enact legislation in the area of economic nexus and Marketplace Facilitator requirements in a way that's clear, uniform, and comprehensive. Similar efforts are underway within the State and Local Task Force of the National Conference of State Legislators[14]. Until the impact of these, and other similar efforts, are given opportunity to materialize, it would be unwise to enact rules and requirements that fundamentally alter the nationwide sales tax landscape.

Please understand that in no way am I suggesting that there are not additional steps that states could take to make compliance more manageable in each of the circumstances

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[8] Written Testimony of Linda Lester, Vice President K-Log, Inc.

[9] https://comptroller.texas.gov/taxes/sales/single-local-tax-rates.php

[10] https://revenue.alabama.gov/sales-use/simplified-sellers-use-tax-ssut/

[11] https://comptroller.texas.gov/taxes/sales/remote-sellers.php

[12] http://revenue.louisiana.gov/Miscellaneous/RSIB%2018-002%20-%20Definition%20of%20Remote%20Seller.pdf

[13] http://www.mtc.gov/getdoc/d3f9e214-6006-4f76-bca2-7287be89dd06/Wayfair-Implementation-Informational-Project.aspx

[14] https://www.ncsl.org/Portals/1/Documents/Taskforces/SALT_Model_Marketplace_Facilitator_Legislation.pdf?ver=2020-01-30-122035-320&timestamp=1580412048938

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outlined above. To the contrary, I will detail some suggestions immediately below, which would help continue to simplify sales tax obligation requirements for small businesses nationwide:

1. Amnesty – When each of the 24 SST member states acceded to their respective seats on the SST Governing Board, they were required to offer an expansive sales tax amnesty. As Tennessee remains an Associate Member State, their amnesty continues to this day[15]. Likewise, in 2017 the Multistate Tax Commission organized a unified Voluntary Disclosure program for sellers that accrued physical nexus because their inventory had been stored in third party fulfillment centers[16]. As described in the witness testimony, much of the fear surrounding sales tax compliance derives from tax liability (as well as penalty and interest assessments) associated with historical transactions. This concern is certainly justified, as it relates to sellers deemed to have historical physical nexus through inventory storage or "cookie" usage. This feeling of unease is becoming increasingly justified for direct e-commerce sellers as some states have had economic nexus requirements on their books for up to 18 months. While states would do well to consider the practical negative implications of assessing new registrants for retrospective transactions, they may do even better to tangibly assuage this real concern by offering a well-publicized and time constrained sales tax amnesty, which would shield new registrants from any tax, penalty or interest assessment.

2. Empower State Simplification – There are additional things states can do, on a practical level, to make sales tax compliance more manageable and affordable for sellers impacted by this new requirement. Becoming a member state to the Streamlined Sales Tax Governing Board is one such step. If SST membership is not practical, independent certification of tax solutions (following the model adopted by Pennsylvania[17]) is also a possibility. Likewise, regimes that offer simplified filing for remote sellers that eliminate local filing requirements, such as what is offered in Alabama can be enormously beneficial. So would a simplified sales tax registration process. To the extent states are enabled to be successful in their continued efforts to make tax simple, Federal action becomes unnecessary.

While the testimony offered by the in-person witnesses was certainly elucidating, a full consideration of the impact of the *Wayfair* decision on small businesses requires insight from organizations such as the Streamlined Sales Tax Governing Board and the technology providers that offer sales tax determination and filing solutions. I am appreciative of the opportunity to submit this written testimony in support of your deliberations and remain available for additional questions or comments.

Thank you,

Charles P. Maniace
VP – Regulatory Analysis & Design
Sovos, LLC

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[15] https://www.streamlinedsalestax.org/for-businesses/amnesty

[16] http://www.mtc.gov/Nexus-Program/Online-Marketplace-Seller-Initiative

[17] https://www.revenue.pa.gov/GeneralTaxInformation/Tax%20Types%20and%20Information/SUT/OnlineRetailers/Pages/Certified-Service-Providers.aspx

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February 26, 2020

House Committee on Small Business
Economic Growth, Tax, and Capital Access Subcommittee
Attn.: Chairman Andy Kim
2361 Rayburn House Office Building
Washington, DC 20515
RE: March 3, 2020 Hearing - "South Dakota v. Wayfair, Inc.: Online Sales Taxes and their Impact on Main Street"

Dear Chairman Kim:

I am writing you to detail the negative impact that "South Dakota v. Wayfair, Inc." has had on U.S. Toy Company, Inc. As a family-owned business that has operated for 67 years, first as a mail-order company and now primarily as an online retailer, we have to operate with a very lean staff in order to remain competitive against the e-commerce giants. We do not have tax specialists on staff and we have two accountants to handle all accounting and financial functions.

Because of the complexity of sales tax nexus following the Wayfair decision, we have incurred significant costs obtaining outside assistance to help us remain in compliance with various laws being imposed by states. With each state creating its own laws with no consistency in setting nexus thresholds, or in determining taxability of goods, services, shipping, and other products , it is virtually impossible for us to remain in compliance with all states at all times. Reporting and remittance requirements are also different for each state, with some requiring collection and reporting at the state level, and others requiring collection and reporting at the county and/or city level. The cost of using third party software for this and having to integrate our accounting system to feed the information into the third party software is prohibitive.

We are currently undergoing sales tax audits with two states and have been told by the tax consultant we utilized to help us determine nexus requirements following the Wayfair decision to expect more. Our small company is not equipped to handle the burden of knowing the requirements of all states, collecting and remitting sales tax for most of the states that allow sales tax, and supporting audits by all of these states.

If your committee, or our Congressional representative, Emanuel Cleaver II, is unable to provide relief from this ongoing challenge, U.S. Toy Company is unlikely to survive another 67 years. We are anxiously anticipating the outcome of March 3rd hearing and are hopeful that some relief will be provided.

Respectfully,

Barb Bartlett

Barb Bartlett, CFO
U.S. Toy Company, Inc.
13201 Arrington Rd
Grandview MO 64030

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Hearing - South Dakota v. Wayfair, Inc: How Mainstreet is Fairing and Whether Federal Intervention is Necessary

House of Representatives Small Business: Subcommittee on Economic Growth, Tax, and Capital Access

Honorable Committee members,

Rio Grande, Inc. is a supplier to the Jewelry industry. We supply raw materials, tools and equipment to jewelers. Much of what we sell becomes part of the product the jeweler is selling and many of the remaining products are used in the process of making the jewelry. These items are taxed many ways in the 14,000 plus taxing jurisdictions.

We have spent many hundreds of thousands of dollars and countless hours trying to comply with all the tax jurisdictions since the Supreme court overturned Quill. The decision was made the end of June 2018, and we were able to start phasing in different states starting on April 1, 2019. This was a major software search and implementation in nine months. None of the states could have even chosen a software vendor in that time period. We had to coordinate three different software consulting companies and pull up to twenty people from their regular jobs in order to accomplish this.

I was truly impressed with the team that pulled this off, so what do we get for our efforts?

- Many states set effective dates earlier than we were able to accomplish and are now threating to go after back taxes.
- Now local jurisdictions that do not follow their states filling requirements are trying to enforce taxing requirements on remote sellers when they have done nothing to simplify filling, for example: Colorado home rule jurisdictions and some jurisdictions in states that do not have a state sales tax
- No software or implementation is perfect and now we will be subject to audits by all these jurisdictions looking for any reason to add to their income.
- Just the internal staffing cost and on-going software costs are hundreds of thousands per year, even after the costs that stream-line sales tax states pick up.

Many of these costs do not change much for smaller companies. They just comply to a lesser extent. This is putting many companies at risk. Even if they can at least partially navigate the implementation process, they are likely to fall very short of the state's expectation and be taxed out of existence when they have their first audit.

Thank you for listening to our concerns.

Sincerely,

Danny R Cox

Vice President of Finance Rio Grande, Inc.



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The Honorable Andrew N. Kim
Chairman
U.S. House Committee on Small Business
Subcommittee on Economic Growth, Tax and Capital Access
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Washington, DC 20515

The Honorable Kevin R. Hern
Ranking Member
U.S. House Committee on Small Business
Subcommittee on Economic Growth, Tax and Capital Access
2361 Rayburn HOB
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Written Testimony of

Benjamin Walker, President/Founder of Buyer's Point

Hearing on *South Dakota v. Wayfair, Inc.*: How Mainstreet is Fairing and Whether Federal Intervention is Necessary

March 3, 2020

Chairman Kim, Ranking Member Hern, and Members of the Subcommittee, thank you for holding this hearing on state taxation. I am honored to offer my perspective as a Florida small business owner, and to share my story with you.

Background

My name is Benjamin Walker and I am the President/Founder of Buyer's Point, we are based in Largo, Florida. I started my eCommerce business in 2010 in Oklahoma before moving to Florida. I started this business out of college to help pay off student loans. It took me 3 months to save the first $50 to buy our first item of inventory. We have since expanded to a warehouse/office location in Florida, hiring 3 full time staff including myself, 1 part-time staff, and several remote workers across the US.

Back Taxes (If Applicable)

In 2018 I received a letter from the CDTFA (California Department of Tax and Fee Administration) saying we had Nexus in their state because we were an Amazon FBA seller and would need to remit back sales taxes. When we contacted the state, we were told we could either sign up for their volunteer program or be forced to pay interest and penalties on the back sales tax.

We were completely caught off guard. We hired an accounting firm to represent us to the state. We were later told we would owe $37,000 in back taxes. Please keep in mind we only made $60,000 in income that year. That bill would decimate our business and our ability to continue to invest in our team and new products. Furthermore, we are

being told we are responsible to pay back sales taxes even though we did not collect any sales taxes from our California based customers.

Taxes Post Wayfair

While selling on Amazon has been great for my business, over the years it has become more and more challenging and I want to be able to expand into new markets and platforms. Unfortunately, given the state of affairs, we are afraid to move forward because of the uncertainty. We are afraid other states will follow suit and demand we pay back sales taxes even though we did not collect any sales taxes from our customers.

How do we Fix this?

In order to fix this problem, we need Congress to intervene. Small businesses need to be protected from foreign state tax administrators who act like overzealous prosecutors who rely on bullying rather than the law to generate revenue from out of state businesses. If this trend continues, we will be forced to close the business and layoff our employees.

We have worked extremely hard to get to this point. Nobody wants to deprive states of sales tax, we think 100% sales tax compliance is possible, if only states were required to use modern technological solutions. Given all the technological progress we've made between Quill and Wayfair, states are still blocked from taking a more efficient approach to sales tax due to their bureaucracies. This is what we need Congress to fix. We don't want bigger thresholds, or any thresholds, what we want efficiency. Time to put the burden on the states, rather than us. Tell them, they need to make this a streamlined and efficient process.

Conclusion

For these reasons I urge you to step in and not allow states to require payment of back sales taxes. Moreover, to require state to use modern technology solutions to make remittance of sales taxes more efficient and cost effective.

Sincerely,

Ben Walker

Benjamin Walker
President/Founder
Buyer's Point

My name is Chris Holt and I operate a small business in Utah. We sell outdoor sporting goods online as well in our own store locally. We sell through our own website and several other marketplaces such as Amazon and eBay. I started this business 14 years ago fresh out of grad school. Wanting to be my own boss and create jobs in my community. We currently employ 7 people. Selling online allowed us to compete on a nationwide scale to help us sell our niche products that we were selling initially. The local demand was small but the national demand allowed us to grow into the business we are today.

Sales tax has become one of our most important and daunting issues we have. We have had to rush to become compliant on sales tax after the state of California came knocking on our door for taxes uncollected. Since we had inventory there, we were deemed to have nexus. Despite the state having a law outlining what should deem our relationship with Amazon as a consignment arrangement (California Regulation 1569), California decided the unpaid back taxes from the previous few years would be ours to bare. Instead creating more jobs this year, we had to pay a tax bill for uncollected sales taxes to California. Just about every state in the US has a similar law. Unfortunately, states are reluctant to go after Amazon since they have deep pockets and great lawyers. The small business owner has not enough resources to fight and therefore is an easier target. We were lucky enough to have grown the business enough that it didn't make us go bankrupt. This was after California offered a deal to new companies to come forward and have a shorter look back period. We requested the same deal only to be denied. This is the type of unethical behavior that states are using to justify the goldrush to collect taxes lost due to not wanted to take Amazon to court as the retailer of record for all FBA orders. Even the California Treasurer objected to how the state was going after small businesses for back taxes. Fiona Ma sent a letter to Gov. Newsome to give amnesty to small businesses after the marketplace facilitator law went into effect. The governor was more worried about upsetting Amazon than putting thousands of small businesses out of business because of back taxes not collect. Most if not all these businesses had no idea they needed to collect California sales tax just because they used Amazon FBA as a business partner. We suggest the Federal government investigate California and other states' methods and tactics used by the state to frighten and force small businesses to pay taxes they never collected. Some of the tactics can be found here in detail - https://www.supremecourt.gov/DocketPDF/17/17-494/42306/20180404170521046_17-494bsacOnlineMerchantsGuild.pdf

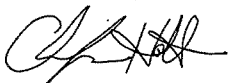
Amazon has always helped create a veil between 3rd party sellers and customers. Today Amazon no longer provides names, addresses, or phone numbers to customers for FBA orders to the retailers selling the products. Amazon moves our inventory without our knowledge and without any direction from us all over the country. Amazon transfers title and provides replacements for defective items all according to their policies. We accept this as part of using their Fulfillment by Amazon (FBA) logistics network. Just about anyone with some common sense would look at the situation and deem it a consignment arrangement. It passes the litmus test on every scale. However, Amazon has in the past shielded itself from collecting taxes until they have negotiated terms beneficial to Amazon. Should there be any gap in the collection, the retailer is on the hook for the unpaid bill. States have agreed and gone after the small businesses that power Amazon's marketplace rather than Amazon themselves. One new scary twist we've heard from sales tax experts claim that Amazon using Kohls or Whole Foods as return points for sellers not using FBA has the potential to create a nexus for sellers. Having a drop-off point for returns possibly gives all Amazon sellers a nexus in every state with a Kohls or Whole Foods. We only

know about this since we use an accounting firm just for our sales tax liability. We would venture that almost all Amazon sellers large and small don't know about this potential nexus problem.

Running a business that sells nationally is difficult on its own. Competing with large businesses who have teams of people that we only have a fraction of the time to figure out ourselves. Logistics to get our products to our customers in an ever-demanding shorter time period. Now we have to somehow figure out how to be compliant with 50 states and their sales tax nuances. This burden is expensive and in many cases the cost of compliance is more than the liability. You can't do it on your own. You have to have a software or accounting service to manage it for you. Both have their flaws. The small business software isn't always accurate. Either the software is under collecting and we own more than we collected or charges the customer for sales tax when it might not have been applicable for the product they purchased in their state. We understand the need to have online dealers charge sales tax. It evens the playing field for physical stores. We support the idea. What needs to be done is simplify the tax code for states wanting to collect from out of state entities. For example, we were warned by Amazon that Illinois has such a complicated sales tax system that their marketplace facilitator law might not cover our tax bill. States like Utah and Massachusetts make it easy to collect and remit. A simple single tax rate is collected for all orders into the state. Texas, California, Colorado and other states have hundreds of jurisdictions that make compliance a massive headache even for sales tax specialists. Most sellers don't want to open their own websites now due to sales tax compliance. This creates a further reliance on Amazon for our economy. Shielded by marketplace facilitator laws, sellers will simply become only Amazon sellers only to avoid having to register and remit sales tax filings. This also helps keep states away from coming after sellers for franchise and income taxes. Further taxes by states that are levied against businesses that never have any presence in the state. To help grow small businesses and keep creating jobs, we need to stop stifling them from being able to grow. This growing tax compliance burden is hindering our ability to grow small businesses. Online retail is a reality in our time and age. Businesses need to adapt to compete. Making sales tax compliance overly burdensome only stifles future small business opportunities. We need to find simpler solutions to help small business owners. Whether that is an internet tax or find a technology solution for states to make common filing platform to make compliance easier.

I also urge you to carefully consider the testimony of Online Merchants Guild ("OMG"). OMG is an eCommerce seller organization, and its members are only small eCommerce business owners like me. They are my voice, and nobody else's. They fought for us during Wayfair, and are fighting for us every day, and I urge you to work with them going forward, to help you solve this issue.

Regards



Christopher Holt - CEO Campman

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The Honorable Andrew N. Kim
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Written Testimony of

Brian Freifelder, Owner of Philadelphia Media Exchange

Hearing on South Dakota v. Wayfair, Inc.: How Mainstreet is Fairing and Whether Federal Intervention is Necessary

March 3, 2020

Chairman Kim, Ranking Member Hern, and Members of the Subcommittee, thank you for holding this hearing on state taxation. I am honored to offer my perspective as a small Pennsylvania business owner, and to share my story with you.

Background

My name is Brian Freifelder and I am the Owner of Philadelphia Media Exchange, we are based in Bensalem, Pennsylvania. I started my eCommerce business when I was in high school in 2000 selling CDs on eBay. Being an online retailer helped me financially stay afloat when I was in college. Having a steady online income also helped in purchasing my first home in 2005 where I stored the goods that I was selling. After college I went full time into selling on eBay and then Amazon.

In late 2009 I started utilizing Fulfilment by Amazon (FBA) as a seller. FBA gave me the opportunity to move inventory from my house to Amazons warehouses which allowed me to free up space and spend less time shipping while providing additional time to focus on sourcing more inventory for the business. I eventually started a brick and mortar store minutes from where I lived in Philadelphia which helped increase my sourcing. In the early days of FBA there weren't many warehouses Amazon had us ship to. Being a small business based in PA, Amazon would have me send the majority of my inventory to a local warehouse in PA. From a tax standpoint we viewed my business as a business with nexus in PA.

Back Taxes

In late 2018 I received a letter from the state of California. The letter from CA said that they had information stating that I had inventory in warehouses located in CA and therefore had nexus in the state

other sellers I know have wrongly been accused of IP infringement on inventory which "locks" our inventory up into a "reserved" status until we can overturn the claims. This means if we request to have the inventory sent back to us Amazon will hold it hostage. In many cases we're forced to pay legal fees to have a lawyer reach out to the company making false IP claims to have them retract their statements. My point of this whole scenario is that Amazon controls just about the entire transaction from start to finish and can even prevent us from being able to take back possession of our inventory due to false allegations. We are no different as 3rd party sellers sending to FBA as any wholesale distributor that Amazon buys from other then "when" we get our disbursement from Amazon.

For buyers the checkout process is handled by Amazon. For us 3rd party sellers we don't have any interaction with the customer, just an eventual payment that goes into our balance. The state of California has a law, California Regulation 1569 which deems the consignee as the one responsible for collecting the sales tax. Amazon was not collecting the sales tax on these CA sales until the marketplace facilitator laws took effect in April 2019, despite being the platform where the buyer checks out. At that if California was so concerned with the sales tax that wasn't collected why didn't they go after their residents for not reporting the Use tax that they owed? Could it have been that it would have been extremely unpopular politically to go after their own residents? It certainly is easier to demand back taxes from an out of state business that has limited ability to fight the charges.

I do want to commend California Treasurer Fiona Ma for standing up for us out of state 3rd party sellers and letting the CDTFA know that they were wrong for attempting to bully us into compliance on retroactive sales. Fiona Ma is an elected member of the state's sales tax board, yet the governor ignored her because us 3rd party sellers are out of state and Amazon has over 20,000 jobs in California. It appears California didn't want to disrupt that relationship. Interestingly almost all of the sellers that I have spoken to that never registered with CA never had further correspondence with the state making it arbitrary as for who they pursue. It's very upsetting to try and "do the right thing" by registering with CA and end up facing an unfair burden in back taxes when Amazon should have been made to do this all along.

As for my own business. I sell a wide range of items. I had employees and independent contractors in the past help with sourcing inventory. My margins from retail arbitrage are thin but to add back taxes on top of it really discourages continuing having employees and independent contractors. I was featured in the Philadelphia Inquirer in November 2019 due to my situation.

https://www.inquirer.com/business/california-sales-tax-amazon-seller-philadelphia-business-20191105.html?__vfz=medium%3Dsharebar&fbclid=IwAR2H3S3sS7xZ5HojfejrEie0ZiBZsyj26J1tG08uhwGv2t4REn62uDmWbYU

Between Amazon raising their fees each year, margins dwindling and uncertainty of states bullying 3rd party sellers for taxes I have downgraded my operation. I have since let go of all but 1 employee who helps me run my warehouse space. That is not to say that my business is not profitable but my staff in the end was sacrificed to counteract the potential of selling more inventory at low margins which could then potentially end with me having large tax bills that wipe out all of the profit.

I am not suggesting that states be deprived of the sales tax that they count on. Given all the technological progress we've made between Quill and Wayfair, states are still blocked from taking a more efficient approach to sales tax due to their bureaucracies. This is what we need Congress to fix. We don't want

of CA. I informed my CPA of the letter who insisted I get registered immediately to start collecting and remitting taxes in California starting in 2019.

Amazon tends to favor us as sellers and allows us to send our inventory to local warehouses. From there Amazon distributes our inventory through their network of warehouses. Over time this network of warehouses has grown and Amazon has opened warehouses in a good portion of the 50 states. While the majority of my inventory is initially sent to warehouses in PA I have no control over where Amazon will place my inventory. Nexus is an extremely complicated subject. If I had the choice of where my inventory was going to be stored I would have chosen that it just be stored in the state of Pennsylvania rather then potentially opening myself up to taxes in other states where a small percentage of my inventory gets stored. If all states were to go after us 3rd party sellers for what they deem as back taxes due to Nexus you'd see a large portion of Amazons suppliers wiped out overnight.

Further complicating things, Amazon gives us the ability to "commingle" our inventory. Essentially commingling means that if I sent in 1 unit of a widget to FBA, Amazon can make a sale to a customer and use another sellers widget to complete the order while I get credit for the sale. If that other sellers inventory is placed in a different state and ships from there I am now credited with having a sale from a warehouse in a state that I may not have known my inventory was considered to be in.

The Wayfair decision made things even more complicated as states now not only potentially think we as sellers have nexus based on location of inventory but also on location of sale. While I enjoy selling on Amazon and running my own business I find the workload to be overwhelming at times as the market is constantly adapting. The Wayfair decision made it so that we as sellers had a new complexity added to our businesses in that we now needed to track where each individual sale was occuring, not just from a state standpoint but from a jurisdiction standpoint. For Wal Mart or Target this may be doable but for a 3rd party seller this could put them out of business quickly if their margins aren't high enough to afford the additional expenses.

Prior to states implementing Marketplace Facilitator laws, as Amazon sellers our options for tax collection was very limited. Amazon had a basic interface where we would enter in our sales tax permit as well as manually enter in the percentage that we'd like to collect. Amazons backend did not give us options to determine the proper amount of sales tax to collect based on zip code. Furthermore, customers that check out on Amazon are doing so within Amazons point of sale system, eliminating the ability for us as sellers to properly collect the exact amount that we're expected by state and jurisdiction to collect. Another layer of complexity is in trying to accumulate this sales data and prepare it for filing. While I make a good living as an online retailer I have my hands full running a business. States expecting small business owners to collect and remit to each jurisdiction is a huge burden to small sellers like me. The lack of 3rd party service providers for gathering this info makes it challenging to properly compile this date for the average Joe. This really favors big businesses who can afford to employ high priced Accountants and Legal departments.

Another aspect that I think needs to be addressed is the relationship between Amazon and us as sellers. While we are credited with making sales, I believe we should be viewed as consigners of inventory rather than the business directly making the sale. For instance, after making a sale I have no ability to see the customers name, address, phone number or email address. Contacting the customer after the sale is heavily frowned upon and can actually lead to being penalized by Amazon. In some cases I can't reach out to the customer at all. Once I send my inventory to FBA, Amazon takes possession of my inventory and has control over it. Amazon has the ability to confiscate our inventory at any time. I as well as many

bigger thresholds, or any thresholds, what we want is efficiency. Time to put the burden on the states, rather than us 3rd party sellers. It's up to you Congress to make this easy.

I also urge you to carefully consider the testimony of Online Merchants Guild ("OMG"). OMG is an eCommerce seller organization, and its members are only small eCommerce business owners like me. They are my voice, and nobody else's. They fought for us during Wayfair, and are fighting for us every day, and I urge you to work with them going forward, to help you solve this issue.

Sincerely,

Brian Freifelder

Brian Freifelder

Steiner Strategic Inc.
3022 Morgan Drive
Wantagh, NY 11793

The Honorable Andrew N. Kim
Chairman
U.S. House Committee on Small Business
Subcommittee on Economic Growth, Tax and Capital Access
2361 Rayburn HOB
Washington, DC 20515

The Honorable Kevin R.Hern
Ranking Member
U.S. House Committee on Small Business
Subcommittee on Economic Growth, Tax and Capital Access
2361 Rayburn HOB
Washington, DC 20515

Written Testimony of

Robert Steiner, President of Steiner Strategic Inc.

Hearing on *South Dakota v. Wayfair Inc.*: How Mainstreet is Fairing and Whether Federal Intervention is Necessary

March 3, 2020

Chairman Kim, Ranking Member Hern, and Members of the Subcommittee, thank you for holding this hearing on state taxation. Thank you for allowing me to offer my perspective as a New York state based small business consulting firm.

My name is Robert Steiner and I am the President of Steiner Strategic Inc., based on Long Island in New York. I have been an entrepreneur and New York based small business owner all my life. I was 14 years old and in high school when I started a business building computers, first for customers in my neighborhood, and very soon after, online. It was 1989, and utilizing a rudimentary classifieds platform, with what was the beginnings of America Online (AOL), I sold Apple II and IBM computer equipment and software to folks all over the country. My Mom had to drive me to the post office to mail the orders. Even back in 1989, as a teenage business owner, I collected and remitted NY State Sales Tax for anything I sold to a New York customer.

Fast forward 14 years, after testing the waters selling items myself, I turned my attention to helping other companies navigate the intricacies of selling online.

In 2003, while consulting for an electronics company, I suggested they try Amazon.com. They laughed. "No one is going to buy our items on Amazon." Within one hour after submitting a data feed of products to Amazon, they received an order.

Amazon started a revolution in E-Commerce. It was different than eBay, which was viewed as a place to sell garage sale junk. Amazon gave credibility to any online business because of their "customer obsession." Selling on Amazon was easy. Amazon had a section on their site to choose what state(s) sellers needed them to collect sales tax for, and the seller picked all the state(s) they had a physical presence in, and Amazon collected and paid them the tax. Sellers then had to file in and remit tax to the states their operation was in.

After 2006, many online sellers started using a service called Fulfillment by Amazon (FBA). It was an amazing concept. Sellers shipped their inventory to a nearby fulfillment center, and their inventory automatically became "co-mingled" with other sellers' inventory throughout the country. For example, if they physically sent their inventory into a NJ fulfillment center, and they received an order from a customer in CA, Amazon would send a CA seller's inventory to their customer, and then the CA seller would own a unit of their inventory in NJ. Unbeknownst to the CA seller, they now had physical inventory in NJ, where they never shipped inventory to....and vice versa. This practice made sense from a logistical standpoint, but Amazon did not explicitly inform sellers that this practice could be interpreted by states, albeit incorrectly under statute, as having a physical presence (NEXUS) under the then in place Quill decision. In addition, Amazon is

perpetually moving seller's inventory from one warehouse location to another, and sellers are prohibited from visiting, inspecting, or physically removing their own inventory from a FBA warehouse. The FBA program is not a seller's warehouse or physical presence creating NEXUS.

E-commerce sellers have always abided by the physical presence standard, collecting and remitting sales taxes accordingly, and most have advocated for a simplified sales tax for online sales. Sellers want the states to get their fair share. There is no reason why there should be a disparity in price or tax between Main Street USA and Online stores. The states were losing much needed revenue, and something needed to be done as e-commerce grew.

Unfortunately, where the Wayfair decision was meant to "even the playing field" between Main Street and Online sellers, it did the opposite. Some states such as California were significantly empowered by the decision. Instead of accepting the going-forward standard of Amazon and other "marketplace facilitators" collecting tax on behalf of third-party sellers, they sent threatening letters to many sellers with the specter of owing back-taxes for up to eight years. They claimed that there were uncollected taxes for sales prior to the Wayfair decision, based on the pretext that having merchandise placed in fulfillment centers by Amazon's direction and discretion constituted physical nexus. If Amazon is the seller of record and responsible party to collect sales tax in a post Wayfair world, why were they not the seller of record and responsible party before? Nothing has changed.

This concept, is not only unethical by states, but it violates many of their own state statutes. In the case of California, in a March 8, 2019 letter to Governor Newsom by California Treasurer Fiona Ma, urging him to order the CDTFA to stop going after out-of-state sellers for back taxes, she cites Cal Code Regs., tit. 18, § 1569 which states:

> A person who has possession of property owned by another, and also the power to cause title to that property to be transferred to a third person without any further action on the part of its owner, and who exercises such power, is a retailer when the party to whom title is transferred is a consumer.

She goes on to say "I believe the CDFTA is ignoring the plain reading of the law. Instead they are pursuing these small businesses with threats of audit, claiming they owe eight years of back taxes, and even going as far as threatening felony prosecution and imprisonment." She finishes stating that Action by the Governor is needed and "we can do this by making it clear that no third-party seller can be accountable for sales tax, going forward or back, as a result of selling goods on an online retail platform."

The Governor and the CDFTA did not listen to their own Treasurer. They are still using predatory tactics to scare sellers. Many sellers are concerned that if they register in a state, they are not being given assurances that the state will not seek back taxes for having used FBA years earlier, and assurances the states will not seek income or other taxes from them. Some feel it is too risky to register without these assurances.

The other flaw in the patchwork of State Marketplace Facilitator laws that have been adopted by states is that the sales thresholds are inconsistently being applied, and some are being applied in a way that is stopping the ability of sellers to open up a private website of their own. Many sellers grow their business on 3P sites like Amazon or eBay, which now collects and remits the sales tax. If they get to the point where they wish to start their own site, many states are requiring them to now register directly after the first dollar is sold. For example, if a state has a $100,000 sales threshold to collect, and the seller sells $99,999 on Amazon, and $1 on their website, they must file a tax return. The $99,999 should not count towards the $100,000 threshold because those are Amazon's sales. The $100,000 threshold should apply solely to sales outside of Amazon. Even worse, is if the seller uses FBA, the CDTFA has claimed there is no threshold, and other states have taken the same position.

This practice is stopping small businesses from expanding and being able to break Amazon's grip over them and their business. After Amazon's large commission (as high as 20%), the actual cost of the item being sold, free shipping to the customer, warehousing, employee salaries, and additional overhead costs, a $1 million Amazon seller is lucky to net $50,000. There is no way the $50,000 would cover the cost of filing a return in 45 states. This situation may even cause existing sellers (even brick and mortars stores on main street) to close their successful websites – if their Amazon or eBay business meets this threshold already. This is so wrong and bad for businesses, many of which are women or minority owned in this country.

What can Congress do?

1. Congress should disallow states from seeking back sales taxes from out-of-state sellers on marketplace platforms that were never collected prior to marketplace facilitator laws going into effect. Included in this should be language stating that fulfillment programs such as FBA do not meet the standards of geographic/physical NEXUS due to the lack of control and visibility the business owner has into the process.

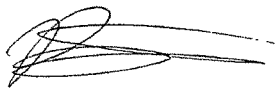
2. Congress should force state sales thresholds to EXCLUDE Marketplace Facilitator sales on 3P sites such as Amazon or eBay in the threshold calculation. This would allow companies to not have to register until their website sales grow large enough in a certain state to afford the cost of compliance. Without this no one will ever want to continue operating or even start their own web business. 7 States currently are doing the right thing and excluding the MF Sales (AR, IN, ME, NM, PA, UT, and VA)

3. The rules should be simplified and/or the process should be streamlined – as of now most local CPA's which small businesses typically use, do not have the resources and knowledge to advise their clients correctly. Firms like Avalara and Taxjar have been handed a windfall due to this chaotic patchwork of regulations. Most small sellers do not have the resources to pay for these services. If and when a seller is "large" enough, outside of facilitator sales, there should be a simple form to remit taxes from out of state online sales to states without having to go through the same registration procedures a traditional seller in the state would have to do. This would avoid opening up seller's liability for other types of taxes certain states may have.

Speaking as an advocate for small businesses, I urge Congress to act as a voice of reason in this situation the Wayfair decision has caused. I also urge that Congress should take the testimony and suggestions of other small business advocacy groups such as the Online Merchants Guild (OMG) for guidance in correcting these deficiencies in the current legislation.

Thank you for your time.

Respectfully,



Robert Steiner

Wendy Kelly
271 Herrick Avenue
Teaneck, NJ 07666

Written Testimony of

Wendy Kelly, Owner & Sole Operator of Kellyww, a Woman Owned business

Hearing on South Dakota v. Wayfair, Inc.: How Mainstreet is Fairing and Whether Federal Intervention is Necessary

March 3, 2020

Chairman Kim, Ranking Member Hern, and Members of the Subcommittee. thank you for holding this hearing on state taxation. I am honored to offer my perspective as a small New Jersey business owner and to share my story with you.

Background

My name is Wendy Kelly and I am the Owner of Kellyww, I am based in Teaneck, New Jersey. I started my eCommerce business in 1998 selling cloth diapers on eBay. I sold items that i had to make some money while caregiving my small children. As the years went by, I began selling more on Ebay and Amazon to support my family. I was paying sales tax in the state of NJ and Pennsylvania.

Back Taxes

In 2019 I received a letter from California saying I owed over 9,000 dollars in back taxes in Califonia Post Wayfair. This payment was detrimental to my business, this was money I was going to use to buy inventory. My Income for 2019 was under ½ of 2018. 2020 so far has been dismal. I was relying on this income to support my husband and my self. He is 66 and wants to retire. The Loss of this income makes it impossible.

While selling on Amazon has been great for my business, over the years it has become more and more challenging and I want to be able to expand into having my own online presence such as a website.. Unfortunately, given the state of affairs, it seems impossible to achieve this small goal.

How do we fix this?
I feel that Congress should investigate the behavior of tax administrators' dealings with Amazon and how that impacted their decision to go after small out-of-state businesses, instead of following their black-letter law.

Wendy Kelly
271 Herrick Avenue
Teaneck, NJ 07666

In order to fix this problem, we need Congress to intervene. Small businesses need to be protected.

In Conclusion

For these reasons, I urge you to help protect the small business owners that don't have the funds to hire lawyers to protect their rights. Or to pay back taxes that cause real hardships,

sincerely,

Wendy L Kelly

Wendy L Kelly

Helen Kinson
Small Business Owner, Woodbridge, VA

The Honorable Andrew N. Kim
Chairman
U.S. House Committee on
Small Business
Subcommittee on Economic Growth, Tax,
and Capital Access
2361 Rayburn HOB Washington, DC 20515

The Honorable Kevin R. Hern
Ranking Member
U.S. House Committee on
Small Business
Subcommittee on Economic Growth, Tax,
and Capital Access
2361 Rayburn HOB Washington, DC 20515

Written Testimony of

Helen Kinson, Self-Employed

Hearing on South Dakota v. Wayfair, Inc.: How Mainstreet is Fairing and Whether Federal Intervention is Necessary

March 3, 2020

Chairman Kim, Ranking Member Hern, and Members of the Subcommittee, thank you for holding this hearing on state taxation. I am honored to offer my perspective as a woman owned small business owner in Woodbridge, VA, and to share my story with you.

My name is Helen Kinson and I am a seller on Amazon. I am hesitant to open my own online store because filing and collecting sales tax in all states is impossible for me. I do not have any physical warehouses and everything is done online. The sales tax laws are very hard to follow when you don't have a physical location. There should be a better way to handle sales tax for online businesses. While selling on Amazon has been great for my business, over the years it has become more and more challenging and I want to be able to expand into having my own website. Unfortunately, given the state of affairs, this seems impossible.

Online businesses have been around for over 20 years and yet there are no effective solutions for how to handle sales tax when you do not have any physical locations. Please consider that

online business is here to stay and that we need a solution for small business owners. We need Congress to intervene.

Sincerely,

Helen Kinson

Helen Kinson

Etsy

Statement for the Record

Submitted to the The Committee on Small Business
Subcommittee on Economic Growth, Tax, and Capital Access

South Dakota v Wayfair, Inc.: Online Sales Taxes and Their Impact on Main Street

March 3, 2020

Etsy respectfully submits the following statement for the record in response to the hearing the committee held on Tuesday, March 3rd, 2020 titled *South Dakota v Wayfair, Inc.: Online Sales Taxes and Their Impact on Main Street.*

Etsy operates two sided online marketplaces that connect millions of passionate and creative buyers and sellers around the world. Our primary marketplace, Etsy.com, is home to a universe of special, extraordinary items, from unique handcrafted pieces to vintage treasures. We help our community of sellers turn their ideas into successful businesses, and connect them with tens of millions of buyers looking for an alternative—something special with a human touch, for those moments in life that deserve imagination. As of December 31, 2019, our marketplaces connected 2.7 million active sellers to 46.4 million active buyers across the globe. Together, sellers on our marketplaces generated $5 billion in gross merchandise sales in 2019.

In the aftermath of *South Dakota v. Wayfair, Inc.* many localities have passed laws requiring remote online sellers and/or marketplaces to collect and remit sales taxes on their behalf, resulting in a patchwork of confusing and complex requirements, liabilities and administrative burdens. Though the *Wayfair* decision encouraged states to establish small business exemptions, simplify their tax structures to enable small business compliance, and limit retroactive liability, many states have not implemented such protections, quickly passing economic nexus laws requiring remote sellers to calculate, collect, and remit sales taxes, in some cases without any small business protections.

There are significant complexities across the thousands of state and local tax jurisdictions, including different minimum thresholds, tax holidays, and product tax category rules. These complexities persist despite the ongoing work of the Streamlined Sales Tax Governing Board, which though well intentioned, has not sufficiently simplified and harmonized state sales taxes

to reduce the burden on our sellers. This level of complexity hurts the small and micro-entrepreneurs who power the creative economy.

Etsy has consistently opposed legislation that would require our sellers to collect, remit, and calculate sales tax on every single sale, across nearly 10,000 different tax jurisdictions in the United States. Current software solutions do not resolve the challenges of appropriately categorizing their goods across disparate tax jurisdictions, determining the taxability of certain consumers, or managing complex filing or refund procedures. A typical Etsy seller is a female entrepreneur (83% of our sellers are women) working out of her home to supplement her household income and therefore lacks the resources and the time to track thousands of different state and local tax rates. Small and micro businesses simply do not have access to the same resources as larger businesses, and are disproportionately impacted by the precedent set by *Wayfair* and the disparate state laws that have passed across the country.

As a two-sided marketplace, Etsy has unique insight into the complexities of remote sales tax collection and remittance. In addition to the economic nexus laws discussed above, 38 states have simultaneously passed "marketplace facilitator laws" that require platforms like Etsy to calculate, collect, and remit taxes on behalf of remote sellers. Etsy was one of the first marketplace providers in the nation to comply with Washington State's marketplace facilitator law, and we now comply with such requirements in 38 states. Our experience collecting and remitting sales tax on behalf of our sellers gives us first hand knowledge of the complexities these laws entail, not only for a marketplace of our size, but more importantly for the sellers we represent.

We believe there is a simple solution to these challenges. Given that states have not followed the Supreme Court's guidance to reduce the burdens faced by small businesses, we believe the federal government must step in to protect our nation's small and micro-entrepreneurs. By establishing a federal small business exemption to remote sales tax laws, setting a single remote sales tax rate for each state, and limiting the liability small businesses and platforms may face for inadvertently collecting and remitting these taxes incorrectly, we believe Congress can alleviate the burdens states have imposed on our small businesses, while also enabling these states to collect the tax revenue they are due.

Microbusinesses are the drivers to the emerging creative economy and it is the responsibility of Congress to ensure that they can compete on a level playing field.

Missing Jurisdiction and/or Tax Rate Highlighted					
Use Tax Return	Total Sales	Deductions/Exemptions	Expected Taxable Sales	Rate	Expected Tax Due
00514 : 075 ALBANY : GENTRY	$17.95	$0.00	$17.95	5.22%	$0.94
00964 : 149 : AMB00044 ALTON : OREGON : AMB [OREGON COUNTY AMBULANCE DISTRICT]	$14.95	$0.00	$14.95	4.22%	$0.63
008 ANDREW	$54.95	$0.00	$54.95	5.92%	$3.26
01972 : 099 : EMG00001 : FIR00006 : AMB00003 ARNOLD : JEFFERSON : EMG [JEFFERSON COUNTY E	$93.55	$43.65	$49.90	4.22%	$2.11
109 AURORA : LAWRENCE	$54.90	$0.00	$54.90	5.85%	$3.21
03160 : 189 BALLWIN : ST. LOUIS	$39.90	$0.00	$39.90	4.22%	$1.69
04384 : 037 BELTON : CASS	$39.95	$39.95	$0.00	6.22%	$0.00
04798 : 201 BENTON : SCOTT	$44.95	$0.00	$44.95	6.22%	$2.80
081 BETHANY : HARRISON	$19.95	$0.00	$19.95	5.48%	$1.09
06256 : 073 BLAND : GASCONADE	$14.95	$0.00	$14.95	4.22%	$0.63
06652 : 095 : ZOO00001 BLUE SPRINGS : JACKSON : ZOO [KANSAS CITY ZOOLOGICAL DISTRICT]	$39.95	$0.00	$39.95	4.22%	$1.69
053 : AMB00045 BOONVILLE : COOPER : AMB [COOPER COUNTY AMBULANCE DISTRICT]	$34.95	$34.95	$0.00	5.98%	$0.00
07318 : 053 : AMB00045 BOONVILLE : COOPER : AMB [COOPER COUNTY AMBULANCE DISTRICT]	$69.90	$0.00	$69.90	7.98%	$5.57
095 : ZOO00001 BUCKNER : JACKSON : ZOO [KANSAS CITY ZOOLOGICAL DISTRICT]	$59.95	$59.95	$0.00	4.22%	$0.00
10828 : 063 : RJD00001 : AMB00052 CAMERON : DEKALB : RJD [DAVIESS/DEKALB REGIONAL JAIL DIS	$24.94	$5.99	$18.95	5.72%	$1.08
11242 : 031 CAPE GIRARDEAU : CAPE GIRARDEAU	$11.95	$0.00	$11.95	5.22%	$0.62
11566 : 033 CARROLLTON : CARROLL	$79.90	$0.00	$79.90	5.72%	$4.57
097 CARTHAGE : JASPER	$139.85	$0.00	$139.85	4.22%	$5.91
12898 : 019 CENTRALIA : BOONE	$44.95	$0.00	$44.95	4.22%	$1.90
03160 : 189 BALLWIN : ST. LOUIS	$19.95	$19.95	$0.00	4.22%	$0.00
13600 : 189 CHESTERFIELD : ST. LOUIS	$284.45	$39.95	$244.50	4.22%	$10.33
14140 : 135 : EMG00003 : AMB00026 CLARKSBURG : MONITEAU : EMG [MONITEAU COUNTY EMERG	$18.95	$0.00	$18.95	5.22%	$0.99
043 : EMG00005 CLEVER : CHRISTIAN : EMG [CHRISTIAN COUNTY EMERGENCY SERVICES DISTRICT]	$19.95	$0.00	$19.95	4.22%	$0.84
15670 : 019 COLUMBIA : BOONE	$508.00	$7.35	$425.75	4.22%	$17.99
037 CREIGHTON : CASS	$18.94	$6.99	$11.95	6.22%	$0.74
169 CROCKER : PULASKI	$34.95	$0.00	$34.95	4.22%	$1.48
18253 : 183 DARDENNE PRAIRIE : ST. CHARLES	$18.95	$0.00	$18.95	5.95%	$1.13
099 : EMG00001 DITTMER : JEFFERSON : EMG [JEFFERSON COUNTY EMERGENCY SERVICES DISTRICT	$29.95	$0.00	$29.95	4.22%	$1.27
21484 : 131 : AMB00006 ELDON : MILLER : AMB [MILLER COUNTY AMBULANCE DISTRICT]	$19.95	$0.00	$19.95	5.22%	$1.04
189 EUREKA : ST. LOUIS	$19.95	$0.00	$19.95	4.22%	$0.84
23752 : 187 : AMB00014 FARMINGTON : ST. FRANCOIS : AMB [ST FRANCOIS COUNTY AMBULANCE I	$54.95	$0.00	$54.95	4.22%	$2.32
099 : EMG00001 FENTON : JEFFERSON : EMG [JEFFERSON COUNTY EMERGENCY SERVICES DISTRICT]	$54.95	$0.00	$54.95	4.22%	$2.32
189 FENTON : ST. LOUIS	$54.95	$0.00	$54.95	4.22%	$2.32
099 : EMG00001 FESTUS : JEFFERSON : EMG [JEFFERSON COUNTY EMERGENCY SERVICES DISTRICT]	$25.94	$5.99	$19.95	4.22%	$0.84
24778 : 189 FLORISSANT : ST. LOUIS	$54.90	$0.00	$54.90	4.22%	$2.32
189 FLORISSANT : ST. LOUIS	$119.85	$0.00	$119.85	4.22%	$5.06
31276 : 189 FLORISSANT : ST. LOUIS	$54.90	$0.00	$54.90	6.22%	$3.42
25768 : 123 FREDERICKTOWN : MADISON	$117.25	$7.35	$109.90	4.22%	$4.64
027 : AMB00015 FULTON : CALLAWAY : AMB [CALLAWAY COUNTY AMBULANCE DISTRICT]	$44.95	$0.00	$44.95	5.22%	$2.35
095 : ZOO00001 GRAIN VALLEY : JACKSON : ZOO [KANSAS CITY ZOOLOGICAL DISTRICT]	$89.90	$39.95	$49.95	4.22%	$2.11
141 GRAVOIS MILLS : MORGAN	$39.95	$0.00	$39.95	5.22%	$2.09
GRUBVILLE : FRANKLIN	$18.65	$0.70	$17.95	4.22%	$0.76
173 HANNIBAL : RALLS	$36.90	$0.00	$36.90	6.72%	$2.48
31780 : 085 HERMITAGE : HICKORY	$39.95	$0.00	$39.95	5.72%	$2.29
099 : EMG00001 : FIR00009 : AMB00053 HIGH RIDGE : JEFFERSON : EMG [JEFFERSON COUNTY EME	$37.90	$0.00	$37.90	4.22%	$1.60
32752 : 047 : ZOO00001 HOLT : CLAY : ZOO [KANSAS CITY ZOOLOGICAL DISTRICT]	$44.95	$0.00	$44.95	5.35%	$2.40
047 : ZOO00001 HOLT : CLAY : ZOO [KANSAS CITY ZOOLOGICAL DISTRICT]	$38.90	$18.95	$19.95	5.35%	$1.07
33706 : 167 HUMANSVILLE : POLK	$68.95	$0.00	$68.95	4.22%	$2.91
099 : EMG00001 IMPERIAL : JEFFERSON : EMG [JEFFERSON COUNTY EMERGENCY SERVICES DISTRIC	$39.95	$0.00	$39.95	4.22%	$1.69
35000 : 095 : ZOO00001 INDEPENDENCE : JACKSON : ZOO [KANSAS CITY ZOOLOGICAL DISTRICT]	$19.95	$0.00	$19.95	4.22%	$0.84
031 JACKSON : CAPE GIRARDEAU	$49.95	$0.00	$49.95	5.22%	$2.61
095 : ZOO00001 JACKSON : ZOO [KANSAS CITY ZOOLOGICAL DISTRICT]	$54.95	$0.00	$54.95	4.22%	$2.32
37000 : 051 JEFFERSON CITY : COLE	$18.95	$0.00	$18.95	5.72%	$1.08
051 JEFFERSON CITY : COLE	$39.95	$0.00	$39.95	5.72%	$2.29
37592 : 097 JOPLIN : JASPER	$44.95	$0.00	$44.95	4.22%	$1.90
37592 : 145 JOPLIN : NEWTON	$114.90	$0.00	$114.90	4.22%	$4.85
38000 : 047 : ZOO00001 KANSAS CITY : CLAY : ZOO [KANSAS CITY ZOOLOGICAL DISTRICT]	$304.50	$0.00	$304.50	8.35%	$25.43
38000 : 095 : ZOO00001 KANSAS CITY : JACKSON : ZOO [KANSAS CITY ZOOLOGICAL DISTRICT]	$65.90	$0.00	$65.90	7.22%	$4.76
165 KANSAS CITY : PLATTE	$19.95	$0.00	$19.95	5.60%	$1.12
38000 : 165 KANSAS CITY : PLATTE	$122.85	$54.95	$67.90	8.60%	$5.84
047 : ZOO00001 KEARNEY : CLAY : ZOO [KANSAS CITY ZOOLOGICAL DISTRICT]	$84.85	$39.95	$44.90	5.35%	$2.40
38612 : 209 : FIR00003 KIMBERLING CITY : STONE : FIR [SOUTHERN STONE FIRE PROTECTION DISTRI	$19.95	$0.00	$19.95	7.98%	$1.59
39026 : 001 : AMB00021 KIRKSVILLE : ADAIR : AMB [ADAIR COUNTY AMBULANCE DISTRICT]	$139.85	$99.90	$39.95	7.98%	$3.19
39188 : 101 KNOB NOSTER : JOHNSON	$67.65	$0.00	$67.65	8.48%	$5.73
54074 : 183 LAKE SAINT LOUIS : ST. CHARLES	$44.95	$0.00	$44.95	5.95%	$2.67
LAWSON : RAY	$19.95	$0.00	$19.95	4.22%	$0.84
41168 : 105 LEBANON : LACLEDE	$61.90	$0.00	$61.90	4.22%	$2.62
095 : ZOO00001 LEE'S SUMMIT : JACKSON : ZOO [KANSAS CITY ZOOLOGICAL DISTRICT]	$39.95	$0.00	$39.95	4.22%	$1.69
06652 : 095 : ZOO00001 LEES SUMMIT : JACKSON : ZOO [KANSAS CITY ZOOLOGICAL DISTRICT]	$44.95	$0.00	$44.95	4.22%	$1.90
095 : ZOO00001 LEES SUMMIT : JACKSON : ZOO [KANSAS CITY ZOOLOGICAL DISTRICT]	$280.70	$99.90	$180.80	4.22%	$7.64
42032 : 047 : ZOO00001 LIBERTY : CLAY : ZOO [KANSAS CITY ZOOLOGICAL DISTRICT]	$36.90	$18.95	$17.95	8.72%	$1.57
029 LINN CREEK : CAMDEN	$17.95	$0.00	$17.95	5.48%	$0.98
225 MARSHFIELD : WEBSTER	$39.95	$0.00	$39.95	4.22%	$1.69

46586 : 189 MARYLAND HEIGHTS : ST. LOUIS	$414.50	$0.00	$414.50	4.22%	$17.51
47648 : 007 : AMB00048 MEXICO : AUDRAIN : AMB [AUDRAIN AMBULANCE DISTRICT]	$69.90	$0.00	$69.90	4.22%	$2.95
139 MONTGOMERY CITY : MONTGOMERY	$62.90	$0.00	$62.90	4.22%	$2.66
50672 : 109 MOUNT VERNON : LAWRENCE	$52.20	$0.00	$52.20	7.85%	$4.10
049 : EMG00005 NIXA : CHRISTIAN : EMG [CHRISTIAN COUNTY EMERGENCY SERVICES DISTRICT]	$54.85	$0.00	$54.85	4.22%	$2.32
18259 : 183 DARDENNE PRAIRIE : ST. CHARLES	$129.85	$0.00	$129.85	5.95%	$7.73
54074 : 183 O FALLON : ST. CHARLES	$99.85	$0.00	$99.85	5.95%	$5.94
53624 : 095 : ZOO00001 : FIR00001 : FIR00008 OAK GROVE : JACKSON : ZOO [KANSAS CITY ZOOLOGI	$162.84	$162.84	$0.00	4.22%	$0.00
029 OSAGE BEACH : CAMDEN	$44.95	$0.00	$44.95	5.48%	$2.46
55244 : 029 : AMB00006 OSAGE BEACH : CAMDEN : AMB [MILLER COUNTY AMBULANCE DISTRICT]	$54.90	$0.00	$54.90	5.48%	$3.01
55766 : 043 : EMG00005 OZARK : CHRISTIAN : EMG [CHRISTIAN COUNTY EMERGENCY SERVICES DIS	$38.90	$0.00	$38.90	4.22%	$1.64
55910 : AMB00025 PACIFIC : FRANKLIN : AMB [MERAMEC AMBULANCE DISTRICT]	$54.95	$0.00	$54.95	4.22%	$2.32
57278 : 099 : AMB00041 PEVELY : JEFFERSON : AMB [JOACHIM-PLATTIN AMBULANCE DISTRICT]	$17.95	$0.00	$17.95	4.22%	$0.76
025 : AMB00037 POLO : CALDWELL : AMB [CALDWELL COUNTY AMBULANCE DISTRICT]	$55.02	$5.07	$49.95	6.22%	$3.11
091 POMONA : HOWELL	$34.95	$0.00	$34.95	5.66%	$1.98
60956 : 197 QUEEN CITY : SCHUYLER	$53.15	$53.15	$0.00	4.22%	$0.00
60752 : 037 : FIR00005 RAYMORE : CASS : FIR [SOUTH METROPOLITAN FIRE PROTECTION DISTRICT]	$18.95	$0.00	$18.95	6.22%	$1.18
60788 : 095 : ZOO00001 RAYTOWN : JACKSON - ZOO [KANSAS CITY ZOOLOGICAL DISTRICT]	$46.22	$1.27	$44.95	4.22%	$1.90
61238 : 077 REPUBLIC : GREENE	$94.90	$0.00	$94.90	4.22%	$4.01
213 : AMB00040 RIDGEDALE : TANEY : AMB [TANEY COUNTY AMBULANCE DISTRICT]	$104.90	$0.00	$104.90	4.22%	$4.43
077 ROGERSVILLE : GREENE	$58.90	$0.00	$58.90	4.22%	$2.49
62912 : 161 ROLLA : PHELPS	$18.95	$0.00	$18.95	4.22%	$0.80
183 SAINT CHARLES : ST. CHARLES	$53.90	$0.00	$53.90	5.95%	$3.21
64550 : 021 SAINT JOSEPH . BUCHANAN	$178.65	$0.00	$178.65	8.70%	$15.54
04906 : 189 BERKLEY : ST. LOUIS	$44.95	$0.00	$44.95	4.22%	$1.90
17272 : 189 CREVECOEUR : ST. LOUIS	$39.90	$0.00	$39.90	4.22%	$1.69
39656 : 189 LADUE : ST. LOUIS	$18.95	$0.00	$18.95	4.22%	$0.80
71746 : 189 SUNSET HILLS : ST. LOUIS	$34.95	$0.00	$34.95	4.22%	$1.48
73618 : 189 TOWN AND COUNTRY : ST. LOUIS	$44.90	$0.00	$44.90	4.22%	$1.90
189 SAINT LOUIS : ST. LOUIS	$219.65	$61.90	$157.75	4.22%	$6.66
27334 : 189 SAINT LOUIS : ST. LOUIS	$18.95	$0.00	$18.95	5.72%	$1.08
39044 : 189 SAINT LOUIS : ST. LOUIS	$79.90	$0.00	$79.90	5.72%	$4.57
54650 : 189 SAINT LOUIS : ST. LOUIS	$33.20	$0.00	$33.20	5.72%	$1.90
61706 : 189 SAINT LOUIS : ST. LOUIS	$71.85	$0.00	$71.85	5.72%	$4.11
75220 : 189 SAINT LOUIS : ST. LOUIS	$247.70	$174.80	$72.90	5.72%	$4.17
65000 SAINT LOUIS : ST. LOUIS	$315.50	$0.00	$315.50	9.01%	$28.44
54074 : 183 SAINT PETERS : ST. CHARLES	$63.90	$44.95	$18.95	5.95%	$1.13
65126 : 183 SAINT PETERS : ST. CHARLES	$59.90	$0.00	$59.90	5.95%	$3.56
183 SAINT PETERS : ST. CHARLES	$49.95	$49.95	$0.00	5.95%	$0.00
66337 : 099 : EMG00001 : FIR00009 : AMB00034 SCOTSDALE : JEFFERSON : EMS [JEFFERSON COUNT	$37.90	$0.00	$37.90	4.22%	$1.60
047 : ZOO00001 : FIR00002 SMITHVILLE : CLAY : ZOO [KANSAS CITY ZOOLOGICAL DISTRICT] : FIR [SM	$49.95	$0.00	$49.95	5.35%	$2.67
077 SPRINGFIELD : GREENE	$74.85	$0.00	$74.85	4.22%	$3.16
70000 : 077 SPRINGFIELD : GREENE	$160.70	$69.90	$90.80	6.35%	$5.77
183 ST. CHARLES	$19.95	$0.00	$19.95	5.95%	$1.19
64550 : 021 ST. JOSEPH : BUCHANAN	$52.20	$0.00	$52.20	8.70%	$4.54
65162 : 051 ST. THOMAS : COLE	$79.90	$0.00	$79.90	5.72%	$4.57
71368 : 095 : ZOO00001 SUGAR CREEK : JACKSON : ZOO [KANSAS CITY ZOOLOGICAL DISTRICT]	$11.95	$0.00	$11.95	6.22%	$0.74
029 SUNRISE BEACH : CAMDEN	$38.20	$0.00	$38.20	5.48%	$1.82
72826 : 149 : AMB00044 THAYER : OREGON : AMB [OREGON COUNTY AMBULANCE DISTRICT]	$44.95	$0.00	$44.95	4.22%	$1.90
73942 : 113 : AMB00038 TROY : LINCOLN : AMB [LINCOLN COUNTY AMBULANCE DISTRICT]	$129.85	$39.95	$89.90	4.22%	$3.80
74626 : FIR00015 : AMB00058 UNION : FRANKLIN : FIR [UNION FIRE PROTECTION DISTRICT] : AMB [	$11.95	$0.00	$11.95	4.22%	$0.50
037 VILLAGE OF LOCH LLOYD : CASS	$24.95	$0.00	$24.95	5.85%	$1.46
189 VINITA TERRACE : ST. LOUIS	$18.95	$0.00	$18.95	4.22%	$0.80
101 WARRENSBURG : JOHNSON	$39.95	$0.00	$39.95	6.98%	$2.79
77128 : EMG00002 WARRENTON : WARREN : EMG [WARREN COUNTY EMERGENCY SERVICES DISTRI	$74.90	$0.00	$74.90	4.22%	$3.16
WARSAW : BENTON	$23.70	$0.00	$23.70	4.22%	$1.00
54920 : 097 WEBB CITY : JASPER	$74.90	$34.95	$39.95	4.22%	$1.69
54074 : 183 WENTZVILLE : ST. CHARLES	$24.95	$0.00	$24.95	5.95%	$1.48
78442 : 183 WENTZVILLE : ST. CHARLES	$179.80	$0.00	$179.80	8.45%	$15.19
091 WEST PLAINS : HOWELL	$19.95	$0.00	$19.95	5.66%	$1.13
78856 : 165 WESTON : PLATTE	$18.95	$0.00	$18.95	7.98%	$1.51
79820 : 189 WILDWOOD : ST. LOUIS	$244.60	$49.95	$194.65	4.22%	$8.22
083 WINDSOR : HENRY	$28.45	$28.45	$0.00	5.68%	$0.00
Expected State + Local Taxes: $436.18					
Sales tax payments made: $0.00					
Expected Timely Payment Allowance: $8.72					
Excess Tax Collected: $0.00					
		Expected sales tax due on Jan 31, 2020: $427.46			

MISSOURI DEPARTMENT OF REVENUE
TAXATION DIVISION
PO BOX 3300
JEFFERSON CITY, MO 65105-3300

Date: January 06, 2020

MISSOURI BUSINESS TAX REGISTRATION

MISSOURI ID: 25979981

Notice Number: 2010973408

FLY LOGIC, INC.
D/B/A AQUA DESIGN
119 S VALLEY DR STE A
NAMPA, ID 83686-2985

Telephone: (573) 751-5860
Fax: (573) 522-1722
Email: businesstaxregister@dor.mo.gov

Use the following codes and rates applicable for each location when remitting sales or use tax to the Department of Revenue. **These rates are effective as of the date of this letter and are subject to change.** All rate changes are effective on the first day of the calendar quarter. For the most recent rate information, visit our website at http://dor.mo.gov/business/sales/.

If you require additional information, contact the Department at the above address, telephone number, fax number, or e-mail.

Account Type	Location	Jurisdiction Code	Item Code	Site Code	Rate
VENDORS USE LOCATION	MISSOURI STATE ONLY	00000-000-000	0000	0002	4.2250%
VENDORS USE LOCATION	UNINCORPORATED, ADAIR COUNTY	00000-001-000	0000	0003	5.2250%
VENDORS USE LOCATION	UNINCORPORATED, ANDREW COUNTY	00000-003-000	0000	0004	5.9250%
VENDORS USE LOCATION	UNINCORPORATED, ATCHISON COUNTY	00000-005-000	0000	0005	6.4750%
VENDORS USE LOCATION	UNINCORPORATED, BARRY COUNTY	00000-009-000	0000	0006	5.7250%
VENDORS USE LOCATION	UNINCORPORATED, BATES COUNTY	00000-013-000	0000	0007	5.2250%
VENDORS USE LOCATION	UNINCORPORATED, BENTON COUNTY	00000-015-000	0000	0008	6.2250%
VENDORS USE LOCATION	UNINCORPORATED, BOLLINGER COUNTY	00000-017-000	0000	0009	5.8500%
VENDORS USE LOCATION	UNINCORPORATED, BUCHANAN COUNTY	00000-021-000	0000	0010	5.8250%
VENDORS USE LOCATION	UNINCORPORATED, CALDWELL COUNTY	00000-025-000	0000	0011	6.2250%
VENDORS USE LOCATION	UNINCORPORATED, CALLAWAY COUNTY	00000-027-000	0000	0012	5.2250%
VENDORS USE LOCATION	UNINCORPORATED, CAMDEN COUNTY	00000-029-000	0000	0013	5.4750%
VENDORS USE LOCATION	UNINCORPORATED, CAPE GIRARDEAU COUNTY	00000-031-000	0000	0014	5.2250%

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VENDORS USE LOCATION	UNINCORPORATED, CARROLL COUNTY	00000-033-000	0000	0015	5.7250%
VENDORS USE LOCATION	UNINCORPORATED, CASS COUNTY	00000-037-000	0000	0016	5.8500%
VENDORS USE LOCATION	UNINCORPORATED, CHARITON COUNTY	00000-041-000	0000	0017	6.1000%
VENDORS USE LOCATION	UNINCORPORATED, CLAY COUNTY	00000-047-000	0000	0018	5.3500%
VENDORS USE LOCATION	UNINCORPORATED, CLINTON COUNTY	00000-049-000	0000	0019	5.2250%
VENDORS USE LOCATION	UNINCORPORATED, COLE COUNTY	00000-051-000	0000	0020	5.7250%
VENDORS USE LOCATION	UNINCORPORATED, COOPER COUNTY	00000-053-000	0000	0021	5.9750%
VENDORS USE LOCATION	UNINCORPORATED, DADE COUNTY	00000-057-000	0000	0022	5.9750%
VENDORS USE LOCATION	UNINCORPORATED, DAVIESS COUNTY	00000-061-000	0000	0023	5.7250%
VENDORS USE LOCATION	UNINCORPORATED, DEKALB COUNTY	00000-063-000	0000	0024	5.7250%
VENDORS USE LOCATION	UNINCORPORATED, DUNKLIN COUNTY	00000-069-000	0000	0025	5.7250%
VENDORS USE LOCATION	UNINCORPORATED, GENTRY COUNTY	00000-075-000	0000	0026	5.7250%
VENDORS USE LOCATION	UNINCORPORATED, HARRISON COUNTY	00000-081-000	0000	0027	5.4750%
VENDORS USE LOCATION	UNINCORPORATED, HENRY COUNTY	00000-083-000	0000	0028	5.6750%
VENDORS USE LOCATION	UNINCORPORATED, HOLT COUNTY	00000-087-000	0000	0029	6.7250%
VENDORS USE LOCATION	UNINCORPORATED, HOWARD COUNTY	00000-089-000	0000	0030	6.8500%
VENDORS USE LOCATION	UNINCORPORATED, HOWELL COUNTY	00000-091-000	0000	0031	5.6620%

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VENDORS USE LOCATION	UNINCORPORATED, JOHNSON COUNTY	00000-101-000	0000	0032	6.9750%
VENDORS USE LOCATION	UNINCORPORATED, KNOX COUNTY	00000-103-000	0000	0033	6.7250%
VENDORS USE LOCATION	UNINCORPORATED, LAFAYETTE COUNTY	00000-107-000	0000	0034	5.8500%
VENDORS USE LOCATION	UNINCORPORATED, LAWRENCE COUNTY	00000-109-000	0000	0035	6.3500%
VENDORS USE LOCATION	UNINCORPORATED, LEWIS COUNTY	00000-111-000	0000	0036	6.8500%
VENDORS USE LOCATION	UNINCORPORATED, LINN COUNTY	00000-115-000	0000	0037	5.7250%
VENDORS USE LOCATION	UNINCORPORATED, LIVINGSTON COUNTY	00000-117-000	0000	0038	5.4750%
VENDORS USE LOCATION	UNINCORPORATED, MACON COUNTY	00000-121-000	0000	0039	5.9750%
VENDORS USE LOCATION	UNINCORPORATED, MARIES COUNTY	00000-125-000	0000	0040	5.8910%
VENDORS USE LOCATION	UNINCORPORATED, MARION COUNTY	00000-127-000	0000	0041	5.6000%
VENDORS USE LOCATION	UNINCORPORATED, MERCER COUNTY	00000-129-000	0000	0042	6.4750%
VENDORS USE LOCATION	UNINCORPORATED, MILLER COUNTY	00000-131-000	0000	0043	5.2250%
VENDORS USE LOCATION	UNINCORPORATED, MONITEAU COUNTY	00000-135-000	0000	0044	5.2250%
VENDORS USE LOCATION	UNINCORPORATED, MONROE COUNTY	00000-137-000	0000	0045	5.7250%
VENDORS USE LOCATION	UNINCORPORATED, MORGAN COUNTY	00000-141-000	0000	0046	5.2250%
VENDORS USE LOCATION	UNINCORPORATED, NEW MADRID COUNTY	00000-143-000	0000	0047	5.7250%
VENDORS USE LOCATION	UNINCORPORATED, NODAWAY COUNTY	00000-147-000	0000	0048	5.7250%

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VENDORS USE LOCATION	UNINCORPORATED, OSAGE COUNTY	00000-151-000	0000	0049	5.9750%
VENDORS USE LOCATION	UNINCORPORATED, PERRY COUNTY	00000-157-000	0000	0050	6.1000%
VENDORS USE LOCATION	UNINCORPORATED, PETTIS COUNTY	00000-159-000	0000	0051	5.2250%
VENDORS USE LOCATION	UNINCORPORATED, PLATTE COUNTY	00000-165-000	0000	0052	5.6000%
VENDORS USE LOCATION	UNINCORPORATED, PUTNAM COUNTY	00000-171-000	0000	0053	6.2250%
VENDORS USE LOCATION	UNINCORPORATED, RALLS COUNTY	00000-173-000	0000	0054	6.7250%
VENDORS USE LOCATION	UNINCORPORATED, RANDOLPH COUNTY	00000-175-000	0000	0055	5.4750%
VENDORS USE LOCATION	UNINCORPORATED, RAY COUNTY	00000-177-000	0000	0056	6.7250%
VENDORS USE LOCATION	UNINCORPORATED, ST CHARLES COUNTY	00000-183-000	0000	0057	5.9500%
VENDORS USE LOCATION	UNINCORPORATED, SALINE COUNTY	00000-195-000	0000	0058	6.2250%
VENDORS USE LOCATION	UNINCORPORATED, SCOTLAND COUNTY	00000-199-000	0000	0059	5.4750%
VENDORS USE LOCATION	UNINCORPORATED, SCOTT COUNTY	00000-201-000	0000	0060	5.2250%
VENDORS USE LOCATION	UNINCORPORATED, SHELBY COUNTY	00000-205-000	0000	0061	5.7250%
VENDORS USE LOCATION	UNINCORPORATED, STODDARD COUNTY	00000-207-000	0000	0062	6.2250%
VENDORS USE LOCATION	UNINCORPORATED, STONE COUNTY	00000-209-000	0000	0063	5.9750%
VENDORS USE LOCATION	UNINCORPORATED, SULLIVAN COUNTY	00000-211-000	0000	0064	6.9750%
VENDORS USE LOCATION	UNINCORPORATED, TEXAS COUNTY	00000-215-000	0000	0065	6.1000%

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VENDORS USE LOCATION	UNINCORPORATED, WARREN COUNTY	00000-219-000	0000	0066	6.2250%
VENDORS USE LOCATION	UNINCORPORATED, WASHINGTON COUNTY	00000-221-000	0000	0067	6.7250%
VENDORS USE LOCATION	UNINCORPORATED, WAYNE COUNTY	00000-223-000	0000	0068	5.7250%
VENDORS USE LOCATION	UNINCORPORATED, WORTH COUNTY	00000-227-000	0000	0069	6.6000%
VENDORS USE LOCATION	ADRIAN, BATES COUNTY	00244-013-000	0000	0070	5.2250%
VENDORS USE LOCATION	ADVANCE, STODDARD COUNTY	00262-207-000	0000	0071	8.2250%
VENDORS USE LOCATION	AGENCY, BUCHANAN COUNTY	00298-021-000	0000	0072	5.8250%
VENDORS USE LOCATION	ALBANY, GENTRY COUNTY	00514-075-000	0000	0073	7.7250%
VENDORS USE LOCATION	ALLENDALE, WORTH COUNTY	00712-227-000	0000	0074	6.6000%
VENDORS USE LOCATION	ALLENVILLE, CAPE GIRARDEAU COUNTY	00748-031-000	0000	0075	5.2250%
VENDORS USE LOCATION	ALMA, LAFAYETTE COUNTY	00802-107-000	0000	0076	5.8500%
VENDORS USE LOCATION	ALTAMONT, DAVIESS COUNTY	00910-061-000	0000	0077	5.7250%
VENDORS USE LOCATION	ALTENBURG, PERRY COUNTY	00928-157-000	0000	0078	6.1000%
VENDORS USE LOCATION	AMAZONIA, ANDREW COUNTY	01018-003-000	0000	0079	5.9250%
VENDORS USE LOCATION	AMITY, DEKALB COUNTY	01054-063-000	0000	0080	5.7250%
VENDORS USE LOCATION	AMORET, BATES COUNTY	01072-013-000	0000	0081	5.2250%
VENDORS USE LOCATION	AMSTERDAM, BATES COUNTY	01090-013-000	0000	0082	5.2250%

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VENDORS USE LOCATION	ANABEL, MACON COUNTY	01126-121-000	0000	0083	5.9750%
VENDORS USE LOCATION	ANCELL, SCOTT COUNTY	01162-201-000	0000	0084	5.2250%
VENDORS USE LOCATION	APPLETON, CAPE GIRARDEAU COUNTY	01486-031-000	0000	0085	5.2250%
VENDORS USE LOCATION	ARAB, BOLLINGER COUNTY	01558-017-000	0000	0086	5.8500%
VENDORS USE LOCATION	ARBELA, SCOTLAND COUNTY	01576-199-000	0000	0087	5.4750%
VENDORS USE LOCATION	ARBYRD, DUNKLIN COUNTY	01630-069-000	0000	0088	5.7250%
VENDORS USE LOCATION	ARCHIE, CASS COUNTY	01702-037-000	0000	0089	5.8500%
VENDORS USE LOCATION	ARCOLA, DADE COUNTY	01720-057-000	0000	0090	5.9750%
VENDORS USE LOCATION	ARGYLE, MARIES COUNTY	01828-125-000	0000	0091	5.8910%
VENDORS USE LOCATION	ARGYLE, OSAGE COUNTY	01828-151-000	0000	0092	5.9750%
VENDORS USE LOCATION	ARKOE, NODAWAY COUNTY	01864-147-000	0000	0093	5.7250%
VENDORS USE LOCATION	ARMSTRONG, HOWARD COUNTY	01954-089-000	0000	0094	6.8500%
VENDORS USE LOCATION	ARROW POINT, BARRY COUNTY	02034-009-000	0000	0095	5.7250%
VENDORS USE LOCATION	ARROW ROCK, SALINE COUNTY	02044-195-000	0000	0096	6.2250%
VENDORS USE LOCATION	ASH GROVE, GREENE COUNTY	02188-077-000	0000	0097	6.2250%
VENDORS USE LOCATION	ATLANTA, MACON COUNTY	02422-121-000	0000	0098	6.9750%
VENDORS USE LOCATION	AUGUSTA, ST CHARLES COUNTY	02512-183-000	0000	0099	5.9500%

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VENDORS USE LOCATION	AULLVILLE, LAFAYETTE COUNTY	02530-107-000	0000	0100	5.8500%
VENDORS USE LOCATION	AURORA, LAWRENCE COUNTY	02548-109-000	0000	0101	8.8500%
VENDORS USE LOCATION	AUXVASSE, CALLAWAY COUNTY	02638-027-000	0000	0102	5.2250%
VENDORS USE LOCATION	AVA, DOUGLAS COUNTY	02674-067-000	0000	0103	5.7250%
VENDORS USE LOCATION	AVALON, LIVINGSTON COUNTY	02692-117-000	0000	0104	5.4750%
VENDORS USE LOCATION	AVONDALE, CLAY COUNTY	02800-047-000	0000	0105	5.3500%
VENDORS USE LOCATION	BAGNELL, MILLER COUNTY	02962-131-000	0000	0106	5.2250%
VENDORS USE LOCATION	BAKER, STODDARD COUNTY	03034-207-000	0000	0107	6.2250%
VENDORS USE LOCATION	BALDWIN PARK, CASS COUNTY	03124-037-000	0000	0108	5.8500%
VENDORS USE LOCATION	BARING, KNOX COUNTY	03322-103-000	0000	0109	6.7250%
VENDORS USE LOCATION	BARNARD, NODAWAY COUNTY	03340-147-000	0000	0110	5.7250%
VENDORS USE LOCATION	BARNETT, MORGAN COUNTY	03376-141-000	0000	0111	5.2250%
VENDORS USE LOCATION	BATES CITY, LAFAYETTE COUNTY	03556-107-000	0000	0112	7.3500%
VENDORS USE LOCATION	BATTLEFIELD, GREENE COUNTY	03592-077-000	0000	0113	5.7250%
VENDORS USE LOCATION	BELGIQUE, PERRY COUNTY	04042-157-000	0000	0114	6.1000%
VENDORS USE LOCATION	BELGRADE, WASHINGTON COUNTY	04060-221-000	0000	0115	6.7250%
VENDORS USE LOCATION	BELLAIR, COOPER COUNTY	04096-053-000	0000	0116	5.9750%

MISSOURI DEPARTMENT OF REVENUE
TAXATION DIVISION
PO BOX 3300
JEFFERSON CITY, MO 65105-3300

MISSOURI BUSINESS TAX REGISTRATION

Date: January 06, 2020

MISSOURI ID: 25979981

Notice Number: 2010973408

FLY LOGIC, INC.
D/B/A AQUA DESIGN
119 S VALLEY DR STE A
NAMPA, ID 83686-2985

Telephone: (573) 751-5860
Fax: (573) 522-1722
Email: businesstaxregister@dor.mo.gov

Account Type	Location	Jurisdiction Code	Item Code	Site Code	Rate
VENDORS USE LOCATION	BELLA VILLA, ST LOUIS COUNTY	04114-189-000	0000	0117	4.7250%
VENDORS USE LOCATION	BELLA VILLA (X1), ST LOUIS COUNTY	04115-189-000	0000	0118	4.7250%
VENDORS USE LOCATION	BELL CITY, STODDARD COUNTY	04132-207-000	0000	0119	6.2250%
VENDORS USE LOCATION	BELLE, MARIES COUNTY	04150-125-000	0000	0120	5.8910%
VENDORS USE LOCATION	BELLE, OSAGE COUNTY	04150-151-000	0000	0121	5.9750%
VENDORS USE LOCATION	BEL-NOR, ST LOUIS COUNTY	04348-189-000	0000	0122	4.7250%
VENDORS USE LOCATION	BELTON, CASS COUNTY	04384-037-000	0000	0123	5.8500%
VENDORS USE LOCATION	BENDAVIS, TEXAS COUNTY	04474-215-000	0000	0124	6.1000%
VENDORS USE LOCATION	BENTON, SCOTT COUNTY	04798-201-000	0000	0125	6.2250%
VENDORS USE LOCATION	BERNIE, STODDARD COUNTY	04960-207-000	0000	0126	8.2250%
VENDORS USE LOCATION	BETHANY, HARRISON COUNTY	05068-081-000	0000	0127	5.4750%
VENDORS USE LOCATION	BETHEL, SHELBY COUNTY	05104-205-000	0000	0128	5.7250%
VENDORS USE LOCATION	BEVERLY, PLATTE COUNTY	05230-165-000	0000	0129	5.6000%
VENDORS USE LOCATION	BEVIER, MACON COUNTY	05266-121-000	0000	0130	5.9750%
VENDORS USE LOCATION	BIGELOW, HOLT COUNTY	05464-087-000	0000	0131	6.7250%
VENDORS USE LOCATION	BIG LAKE (VILLAGE), HOLT COUNTY	05495-087-000	0000	0132	6.7250%
VENDORS USE LOCATION	BIRMINGHAM, CLAY COUNTY	05824-047-000	0000	0133	5.3500%

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VENDORS USE LOCATION	BLACKBURN, LAFAYETTE COUNTY	05950-107-000	0000	0134	5.8500%
VENDORS USE LOCATION	BLACKBURN, SALINE COUNTY	05950-195-000	0000	0135	6.2250%
VENDORS USE LOCATION	BLACK JACK, ST LOUIS COUNTY	06004-189-000	0000	0136	4.7250%
VENDORS USE LOCATION	BLACKWATER, COOPER COUNTY	06148-053-000	0000	0137	5.9750%
VENDORS USE LOCATION	BLAIRSTOWN, HENRY COUNTY	06238-083-000	0000	0138	5.6750%
VENDORS USE LOCATION	BLODGETT, SCOTT COUNTY	06346-201-000	0000	0139	5.2250%
VENDORS USE LOCATION	BLOOMFIELD, STODDARD COUNTY	06382-207-000	0000	0140	7.2250%
VENDORS USE LOCATION	BLUE EYE, STONE COUNTY	06526-209-000	0000	0141	5.9750%
VENDORS USE LOCATION	BLYTHEDALE, HARRISON COUNTY	06742-081-000	0000	0142	5.4750%
VENDORS USE LOCATION	BOGARD, CARROLL COUNTY	06832-033-000	0000	0143	5.7250%
VENDORS USE LOCATION	BOLCKOW, ANDREW COUNTY	06922-003-000	0000	0144	5.9250%
VENDORS USE LOCATION	BONA, DADE COUNTY	06994-057-000	0000	0145	5.9750%
VENDORS USE LOCATION	BONNOTS MILL, OSAGE COUNTY	07120-151-000	0000	0146	5.9750%
VENDORS USE LOCATION	BOONVILLE, COOPER COUNTY	07318-053-000	0000	0147	8.8500%
VENDORS USE LOCATION	BOSWORTH, CARROLL COUNTY	07426-033-000	0000	0148	5.7250%
VENDORS USE LOCATION	BOWERS MILL, LAWRENCE COUNTY	07588-109-000	0000	0149	6.3500%
VENDORS USE LOCATION	BRANDSVILLE, HOWELL COUNTY	07948-091-000	0000	0150	5.6620%

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VENDORS USE LOCATION	BRANSON WEST, STONE COUNTY	07989-209-000	0000	0151	5.9750%
VENDORS USE LOCATION	BRASHEAR, ADAIR COUNTY	08002-001-000	0000	0152	5.2250%
VENDORS USE LOCATION	BRAYMER, CALDWELL COUNTY	08038-025-000	0000	0153	6.2250%
VENDORS USE LOCATION	BRAZEAU, PERRY COUNTY	08074-157-000	0000	0154	6.1000%
VENDORS USE LOCATION	BRECKENRIDGE, CALDWELL COUNTY	08128-025-000	0000	0155	6.2250%
VENDORS USE LOCATION	BRECKENRIDGE HILLS, ST LOUIS COUNTY	08164-189-000	0000	0156	4.9750%
VENDORS USE LOCATION	BRINKTOWN, MARIES COUNTY	08488-125-000	0000	0157	5.8910%
VENDORS USE LOCATION	BROOKFIELD, LINN COUNTY	08650-115-000	0000	0158	7.9750%
VENDORS USE LOCATION	BROWNING, LINN COUNTY	08884-115-000	0000	0159	7.7250%
VENDORS USE LOCATION	BROWNING, SULLIVAN COUNTY	08884-211-000	0000	0160	8.9750%
VENDORS USE LOCATION	BROWNINGTON, HENRY COUNTY	08902-083-000	0000	0161	5.6750%
VENDORS USE LOCATION	BROWNWOOD, STODDARD COUNTY	08956-207-000	0000	0162	6.2250%
VENDORS USE LOCATION	BRUMLEY, MILLER COUNTY	08974-131-000	0000	0163	5.2250%
VENDORS USE LOCATION	BRUNSWICK, CHARITON COUNTY	09046-041-000	0000	0164	8.1000%
VENDORS USE LOCATION	BUCKLIN, LINN COUNTY	09388-115-000	0000	0165	6.7250%
VENDORS USE LOCATION	BUCKNER, JACKSON COUNTY	09424-095-000	0000	0166	6.2250%
VENDORS USE LOCATION	BUCYRUS, TEXAS COUNTY	09478-215-000	0000	0167	6.1000%

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VENDORS USE LOCATION	BUNCETON, COOPER COUNTY	09658-053-000	0000	0168	5.9750%
VENDORS USE LOCATION	BURFORDVILLE, CAPE GIRARDEAU COUNTY	09784-031-000	0000	0169	5.2250%
VENDORS USE LOCATION	BURLINGTON JUNCTION, NODAWAY COUNTY	09838-147-000	0000	0170	5.7250%
VENDORS USE LOCATION	BUTLER, BATES COUNTY	10054-013-000	0000	0171	5.2250%
VENDORS USE LOCATION	BUTTERFIELD, BARRY COUNTY	10144-009-000	0000	0172	6.7250%
VENDORS USE LOCATION	BYNUMVILLE, CHARITON COUNTY	10216-041-000	0000	0173	6.1000%
VENDORS USE LOCATION	CABOOL, TEXAS COUNTY	10288-215-000	0000	0174	7.6000%
VENDORS USE LOCATION	CADET, WASHINGTON COUNTY	10306-221-000	0000	0175	6.7250%
VENDORS USE LOCATION	CAINSVILLE, HARRISON COUNTY	10342-081-000	0000	0176	5.9750%
VENDORS USE LOCATION	CAIRO, RANDOLPH COUNTY	10360-175-000	0000	0177	5.4750%
VENDORS USE LOCATION	CALEDONIA, WASHINGTON COUNTY	10432-221-000	0000	0178	6.7250%
VENDORS USE LOCATION	CALHOUN, HENRY COUNTY	10450-083-000	0000	0179	5.6750%
VENDORS USE LOCATION	CALIFORNIA, MONITEAU COUNTY	10468-135-000	0000	0180	6.7250%
VENDORS USE LOCATION	CALLAO, MACON COUNTY	10486-121-000	0000	0181	6.9750%
VENDORS USE LOCATION	CAMDEN, RAY COUNTY	10738-177-000	0000	0182	6.7250%
VENDORS USE LOCATION	CAMDEN POINT, PLATTE COUNTY	10792-165-000	0000	0183	5.6000%
VENDORS USE LOCATION	CAMDENTON, CAMDEN COUNTY	10810-029-000	0000	0184	5.4750%

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VENDORS USE LOCATION	CAMERON, CALDWELL COUNTY	10828-025-000	0000	0185	6.2250%
VENDORS USE LOCATION	CAMERON, CLINTON COUNTY	10828-049-000	0000	0186	5.2250%
VENDORS USE LOCATION	CAMERON, DEKALB COUNTY	10828-063-000	0000	0187	5.7250%
VENDORS USE LOCATION	CAMPBELL, DUNKLIN COUNTY	10864-069-000	0000	0188	7.9750%
VENDORS USE LOCATION	CANALOU, NEW MADRID COUNTY	11026-143-000	0000	0189	5.7250%
VENDORS USE LOCATION	CANTON, LEWIS COUNTY	11134-111-000	0000	0190	6.8500%
VENDORS USE LOCATION	CAPE FAIR, STONE COUNTY	11224-209-000	0000	0191	5.9750%
VENDORS USE LOCATION	CAPE GIRARDEAU, CAPE GIRARDEAU COUNTY	11242-031-000	0000	0192	5.2250%
VENDORS USE LOCATION	CAPE GIRARDEAU, SCOTT COUNTY	11242-201-000	0000	0193	5.2250%
VENDORS USE LOCATION	CARDWELL, DUNKLIN COUNTY	11350-069-000	0000	0194	5.7250%
VENDORS USE LOCATION	CARROLLTON, CARROLL COUNTY	11566-033-000	0000	0195	5.7250%
VENDORS USE LOCATION	CARTERVILLE, JASPER COUNTY	11638-097-000	0000	0196	6.2250%
VENDORS USE LOCATION	CASCADE, WAYNE COUNTY	11746-223-000	0000	0197	5.7250%
VENDORS USE LOCATION	CASSVILLE, BARRY COUNTY	11890-009-000	0000	0198	5.7250%
VENDORS USE LOCATION	CATRON, NEW MADRID COUNTY	12052-143-000	0000	0199	5.7250%
VENDORS USE LOCATION	CAULFIELD, HOWELL COUNTY	12070-091-000	0000	0200	5.6620%
VENDORS USE LOCATION	CENTER, RALLS COUNTY	12592-173-000	0000	0201	6.7250%

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VENDORS USE LOCATION	CENTERTOWN, COLE COUNTY	12664-051-000	0000	0202	5.7250%
VENDORS USE LOCATION	CENTERVIEW, JOHNSON COUNTY	12682-101-000	0000	0203	6.9750%
VENDORS USE LOCATION	CHAFFEE, SCOTT COUNTY	12988-201-000	0000	0204	6.9750%
VENDORS USE LOCATION	CHAMOIS, OSAGE COUNTY	13060-151-000	0000	0205	5.9750%
VENDORS USE LOCATION	CHILHOWEE, JOHNSON COUNTY	13654-101-000	0000	0206	6.9750%
VENDORS USE LOCATION	CHILLICOTHE, LIVINGSTON COUNTY	13690-117-000	0000	0207	7.7250%
VENDORS USE LOCATION	CHULA, LIVINGSTON COUNTY	13852-117-000	0000	0208	5.4750%
VENDORS USE LOCATION	CLARENCE, SHELBY COUNTY	13978-205-000	0000	0209	5.7250%
VENDORS USE LOCATION	CLARK, RANDOLPH COUNTY	14068-175-000	0000	0210	7.4750%
VENDORS USE LOCATION	CLARKSBURG, MONITEAU COUNTY	14140-135-000	0000	0211	5.2250%
VENDORS USE LOCATION	CLARKSDALE, DEKALB COUNTY	14158-063-000	0000	0212	6.7250%
VENDORS USE LOCATION	CLARKSVILLE, PIKE COUNTY	14194-163-000	0000	0213	5.2250%
VENDORS USE LOCATION	CLARKTON, DUNKLIN COUNTY	14212-069-000	0000	0214	5.7250%
VENDORS USE LOCATION	CLAYCOMO, CLAY COUNTY	14554-047-000	0000	0215	5.3500%
VENDORS USE LOCATION	CLAYTON, ST LOUIS COUNTY	14572-189-000	0000	0216	5.7250%
VENDORS USE LOCATION	CLEARMONT, NODAWAY COUNTY	14662-147-000	0000	0217	5.7250%
VENDORS USE LOCATION	CLEVELAND, CASS COUNTY	14770-037-000	0000	0218	5.8500%

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VENDORS USE LOCATION	CLEVER, CHRISTIAN COUNTY	14788-043-000	0000	0219	6.1000%
VENDORS USE LOCATION	CLIFTON HILL, RANDOLPH COUNTY	14896-175-000	0000	0220	5.4750%
VENDORS USE LOCATION	CLINTON, HENRY COUNTY	14986-083-000	0000	0221	7.8000%
VENDORS USE LOCATION	CLUBB, WAYNE COUNTY	15112-223-000	0000	0222	5.7250%
VENDORS USE LOCATION	CLYDE, NODAWAY COUNTY	15130-147-000	0000	0223	5.7250%
VENDORS USE LOCATION	COFFEY, DAVIESS COUNTY	15274-061-000	0000	0224	5.7250%
VENDORS USE LOCATION	COLDWATER, WAYNE COUNTY	15400-223-000	0000	0225	5.7250%
VENDORS USE LOCATION	COLE CAMP, BENTON COUNTY	15436-015-000	0000	0226	7.7250%
VENDORS USE LOCATION	COLLINS, ST CLAIR COUNTY	15562-185-000	0000	0227	5.6000%
VENDORS USE LOCATION	COMMERCE, SCOTT COUNTY	15760-201-000	0000	0228	5.2250%
VENDORS USE LOCATION	CONCEPTION, NODAWAY COUNTY	15886-147-000	0000	0229	5.7250%
VENDORS USE LOCATION	CONCEPTION JUNCTION, NODAWAY COUNTY	15922-147-000	0000	0230	5.7250%
VENDORS USE LOCATION	CONCORDIA, LAFAYETTE COUNTY	16102-107-000	0000	0231	5.8500%
VENDORS USE LOCATION	CONEY ISLAND, STONE COUNTY	16115-209-000	0000	0232	5.9750%
VENDORS USE LOCATION	CONRAN, NEW MADRID COUNTY	16156-143-000	0000	0233	5.7250%
VENDORS USE LOCATION	COOL VALLEY, ST LOUIS COUNTY	16228-189-000	0000	0234	5.9750%
VENDORS USE LOCATION	CORDER, LAFAYETTE COUNTY	16408-107-000	0000	0235	7.3500%

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VENDORS USE LOCATION	CORNING, HOLT COUNTY	16462-087-000	0000	0236	6.7250%
VENDORS USE LOCATION	COSBY, ANDREW COUNTY	16588-003-000	0000	0237	5.9250%
VENDORS USE LOCATION	COTTLEVILLE, ST CHARLES COUNTY	16678-183-000	0000	0238	5.9500%
VENDORS USE LOCATION	COUNTRY CLUB HILLS, ST LOUIS COUNTY	16822-189-000	0000	0239	5.9750%
VENDORS USE LOCATION	COUNTRY CLUB HILLS (T1), ST LOUIS COUNTY	16823-189-000	0000	0240	5.9750%
VENDORS USE LOCATION	COUNTRY CLUB VILLAGE, ANDREW COUNTY	16858-003-000	0000	0241	6.9250%
VENDORS USE LOCATION	COURTOIS, WASHINGTON COUNTY	16948-221-000	0000	0242	6.7250%
VENDORS USE LOCATION	COWGILL, CALDWELL COUNTY	16984-025-000	0000	0243	6.2250%
VENDORS USE LOCATION	CRAIG, HOLT COUNTY	17056-087-000	0000	0244	6.7250%
VENDORS USE LOCATION	CRANE, STONE COUNTY	17074-209-000	0000	0245	7.4750%
VENDORS USE LOCATION	CREIGHTON, CASS COUNTY	17164-037-000	0000	0246	5.8500%
VENDORS USE LOCATION	CRESTWOOD, ST LOUIS COUNTY	17218-189-000	0000	0247	5.7250%
VENDORS USE LOCATION	CRESTWOOD (X1), ST LOUIS COUNTY	17219-189-000	0000	0248	5.7250%
VENDORS USE LOCATION	CRESTWOOD (T3), ST LOUIS COUNTY	17222-189-000	0000	0249	5.7250%
VENDORS USE LOCATION	CROSSTOWN, PERRY COUNTY	17560-157-000	0000	0250	6.1000%
VENDORS USE LOCATION	CROWDER, SCOTT COUNTY	17578-201-000	0000	0251	5.2250%
VENDORS USE LOCATION	CRYSTAL LAKES, RAY COUNTY	17660-177-000	0000	0252	6.7250%

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VENDORS USE LOCATION	DADEVILLE, DADE COUNTY	17992-057-000	0000	0253	5.9750%
VENDORS USE LOCATION	DAISY, CAPE GIRARDEAU COUNTY	18010-031-000	0000	0254	5.2250%
VENDORS USE LOCATION	DALTON, CHARITON COUNTY	18118-041-000	0000	0255	6.1000%
VENDORS USE LOCATION	DARDENNE PRAIRIE, ST CHARLES COUNTY	18253-183-000	0000	0256	5.9500%
VENDORS USE LOCATION	DARLINGTON, GENTRY COUNTY	18316-075-000	0000	0257	5.7250%
VENDORS USE LOCATION	DAWN, LIVINGSTON COUNTY	18496-117-000	0000	0258	5.4750%
VENDORS USE LOCATION	DEARBORN, BUCHANAN COUNTY	18658-021-000	0000	0259	5.8250%
VENDORS USE LOCATION	DEARBORN, PLATTE COUNTY	18658-165-000	0000	0260	5.6000%
VENDORS USE LOCATION	DEEPWATER, HENRY COUNTY	18730-083-000	0000	0261	7.6750%
VENDORS USE LOCATION	DEFIANCE, ST CHARLES COUNTY	18910-183-000	0000	0262	5.9500%
VENDORS USE LOCATION	DE KALB, BUCHANAN COUNTY	18946-021-000	0000	0263	5.8250%
VENDORS USE LOCATION	DELTA, CAPE GIRARDEAU COUNTY	19072-031-000	0000	0264	5.2250%
VENDORS USE LOCATION	DENVER, WORTH COUNTY	19162-227-000	0000	0265	6.6000%
VENDORS USE LOCATION	DES PERES, ST LOUIS COUNTY	19270-189-000	0000	0266	5.7250%
VENDORS USE LOCATION	DES PERES (X1), ST LOUIS COUNTY	19271-189-000	0000	0267	5.7250%
VENDORS USE LOCATION	DES PERES (X2), ST LOUIS COUNTY	19272-189-000	0000	0268	5.7250%
VENDORS USE LOCATION	DES PERES (X3), ST LOUIS COUNTY	19274-189-000	0000	0269	5.7250%

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VENDORS USE LOCATION	DES PERES (X4), ST LOUIS COUNTY	19275-189-000	0000	0270	5.7250%
VENDORS USE LOCATION	DES PERES (X5), ST LOUIS COUNTY	19276-189-000	0000	0271	5.7250%
VENDORS USE LOCATION	DES PERES (X6), ST LOUIS COUNTY	19277-189-000	0000	0272	5.7250%
VENDORS USE LOCATION	DE WITT, CARROLL COUNTY	19342-033-000	0000	0273	5.7250%
VENDORS USE LOCATION	DEXTER, STODDARD COUNTY	19396-207-000	0000	0274	8.1000%
VENDORS USE LOCATION	DIEHLSTADT, SCOTT COUNTY	19486-201-000	0000	0275	5.2250%
VENDORS USE LOCATION	DONIPHAN, RIPLEY COUNTY	19792-181-000	0000	0276	6.2250%
VENDORS USE LOCATION	DOVER, LAFAYETTE COUNTY	19918-107-000	0000	0277	5.8500%
VENDORS USE LOCATION	DREXEL, BATES COUNTY	20134-013-000	0000	0278	5.2250%
VENDORS USE LOCATION	DREXEL, CASS COUNTY	20134-037-000	0000	0279	5.8500%
VENDORS USE LOCATION	DUDLEY, STODDARD COUNTY	20296-207-000	0000	0280	6.2250%
VENDORS USE LOCATION	DUNCANS BRIDGE, MONROE COUNTY	20404-137-000	0000	0281	5.7250%
VENDORS USE LOCATION	DUQUESNE, JASPER COUNTY	20512-097-000	0000	0282	6.6000%
VENDORS USE LOCATION	DURHAM, LEWIS COUNTY	20530-111-000	0000	0283	6.8500%
VENDORS USE LOCATION	DUTZOW, WARREN COUNTY	20584-219-000	0000	0284	6.2250%
VENDORS USE LOCATION	EAGLE ROCK, BARRY COUNTY	20656-009-000	0000	0285	5.7250%
VENDORS USE LOCATION	EAGLEVILLE, HARRISON COUNTY	20674-081-000	0000	0286	5.4750%

MISSOURI DEPARTMENT OF REVENUE
TAXATION DIVISION
PO BOX 3300
JEFFERSON CITY, MO 65105-3300

MISSOURI BUSINESS TAX REGISTRATION

Date: January 06, 2020

MISSOURI ID: 25979981

Notice Number: 2010973408

FLY LOGIC, INC.
D/B/A AQUA DESIGN
119 S VALLEY DR STE A
NAMPA, ID 83686-2985

Telephone: (573) 751-5860
Fax: (573) 522-1722
Email: businesstaxregister@dor.mo.gov

Account Type	Location	Jurisdiction Code	Item Code	Site Code	Rate
VENDORS USE LOCATION	EAST KANSAS CITY, CLAY COUNTY	20926-047-000	0000	0287	5.3500%
VENDORS USE LOCATION	EAST LYNNE, CASS COUNTY	20980-037-000	0000	0288	5.8500%
VENDORS USE LOCATION	EASTON, BUCHANAN COUNTY	21034-021-000	0000	0289	5.8250%
VENDORS USE LOCATION	EDGERTON, PLATTE COUNTY	21250-165-000	0000	0290	5.6000%
VENDORS USE LOCATION	EDINA, KNOX COUNTY	21322-103-000	0000	0291	8.2250%
VENDORS USE LOCATION	EDMUNDSON, ST LOUIS COUNTY	21376-189-000	0000	0292	5.9750%
VENDORS USE LOCATION	EDWARDS, BENTON COUNTY	21394-015-000	0000	0293	6.2250%
VENDORS USE LOCATION	ELDON, MILLER COUNTY	21484-131-000	0000	0294	5.2250%
VENDORS USE LOCATION	ELK CREEK, TEXAS COUNTY	21610-215-000	0000	0295	6.1000%
VENDORS USE LOCATION	ELLIS PRAIRIE, TEXAS COUNTY	21880-215-000	0000	0296	6.1000%
VENDORS USE LOCATION	ELMER, MACON COUNTY	21988-121-000	0000	0297	5.9750%
VENDORS USE LOCATION	ELMIRA, RAY COUNTY	22006-177-000	0000	0298	6.7250%
VENDORS USE LOCATION	ELMO, NODAWAY COUNTY	22024-147-000	0000	0299	5.7250%
VENDORS USE LOCATION	ELMWOOD, SALINE COUNTY	22078-195-000	0000	0300	6.2250%
VENDORS USE LOCATION	ELSBERRY, LINCOLN COUNTY	22114-113-000	0000	0301	5.7250%
VENDORS USE LOCATION	ELSTON, COLE COUNTY	22168-051-000	0000	0302	5.7250%
VENDORS USE LOCATION	EMDEN, SHELBY COUNTY	22240-205-000	0000	0303	5.7250%

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VENDORS USE LOCATION	EMMA, LAFAYETTE COUNTY	22312-107-000	0000	0304	5.8500%
VENDORS USE LOCATION	EMMA, SALINE COUNTY	22312-195-000	0000	0305	6.2250%
VENDORS USE LOCATION	ESSEX, STODDARD COUNTY	22600-207-000	0000	0306	7.2250%
VENDORS USE LOCATION	ETHEL, MACON COUNTY	22672-121-000	0000	0307	5.9750%
VENDORS USE LOCATION	ETTERVILLE, MILLER COUNTY	22744-131-000	0000	0308	5.2250%
VENDORS USE LOCATION	EUNICE, TEXAS COUNTY	22816-215-000	0000	0309	6.1000%
VENDORS USE LOCATION	EVERTON, DADE COUNTY	22996-057-000	0000	0310	5.9750%
VENDORS USE LOCATION	EWING, LEWIS COUNTY	23032-111-000	0000	0311	6.8500%
VENDORS USE LOCATION	EXCELLO, MACON COUNTY	23050-121-000	0000	0312	5.9750%
VENDORS USE LOCATION	EXCELSIOR ESTATES, RAY COUNTY	23077-177-000	0000	0313	6.7250%
VENDORS USE LOCATION	EXCELSIOR SPRINGS, CLAY COUNTY	23086-047-000	0000	0314	8.8500%
VENDORS USE LOCATION	EXCELSIOR SPRINGS, RAY COUNTY	23086-177-000	0000	0315	10.2250 %
VENDORS USE LOCATION	EXETER, BARRY COUNTY	23122-009-000	0000	0316	5.7250%
VENDORS USE LOCATION	FAIRFAX, ATCHISON COUNTY	23266-005-000	0000	0317	7.4750%
VENDORS USE LOCATION	FAIRPORT, DEKALB COUNTY	23446-063-000	0000	0318	5.7250%
VENDORS USE LOCATION	FAIRVIEW, NEWTON COUNTY	23518-145-000	0000	0319	5.2250%
VENDORS USE LOCATION	FARBER, AUDRAIN COUNTY	23662-007-000	0000	0320	5.2250%

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VENDORS USE LOCATION	FARLEY, PLATTE COUNTY	23698-165-000	0000	0321	5.6000%
VENDORS USE LOCATION	FARRAR, PERRY COUNTY	23788-157-000	0000	0322	6.1000%
VENDORS USE LOCATION	FAUCETT, BUCHANAN COUNTY	23824-021-000	0000	0323	5.8250%
VENDORS USE LOCATION	FAYETTE, HOWARD COUNTY	23842-089-000	0000	0324	7.9750%
VENDORS USE LOCATION	FERRELVIEW, PLATTE COUNTY	24058-165-000	0000	0325	5.6000%
VENDORS USE LOCATION	FILLMORE, ANDREW COUNTY	24184-003-000	0000	0326	5.9250%
VENDORS USE LOCATION	FLEMING, RAY COUNTY	24562-177-000	0000	0327	6.7250%
VENDORS USE LOCATION	FLINT HILL, ST CHARLES COUNTY	24670-183-000	0000	0328	5.9500%
VENDORS USE LOCATION	FLORDELL HILLS, ST LOUIS COUNTY	24706-189-000	0000	0329	4.7250%
VENDORS USE LOCATION	FLORENCE, MORGAN COUNTY	24742-141-000	0000	0330	5.2250%
VENDORS USE LOCATION	FLORIDA, MONROE COUNTY	24760-137-000	0000	0331	5.7250%
VENDORS USE LOCATION	FOLK, OSAGE COUNTY	24904-151-000	0000	0332	5.9750%
VENDORS USE LOCATION	FORD CITY, GENTRY COUNTY	24994-075-000	0000	0333	5.7250%
VENDORS USE LOCATION	FOREST CITY, HOLT COUNTY	25066-087-000	0000	0334	6.7250%
VENDORS USE LOCATION	FOREST GREEN, CHARITON COUNTY	25084-041-000	0000	0335	6.1000%
VENDORS USE LOCATION	FORISTELL, ST CHARLES COUNTY	25120-183-000	0000	0336	7.9500%
VENDORS USE LOCATION	FORISTELL, WARREN COUNTY	25120-219-000	0000	0337	8.2250%

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VENDORS USE LOCATION	FORNFELT, SCOTT COUNTY	25156-201-000	0000	0338	5.2250%
VENDORS USE LOCATION	FORTESCUE, HOLT COUNTY	25228-087-000	0000	0339	6.7250%
VENDORS USE LOCATION	FORTUNA, MONITEAU COUNTY	25300-135-000	0000	0340	5.2250%
VENDORS USE LOCATION	FORT ZUMWALT, ST CHARLES COUNTY	25354-183-000	0000	0341	5.9500%
VENDORS USE LOCATION	FOSTER, BATES COUNTY	25372-013-000	0000	0342	5.2250%
VENDORS USE LOCATION	FRANKLIN, HOWARD COUNTY	25624-089-000	0000	0343	6.8500%
VENDORS USE LOCATION	FREEBURG, OSAGE COUNTY	25822-151-000	0000	0344	5.9750%
VENDORS USE LOCATION	FREEMAN, CASS COUNTY	25894-037-000	0000	0345	5.8500%
VENDORS USE LOCATION	FREISTATT, LAWRENCE COUNTY	25912-109-000	0000	0346	6.3500%
VENDORS USE LOCATION	FREMONT HILLS, CHRISTIAN COUNTY	25957-043-000	0000	0347	5.2250%
VENDORS USE LOCATION	FRIEDHEIM, CAPE GIRARDEAU COUNTY	26002-031-000	0000	0348	5.2250%
VENDORS USE LOCATION	FRISTOE, BENTON COUNTY	26056-015-000	0000	0349	6.2250%
VENDORS USE LOCATION	FROHNA, PERRY COUNTY	26092-157-000	0000	0350	6.1000%
VENDORS USE LOCATION	FRONTENAC, ST LOUIS COUNTY	26110-189-000	0000	0351	5.7250%
VENDORS USE LOCATION	FRUITLAND, CAPE GIRARDEAU COUNTY	26128-031-000	0000	0352	5.2250%
VENDORS USE LOCATION	FULTON, CALLAWAY COUNTY	26182-027-000	0000	0353	5.2250%
VENDORS USE LOCATION	GALENA, STONE COUNTY	26254-209-000	0000	0354	5.9750%

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VENDORS USE LOCATION	GALLATIN, DAVIESS COUNTY	26308-061-000	0000	0355	7.6000%
VENDORS USE LOCATION	GARDEN CITY, CASS COUNTY	26434-037-000	0000	0356	7.8500%
VENDORS USE LOCATION	GENTRY, GENTRY COUNTY	26776-075-000	0000	0357	5.7250%
VENDORS USE LOCATION	GEORGETOWN, PETTIS COUNTY	26830-159-000	0000	0358	5.2250%
VENDORS USE LOCATION	GIBBS, ADAIR COUNTY	26920-001-000	0000	0359	5.2250%
VENDORS USE LOCATION	GIBSON, DUNKLIN COUNTY	26956-069-000	0000	0360	5.7250%
VENDORS USE LOCATION	GIDEON, NEW MADRID COUNTY	26974-143-000	0000	0361	5.7250%
VENDORS USE LOCATION	GILLIAM, SALINE COUNTY	27028-195-000	0000	0362	6.2250%
VENDORS USE LOCATION	GILMAN CITY, HARRISON COUNTY	27064-081-000	0000	0363	5.4750%
VENDORS USE LOCATION	GIPSY, BOLLINGER COUNTY	27118-017-000	0000	0364	5.8500%
VENDORS USE LOCATION	GLADSTONE, CLAY COUNTY	27190-047-000	0000	0365	8.3500%
VENDORS USE LOCATION	GLASGOW, CHARITON COUNTY	27208-041-000	0000	0366	7.8500%
VENDORS USE LOCATION	GLASGOW, HOWARD COUNTY	27208-089-000	0000	0367	8.6000%
VENDORS USE LOCATION	GLENAIRE, CLAY COUNTY	27262-047-000	0000	0368	5.3500%
VENDORS USE LOCATION	GLENALLEN, BOLLINGER COUNTY	27280-017-000	0000	0369	5.8500%
VENDORS USE LOCATION	GLENDALE, ST LOUIS COUNTY	27334-189-000	0000	0370	5.7250%
VENDORS USE LOCATION	GOLDEN, BARRY COUNTY	27658-009-000	0000	0371	5.7250%

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VENDORS USE LOCATION	GORDONVILLE, CAPE GIRARDEAU COUNTY	27928-031-000	0000	0372	5.2250%
VENDORS USE LOCATION	GORIN, SCOTLAND COUNTY	27946-199-000	0000	0373	5.4750%
VENDORS USE LOCATION	GOWER, BUCHANAN COUNTY	28036-021-000	0000	0374	7.0750%
VENDORS USE LOCATION	GOWER, CLINTON COUNTY	28036-049-000	0000	0375	6.4750%
VENDORS USE LOCATION	GRAHAM, NODAWAY COUNTY	28072-147-000	0000	0376	5.7250%
VENDORS USE LOCATION	GRAND PASS, SALINE COUNTY	28198-195-000	0000	0377	6.2250%
VENDORS USE LOCATION	GRANDVIEW, JACKSON COUNTY	28324-095-000	0000	0378	7.2250%
VENDORS USE LOCATION	GRANGER, SCOTLAND COUNTY	28360-199-000	0000	0379	5.4750%
VENDORS USE LOCATION	GRANT CITY, WORTH COUNTY	28594-227-000	0000	0380	6.6000%
VENDORS USE LOCATION	GRANTWOOD, ST LOUIS COUNTY	28630-189-000	0000	0381	5.9750%
VENDORS USE LOCATION	GRASSY, BOLLINGER COUNTY	28720-017-000	0000	0382	5.8500%
VENDORS USE LOCATION	GRAVOIS MILLS, MORGAN COUNTY	28828-141-000	0000	0383	5.2250%
VENDORS USE LOCATION	GRAYRIDGE, STODDARD COUNTY	28864-207-000	0000	0384	6.2250%
VENDORS USE LOCATION	GRAYSON, CLINTON COUNTY	28882-049-000	0000	0385	5.2250%
VENDORS USE LOCATION	GREEN CASTLE, SULLIVAN COUNTY	29098-211-000	0000	0386	6.9750%
VENDORS USE LOCATION	GREEN CITY, SULLIVAN COUNTY	29134-211-000	0000	0387	6.9750%
VENDORS USE LOCATION	GREENDALE, ST LOUIS COUNTY	29152-189-000	0000	0388	5.2250%

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VENDORS USE LOCATION	GREENFIELD, DADE COUNTY	29206-057-000	0000	0389	7.1000%
VENDORS USE LOCATION	GREEN RIDGE, PETTIS COUNTY	29332-159-000	0000	0390	5.2250%
VENDORS USE LOCATION	GREENTOP, ADAIR COUNTY	29422-001-000	0000	0391	5.2250%
VENDORS USE LOCATION	GREENVILLE, WAYNE COUNTY	29476-223-000	0000	0392	5.7250%
VENDORS USE LOCATION	GREENWOOD, CASS COUNTY	29494-037-000	0000	0393	5.8500%
VENDORS USE LOCATION	GUILFORD, NODAWAY COUNTY	29692-147-000	0000	0394	5.7250%
VENDORS USE LOCATION	GUNN CITY, CASS COUNTY	29764-037-000	0000	0395	5.8500%
VENDORS USE LOCATION	HALE, CARROLL COUNTY	29908-033-000	0000	0396	5.7250%
VENDORS USE LOCATION	HALLTOWN, LAWRENCE COUNTY	30016-109-000	0000	0397	6.3500%
VENDORS USE LOCATION	HAMILTON, CALDWELL COUNTY	30034-025-000	0000	0398	8.2250%
VENDORS USE LOCATION	HANNIBAL, MARION COUNTY	30214-127-000	0000	0399	7.8500%
VENDORS USE LOCATION	HANNIBAL, RALLS COUNTY	30214-173-000	0000	0400	8.9750%
VENDORS USE LOCATION	HARDIN, RAY COUNTY	30322-177-000	0000	0401	7.7250%
VENDORS USE LOCATION	HARRIS, SULLIVAN COUNTY	30466-211-000	0000	0402	6.9750%
VENDORS USE LOCATION	HARRISONVILLE, CASS COUNTY	30610-037-000	0000	0403	5.8500%
VENDORS USE LOCATION	HARTSHORN, TEXAS COUNTY	30736-215-000	0000	0404	6.1000%
VENDORS USE LOCATION	HARVESTER, ST CHARLES COUNTY	30808-183-000	0000	0405	5.9500%

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VENDORS USE LOCATION	HATFIELD, HARRISON COUNTY	30934-081-000	0000	0406	5.4750%
VENDORS USE LOCATION	HAYWOOD CITY, SCOTT COUNTY	31204-201-000	0000	0407	5.2250%
VENDORS USE LOCATION	HAZELWOOD, ST LOUIS COUNTY	31276-189-000	0000	0408	6.2250%
VENDORS USE LOCATION	HAZELWOOD (X1), ST LOUIS COUNTY	31277-189-000	0000	0409	6.2250%
VENDORS USE LOCATION	HAZELWOOD (X2), ST LOUIS COUNTY	31278-189-000	0000	0410	6.2250%
VENDORS USE LOCATION	HAZELWOOD (T1), ST LOUIS COUNTY	31279-189-000	0000	0411	6.2250%
VENDORS USE LOCATION	HAZELWOOD (T3), ST LOUIS COUNTY	31281-189-000	0000	0412	6.2250%
VENDORS USE LOCATION	HELENA, ANDREW COUNTY	31456-003-000	0000	0413	5.9250%
VENDORS USE LOCATION	HEMPLE, CLINTON COUNTY	31546-049-000	0000	0414	5.2250%
VENDORS USE LOCATION	HENLEY, COLE COUNTY	31618-051-000	0000	0415	5.7250%
VENDORS USE LOCATION	HENRIETTA, RAY COUNTY	31654-177-000	0000	0416	6.7250%
VENDORS USE LOCATION	HERMITAGE, HICKORY COUNTY	31780-085-000	0000	0417	5.7250%
VENDORS USE LOCATION	HIGBEE, RANDOLPH COUNTY	31924-175-000	0000	0418	5.4750%
VENDORS USE LOCATION	HIGGINSVILLE, LAFAYETTE COUNTY	31960-107-000	0000	0419	8.3500%
VENDORS USE LOCATION	HIGH GATE, MARIES COUNTY	31978-125-000	0000	0420	5.8910%
VENDORS USE LOCATION	HIGH POINT, MONITEAU COUNTY	32104-135-000	0000	0421	5.2250%
VENDORS USE LOCATION	HILLHOUSE ADDITION, CAMDEN COUNTY	32212-029-000	0000	0422	5.4750%

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VENDORS USE LOCATION	HIRAM, WAYNE COUNTY	32374-223-000	0000	0423	5.7250%
VENDORS USE LOCATION	HOBERG, LAWRENCE COUNTY	32410-109-000	0000	0424	6.3500%
VENDORS USE LOCATION	HOCOMO, HOWELL COUNTY	32464-091-000	0000	0425	5.6620%
VENDORS USE LOCATION	HOLCOMB, DUNKLIN COUNTY	32536-069-000	0000	0426	5.7250%
VENDORS USE LOCATION	HOLDEN, JOHNSON COUNTY	32572-101-000	0000	0427	8.9750%
VENDORS USE LOCATION	HOLLIDAY, MONROE COUNTY	32626-137-000	0000	0428	5.7250%
VENDORS USE LOCATION	HOLLISTER, TANEY COUNTY	32662-213-000	0000	0429	6.2250%
VENDORS USE LOCATION	HOLLYWOOD, DUNKLIN COUNTY	32698-069-000	0000	0430	5.7250%
VENDORS USE LOCATION	HOLT, CLAY COUNTY	32752-047-000	0000	0431	5.3500%
VENDORS USE LOCATION	HOLT, CLINTON COUNTY	32752-049-000	0000	0432	5.2250%
VENDORS USE LOCATION	HOLTS SUMMIT, CALLAWAY COUNTY	32770-027-000	0000	0433	8.2250%
VENDORS USE LOCATION	HOMESTEAD VILLAGE, RAY COUNTY	32806-177-000	0000	0434	6.7250%
VENDORS USE LOCATION	HOPKINS, NODAWAY COUNTY	33004-147-000	0000	0435	5.7250%
VENDORS USE LOCATION	HORNERSVILLE, DUNKLIN COUNTY	33076-069-000	0000	0436	5.7250%
VENDORS USE LOCATION	HOUSTON, TEXAS COUNTY	33238-215-000	0000	0437	8.6000%
VENDORS USE LOCATION	HOUSTONIA, PETTIS COUNTY	33256-159-000	0000	0438	5.2250%
VENDORS USE LOCATION	HOUSTON LAKE, PLATTE COUNTY	33292-165-000	0000	0439	5.6000%

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VENDORS USE LOCATION	HOWARDVILLE, NEW MADRID COUNTY	33364-143-000	0000	0440	6.7250%
VENDORS USE LOCATION	HUGGINS, TEXAS COUNTY	33616-215-000	0000	0441	6.1000%
VENDORS USE LOCATION	HUGHESVILLE, PETTIS COUNTY	33652-159-000	0000	0442	5.2250%
VENDORS USE LOCATION	HUME, BATES COUNTY	33724-013-000	0000	0443	5.2250%
VENDORS USE LOCATION	HUMPHREYS, SULLIVAN COUNTY	33742-211-000	0000	0444	6.9750%
VENDORS USE LOCATION	HUNNEWELL, SHELBY COUNTY	33760-205-000	0000	0445	5.7250%
VENDORS USE LOCATION	HUNTSVILLE, RANDOLPH COUNTY	33886-175-000	0000	0446	6.9750%
VENDORS USE LOCATION	HURDLAND, KNOX COUNTY	33904-103-000	0000	0447	6.7250%
VENDORS USE LOCATION	HURLEY, STONE COUNTY	33922-209-000	0000	0448	5.9750%
VENDORS USE LOCATION	HURRICANE DECK, CAMDEN COUNTY	34048-029-000	0000	0449	5.4750%
VENDORS USE LOCATION	IATAN, PLATTE COUNTY	34210-165-000	0000	0450	5.6000%
VENDORS USE LOCATION	IBERIA, MILLER COUNTY	34228-131-000	0000	0451	5.2250%
VENDORS USE LOCATION	ILASCO, RALLS COUNTY	34318-173-000	0000	0452	6.7250%
VENDORS USE LOCATION	INDEPENDENCE, CLAY COUNTY	35000-047-000	0000	0453	7.6000%
VENDORS USE LOCATION	INDEPENDENCE, JACKSON COUNTY	35000-095-000	0000	0454	6.4750%
VENDORS USE LOCATION	INDIAN POINT (VILLAGE OF), STONE COUNTY	35186-209-000	0000	0455	5.9750%
VENDORS USE LOCATION	INNSBROOK (VILLAGE OF), WARREN COUNTY	35240-219-000	0000	0456	6.2250%

MISSOURI DEPARTMENT OF REVENUE
TAXATION DIVISION
PO BOX 3300
JEFFERSON CITY, MO 65105-3300

MISSOURI BUSINESS TAX REGISTRATION

Date: January 06, 2020

MISSOURI ID: 25979981

Notice Number: 2010973408

FLY LOGIC, INC.
D/B/A AQUA DESIGN
119 S VALLEY DR STE A
NAMPA, ID 83686-2985

Telephone: (573) 751-5860
Fax: (573) 522-1722
Email: businesstaxregister@dor.mo.gov

Account Type	Location	Jurisdiction Code	Item Code	Site Code	Rate
VENDORS USE LOCATION	IONIA, BENTON COUNTY	35306-015-000	0000	0457	6.2250%
VENDORS USE LOCATION	IRONDALE, WASHINGTON COUNTY	35396-221-000	0000	0458	6.7250%
VENDORS USE LOCATION	JACKSON, CAPE GIRARDEAU COUNTY	35648-031-000	0000	0459	5.2250%
VENDORS USE LOCATION	JACKSONVILLE, RANDOLPH COUNTY	36224-175-000	0000	0460	5.4750%
VENDORS USE LOCATION	JAMESON, DAVIESS COUNTY	36314-061-000	0000	0461	5.7250%
VENDORS USE LOCATION	JAMESPORT, DAVIESS COUNTY	36332-061-000	0000	0462	5.7250%
VENDORS USE LOCATION	JAMESTOWN, MONITEAU COUNTY	36368-135-000	0000	0463	5.2250%
VENDORS USE LOCATION	JAYWYE, NEW MADRID COUNTY	36620-143-000	0000	0464	5.7250%
VENDORS USE LOCATION	JEFFERSON CITY, CALLAWAY COUNTY	37000-027-000	0000	0465	5.2250%
VENDORS USE LOCATION	JEFFERSON CITY, COLE COUNTY	37000-051-000	0000	0466	5.7250%
VENDORS USE LOCATION	JENKINS, BARRY COUNTY	37124-009-000	0000	0467	5.7250%
VENDORS USE LOCATION	JOSEPHVILLE, ST CHARLES COUNTY	37700-183-000	0000	0468	5.9500%
VENDORS USE LOCATION	KAISER, MILLER COUNTY	37808-131-000	0000	0469	5.2250%
VENDORS USE LOCATION	KANSAS CITY, CASS COUNTY	38000-037-000	0000	0470	8.8500%
VENDORS USE LOCATION	KANSAS CITY, CLAY COUNTY	38000-047-000	0000	0471	8.3500%
VENDORS USE LOCATION	KANSAS CITY, JACKSON COUNTY	38000-095-000	0000	0472	7.2250%
VENDORS USE LOCATION	KANSAS CITY, PLATTE COUNTY	38000-165-000	0000	0473	8.6000%

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VENDORS USE LOCATION	KEARNEY, CLAY COUNTY	38072-047-000	0000	0474	5.3500%
VENDORS USE LOCATION	KELSO, SCOTT COUNTY	38216-201-000	0000	0475	5.2250%
VENDORS USE LOCATION	KENNETT, DUNKLIN COUNTY	38306-069-000	0000	0476	8.9750%
VENDORS USE LOCATION	KEWANEE, NEW MADRID COUNTY	38414-143-000	0000	0477	5.7250%
VENDORS USE LOCATION	KEYTESVILLE, CHARITON COUNTY	38468-041-000	0000	0478	6.1000%
VENDORS USE LOCATION	KIDDER, CALDWELL COUNTY	38522-025-000	0000	0479	6.2250%
VENDORS USE LOCATION	KIMBERLING CITY, STONE COUNTY	38612-209-000	0000	0480	7.9750%
VENDORS USE LOCATION	KIMMSWICK, JEFFERSON COUNTY	38684-099-000	0000	0481	5.7250%
VENDORS USE LOCATION	KINDER, STODDARD COUNTY	38720-207-000	0000	0482	6.2250%
VENDORS USE LOCATION	KING CITY, GENTRY COUNTY	38774-075-000	0000	0483	5.7250%
VENDORS USE LOCATION	KINGDOM CITY, CALLAWAY COUNTY	38792-027-000	0000	0484	5.2250%
VENDORS USE LOCATION	KINGSTON, CALDWELL COUNTY	38846-025-000	0000	0485	6.2250%
VENDORS USE LOCATION	KINGSVILLE, JOHNSON COUNTY	38918-101-000	0000	0486	6.9750%
VENDORS USE LOCATION	KIRKSVILLE, ADAIR COUNTY	39026-001-000	0000	0487	7.9750%
VENDORS USE LOCATION	KIRKWOOD, ST LOUIS COUNTY	39044-189-000	0000	0488	5.7250%
VENDORS USE LOCATION	KIRKWOOD (X1), ST LOUIS COUNTY	39045-189-000	0000	0489	5.7250%
VENDORS USE LOCATION	KNOB NOSTER, JOHNSON COUNTY	39188-101-000	0000	0490	8.9750%

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VENDORS USE LOCATION	KNOX CITY, KNOX COUNTY	39278-103-000	0000	0491	6.7250%
VENDORS USE LOCATION	KOELTZTOWN, OSAGE COUNTY	39386-151-000	0000	0492	5.9750%
VENDORS USE LOCATION	KOSHKONONG, OREGON COUNTY	39440-149-000	0000	0493	7.2250%
VENDORS USE LOCATION	LA BELLE, LEWIS COUNTY	39512-111-000	0000	0494	7.8500%
VENDORS USE LOCATION	LACLEDE, LINN COUNTY	39566-115-000	0000	0495	5.7250%
VENDORS USE LOCATION	LADDONIA, AUDRAIN COUNTY	39602-007-000	0000	0496	6.2250%
VENDORS USE LOCATION	LA GRANGE, LEWIS COUNTY	39764-111-000	0000	0497	7.8500%
VENDORS USE LOCATION	LAKE ANNETTE, CASS COUNTY	39845-037-000	0000	0498	5.8500%
VENDORS USE LOCATION	LAKE LAFAYETTE, LAFAYETTE COUNTY	39952-107-000	0000	0499	5.8500%
VENDORS USE LOCATION	LAKENAN, SHELBY COUNTY	39998-205-000	0000	0500	5.7250%
VENDORS USE LOCATION	LAKE OZARK, CAMDEN COUNTY	40034-029-000	0000	0501	5.4750%
VENDORS USE LOCATION	LAKE OZARK, MILLER COUNTY	40034-131-000	0000	0502	5.2250%
VENDORS USE LOCATION	LAKE SHERWOOD, WARREN COUNTY	40052-219-000	0000	0503	6.2250%
VENDORS USE LOCATION	LAKE ST LOUIS, ST CHARLES COUNTY	40178-183-000	0000	0504	5.9500%
VENDORS USE LOCATION	LAKEVIEW HEIGHTS, BENTON COUNTY	40286-015-000	0000	0505	6.2250%
VENDORS USE LOCATION	LAKE WAUKOMIS, PLATTE COUNTY	40322-165-000	0000	0506	6.6000%
VENDORS USE LOCATION	LAKE WINNEBAGO, CASS COUNTY	40340-037-000	0000	0507	5.8500%

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VENDORS USE LOCATION	LAMBERT, SCOTT COUNTY	40448-201-000	0000	0508	5.2250%
VENDORS USE LOCATION	LA MONTE, PETTIS COUNTY	40520-159-000	0000	0509	5.2250%
VENDORS USE LOCATION	LAMPE, STONE COUNTY	40574-209-000	0000	0510	5.9750%
VENDORS USE LOCATION	LANGDON, ATCHISON COUNTY	40628-005-000	0000	0511	6.4750%
VENDORS USE LOCATION	LANTON, HOWELL COUNTY	40664-091-000	0000	0512	5.6620%
VENDORS USE LOCATION	LA PLATA, MACON COUNTY	40682-121-000	0000	0513	5.9750%
VENDORS USE LOCATION	LATHAM, MONITEAU COUNTY	40808-135-000	0000	0514	5.2250%
VENDORS USE LOCATION	LATHROP, CLINTON COUNTY	40826-049-000	0000	0515	6.7250%
VENDORS USE LOCATION	LATOUR, JOHNSON COUNTY	40862-101-000	0000	0516	6.9750%
VENDORS USE LOCATION	LAURIE, CAMDEN COUNTY	40916-029-000	0000	0517	5.4750%
VENDORS USE LOCATION	LAURIE, MORGAN COUNTY	40916-141-000	0000	0518	5.2250%
VENDORS USE LOCATION	LAWSON, CLAY COUNTY	40988-047-000	0000	0519	7.3500%
VENDORS USE LOCATION	LAWSON, RAY COUNTY	40988-177-000	0000	0520	8.7250%
VENDORS USE LOCATION	LEADINGTON, ST FRANCOIS COUNTY	41024-187-000	0000	0521	6.7250%
VENDORS USE LOCATION	LEE'S SUMMIT, CASS COUNTY	41330-037-000	0000	0522	5.8500%
VENDORS USE LOCATION	LEETON, JOHNSON COUNTY	41402-101-000	0000	0523	8.9750%
VENDORS USE LOCATION	LENTNER, SHELBY COUNTY	41510-205-000	0000	0524	5.7250%

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VENDORS USE LOCATION	LEONARD, SHELBY COUNTY	41546-205-000	0000	0525	5.7250%
VENDORS USE LOCATION	LEOPOLD, BOLLINGER COUNTY	41564-017-000	0000	0526	5.8500%
VENDORS USE LOCATION	LEWIS AND CLARK VILLAGE, BUCHANAN COUNTY	41834-021-000	0000	0527	5.8250%
VENDORS USE LOCATION	LEWISTOWN, LEWIS COUNTY	41852-111-000	0000	0528	6.8500%
VENDORS USE LOCATION	LEXINGTON, LAFAYETTE COUNTY	41870-107-000	0000	0529	8.3500%
VENDORS USE LOCATION	LIBERTY, CLAY COUNTY	42032-047-000	0000	0530	8.7250%
VENDORS USE LOCATION	LICKING, TEXAS COUNTY	42464-215-000	0000	0531	8.1000%
VENDORS USE LOCATION	LILBOURN, NEW MADRID COUNTY	42536-143-000	0000	0532	6.7250%
VENDORS USE LOCATION	LINCOLN, BENTON COUNTY	42608-015-000	0000	0533	7.7250%
VENDORS USE LOCATION	LINN, OSAGE COUNTY	43238-151-000	0000	0534	6.9750%
VENDORS USE LOCATION	LINN CREEK, CAMDEN COUNTY	43274-029-000	0000	0535	8.7250%
VENDORS USE LOCATION	LINNEUS, LINN COUNTY	43292-115-000	0000	0536	5.7250%
VENDORS USE LOCATION	LITHIUM, PERRY COUNTY	43346-157-000	0000	0537	6.1000%
VENDORS USE LOCATION	LIVONIA, PUTNAM COUNTY	43454-171-000	0000	0538	6.2250%
VENDORS USE LOCATION	LOCH LLOYD VILLAGE, CASS COUNTY	43468-037-000	0000	0539	5.8500%
VENDORS USE LOCATION	LOCK SPRINGS, DAVIESS COUNTY	43472-061-000	0000	0540	5.7250%
VENDORS USE LOCATION	LOCKWOOD, DADE COUNTY	43490-057-000	0000	0541	7.9750%

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VENDORS USE LOCATION	LODI, WAYNE COUNTY	43562-223-000	0000	0542	5.7250%
VENDORS USE LOCATION	LOHMAN, COLE COUNTY	43652-051-000	0000	0543	5.7250%
VENDORS USE LOCATION	LONGTOWN, PERRY COUNTY	43940-157-000	0000	0544	6.1000%
VENDORS USE LOCATION	LOOSE CREEK, OSAGE COUNTY	44048-151-000	0000	0545	5.9750%
VENDORS USE LOCATION	LOUISIANA, PIKE COUNTY	44174-163-000	0000	0546	6.4750%
VENDORS USE LOCATION	LOWNDES, WAYNE COUNTY	44264-223-000	0000	0547	5.7250%
VENDORS USE LOCATION	LOWRY CITY, ST CLAIR COUNTY	44282-185-000	0000	0548	6.4750%
VENDORS USE LOCATION	LUCERNE, PUTNAM COUNTY	44372-171-000	0000	0549	6.2250%
VENDORS USE LOCATION	LUDLOW, LIVINGSTON COUNTY	44390-117-000	0000	0550	5.4750%
VENDORS USE LOCATION	LUPUS, MONITEAU COUNTY	44498-135-000	0000	0551	5.2250%
VENDORS USE LOCATION	MCBRIDE, PERRY COUNTY	44786-157-000	0000	0552	6.1000%
VENDORS USE LOCATION	MCCORD BEND VILLAGE, STONE COUNTY	44829-209-000	0000	0553	5.9750%
VENDORS USE LOCATION	MCFALL, GENTRY COUNTY	45020-075-000	0000	0554	5.7250%
VENDORS USE LOCATION	MCGEE, WAYNE COUNTY	45038-223-000	0000	0555	5.7250%
VENDORS USE LOCATION	MCGIRK, MONITEAU COUNTY	45056-135-000	0000	0556	5.2250%
VENDORS USE LOCATION	MACON, MACON COUNTY	45326-121-000	0000	0557	8.2250%
VENDORS USE LOCATION	MADISON, MONROE COUNTY	45470-137-000	0000	0558	5.7250%

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VENDORS USE LOCATION	MAITLAND, HOLT COUNTY	45596-087-000	0000	0559	6.7250%
VENDORS USE LOCATION	MALDEN, DUNKLIN COUNTY	45614-069-000	0000	0560	7.9750%
VENDORS USE LOCATION	MALTA BEND, SALINE COUNTY	45632-195-000	0000	0561	6.2250%
VENDORS USE LOCATION	MAPLEWOOD, ST LOUIS COUNTY	45830-189-000	0000	0562	5.7250%
VENDORS USE LOCATION	MAPLEWOOD (T1), ST LOUIS COUNTY	45831-189-000	0000	0563	5.7250%
VENDORS USE LOCATION	MAPLEWOOD (T2), ST LOUIS COUNTY	45832-189-000	0000	0564	5.7250%
VENDORS USE LOCATION	MAPLEWOOD (T3), ST LOUIS COUNTY	45833-189-000	0000	0565	6.7250%
VENDORS USE LOCATION	MARBLE HILL, BOLLINGER COUNTY	45848-017-000	0000	0566	5.8500%
VENDORS USE LOCATION	MARCELINE, CHARITON COUNTY	45866-041-000	0000	0567	6.1000%
VENDORS USE LOCATION	MARCELINE, LINN COUNTY	45866-115-000	0000	0568	5.7250%
VENDORS USE LOCATION	MARION, COLE COUNTY	45956-051-000	0000	0569	5.7250%
VENDORS USE LOCATION	MARIONVILLE, LAWRENCE COUNTY	46172-109-000	0000	0570	6.3500%
VENDORS USE LOCATION	MARSHALL, SALINE COUNTY	46316-195-000	0000	0571	8.2250%
VENDORS USE LOCATION	MARSTON, NEW MADRID COUNTY	46406-143-000	0000	0572	8.7250%
VENDORS USE LOCATION	MARTHASVILLE, WARREN COUNTY	46424-219-000	0000	0573	7.7250%
VENDORS USE LOCATION	MARTINSVILLE, HARRISON COUNTY	46496-081-000	0000	0574	5.4750%
VENDORS USE LOCATION	MARYS HOME, MILLER COUNTY	46622-131-000	0000	0575	5.2250%

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VENDORS USE LOCATION	MARYVILLE, NODAWAY COUNTY	46640-147-000	0000	0576	8.1000%
VENDORS USE LOCATION	MATSON, ST CHARLES COUNTY	46694-183-000	0000	0577	5.9500%
VENDORS USE LOCATION	MATTHEWS, NEW MADRID COUNTY	46730-143-000	0000	0578	5.7250%
VENDORS USE LOCATION	MAYSVILLE, DEKALB COUNTY	46946-063-000	0000	0579	5.7250%
VENDORS USE LOCATION	MAYVIEW, LAFAYETTE COUNTY	46964-107-000	0000	0580	5.8500%
VENDORS USE LOCATION	MAYWOOD, LEWIS COUNTY	46982-111-000	0000	0581	6.8500%
VENDORS USE LOCATION	MEADVILLE, LINN COUNTY	47036-115-000	0000	0582	5.7250%
VENDORS USE LOCATION	MEMPHIS, SCOTLAND COUNTY	47270-199-000	0000	0583	6.4750%
VENDORS USE LOCATION	MENDON, CHARITON COUNTY	47288-041-000	0000	0584	6.1000%
VENDORS USE LOCATION	MENFRO, PERRY COUNTY	47324-157-000	0000	0585	6.1000%
VENDORS USE LOCATION	MERCER, MERCER COUNTY	47486-129-000	0000	0586	6.4750%
VENDORS USE LOCATION	MERWIN, BATES COUNTY	47540-013-000	0000	0587	5.2250%
VENDORS USE LOCATION	MESSLER, STODDARD COUNTY	47576-207-000	0000	0588	6.2250%
VENDORS USE LOCATION	META, OSAGE COUNTY	47594-151-000	0000	0589	5.9750%
VENDORS USE LOCATION	MIAMI, SALINE COUNTY	47684-195-000	0000	0590	6.2250%
VENDORS USE LOCATION	MIDDLE GROVE, MONROE COUNTY	47846-137-000	0000	0591	5.7250%
VENDORS USE LOCATION	MILAN, SULLIVAN COUNTY	48062-211-000	0000	0592	6.9750%

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VENDORS USE LOCATION	MILLER, LAWRENCE COUNTY	48242-109-000	0000	0593	6.3500%
VENDORS USE LOCATION	MILLERSBURG, CALLAWAY COUNTY	48332-027-000	0000	0594	5.2250%
VENDORS USE LOCATION	MILLERSVILLE, CAPE GIRARDEAU COUNTY	48350-031-000	0000	0595	5.2250%
VENDORS USE LOCATION	MILL GROVE, MERCER COUNTY	48368-129-000	0000	0596	6.4750%
VENDORS USE LOCATION	MILL SPRING, WAYNE COUNTY	48386-223-000	0000	0597	5.7250%
VENDORS USE LOCATION	MINER, MISSISSIPPI COUNTY	48656-133-000	0000	0598	6.4750%
VENDORS USE LOCATION	MINER, SCOTT COUNTY	48656-201-000	0000	0599	7.4750%
VENDORS USE LOCATION	MINERAL POINT, WASHINGTON COUNTY	48710-221-000	0000	0600	6.7250%
VENDORS USE LOCATION	MIRABILE, CALDWELL COUNTY	48854-025-000	0000	0601	6.2250%
VENDORS USE LOCATION	MISSOURI CITY, CLAY COUNTY	48980-047-000	0000	0602	5.3500%
VENDORS USE LOCATION	MOBERLY, RANDOLPH COUNTY	49034-175-000	0000	0603	7.9750%
VENDORS USE LOCATION	MODENA, MERCER COUNTY	49052-129-000	0000	0604	6.4750%
VENDORS USE LOCATION	MOKANE, CALLAWAY COUNTY	49070-027-000	0000	0605	5.2250%
VENDORS USE LOCATION	MONETT, BARRY COUNTY	49196-009-000	0000	0606	5.7250%
VENDORS USE LOCATION	MONETT, LAWRENCE COUNTY	49196-109-000	0000	0607	6.3500%
VENDORS USE LOCATION	MONROE CITY, MARION COUNTY	49394-127-000	0000	0608	7.6000%
VENDORS USE LOCATION	MONROE CITY, MONROE COUNTY	49394-137-000	0000	0609	7.7250%

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VENDORS USE LOCATION	MONROE CITY, RALLS COUNTY	49394-173-000	0000	0610	8.7250%
VENDORS USE LOCATION	MONTICELLO, LEWIS COUNTY	49592-111-000	0000	0611	6.8500%
VENDORS USE LOCATION	MONTREAL, CAMDEN COUNTY	49646-029-000	0000	0612	5.4750%
VENDORS USE LOCATION	MONTROSE, HENRY COUNTY	49664-083-000	0000	0613	5.6750%
VENDORS USE LOCATION	MOODY, HOWELL COUNTY	49718-091-000	0000	0614	5.6620%
VENDORS USE LOCATION	MOORESVILLE, LIVINGSTON COUNTY	49790-117-000	0000	0615	5.4750%
VENDORS USE LOCATION	MORA, BENTON COUNTY	49826-015-000	0000	0616	6.2250%
VENDORS USE LOCATION	MOREHOUSE, NEW MADRID COUNTY	49898-143-000	0000	0617	5.7250%
VENDORS USE LOCATION	MORLEY, SCOTT COUNTY	49988-201-000	0000	0618	6.2250%
VENDORS USE LOCATION	MOSBY, CLAY COUNTY	50168-047-000	0000	0619	5.3500%
VENDORS USE LOCATION	MOUND CITY, HOLT COUNTY	50312-087-000	0000	0620	8.2250%
VENDORS USE LOCATION	MOUNTAIN GROVE, TEXAS COUNTY	50402-215-000	0000	0621	6.1000%
VENDORS USE LOCATION	MOUNTAIN VIEW, HOWELL COUNTY	50438-091-000	0000	0622	7.6620%
VENDORS USE LOCATION	MOUNT LEONARD, SALINE COUNTY	50510-195-000	0000	0623	6.2250%
VENDORS USE LOCATION	MOUNT MORIAH, HARRISON COUNTY	50528-081-000	0000	0624	5.4750%
VENDORS USE LOCATION	MOUNT VERNON, LAWRENCE COUNTY	50672-109-000	0000	0625	8.3500%
VENDORS USE LOCATION	NAPOLEON, LAFAYETTE COUNTY	51140-107-000	0000	0626	5.8500%

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Fax: (573) 522-1722
Email: businesstaxregister@dor.mo.gov

Account Type	Location	Jurisdiction Code	Item Code	Site Code	Rate
VENDORS USE LOCATION	NAPTON, SALINE COUNTY	51158-195-000	0000	0627	6.2250%
VENDORS USE LOCATION	NAYLOR, RIPLEY COUNTY	51302-181-000	0000	0628	6.2250%
VENDORS USE LOCATION	NELSON, SALINE COUNTY	51500-195-000	0000	0629	6.2250%
VENDORS USE LOCATION	NETTLETON, CALDWELL COUNTY	51626-025-000	0000	0630	6.2250%
VENDORS USE LOCATION	NEWARK, KNOX COUNTY	51662-103-000	0000	0631	6.7250%
VENDORS USE LOCATION	NEW BLOOMFIELD, CALLAWAY COUNTY	51680-027-000	0000	0632	5.2250%
VENDORS USE LOCATION	NEW BOSTON, LINN COUNTY	51698-115-000	0000	0633	5.7250%
VENDORS USE LOCATION	NEW CAMBRIA, MACON COUNTY	51734-121-000	0000	0634	6.9750%
VENDORS USE LOCATION	NEW COURT VILLAGE, LEWIS COUNTY	51752-111-000	0000	0635	6.8500%
VENDORS USE LOCATION	NEW FRANKLIN, HOWARD COUNTY	51824-089-000	0000	0636	6.8500%
VENDORS USE LOCATION	NEW HAMBURG, SCOTT COUNTY	51842-201-000	0000	0637	5.2250%
VENDORS USE LOCATION	NEW HAMPTON, HARRISON COUNTY	51860-081-000	0000	0638	6.4750%
VENDORS USE LOCATION	NEW LONDON, RALLS COUNTY	52058-173-000	0000	0639	6.7250%
VENDORS USE LOCATION	NEW MADRID, NEW MADRID COUNTY	52076-143-000	0000	0640	8.2250%
VENDORS USE LOCATION	NEW MARKET, PLATTE COUNTY	52130-165-000	0000	0641	5.6000%
VENDORS USE LOCATION	NEW MELLE, ST CHARLES COUNTY	52148-183-000	0000	0642	7.9500%
VENDORS USE LOCATION	NEW POINT, HOLT COUNTY	52202-087-000	0000	0643	6.7250%

MISSOURI DEPARTMENT OF REVENUE
TAXATION DIVISION
PO BOX 3300
JEFFERSON CITY, MO 65105-3300

MISSOURI BUSINESS TAX REGISTRATION

Date: January 06, 2020

MISSOURI ID: 25979981

Notice Number: 2010973408

FLY LOGIC, INC.
D/B/A AQUA DESIGN
119 S VALLEY DR STE A
NAMPA, ID 83686-2985

Telephone: (573) 751-5860
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Account Type	Location	Jurisdiction Code	Item Code	Site Code	Rate
VENDORS USE LOCATION	NEWTOWN, SULLIVAN COUNTY	52328-211-000	0000	0644	6.9750%
VENDORS USE LOCATION	NEW WELLS, CAPE GIRARDEAU COUNTY	52364-031-000	0000	0645	5.2250%
VENDORS USE LOCATION	NIXA, CHRISTIAN COUNTY	52616-043-000	0000	0646	5.7250%
VENDORS USE LOCATION	NODAWAY, ANDREW COUNTY	52670-003-000	0000	0647	5.9250%
VENDORS USE LOCATION	NORBORNE, CARROLL COUNTY	52760-033-000	0000	0648	5.7250%
VENDORS USE LOCATION	NORMANDY, ST LOUIS COUNTY	52796-189-000	0000	0649	5.7250%
VENDORS USE LOCATION	NORMANDY (T1), ST LOUIS COUNTY	52797-189-000	0000	0650	5.7250%
VENDORS USE LOCATION	NORTH KANSAS CITY, CLAY COUNTY	53102-047-000	0000	0651	5.3500%
VENDORS USE LOCATION	NORTH LILBOURN, NEW MADRID COUNTY	53138-143-000	0000	0652	5.7250%
VENDORS USE LOCATION	NORTHMOOR, PLATTE COUNTY	53174-165-000	0000	0653	7.1000%
VENDORS USE LOCATION	NOVELTY, KNOX COUNTY	53516-103-000	0000	0654	6.7250%
VENDORS USE LOCATION	NOVINGER, ADAIR COUNTY	53534-001-000	0000	0655	5.2250%
VENDORS USE LOCATION	OAK GROVE, LAFAYETTE COUNTY	53624-107-000	0000	0656	5.8500%
VENDORS USE LOCATION	OAK RIDGE, CAPE GIRARDEAU COUNTY	53786-031-000	0000	0657	5.2250%
VENDORS USE LOCATION	OAKS (VILLAGE), CLAY COUNTY	53804-047-000	0000	0658	5.3500%
VENDORS USE LOCATION	OAKVIEW, CLAY COUNTY	53858-047-000	0000	0659	8.3500%
VENDORS USE LOCATION	OAKWOOD, CLAY COUNTY	53894-047-000	0000	0660	5.3500%

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VENDORS USE LOCATION	OAKWOOD PARK, CLAY COUNTY	53948-047-000	0000	0661	5.3500%
VENDORS USE LOCATION	ODESSA, LAFAYETTE COUNTY	54038-107-000	0000	0662	5.8500%
VENDORS USE LOCATION	O'FALLON, ST CHARLES COUNTY	54074-183-000	0000	0663	5.9500%
VENDORS USE LOCATION	OLD APPLETON, CAPE GIRARDEAU COUNTY	54200-031-000	0000	0664	5.2250%
VENDORS USE LOCATION	OLD MINES, WASHINGTON COUNTY	54398-221-000	0000	0665	6.7250%
VENDORS USE LOCATION	OLEAN, MILLER COUNTY	54560-131-000	0000	0666	5.2250%
VENDORS USE LOCATION	OLIVETTE, ST LOUIS COUNTY	54650-189-000	0000	0667	5.7250%
VENDORS USE LOCATION	OLIVETTE (T2), ST LOUIS COUNTY	54652-189-000	0000	0668	5.7250%
VENDORS USE LOCATION	ORAN, SCOTT COUNTY	54758-201-000	0000	0669	5.2250%
VENDORS USE LOCATION	ORCHARD FARM, ST CHARLES COUNTY	54794-183-000	0000	0670	5.9500%
VENDORS USE LOCATION	OREGON, HOLT COUNTY	54848-087-000	0000	0671	6.7250%
VENDORS USE LOCATION	ORRICK, RAY COUNTY	54938-177-000	0000	0672	8.2250%
VENDORS USE LOCATION	OSAGE BEACH, CAMDEN COUNTY	55244-029-000	0000	0673	5.4750%
VENDORS USE LOCATION	OSAGE BEACH, MILLER COUNTY	55244-131-000	0000	0674	5.2250%
VENDORS USE LOCATION	OSAGE BEND, COLE COUNTY	55262-051-000	0000	0675	5.7250%
VENDORS USE LOCATION	OSAGE CITY, COLE COUNTY	55298-051-000	0000	0676	5.7250%
VENDORS USE LOCATION	OSBORN, CLINTON COUNTY	55352-049-000	0000	0677	5.2250%

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VENDORS USE LOCATION	OSBORN, DEKALB COUNTY	55352-063-000	0000	0678	5.7250%
VENDORS USE LOCATION	OSCEOLA TOWNSHIP, CAMDEN COUNTY	55406-029-000	0000	0679	5.4750%
VENDORS USE LOCATION	OSGOOD, SULLIVAN COUNTY	55424-211-000	0000	0680	6.9750%
VENDORS USE LOCATION	OTTERVILLE, COOPER COUNTY	55478-053-000	0000	0681	5.9750%
VENDORS USE LOCATION	PAGEDALE, ST LOUIS COUNTY	55964-189-000	0000	0682	5.4750%
VENDORS USE LOCATION	PAGEDALE (T2), ST LOUIS COUNTY	55966-189-000	0000	0683	5.4750%
VENDORS USE LOCATION	PAGEDALE (T3), ST LOUIS COUNTY	55967-189-000	0000	0684	5.4750%
VENDORS USE LOCATION	PAGEDALE (T4), ST LOUIS COUNTY	55968-189-000	0000	0685	5.4750%
VENDORS USE LOCATION	PAGEDALE (T5), ST LOUIS COUNTY	55969-189-000	0000	0686	5.4750%
VENDORS USE LOCATION	PAGEDALE (T6), ST LOUIS COUNTY	55970-189-000	0000	0687	5.4750%
VENDORS USE LOCATION	PAGEDALE (T7), ST LOUIS COUNTY	55971-189-000	0000	0688	5.4750%
VENDORS USE LOCATION	PAGEDALE (T8), ST LOUIS COUNTY	55972-189-000	0000	0689	5.4750%
VENDORS USE LOCATION	PAGEDALE (T9), ST LOUIS COUNTY	55973-189-000	0000	0690	5.4750%
VENDORS USE LOCATION	PAGEDALE (T10), ST LOUIS COUNTY	55974-189-000	0000	0691	5.4750%
VENDORS USE LOCATION	PAINTON, STODDARD COUNTY	55982-207-000	0000	0692	6.2250%
VENDORS USE LOCATION	PALMYRA, MARION COUNTY	56036-127-000	0000	0693	7.6000%
VENDORS USE LOCATION	PARIS, MONROE COUNTY	56144-137-000	0000	0694	8.2250%

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VENDORS USE LOCATION	PARKVILLE, PLATTE COUNTY	56288-165-000	0000	0695	5.6000%
VENDORS USE LOCATION	PARMA, NEW MADRID COUNTY	56342-143-000	0000	0696	7.7250%
VENDORS USE LOCATION	PARNELL, NODAWAY COUNTY	56360-147-000	0000	0697	5.7250%
VENDORS USE LOCATION	PASADENA HILLS, ST LOUIS COUNTY	56396-189-000	0000	0698	4.7250%
VENDORS USE LOCATION	PASSAIC, BATES COUNTY	56468-013-000	0000	0699	5.2250%
VENDORS USE LOCATION	PATTERSON, WAYNE COUNTY	56504-223-000	0000	0700	5.7250%
VENDORS USE LOCATION	PATTON, BOLLINGER COUNTY	56522-017-000	0000	0701	5.8500%
VENDORS USE LOCATION	PATTONSBURG, DAVIESS COUNTY	56558-061-000	0000	0702	6.7250%
VENDORS USE LOCATION	PEACE VALLEY, HOWELL COUNTY	56630-091-000	0000	0703	5.6620%
VENDORS USE LOCATION	PECULIAR, CASS COUNTY	56756-037-000	0000	0704	8.8500%
VENDORS USE LOCATION	PENDLETON, WARREN COUNTY	56882-219-000	0000	0705	6.2250%
VENDORS USE LOCATION	PENERMON, STODDARD COUNTY	56900-207-000	0000	0706	6.2250%
VENDORS USE LOCATION	PENNSBORO, DADE COUNTY	56936-057-000	0000	0707	5.9750%
VENDORS USE LOCATION	PERKINS, SCOTT COUNTY	57044-201-000	0000	0708	5.2250%
VENDORS USE LOCATION	PERRY, RALLS COUNTY	57080-173-000	0000	0709	6.7250%
VENDORS USE LOCATION	PERRYVILLE, PERRY COUNTY	57116-157-000	0000	0710	7.9750%
VENDORS USE LOCATION	PERUQUE, ST CHARLES COUNTY	57170-183-000	0000	0711	5.9500%

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Account Type	Location	Jurisdiction Code	Item Code	Site Code	Rate
VENDORS USE LOCATION	PHELPS CITY, ATCHISON COUNTY	57332-005-000	0000	0712	6.4750%
VENDORS USE LOCATION	PHILADELPHIA, MARION COUNTY	57350-127-000	0000	0713	5.6000%
VENDORS USE LOCATION	PICKERING, NODAWAY COUNTY	57404-147-000	0000	0714	5.7250%
VENDORS USE LOCATION	PIEDMONT, WAYNE COUNTY	57422-223-000	0000	0715	8.2250%
VENDORS USE LOCATION	PIERCE CITY, LAWRENCE COUNTY	57494-109-000	0000	0716	6.3500%
VENDORS USE LOCATION	PILOT GROVE, COOPER COUNTY	57602-053-000	0000	0717	7.9750%
VENDORS USE LOCATION	PINE LAWN, ST LOUIS COUNTY	57800-189-000	0000	0718	5.9750%
VENDORS USE LOCATION	PINEVILLE, MCDONALD COUNTY	57818-119-000	0000	0719	5.7250%
VENDORS USE LOCATION	PLATO, TEXAS COUNTY	58088-215-000	0000	0720	6.1000%
VENDORS USE LOCATION	PLATTE CITY, PLATTE COUNTY	58178-165-000	0000	0721	5.6000%
VENDORS USE LOCATION	PLATTE WOODS, PLATTE COUNTY	58196-165-000	0000	0722	7.1000%
VENDORS USE LOCATION	PLATTSBURG, CLINTON COUNTY	58250-049-000	0000	0723	7.2250%
VENDORS USE LOCATION	PLEASANT GREEN, COOPER COUNTY	58358-053-000	0000	0724	5.9750%
VENDORS USE LOCATION	PLEASANT HILL, CASS COUNTY	58394-037-000	0000	0725	5.8500%
VENDORS USE LOCATION	PLEASANT HOPE, POLK COUNTY	58448-167-000	0000	0726	6.2250%
VENDORS USE LOCATION	PLEASANT VALLEY, CLAY COUNTY	58520-047-000	0000	0727	8.8500%
VENDORS USE LOCATION	PLEVNA, KNOX COUNTY	58574-103-000	0000	0728	6.7250%

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VENDORS USE LOCATION	POCAHONTAS, CAPE GIRARDEAU COUNTY	58628-031-000	0000	0729	5.2250%
VENDORS USE LOCATION	POINT PLEASANT, NEW MADRID COUNTY	58664-143-000	0000	0730	5.7250%
VENDORS USE LOCATION	POLLOCK, SULLIVAN COUNTY	58898-211-000	0000	0731	6.9750%
VENDORS USE LOCATION	POLO, CALDWELL COUNTY	58916-025-000	0000	0732	6.2250%
VENDORS USE LOCATION	POMONA, HOWELL COUNTY	58934-091-000	0000	0733	5.6620%
VENDORS USE LOCATION	PONCE DE LEON, STONE COUNTY	58970-209-000	0000	0734	5.9750%
VENDORS USE LOCATION	PORTAGE DES SIOUX, ST CHARLES COUNTY	59150-183-000	0000	0735	5.9500%
VENDORS USE LOCATION	PORTAGEVILLE, NEW MADRID COUNTY	59186-143-000	0000	0736	5.7250%
VENDORS USE LOCATION	PORTLAND, CALLAWAY COUNTY	59240-027-000	0000	0737	5.2250%
VENDORS USE LOCATION	POTOSI, WASHINGTON COUNTY	59330-221-000	0000	0738	6.7250%
VENDORS USE LOCATION	POTTERSVILLE, HOWELL COUNTY	59348-091-000	0000	0739	5.6620%
VENDORS USE LOCATION	POWERSVILLE, PUTNAM COUNTY	59420-171-000	0000	0740	6.2250%
VENDORS USE LOCATION	PRAIRIE HILL, CHARITON COUNTY	59708-041-000	0000	0741	6.1000%
VENDORS USE LOCATION	PRAIRIE HOME, COOPER COUNTY	59726-053-000	0000	0742	5.9750%
VENDORS USE LOCATION	PRATHERSVILLE VILLAGE, CLAY COUNTY	59816-047-000	0000	0743	5.3500%
VENDORS USE LOCATION	PRINCETON, MERCER COUNTY	59942-129-000	0000	0744	7.9750%
VENDORS USE LOCATION	PURDIN, LINN COUNTY	60158-115-000	0000	0745	5.7250%

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VENDORS USE LOCATION	PURDY, BARRY COUNTY	60176-009-000	0000	0746	5.7250%
VENDORS USE LOCATION	PUXICO, STODDARD COUNTY	60284-207-000	0000	0747	6.2250%
VENDORS USE LOCATION	QUITMAN, NODAWAY COUNTY	60410-147-000	0000	0748	5.7250%
VENDORS USE LOCATION	RALLS, RALLS COUNTY	60536-173-000	0000	0749	6.7250%
VENDORS USE LOCATION	RANDOLPH, CLAY COUNTY	60608-047-000	0000	0750	5.3500%
VENDORS USE LOCATION	RAVENWOOD, NODAWAY COUNTY	60716-147-000	0000	0751	5.7250%
VENDORS USE LOCATION	RAYMONDVILLE, TEXAS COUNTY	60734-215-000	0000	0752	6.1000%
VENDORS USE LOCATION	RAYMORE, CASS COUNTY	60752-037-000	0000	0753	5.8500%
VENDORS USE LOCATION	REA, ANDREW COUNTY	60842-003-000	0000	0754	5.9250%
VENDORS USE LOCATION	READSVILLE, CALLAWAY COUNTY	60878-027-000	0000	0755	5.2250%
VENDORS USE LOCATION	REEDS SPRING, STONE COUNTY	61112-209-000	0000	0756	5.9750%
VENDORS USE LOCATION	REGER, SULLIVAN COUNTY	61148-211-000	0000	0757	6.9750%
VENDORS USE LOCATION	RENICK, RANDOLPH COUNTY	61166-175-000	0000	0758	5.4750%
VENDORS USE LOCATION	RENSSELAER, RALLS COUNTY	61184-173-000	0000	0759	6.7250%
VENDORS USE LOCATION	RICH FOUNTAIN, OSAGE COUNTY	61400-151-000	0000	0760	5.9750%
VENDORS USE LOCATION	RICH HILL, BATES COUNTY	61418-013-000	0000	0761	7.2250%
VENDORS USE LOCATION	RICHLAND, CAMDEN COUNTY	61562-029-000	0000	0762	5.4750%

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VENDORS USE LOCATION	RICHMOND, RAY COUNTY	61670-177-000	0000	0763	8.7250%
VENDORS USE LOCATION	RICHMOND HEIGHTS, ST LOUIS COUNTY	61706-189-000	0000	0764	5.7250%
VENDORS USE LOCATION	RICHMOND HEIGHTS (T2), ST LOUIS COUNTY	61708-189-000	0000	0765	5.7250%
VENDORS USE LOCATION	RICHMOND HEIGHTS (T3), ST LOUIS COUNTY	61709-189-000	0000	0766	5.7250%
VENDORS USE LOCATION	RICHMOND HEIGHTS (T6), ST LOUIS COUNTY	61712-189-000	0000	0767	5.7250%
VENDORS USE LOCATION	RICHMOND HEIGHTS (T7), ST LOUIS COUNTY	61713-189-000	0000	0768	5.7250%
VENDORS USE LOCATION	RICHWOODS, WASHINGTON COUNTY	61796-221-000	0000	0769	6.7250%
VENDORS USE LOCATION	RIDGELEY, PLATTE COUNTY	61886-165-000	0000	0770	5.6000%
VENDORS USE LOCATION	RIDGEWAY, HARRISON COUNTY	61904-081-000	0000	0771	5.4750%
VENDORS USE LOCATION	RISCO, NEW MADRID COUNTY	61994-143-000	0000	0772	5.7250%
VENDORS USE LOCATION	RIVERSIDE, PLATTE COUNTY	62156-165-000	0000	0773	6.6000%
VENDORS USE LOCATION	RIVERVIEW, ST LOUIS COUNTY	62192-189-000	0000	0774	4.7250%
VENDORS USE LOCATION	RIVES, DUNKLIN COUNTY	62228-069-000	0000	0775	5.7250%
VENDORS USE LOCATION	ROACH, CAMDEN COUNTY	62246-029-000	0000	0776	5.4750%
VENDORS USE LOCATION	ROANOKE, HOWARD COUNTY	62282-089-000	0000	0777	6.8500%
VENDORS USE LOCATION	ROANOKE, RANDOLPH COUNTY	62282-175-000	0000	0778	5.4750%
VENDORS USE LOCATION	ROBY, TEXAS COUNTY	62480-215-000	0000	0779	6.1000%

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VENDORS USE LOCATION	ROCK PORT, ATCHISON COUNTY	62696-005-000	0000	0780	8.7250%
VENDORS USE LOCATION	ROCKVIEW, SCOTT COUNTY	62768-201-000	0000	0781	5.2250%
VENDORS USE LOCATION	ROCKVILLE, BATES COUNTY	62786-013-000	0000	0782	5.2250%
VENDORS USE LOCATION	ROCKY MOUNT, MORGAN COUNTY	62858-141-000	0000	0783	5.2250%
VENDORS USE LOCATION	ROSENDALE, ANDREW COUNTY	63200-003-000	0000	0784	5.9250%
VENDORS USE LOCATION	ROTHVILLE, CHARITON COUNTY	63236-041-000	0000	0785	6.1000%
VENDORS USE LOCATION	ROUND GROVE, LAWRENCE COUNTY	63308-109-000	0000	0786	6.3500%
VENDORS USE LOCATION	RUSHVILLE, BUCHANAN COUNTY	63596-021-000	0000	0787	5.8250%
VENDORS USE LOCATION	RUSSELLVILLE, COLE COUNTY	63704-051-000	0000	0788	5.7250%
VENDORS USE LOCATION	RUTLEDGE, SCOTLAND COUNTY	63776-199-000	0000	0789	5.4750%
VENDORS USE LOCATION	ST ANTHONY, MILLER COUNTY	63992-131-000	0000	0790	5.2250%
VENDORS USE LOCATION	ST CATHARINE, LINN COUNTY	64046-115-000	0000	0791	5.7250%
VENDORS USE LOCATION	ST CHARLES, ST CHARLES COUNTY	64082-183-000	0000	0792	5.9500%
VENDORS USE LOCATION	ST ELIZABETH, MILLER COUNTY	64190-131-000	0000	0793	5.2250%
VENDORS USE LOCATION	STE GENEVIEVE, STE GENEVIEVE COUNTY	64352-193-000	0000	0794	6.2250%
VENDORS USE LOCATION	ST JAMES, PHELPS COUNTY	64424-161-000	0000	0795	6.2250%
VENDORS USE LOCATION	ST JOHN, ST LOUIS COUNTY	64514-189-000	0000	0796	5.4750%

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VENDORS USE LOCATION	ST JOHN (T8), ST LOUIS COUNTY	64522-189-000	0000	0797	5.4750%
VENDORS USE LOCATION	ST JOSEPH, BUCHANAN COUNTY	64550-021-000	0000	0798	8.7000%
VENDORS USE LOCATION	ST LOUIS	65000-510-000	0000	0799	9.0130%
VENDORS USE LOCATION	ST MARTINS, COLE COUNTY	65018-051-000	0000	0800	5.7250%
VENDORS USE LOCATION	ST PAUL, ST CHARLES COUNTY	65108-183-000	0000	0801	5.9500%
VENDORS USE LOCATION	ST PETERS, ST CHARLES COUNTY	65126-183-000	0000	0802	5.9500%
VENDORS USE LOCATION	ST THOMAS, COLE COUNTY	65162-051-000	0000	0803	5.7250%
VENDORS USE LOCATION	SALISBURY, CHARITON COUNTY	65450-041-000	0000	0804	7.4750%
VENDORS USE LOCATION	SANDY HOOK, MONITEAU COUNTY	65846-135-000	0000	0805	5.2250%
VENDORS USE LOCATION	SANTA FE, MONROE COUNTY	65900-137-000	0000	0806	5.7250%
VENDORS USE LOCATION	SAVANNAH, ANDREW COUNTY	66044-003-000	0000	0807	5.9250%
VENDORS USE LOCATION	SAVERTON, RALLS COUNTY	66062-173-000	0000	0808	6.7250%
VENDORS USE LOCATION	SCOPUS, BOLLINGER COUNTY	66296-017-000	0000	0809	5.8500%
VENDORS USE LOCATION	SCOTT CITY, CAPE GIRARDEAU COUNTY	66368-031-000	0000	0810	5.2250%
VENDORS USE LOCATION	SCOTT CITY, SCOTT COUNTY	66368-201-000	0000	0811	5.2250%
VENDORS USE LOCATION	SEDALIA, PETTIS COUNTY	66440-159-000	0000	0812	7.7250%
VENDORS USE LOCATION	SEDGEWICKVILLE, BOLLINGER COUNTY	66476-017-000	0000	0813	5.8500%

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Hearing - South Dakota v. Wayfair, Inc: How Mainstreet is Fairing and Whether Federal Intervention is Necessary
House of Representatives Small Business: Subcommittee on Economic Growth, Tax, and Capital Access

Feb. 25, 2020

Dear Legislators,
I am a California business owner writing to advocate for immediate action to simplify sales tax compliance and limit liability in light of the Supreme Court decision in *South Dakota v. Wayfair.* As a result of this decision online sellers, including wholesale sellers, are suddenly required to file returns in thousands of districts. While there is software available, the costs are punishing. Combined with the increased exposure to liability and audit risk, this issue will undoubtedly drive many small businesses owners like myself to consider early retirement if no measures are passed to simplify the process. My wholesale business, Nina Designs Ltd, was founded in 1983. In 2019 we had sales over 3.5 million and we employ 13 people in Berkeley California.
This is a list of my primary concerns:

- We are not trying to evade sales tax, but compliance needs to be feasible. Simplification is desperately needed.
- Wayfair does not provide parity. Local businesses register and file in 1 sales tax jurisdiction. They are subject to audit risk from 1 state. Conversely, remote sellers must file in up to 12,000 jurisdictions and are subject to audit risk from 50 states.
- Wholesalers and manufacturers are lumped into state sales tax nexus definitions for no legitimate reason.
- Wholesalers and manufacturers are not aware of this new liability because all media attention focuses on online retailers. They have also been preoccupied with the tariff wars.
- Small businesses are denied due process when implementation problems can lead to liability that would require defense in up to 50 separate state court systems. That is a crushing level of risk for a small company.
- There is no federal agency with oversight on interstate sales taxes and software solutions. So, small businesses have no recourse for complaints.

Thank you for your consideration and immediate action,

Nina Cooper
Nina Designs Ltd

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BRANN ISAACSON
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March 3, 2020

VIA EMAIL
lauren.finks@mail.house.gov

House Committee on Small Business
Economic Growth, Tax, and Capital Access Subcommittee
ATTN: Chairman Andy Kim
2361 Rayburn House Office Building
Washington, DC 20515

RE: March 3, 2020 Hearing – "South Dakota v. Wayfair, Inc.: Online Sales Taxes and their Impact on Main Street

Dear Chairman Kim:

I am tax counsel for the trade association, the American Catalog Mailers Association ("ACMA"), which has asked that I submit this statement on its behalf in connection with the hearing scheduled to take place on March 3, 2020 before The Committee on Small Business Subcommittee on Economic Growth, Tax, and Capital Access on the subject, "*South Dakota v. Wayfair, Inc.*: Online Sales Taxes and their Impact on Main Street." The purpose of this letter is to bring to the Committee's attention the practice of the Department of Revenue of the Commonwealth of Massachusetts to assess sales taxes against remote retailers without a physical presence in Massachusetts for the nine-month period prior to the U.S. Supreme Court's decision in *South Dakota v. Wayfair,* based on sales over the Internet.

In late September 2017, the Massachusetts Department of Revenue adopted the so called "Internet Vendor Regulation," 830 C.M.R. 64H.1.7, effective on October 1, 2017. The Regulation provided that any retailer that had annual Massachusetts sales over the Internet greater than $500,000 was presumed to have nexus, unless the retailer could establish that it didn't use in Massachusetts cookies, apps., content distribution networks and fulfillment by marketplaces such as Amazon. We represent over 100 companies that do business on the Internet, and I am unaware of any company, including companies with only a handful of employees, that do not use cookies. Indeed, virtually every federal and state government agency uses cookies.

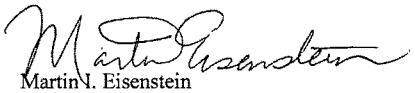
As a result of the new Internet Vendor Regulation, the Massachusetts Department of Revenue has issued proposed and actual assessments of sales taxes back to the period starting on October 1, 2017 based on mere sales into Massachusetts. Brann & Isaacson represents over 30 such Internet retailers, from small to mid-size companies to larger companies, each of which has had no physical presence in Massachusetts, but each of which has used cookies in connection with its Internet website. The companies are located in virtually every state in the United States.

What is particularly difficult for retailers is that the Department of Revenue rejects all arguments against the issuance of assessments if a company's sales exceed the $500,000 threshold as long as the company uses cookies or another Internet feature. The Department says that it will not compromise its position until there is a definitive ruling that the Regulation is invalid. Hanging over the head of an assessed retailer is the exposure to large assessments of sales taxes that the retailer did not collect in the first place based on its legitimate reliance on *Quill v. North Dakota* (requiring a physical presence for tax collection obligations), which precedent was not overturned until the Court's June 21, 2018 decision in *Wayfair*. You should also know that the Massachusetts procedures for appealing an assessment involve a multi-staged process to ultimately obtain a hearing on the merits of the case—whether the Massachusetts position is contrary to Supreme Court precedent in *Quill v. North Dakota* and the underlying Massachusetts law. That hearing would be before the Appellate Tax Board, and while there are a few cases that have made it that far, the Board has yet to hear arguments on the merits of the legal issues.

I am not at liberty to identify any of the retailers Brann & Isaacson represents, but would be happy to answer any other questions you or members of the Committee may have.

Thank you for receiving this letter.

Very truly yours,



Martin N. Eisenstein
BRANN & ISAACSON
184 MAIN ST., P.O. BOX 3070
LEWISTON, ME 04243-3070

Member of Congress: Jared Golden

MIE/dmg



Before the
United States House of Representatives
Committee on Small Business

Hearing:
South Dakota v. Wayfair, Inc.: Online Sales Taxes and their Impact on Main Street
March 3, 2020

Written Testimony of the
American Catalog Mailers Association
Hamilton Davison
President & Executive Director

House Committee on Small Business
Economic Growth, Tax, and Capital Access Subcommittee
Attn.: Chairman Andy Kim
2361 Rayburn House Office Building
Washington, DC 20515
RE: March 3, 2020 Hearing - "South Dakota v. Wayfair, Inc.: Online Sales Taxes and their Impact on Main Street"

Dear Chairman Kim:

We appreciate the opportunity to submit written testimony to the committee in light of the 2018 Supreme Court ruling in *South Dakota v. Wayfair, et al.* My name is Hamilton Davison and I am president of the American Catalog Mailers Association (ACMA), a trade association for businesses that depend on the printed catalog, which I founded in 2007. We respectfully request this testimony be made part of the official committee hearing record.

Introduction

As remote sellers in a post-*Wayfair* world, our members must now contend with over 12,000 separate taxing jurisdictions and authorities, each with varying rates, definitions as to what is taxable, differing exemption and filing requirements, and other unique complexities. It has brought on considerable extra costs and wasted resources to these small businesses, has invited unintended compliance challenges, and imposes non-uniform demands on landed versus remote sellers, all of which has proven to be highly disruptive to these small businesses.

ACMA members have never objected to imposing a level playing field on all retail sellers. However, the current environment is far from level. Effectively, brick and mortar sellers have origin sourcing rules grounded in their store locations. Remote selling merchants must contend with thousands of destination tax rules and restrictions across the country. At the same time, our members are now having to handle consumer pushback and confusion.

Our Business to Business (B2B) merchant members are incurring additional requirements which impose greater costs, but result in little or no additional sales tax revenue. In fact, some ACMA members are spending more to comply than they are collecting in revenues, an unintended consequence proving damaging and dangerous. Clarifying federal legislation setting equal requirements on all sellers while minimizing the waste and unintended consequences would be most helpful in addressing the current status quo.

B2B customers traditionally claim exemptions for a portion or all their purchases. Historically, use tax remittance for business consumption of product has been very high already, with various studies indicating more than 90% of applicable business use tax is successfully collected. For the entire class of B2B remote sellers, there is the reality that

additional costs are imposed without any new net sales tax being generated. The variability in state nonprofit and exempt-from-tax definitions presents another obstacle.

Background & Problems Incurred

The ACMA is a nonprofit organization established under Section 501(c)(6) of the Internal Revenue Code. The ACMA represents the interests of businesses, individuals, and organizations engaged in and supporting cataloging, including e-commerce sellers, as well their suppliers. The organization advocates for catalog and online merchants on public policy issues with material financial impact.

Sales tax requirements are a major concern for catalog- and remote-selling merchants. Many of the companies operating in this space are small- and medium-sized businesses, exactly the type that are often considered the backbone of American employment, particularly in terms of the creation of new jobs. The Supreme Court's reversal of over a half-century of legal precedent, without replacing it with a clear test of when a business must begin tax collection and without the states responding in a unified approach to alleviate the burdens on remote retailers to begin tax collection, throws the entire remote selling community into disarray and uncertainty. This makes it very hard to operate a successful and durable business. In fact, since the *Wayfair* decision, we have lost member companies who went out of business, reporting the massive shift in burdens and costs post-*Wayfair* was behind their decision to shut down their business.

Additionally, the ACMA conducted a survey in fall 2019 among catalog and other remote merchants (see Attachment A), which clearly showed numerous hinderances to such businesses. Chief among them was an open-ended question that, among others, yielded this striking comment: "We will very likely close up our 100-year-old business because of this. One year later and still no clarity. Time consuming and difficult or impossible because many customers are mail order and the multiple tax rates and localities in states. We won't be able to handle the additional costs of using third-party or implementation as things now stand with the variance of rules amongst states."

Prior to the June 2018 *Quill* reversal, hundreds of private equity firms had an investment interest in this sector of the economy. Since *Wayfair*, however, given the widespread complexity and chaos brought forward by this decision, equity investor interest has waned. Senior lenders routinely raise the issue of sales tax liability and professionals are challenged to accurately council their clients given the regularly changing compliance target. All of this is further evidence that clarification of the rules going forward is critically important.

Also of note, more than 10% of catalog-placed orders still come in via the U.S. Mail. At some companies, over a third of their inbound order flow is received as checks in the mail. These orders are sent as full payment for the order placed. Therefore, sales tax calculations present a special complication for customers who must calculate the correct sales taxes due before writing and mailing a check or entering their credit card

information on the written order form. Some of these customers are located in rural America without high speed access while others do not use the Internet or are not comfortable on the Internet.

If such customers incorrectly determine the taxable or exempt status of the purchase or the applicable tax rate on the order form, the seller is confronted with a difficult task: When the customer underpays the tax, the seller must either return the check to the customer, absorb the loss and pay the additional tax due directly, or issue an additional bill for the balance due. When the amount at issue ensures that it would not be economical to seek the underpayment from the customer, the seller picks up the tax. Naturally, these small underpayments can add up for the cataloger.

On the flip side, customer overpayments present a special headache: The seller must either pay back the tax to the customer or send the overpayment on to the state or locality. The seller can never keep that overpayment, even if to offset underpayments from other customers, because state laws prohibit retention of sales tax collected under any circumstances. As for the customers, once moneys are turned over to taxing authorities, consumers cannot easily seek refunds for overpayments because of the time and difficulty of seeking refunds under state laws.

Uncertain Future

The removal of a bright line physical presence test that was established under *Quill* has led to a "wild west" tax-grab among some states. State legislatures and local tax jurisdictions, such as in Colorado and Alaska, have been passing varying laws to enable collection. Some states have impossibly made these changes effective immediately, with little or no notice. One state — Massachusetts — has sought retroactive collections, going back to 2017, and other states have sought enforcement back to July 1, 2018, just days after the Wayfair decision was issued and long before any retailer could implement a tax collection system. New regulations and requirements change virtually weekly in what is an unmanageable and dynamic compliance environment difficult to track and trace, much less comply with. We can think of no other government compliance area grounded in only constantly shifting sands.

What's more, a growing number of our members are reporting numerous difficulties and significant expense in their efforts to responsibly react to an assortment of demands coming from various states. For instance, some members have informed us that it has been a major interruption trying to implement tax collection for the many diverse local tax rates that don't match to zip codes. As one member points out, "It is the perfect legislation for the few big national players to hammer all the rest of us. We'll survive but because we only have limited resources, this is preventing us from tackling projects that would actually improve our bottom line."

Our members report that the new rules are nearly impossible to comply with, present enormous new complexity and cost, and are simply unclear and contradictory. Small companies, sometimes without even a full-time bookkeeper, don't have the people or

sophistication required to stay in compliance. Even companies that have substantial sophistication and resources are concerned about the difficulty and cost to conform and the future liabilities the current situation may be baking into company Balance Sheets.

Others have already determined they cannot easily obey laws in some states, such as in Colorado, where, if the more than 70 home rule jurisdictions have their way, it will be necessary to send over 70 checks each month to more than 70 different addresses. (see Attachment B) Some remote sellers have ceased sales in those states they deem too difficult or burdensome to comply with altogether, placing a disproportionate burden on rural Americans, shut-ins and single income families who often rely on remote merchants for the merchandise or services they want and need.

Integrating software to legacy systems is also a substantial concern as virtually every catalog company has had to integrate custom software solutions to keep their business functioning properly. What's more, installing a new web-enabled module brings substantive costs because the module must interface with virtually every system and process at any given catalog company. Unlike some claims to the contrary, software alone does not solve the problem; on the contrary, it represents an enormous additional financial and operational burden.

There's little hope of a uniform taxing standard, even with the Supreme Court's admonishment that the Streamlined Sales and Use Tax Agreement (SSUTA) model be used. In fact, the Streamlined Sales Tax Governing Board can make any changes it wishes to the SSUTA simply by a vote of revenue officers from states without any vote or input from merchants affected. The history of the SSUTA is that it progressively weakens simplifications to encourage non-member states to join the SSUTA. With the *Quill* protection now destroyed, states cannot be expected to seek any additional simplifications or uniformity. The "Wayfair protections" written in Justice Kennedy's majority decision can be easily watered down or withdrawn while a state still complies with SSUTA in general.

All companies are concerned about the lead time to obey regulations as some states have served as little as less than a week's notice before companies must comply with complex new rules. It is virtually impossible to make changes with such short notice.

Customer Confusion

All of this gets magnified when considering the catalog customer. Consumers are not always aware that they have use tax responsibilities when sales taxes are not collected. To our knowledge, no state has made any meaningful effort to educate its citizens about use tax responsibilities before or after the Court acted.

Since the June 2018 *Wayfair* ruling, there has been zero education of the public by states as to new obligations affecting the consumer. Yet, the sea change imposed by the reversal of longstanding practice requires a massive shift in consumer behavior. We hope states will set aside some resources to educate their citizenry about these

changes and not leave it simply to remote sellers to inform and educate. Without a Congressional mandate to do so, however, this seems unlikely.

Considerable Complexities

The concept of "plug and play" software that spans the multiple systems (website, order management, payment, etc.) affected by sales tax compliance efforts, is a myth.[1] Setting up a system to collect sales and use tax in a given state is a major software project of the type that often goes over budget and beyond the scheduled completion date.

When catalog retailers use order management software systems created by vendors like Avalara or Vertex, these vendors' tax lookup modules must be integrated into every system that interacts with customers and the customer's order for the cataloger to be able to collect sales tax correctly. To ease the integration process, some of these vendors build communication protocols that facilitate the transfer of information – sometimes referred to as "integration modules." But such models are not compatible with a retailer's often home-grown systems without significant work to customize and integrate the software and the retailer's existing systems. It becomes a major software project requiring resources, testing, correction and ongoing maintenance.

Consider all that is necessary for the small cataloger: Programming is required to determine when to pass information to the module that looks up the sales tax rate associated with an item. More programming is called for to retrieve data from the retailer's system to be passed to the sales tax lookup module. Then further programming is necessary to receive and store information back from the sales tax lookup module. Yet more programming is called for to be able to display and act on the information, including events such as sales tax holidays. No third-party software vendors can do such programming to truly integrate their software with the retailer's systems; rather, all of this work must happen inside the retailer's software systems.

Financial Hardships

Consider remote retailers with annual sales of $5 million to $50 million: They are faced with the need to spend between $80,000 and $290,000 to set up and fully integrate such sales tax software programs.[2] The integration is needed to bridge their website, call center and customer service/returns systems. The set-up costs are in addition to the estimated $20,000 to $50,000 in annual fees of the third-party software provider as well as the annual internal costs of maintenance, updates and audit representation, estimated to be $57,500 to $260,000 for companies of this size. None of this includes

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[1] See https://truesimplification.org/wp-content/uploads/2017-08-29-Kavanagh-Report.pdf and https://truesimplification.org/wp-content/uploads/Final_TruST-COI-Paper-.pdf, both last accessed July 21, 2018

[2] *ibid.*

the substantial executive time required to supervise and direct such a project or the staff training of customer-facing personnel who must explain all of this to customers.

Consider this example, which is actually one of many that can be significantly expensive to the cataloger: Despite software vendors' vast offerings, the bulk of the work must be handled by the cataloger or online retailer. That work includes creating a requirements document and the project plan to coordinate the work between the different programmers working on the call center and order entry software, which are maintained by separate engineering teams.

Other in-house-created necessities include origination of a cross-reference table that maps the products a retailer sells to the sales tax software's proprietary Tax Codes. Although most software providers have their own proprietary Tax Codes that represent a grouping of goods and services, the catalog retailer still must create the cross-reference table correctly, because if the wrong tax code is sent to the sales tax software provider, it could result in the wrong tax being applied. Then the retailer is liable for this difference if audited. There can be a significant startup cost for retailers to map their products to the sales tax software provider's Tax Codes.

All of this gets compounded by the fact that catalog and e-commerce companies change out their product offerings continuously. It is not unusual for companies to changes thousands of SKUs each year, necessitating this work be done each time a product or product line is changed.

If Improperly Handled, These Changes May Result in a Net Decrease in Revenues

A little over two years ago, the Government Accountability Office (GAO) released a study indicating that the total new revenues expected at the time from widespread remote seller sales tax collection would amount to no more than an additional 2% to 4% in new state and municipal revenues.[3] The GAO also noted the significant compliance costs that can be levied on remote sellers. Since these companies and their employees historically had paid all manner of taxes, anything that would undermine significantly the financial performance or employment levels of remote sellers would actually represent a new loss of revenues as these companies' corporate, payroll and employee-generated expenses are reduced.

It won't take much of a reduction in an industry segment estimated to be $250 billion (not including e-commerce revenues) to cause a net loss in tax receipts. When all other remote sellers are considered, improper handling of this issue going forward puts even more state and local revenues at risk.

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[3] https://www.gao.gov/assets/690/688437.pdf last accessed July 21, 2018.

Legislation Urgently Needed

While the Supreme Court clearly stated that the 1992 physical presence standard from *Quill* was overruled, the Court did not lay out an action plan for next steps – nor was it required to. In his dissenting opinion, Chief Justice Roberts said, "Nothing in today's decision precludes Congress from continuing to seek a legislative solution. But by suddenly changing the ground rules, the Court may have waylaid Congress's consideration of the issue. Armed with today's decision, state officials can be expected to redirect their attention from working with Congress on a national solution, to securing new tax revenue from remote retailers."

Indeed, Congress must act swiftly to pass legislation that clarifies the rules of the road going forward post-*Wayfair*. ACMA members and other remote sellers would like to see Congress pass a seemingly simple set of rules that will allow remote sellers to affect sales tax collections on every transaction they do:

1. A grace period of one year before new rules are effective to provide remote retailers time to adjust to the new regulatory reality.
2. One rate per state that is no more than the average sales tax rate statewide.
3. One return per state, and only one annual filing per state.
4. One audit per state, or one comprehensive audit conducted by the retailer's home state shared with all other jurisdictions.
5. One set of product classifications across all states.
6. One definition of sales – net sales dollars collected after all discounts, with common rules about applying discounts, shipping and handling charges, and uniform rounding rules applied consistently to all transactions.
7. Consistent small seller exclusion rules, and consistent treatment of rules for marketplaces.
8. When good faith efforts are made to properly collect taxes including reasonable efforts to correct any over or under payments, no penalties against sellers for the mis-collection of taxes, including indemnification against lawsuits.
9. Where CSP software providers are used, they are held accountable for errors and omissions - not the seller of record.
10. No retroactivity to any prior collection start dates.
11. Access to the more neutral federal court system to provide fairness and balance in adjudicating revenue department rulings and pronouncements.
12. Reasonable, fair compensation to sellers for direct collection costs plus an additional reasonable percentage of taxes collected for associated soft costs.

It is critical that effective dates to be used are far enough in the future so a majority of merchants can comply. In fact, with some states seeking immediate compliance, the scenario for widespread violations has already been established, as it is impossible to react in days or weeks to the additional burdens and demands created. Moreover, for many merchants, the fall and holiday periods are their busiest time of the year. Some companies do more than three quarters of their entire revenue in the last three calendar months. These are "all hands on deck" times for companies that are already stretched to maximum

capacity. Promulgating new requirements to be effective at exactly the busiest time of the year will be particularly crippling and will inflict unnecessary damage on affected companies.

Retroactivity is also an enormous issue. Obviously, until the Supreme Court changed the law, there were no obligations and requirements on remote sellers without nexus to collect in a given geography. Attempting to make the responsibility for taxes retroactive puts an unreasonable financial burden on the companies impacted and throws into question their entire standing as a going concern, with a real possibility of making them unfinanceable or insolvent. Congress must explicitly take retroactivity off the table.

Some products are defined differently by different taxing jurisdictions, making it difficult for multi-category remote sellers to properly code their inventory to map to the correct tax rates. Even for merchants who seek to comply with laws and regulations, this absence of exactitude virtually guarantees mistakes will be made in ever-changing, dynamic inventories. Remote sellers will be creating unknown and unquantifiable future liabilities that will weaken their ability to properly finance their businesses.

The prospect of virtually unlimited audits from 46 tax-collecting states, 562 sovereign first people nations, and the numerous home rule jurisdictions in states such as Colorado and Alaskan is indeed daunting. Remote sellers imagine commissioned "bounty hunters" demanding to enter their business locations at will to inspect their books and records, digging in until they find something they can claim to get a return on their time. Congress must specify a centralized audit mechanism to spare these companies from ceaseless harassment and inspection.

There is no standard in determining what the taxable amount of the transaction actually is. Some states force companies to tax on gross sales before discounts while others use net sales. Some include freight and handling while others do not. Some specify rounding rules not found in any mathematics textbook, as in the case of Maryland[4]. There is enormous variation in how transactions are to be handled and tax collections are to be made, all of which need Congress to clarify going forward to create a uniform standard used across the land.

CSPs have long claimed they have the software capable of making this change easy and painless for remote sellers. Now is the time to challenge them to step up and show just how they plan to accomplish this. States must also consider the significant cost of CSPs and provide compensation to offset this cost. Congress needs to address these issues too.

Congress can act now and minimize confusion as thousands of different solutions, requirements and approaches will get adopted without federal clarification. While some of these can be expected to be challenged in court, this is an expensive, inefficient and time-consuming approach that will damage both companies and governments as it saddles them with unnecessary additional costs.

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[4] See, for example, https://sovos.com/blog/2015/11/02/five-common-sales-tax-misconceptions-that-can-cost-your-busines/ last accessed March 2, 2020

ACMA is open to a variety of different approaches and solutions to the present uncertainty. Certainly, some workable alternatives have been discussed that we can support. Catalogers are open to considering other new approaches as well. However, absent Congress clarifying exactly which rules apply following this sea change, the prospect for businesses and consumer harm is enormous. Remote selling, including catalog and Internet marketing, has obviously been a bright spot in our national economy for decades. It is critical that Congress protects this important engine of grown, entrepreneurial wealth creation and consumer product diversity that has developed to keep this massive change manageable and the new tax receipts being sought achievable.

Congressional staff tell us there is little interest in taking this matter up in the present environment. So we applaud Chairman Kim and the entire committee for bringing the impact of this on small business to light. The current status quo clearly is a barrier to prosperity, employment and tax growth across an important segment of the American economy, as it also provides unique products, services and conveniences to the consumer. It deserves Congressional attention and a solution passed into law. Thank you for your sensitivity and attention to this issue.

Sincerely,



Hamilton Davison
President & Executive Director
American Catalog Mailers Association, Inc.
PO Box 41211
Providence, RI 02940-1211
800-509-9514

ACMA – Attachment A



Survey Shows Extraordinary Damage Inflicted on Remote Merchants Following South Dakota v. Wayfair *Supreme Court Ruling*

Washington, D.C., October 23, 2019 — A poll of remote retailers of all sizes released today by the American Catalog Mailers Association (ACMA) shows that the Supreme Court decision in *South Dakota v. Wayfair, Inc.* has caused far greater harm to catalog, direct mail, e-commerce and other remote merchants than had been anticipated.

While numerous U.S. states and other proponents of the June 20, 2018 ruling had anticipated minimal harm to direct/online retailers, survey respondents say the requirement to charge sales taxes to customers in states in which the retailers have no physical presence has caused notable sales decreases, while the costs required for sales tax collection software have in some cases been exorbitant. This led one respondent to comment that a 100-year-old business will soon have to close altogether.

"These very frightening results show that the SCOTUS decision has brought on considerable unintended consequences for remote merchants," said ACMA President and Executive Director Hamilton Davison. "Just 16 months after the decision, many ACMA members and others continue to scramble just to survive due to the ruling's aftermath."

Survey Highlights:

- Remote merchants have had to pay **up to $275,000** as an initial investment for sales tax collection software, including consulting services to implement the software
- Companies have paid **up to $500,000** for recurring expenses of sales tax collection
- **85%** say these expenses were not budgeted
- States giving merchants the most stringent or "unreasonable" compliance requirements or demands: **California, Colorado, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, New York, North Carolina, Ohio, South Carolina, Texas, Virginia, Washington**
- **89%** say they are concerned about future audits by multiple taxing jurisdictions
- **56%** said their sales decreased as a direct result of the SCOTUS decision

"Although we believe the sales declines will be temporary as customers get used to the new sales taxes," Davison said, "the real issue behind the decrease is there's been no communication on this coming from the states at all. In fact, the way this was handled was almost designed to reduce sales given it's only the merchants doing the educating, with predictable customer push-back sometimes occurring. And there's still no solution for mailed-in orders, which represents 10% of industrywide remote sales. Some remote merchants get as much as one-third of their orders mailed in."

Notable & Quotable:
Survey participants were asked to describe post-*Wayfair* "war stories" and other problems in tax collection and/or registration. Here follow some of their comments:

- "We will very likely close up our 100-year-old business because of this. One year later and still no clarity. Time consuming and difficult or impossible because many customers are mail order and the multiple tax rates and localities in states. We won't be able to handle the additional costs of using third-party or implementation as things now stand with the variance of rules amongst states."
- "Based on our delay in getting the software implemented, we now owe about $500,000 on past due taxes that we were not able to collect and still owe. Implementing the software fully took about a year."
- "Top-tier software vendors and tax consultants are overwhelmed by incorrect set-ups, registration and monthly vs. quarterly filing. Even the experts are getting it wrong in many cases and we have to clean it up. Uncertain tax positions on ambiguous product exemptions is high risk. Customers are confused, and we're now at a disadvantage vs. our smaller competitors who don't trip the threshold for economic nexus."
- "No states (even South Dakota) provide what the Supreme Court said that SD provides to relieve the burden on remote sellers. At least some states cover the cost of CSPs, which is one of the most significant costs for my business. [I've been told] that states will work with companies, but the lower level employees answering questions tend to be curt and rude, amplifying fear that states will be ruthless in their enforcement once it begins."
- "We raised our prices to account for the tax as many customers are mail-in and our internal systems are not set up to reflect the addition of a tax to products for refunding. We can't make exceptions for blackout dates and price tiers for different items. So even in the states where we are remitting tax, we may not be doing it correctly."
- "I don't have the time or resources to research each state's requirements. If we exceed a threshold, we will start collecting."
- "We've had a tough time with most states as they themselves were not ready to take on this additional volume."
- "With almost every state in which we were required to start collecting, the state took a while to process our "registration" which forced us to file for back-taxes, increasing our expense."
- "Washington [state] is very unreasonable and difficult to work with."
- "Depending on the state, we may also be responsible for collecting local options taxes as well. This would cripple a small business such as ours as we simply do not have the resources to comply with this."
- "We are just ignoring state letters at this point, figuring we will slip through the cracks and be up to speed by the time they catch up to us."
- "The whole process has been one big war story."

"As these results show, states are getting increasingly bold and there is no countervailing force pushing back," Davison said. "Companies will feel this pain in two to three years when audits and assessments start to be issued, so NOW is the time to act. If ACMA can get sufficient funding for test case litigation against a few states, we could have a fighting chance; otherwise, our industry faces a dubious future."

About the ACMA
ACMA (American Catalog Mailers Association) is a Washington-based nonprofit organization that advocates for the unique collective interests of catalog, direct and e-commerce merchants in regulatory, public and administrative matters where the shared impact transcends individual company interests. ACMA participates in rulemaking and other proceedings of significance where a single collective voice increases influence and effectiveness. More information can be found at www.catalogmailers.org.

#

ACMA – Attachment B

Home Rule Jurisdictions

Example 1: Colorado

Collecting sales tax in Colorado can be a nightmare. Colorado has almost 300 counties, municipalities and tax districts, each with their own tax rate. The State Department of Revenue administers sales tax for only some of these local tax jurisdictions. It is very difficult for even companies with the most advanced systems to properly collect the correct tax, given the overlapping jurisdictions. Indeed, even third-party certified service providers have collected tax for home rule jurisdictions and erroneously remitted it at the state level.

There are 73 home rule cities in Colorado, which include population centers such as Boulder, Denver, and Golden, but also include some very small municipalities such as Otero and Castle Rock. Registration and collection of the sales taxes of the 73 Colorado home rule cities would add an enormous burden; in fact, there are only a few companies that collect and remit to all 73 jurisdictions.

While the state-administered tax localities have a common tax base with that of the state, home rule cities can (and do) have different tax bases. In addition, home rule cities require separate registration with the city tax department, filing separate tax returns with the municipality, and paying the tax directly to the city. Moreover, each of the home rule jurisdictions have the power to audit retailers.

Even though the Supreme Court in *Wayfair* said a company without a physical presence in a state or local jurisdiction could have nexus with the jurisdiction based on sales to the jurisdiction, the Court confirmed that a jurisdiction can be precluded from imposing sales tax obligations on a company if the obligation to collect tax the Commerce Clause discriminates against interstate commerce or imposes "undue burdens on interstate commerce." *138 S. Ct. 2080 2091 (2018)*

The Court identified factors to make such determination (heretofore referred to as the "Wayfair factors") including: whether the state law or local ordinance applies a safe harbor for sellers that "transact only limited business" in the jurisdiction; and whether the jurisdiction is a member of the Streamlined Sales and Use Tax Agreement, which "requires a single, state level tax administration, uniform definitions of products and services, simplified tax rate structures, and other uniform rules." This includes rules requiring taxing authorities to pay for tax administration software and immunize users of that software from audit liability, and rules that create standardized administrative requirements across all participating jurisdictions. Those factors for measuring undue burdens should apply to home rule jurisdictions.

Two home rule cities, Castle Rock and Crested Butte, both demand that any company making one or more sales in the cities is required to register to collect these municipalities' taxes. We are aware of no retailers that have done so, because of the burden of collecting tax and filing returns. In addition to these two, were other Colorado home rule jurisdictions to impose sales tax registration and collection and remittance obligations on remote retailers, an inordinate burden would be placed on interstate commerce.

As the Finance Director of City of Arvada, Bryan Archer, stated to State Tax Notes just a few weeks following the *Wayfair* decision, "It may take years for us [Colorado and its home rule jurisdictions] to become compliant with the roadmap set out in Wayfair" (see *State Tax Notes*, August 20, 2018, p. 813). Colorado Municipal League Deputy Director Kevin Boomer echoed Mr. Archer's comments, stating "While the *Wayfair* decision creates some questions as to how

Colorado might move forward . . ., the discussions on options and opportunities is still in its infancy." While Mr. Boomer was hopeful that the states, localities and businesses will find a solution, he noted "that it will take time to sort through all the issues."

Example 2: Alaska
Alaska does not have a state sales tax. Instead, cities have the authority to impose and administer sales taxes. Thus far, 107 municipalities in the state have enacted sales tax laws. Thus, unlike South Dakota and in most other states, the "tax base" and "exemptions" differ from locality to locality, in addition to the fact that the sales tax is collected and administered by each city.

Late last year, through the Alaska Municipal League, 22 localities in Alaska announced the signing of the "Alaska Intergovernmental Remote Seller Sales Tax Agreement" (the "Agreement') and the creation of the Alaska Remote Seller Sales Tax Commission (the "Commission"). The Agreement provides that within 30 days of the Commission and signatory states adopting the "Remote Seller Sales Tax Code" a remote retailer and marketplace facilitator that has annual sales of $100,000 or 100 sales transactions in the state during the current or previous calendar year must begin collecting and remitting the sales tax of the signatory municipalities to the Commission. The safe harbor of $100,000 or 100 transactions is based on state sales, and not sales within the signatory cities.

The Commission adopted the Code on January 6, 2020. The signatory municipalities have 120 days until May 4,2020 to adopt the Code. Thus far, only Juneau has approved of the Code. At this point, based on the language of the Agreement and the Code, it is unclear when a remote retailer's obligations to collect tax will be triggered. But this uncertainty as to the effective date is only one of the many problems with this Agreement. Neither the Agreement nor the Code provide for a common tax base or a uniform set of exemptions among the 22 signatory cities, let alone among all of the more than 100 home rule localities in Alaska. In fact, Nome, which has not joined the compact, has already sent demands to retailers without a physical presence in Alaska to collect its sales tax if the sales in Alaska exceed the threshold of $100,000 or 100 sales transactions.

While the goal of the Agreement to reduce burdens on interstate commerce is consistent with *Wayfair's* admonition that the Commerce Clause precludes a state from discriminating against interstate commerce and imposing "undue burdens on interstate commerce," the Agreement falls far short of that goal. As a threshold matter, the Agreement provides not for "a single-level statewide administration," but the administration by the Commission representing approximately 20% of the tax jurisdictions in the state while the City of Nome (and possibly other non-signatory localities in Alaska) will have their own required tax collection for remote retailers. Moreover, there is no an adequate safe harbor, as required in *Wayfair*, since sales are measured based on sales in the state as a whole, and not in the individual municipality.

Thus far, Nome is the only Alaska city to demand sales tax collection. Nome requires not only sales tax registration by the remote retailer, but that the retailer also obtain a license from the state to do business in the state. In addition, neither registration nor returns can be filed electronically, but only in paper form. As a result, many companies have decided not to register in Nome.

We anticipate that other Alaskan cities will pursue tax collection through the Commission. As discussed above, Alaska municipalities have a long way to go to relieve online retailers of the enormous burden of complying with the sales tax obligations for these governments in addition to the sales tax obligations in other states.



February 25, 2020

Economic Growth, Tax and Capital Access Subcommittee

Thank you, Chairman Andy Kim, Ranking Member Kevin Hern, and the honorable members of the Economic Growth, Tax and Capital Access Subcommittee for the opportunity to share the impact of South Dakota v. Wayfair, Inc. on our Idaho-based small business.

My name is Rex Bledsoe, CEO of Aqua Design. Our company was established in 1997. We design and market outdoor activewear through various e-commerce channels including Amazon, Walmart, and our own website, AquaDesign.com. Sales for our products occur nationwide and internationally.

Since the June 21, 2018 Supreme Court decision on Wayfair, our business has experienced an excessive undue burden as result of this ruling costing us hundreds of work hours and thousands in compliance dollars. There is a misconception that software makes sales tax collection and remittance easy. As you will read below, I will provide just a few examples of the intricacies and complexities of sales tax collection and remittance.

We currently are collecting and remitting sales tax in 26 states that comprise hundreds of jurisdictions and tax rates.

To provide the Subcommittee with highlights of the undue burden our small business has experienced, below are some, but not all, examples of excessive compliance tasks and costs we have encountered in the 20 months since the SCOTUS ruling.

- After conducting a year-end 2019 audit of the transfer of our inventory in Amazon warehouses nationwide, for the first time we discovered goods in a location near St. Louis, MO, which triggered physical nexus in the State. Because we do not control the movement of goods throughout the Amazon network of warehouses, we only know about transfer of goods after the fact. For this reason alone, physical nexus should be reconsidered when we have no control over consigned inventory movement in a third-party marketplace. In this case, new physical nexus required:
    - Payment of 2019 sales tax for sales where no collection occurred in the amount of $427.46. This tax was paid out of our general fund without a penny being paid by MO customers.
    - To my knowledge at the time of this writing, there are no services providing automated filing for MO. Therefore, we were required to manually download the data for each transaction and enter it line-by-line into the MO 53-V worksheet (see MO appendix). This required extensive cross-reference



work to assign a city, county, and jurisdiction code, along with inputting the gross receipts, refunds, tax rate, and manual calculation.
    - To summarize, this is one report, in one state, that resulted in a 10-page manual return where hundreds of jurisdictions were cross-referenced. Compliance for this single project cost our company $427.46 in 2019 uncollected sales taxes and over 12 workhours for registration and filing.

- Arizona has one of the most complex and expensive sales tax registration requirements, referred to as a Transaction Privilege Tax (TPT) License. As part of the registration process, AZ requires the answer to this question, out of 88 city and county jurisdictions, where will you be selling goods? As an online merchant, this is an impossible question to answer.
    - If an online merchant does not select all 88 locations upon registration, a monthly login is required to determine if an order triggered a new TPT jurisdiction that has been automatically added to the account. This new jurisdiction may require an additional license payment that is automatically levied on a TPT license and must be paid monthly to avoid any penalties. This ongoing location assessment is another undue burden and a form of taxation that negatively impacts our small business.
    - If selecting all jurisdictions, the annual TPT renewal fees exceed $300. This is in excess of remitting collected taxes and, in my opinion, is another form of taxation without representation since we are headquartered in another State.

- Colorado has implemented destination-based sales tax rules that require local county and district collection and remittance in addition to state filings.
    - Colorado is one of four states known as a Home Rule state, which makes filing sales taxes excessively complex. The Colorado Department of Revenue does not currently administer local taxes for Home Rule municipalities and counties, which means business owners must file separate sales tax returns in each of the Home Rule jurisdictions where they conduct business (*Source:https://help.avalara.com/Frequently_Asked_Questions/Product_and_Service_Taxability_FAQ/What_are_home_rule_states%3F*).
    - There are over 70 individual Home Rule cities in Colorado. Manual remittance could conceivably be required for many jurisdictions instead of one state return.



  - To my knowledge at the time of this writing, there are no services providing automated filing for Home Rule municipalities and counties. This is another undue burden requiring many hours of work time to comply.

- Adding to the excessive costs of a small business collecting and remitting sales tax, once registration has been activated in some states, filing annual income tax or franchise tax (in TX) is triggered and mandatory. This requirement adds another layer of expense as we are billed by our CPA to file in additional states. Out of 26 states, we file income/franchise taxes in our home State of Idaho plus five states as a remote or foreign corporation as result of our sales tax compliance. We have taxation without representation in the five states outside of Idaho.

- Complexity of destination sales tax rates and locations are not the only unique details to research and report. Product usage or category are also a contributing factor for collection and remittance of sales tax.
  - For example, clothing use or category in MN, PA determines if sales tax is applicable. Research is required if a unique clothing style meets the defined standard for the rule.
  - In other states such as MA, NY, RI, clothing tax is dependent on a threshold trigger based on retail price.

- Another compliance issue relates to "sales tax holidays" or "back-to-school tax free" days in various states. For example, from August 2, 2019 at 12:01 a.m. through 11:59 p.m. on August 4, 2019, Florida allows for tax exempt purchases of $60 or less. Adding to the complexity of this undue burden is the number of states that offer some type of tax-free holidays. At last count, the number of states was 18. Imagine the complexity of one state offering a tax holiday and multiply by 18 (*Source: https://www.avalara.com/us/en/blog/2019/01/2019-sales-tax-holidays.html*).
  - Compliance is difficult on two levels. Manual intervention based on time and amount of transaction. For many jurisdictions, it is currently impossible to turn off/on collection without manual intervention. Compound this manual task with the real-time analysis required to determine purchase amount, limited to a maximum dollar threshold, and it is obvious how well-intended state law to benefit its citizens creates an accounting nightmare for any small business who must collect, or not collect, based on these rules.

AQUADESIGN
HIGH PERFORMANCE APPAREL

In my opinion, we need Federal intervention and a national solution to simplify online tax collection and remittance. Solutions should include:

- A physical nexus rule change when inventory movement is beyond the custody and control of the consignor. Physical nexus should only be triggered when the owner of inventory chooses to move inventory to another state or jurisdiction;
- Simplification for economic nexus should be adopted for revenue and transaction totals. Transaction thresholds should be increased to at least 500 to 1,000 per year since many small businesses offer low-cost items that can generate minimal revenues;
- Fewer tax rates for online sales should be established that would simplify the current model with over 10,800 jurisdictions (*Source: https://taxfoundation.org/growing-number-state-sales-tax-jurisdictions-makes-south-dakota-v-wayfair-much-imperative/*);
- Collection and remittance must be simplified for online sales tax. A federal solution should include payment to one entity and distributed to jurisdictions;
- Simplify the registration process whereby online merchants can access a single dashboard for licensing;
- Remove individual state licensing fees and income tax filing requirements;
- As a cost-saving measure, we need the creation of an online federal dashboard with marketplace integrations for collection and remittance that omits the current requirement for costly third-party automation solutions.

Multiply our story with tens of thousands of other small businesses across the nation and you can understand the critical need for new solutions. Compliance is not inexpensive nor as simple as a few clicks with a computer mouse.

Sincerely,

Rex Bledsoe, CEO
Aqua Design
Office: 208.495.2090
119 S Valley Drive, Suite A, #179
Nampa, Idaho USA 83686-2985



Sloansville, NY

February 28th, 2020

Representative Antonio Delgado
1007 Longworth House Office Building
Washington, DC 20515

Dear Representative Delgado,

As a constituent and small business owner, and someone who testified in the House Small Business committee on March 13, 2019, I write to express my concern with the burdensome state remote sales tax laws, which have resulted from the US Supreme Court's Wayfair decision, and ask for your help in finding a way to make it easier for small businesses like mine to flourish.

Since states started implementing remote sales tax laws, I have seen my business costs go up, I am paying more in taxes, and I have seen a decrease in sales. It is really discouraging to see state governments make laws which negatively impact small businesses. It is hard enough as a small business to compete with larger companies, let alone now having the disadvantage handed to you by out of state governments through additional tax and compliance requirements – it isn't fair.

The passage of state sales tax laws across the country have been highly damaging to my business. The collection of remote sales tax has altered the way people shop online. Many online shoppers are value conscious, who seek after the best deals. I have lost customers, who now are opting to purchase through areas of the internet where online sales tax isn't collected, like social media sites. This new market dynamic forces some legitimate sellers to chase the customers to these social media sites, while slashing their margins to compete with unscrupulous sellers with no overhead or compliance concerns – essentially creating a black-market economy at the expense of small business owners.

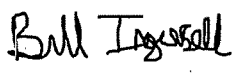
I sell on marketplaces such as eBay, which are made up of small to medium sized businesses that operate on very thin margins and rely on the volume of these marketplaces to succeed. Being a marketplace seller as well as selling on my own website, my costs have gone up and I have to spend a lot of time dealing with tax compliance issues. I spend a lot of time answering customer's question on why they are now being charged out of state sales tax, or why there are so many different rates. As well, I have to spend a lot of time each week tracking sales on my own website to be sure I am compliant. Often times, this is time I don't have, since I am a small

business and need to spend time making sure I can complete sales. As well, I have to spend more money each year to work with my accountant for additional compliance costs. These may seem like minor impacts to some, however small revenue businesses, like mine, need to make good use of every available dollar and hour spent on their business.

The remote sales tax collection environment is hurting small businesses. Remote collection is allowing larger businesses to grab more of the market from smaller merchants or average American sellers. Larger businesses can afford proper compliance and labor costs associated with such radical state tax laws – it is it is almost impossible for small businesses to keep up with those rising costs. While this is hurting existing small businesses, the complexity and expense of the remote tax requirements makes it that more difficult for the average person to start their own online business. Market changes are a part of being in business, some companies are able to succeed, while others aren't. I have been very fortunate that my business has had the success that it has. But as a small business, with less employees and resources to dedicate to indirect expenses, it is that much harder to compete.

Please let me know if I can provide any more information on the negative impacts of state remote tax collection laws. I would like to see more done in the federal government to address this issue.

Sincerely,



Bill Ingersoll, Owner
Bikes, Trikes and Quads

Economic Growth, Tax and Capital Access Subcommittee.

Thank you Chairman Andy Kim, Ranking Member Kevin Hern, and the honorable members of the Economic Growth, Tax and Capital Access Subcommittee for the opportunity to share the impact of South Dakota v. Wayfair, Inc. on our Idaho-based small business.

Catching Clouds is a leader in eCommerce accounting. We provide accounting and sales tax management services for online sellers with annual revenue between $1M and $50M. We have been providing these full client services for 8 years and are experts in eCommerce marketplaces, shopping carts, and data technology.

We specialize in sales tax collection and management and file over 5000 sales tax returns per year. We are also the accounting and sales tax experts for www.eCommercefuel.com, an online community of 1000+ seven and eight figure annual sellers.

Sales tax takes significant focus, time, energy, and cost to stay current on all of the sales tax details and complexity. It is comprised of collection, exempt sales, marketplace facilitator, filing and remitting payments to the states, and dealing with notices the states generate.

Sales tax regulations impact more than 30 million small businesses. Most have no idea that they have "nexus" and an obligation to register, collect, file and remit sales taxes for up to 45 states. Businesses that are growing and stable are selling on multiple channels, including marketplaces (Amazon.com, etc.) and shopping carts (Shopify, etc.) thus incurring multi-channel sales tax. Compliance costs limit the growth, profits, and taxes these businesses can produce.

ECommerce sellers are not part of a formal organization or lobbying group. They are a community of 4 to 5 million small and medium businesses providing goods to consumers in the US through the marketplaces (Amazon.com, Walmart.com, eBay, Etsy, etc.) and their own branded shopping carts (on Shopify, BigCommerce, Magento, WooCommerce, etc.). We have no single voice to represent our



interests at the state or national level. We are at the mercy of the states who are continuing to implement new legislation and bureaucratic rules on a monthly basis.

We are all trying to be the best businesses we can be by supporting our families and communities by providing employment opportunities, and paying taxes after profits.



OVERVIEW OF ECOMMERCE SALES TAX COMPLIANCE

Sales tax compliance is one of the largest overhead costs and risks for online businesses. The sales tax laws and regulations are so complex, businesses can't define the risks of items such as:

- Are they compliant?
- Do they have nexus?
- What is their outstanding liability per state?
- What are the costs to comply?
- Are they keeping up with monthly changes to the regulations?
- Are they dealing with tax notices on time and accurately?
- Outsourcing to a Sales and Local Tax (SALT) expert or an online tool (and the time managing that tool) is time consuming and expensive.

The impact of these risks and costs is that sellers have less funds to invest in growing their business. Lower profits mean lower sales and income taxes to government agencies. Even when outsourcing sales tax, they put in a significant amount of time collecting and providing detailed sales channel information and collecting state generated notices - time that should be spending building their business or spending time with their families.

CHALLENGES

Complexity

Online sellers and all small businesses face a range of challenges when attempting to be compliant with state sales tax laws.

The first challenge is knowing where a business has "nexus" which creates an obligation to register, collect, and remit sales tax for the 45 states that collect sales tax. Laws are vague on when nexus starts, now specifically related to the new economic nexus laws.



The next challenge is that the 18,000+ jurisdictions can all have different rates for different products. Even with technology to calculate the rate based on the origin or destination, each product can be taxed differently in each jurisdiction.

Then there are differences per state. Some are taxed based on the origin (where the product was shipped from) and some on the destination (where the product is shipped to). There are different filing frequencies (monthly, quarterly, semi-annually, annually). Furthermore, every state's filing process is different from forms to rules to additional taxes.

Next there are "Home Rule" states like Colorado and Louisiana where a business can have a nexus obligation to register, collect, file and remit sales tax at local city and county level, above and beyond the 45 US states.

Then, collecting sales tax properly requires a sales tax collection service (Avalara, TaxJar, and other API calculation services) or static tables depending on the platform, shopping cart, cloud inventory solution or point of sale solution. All of which could calculate a different amount based on the sale, origin/destination, and product taxability.

And last, "physical nexus" still applies to locations that sellers have property, employees, travelling sales reps, sales at conferences, AND where they have property specifically designated for storing inventory. Sellers using Amazon.com's FBA (Fulfilled by Amazon) fulfillment warehouse services can have inventory stored in up to 36 states.

State Behavior

Sellers have to be concerned about every state's laws and regulations. How can a small business be expected to be aware of and compliant with laws across 50 states and local jurisdictions?

Sellers constantly have to respond to notices, letters, additional fees. For example, all counties in Arizona charge an additional $300+ registration fee in year two plus state annual fees on top of various filing deadlines requirements that trigger additional fees and fines. If notices aren't responded to within a set timeframe, sellers incur even more additional costs.

States also share information. A single business could be audited by multiple states at the same time or by each state, one after another.

States change the filing frequency from annual to quarterly or from quarterly to monthly WITHOUT directly notifying the seller. They then charge late fees, interest, and penalties on these late returns as well as increasing the compliance cost to file more frequently.

There is a lack of oversight on states as to where they can collect state use tax from citizens in their state PLUS the state sales tax collected from retailers. The question becomes: are there laws to prevent states from collecting tax twice on any transactions?

States can come after a business or its owners for mistakes dating back 3, 5, and 10 years later, often without the business having awareness of these laws or requirements. Most of the 30 million small businesses are not even aware of the Wayfair decision or economic nexus laws; they usually think the laws only apply to "large" or "online" businesses.

States are working with the MTC.GOV to create standardized and consistent laws related to sales tax. In general, their discussions are focused on expanding their tax base as much as possible and *not* on the health of businesses and business owners. See the Commerce Clause discussion below.

Technology

When laws become overly complex, "technology" is slated as a fix to accommodate the complexity; but it can become a crutch. A very small allowance is carved out to cover these costs, but it's usually a

small percentage of the cost for a functional tool. However, these tools do have a cost. They require human integration and management. And they have limitations like not creating a tax liability for the tax amounts and tax they are remitting when a return is generated. They also require multiple checks and constant validation steps to not only make sure the data is correct, but that the generated returns are valid by being up to date each month with the latest laws, regulations, and interpretation by the states. Finally, they must be independently reviewed to make sure all returns are filed and received on time by each state, and payments are completed and accepted by that state.

Some of these tools are even making their own interpretations of the laws to limit their liability. However they are not adapting to the different sellers' businesses. For example, www.taxjar.com will only file what they calculate the sales tax remitted *should* be - not what was calculated and actually collected by the marketplace, shopping cart, or seller. So for every order, Taxjar could be calculating a higher or lower amount of sales tax which differs from the sales order that the customer paid. Thus sellers may be either paying more sales tax than they collected, or less sales tax than collected.

Economic Nexus Challenges for Sellers

In response to the Wayfair decision in 2018, the states are now creating economic and various forms of nexus which require sellers to track their physical nexus as well as their sales in every state.

Each state is setting their thresholds for the amount of revenue and/or the number of transactions that are required for any small business in the US, creating an obligation to register, collect, file and remit sales tax. There are differences as what is to be included in the threshold; all sales revenue, only direct sales, exclude marketplace sales or not, tax exempt sales, etc. The most common threshold is $100,000 in sales or 200 transactions in a year.

There is no clarity on when "nexus" starts or when it started or even how to collect sales tax for a state with economic nexus. Do they collect sales tax for every zip code in the state, or just the state's

capital, or only the zip codes they ship from or to? Do they set a flat rate? What about different products that are taxed differently?

Tax Exemption Certificates and Business to Business Exempt Sales

Another complexity is the process of selling to other businesses who are then going to sell to consumers with the final seller being responsible for the sales tax collected.

Every distributor or seller that sells to another business has to collect a tax exemption certificate which is renewed annually. Some states will accept a multi-state certificate, while some will only accept their own certificates.

If a business sells a product for resale but doesn't have accurate sales tax paperwork for all 45 states, they can be responsible for all of the tax that was not collected, including interest and penalties. This is a significant risk to businesses that have 100% (or any percentage) of sales that are exempt or business to business.

Note: this process is so complex that software and/or technology does not even exist to help small businesses manage and reduce the costs.

Costs and Scenarios

Once a seller has determined nexus, finished the risk management assessment, and decided where to register, collect, file and remit sales tax, the costs of compliance can be identified. Costs are based on fees from various outsourced SALT consultants. Sellers can save on outsourced costs by using tools like Taxify.co, TaxJar, or Avalara. However these tools have an internal cost and they additionally incur the "cost" of their time to manage the tool, research the sales tax space, and manage any notices.

Common costs include:

Registration with the state

- All states have their own registration process and there is the SST (Streamlined Sales Tax) registration process.
- Registration - ~$100 per state / jurisdiction.
- State Fees - ~$20 to $50 / State.
- Some have no fees, some are one time fees, some have annual renewal fees.

Sales Tax Management and Filing Costs

- Per Filing - $25 to $100 per filing - monthly filing costs more than quarterly filing and many sellers quickly move from quarterly to monthly filing based on their sales in most states.
- Monthly Filing Service - $25 to $100 per month (if they include tools and notice management).
- Note: Using $50 per month for the scenarios below vs. making any assumptions about filing frequency impacting the costs.

Additional Variable Costs

- Nexus Studies
- Voluntary Disclosure Agreements
- Private Letter Rulings
- Audit Support
- Notice Management
- Note: These services can be a fixed fee of $1,000 to $5,000+ per activity or an unknown number of hours at $150 to $500 per hour depending if you are working with a SALT expert or tax attorney.

Catching Clouds

Scenarios

Here are a number of scenarios to map out compliance costs for a variety of common eCommerce businesses. The are based on the following assumptions:

- Sellers are selling on their own shopping cart, direct consumer sales and/or business to business sales.
- Sellers are not "Marketplace Only" sellers.

Seller registered in ALL 45 states

Costs	One Time	Monthly	Annual
Registration	**$4,500 to $6,750** ($100 to $150 x 45 states)		
Filing & Payment		**$2,250/month** (45 states x $50/month)	**$27,000**
Max Year 1 Costs	**$6,750**		**$27,000**

Amazon FBA Businesses (utilizing the Amazon warehouses in 36 states)

- New sellers just starting their business or someone buying an existing eCommerce business.
- If they are using Amazon FBA they will have physical nexus in up to 36 states (on day one if buying an existing FBA business) or within 30 to 60 days of shipping over 200 items to the FBA warehouses for new sellers.

Costs	One Time	Monthly	Annual
Registration	**$3,600 to $5,400** ($100 to $150 x 36 states)		

Filing & Payment		**$1,800/month** (36 states x $50/month)	**$21,600**
Max Year 1 Costs	**$5,400**		**$21,600**

Note: These costs would apply to all online sellers who sell on Shopify and use Amazon FBA; if their products are stored across all Amazon FBA warehouse states. Small sellers compliance can be limited the first year with a single state registration, inventory and employees, but is not limited the following year when they have economic nexus

Costs	One Time	Monthly	Annual
Registration	**$100 to $150** ($100 to $150 x 1state)		
Filing & Payment		**$50/month** (1 states x $50/month)	**$600**
Max Year 1 Costs	**$150**		**$600**

Expanding into a few more states to fulfill inventory or hiring employees out of state would have a smaller impact, but as the businesses revenue grows they will create economic nexus.

Economic Nexus

Economic nexus where sellers pass thresholds based on sales amounts or numbers of sales can increase their compliance costs.

If sellers are selling a low per sale cost, say $20 per sale, they can hit the transaction thresholds at $4,000 of sales in that state, with a compliance cost going forward of $600, so 15% of the sales in that state for the year and probably more than their profit on those sales

The chart below shows the number of states an online seller will have nexus in based on their annual revenue. It assumes that products are sold in line with the % of population per state



	Annual Revenue and # of states a seller will have nexus in after 12 months								
Average sale price	$250K	$500K	$1M	$2M	$3M	$5M	$10M	$20M	$30M
$25/sale	6	11	18	22	27	30	37	41	44
$50/sale	0	6	11	18	21	28	37	41	44
$100/sale	0	0	6	11	15	19	35	41	44
$200/sale	0	0	0	6	11	15	19	35	41
$400/sale	0	0	0	0	6	11	15	19	35

Example: A small seller is selling products that average $25 per sale and has $250K of annual sales (row 1, column 1). They have physical nexus in their own state and economic nexus after selling for 12 months. Based on the table above, they would incur the following costs: $350/month x 12 = $4,200 of annual sales tax compliance cost plus $600 for registrations for a **total cost of $4800 in the first year**.

Compliance costs vs. the cost of being audited

Small businesses are faced with making the risk management decision of paying the high compliance costs vs. investing in their businesses by hiring more employees, launching new products, expanding to new channels, or taking out profit (thus supporting their personal goals and communities).

The high costs of compliance can be calculated. The chance of being audited and paying an unknown amount of uncollected sales tax, fees, penalties and interest are almost impossible to calculate and manage.

They may even risk their entire business by spending the money to be fully compliant across potentially 45 states, and then likely not having the capital and cash flow resources to stay in business. The alternative is to risk not being compliant and having one or more states audit their business which could also put them out of business. The risk also affects personal equity as sales tax collection is not protected by bankruptcy.

Commerce Clause of the Constitution

We are asking that the Congress get involved to enforce the Commerce Clause of the Constitution.

We are concerned that our businesses are being taxed without representation. We have taxes imposed on our businesses by states in which we have no remediation to protect ourselves.

What *should* happen is if another state imposes a tax or regulation on a business in the state we are residents and have our business registered, we should have the ability to go to our state's attorney general and request that the state protect our business and the state's interest (having businesses in that state generates income tax and employment). What is happening now is the bureaucracies in each state are copying the laws from the other states so that all states can tax all citizens in every state.

Plus, if each state imposes income tax nexus on small businesses, income tax will be apportioned to all the other states vs. being paid to the state in which the business lives, registers, and contributes to the health of that state.

- **Per state income tax returns cost between $250 to $1,000 per state to prepare which could double the compliance cost per state for every seller.**
- Fees alone could put a large percentage of small business owners out of business due massive increased costs to engage large accounting firms to help with multistate taxation rules and the complexity of filing state income tax returns in multiple states (not a task for a local accountant) - the costs to file state income tax returns added with all the other compliance makes no sense to continue a small business.

Good News

The good news is the emergence of Marketplace Facilitator laws where the marketplaces (Amazon.com, Walmart.com, eBay, Etsy, Houzz, Wayfair, Wish.com, NewEgg, Jet, etc.) are collecting and remitting the sales tax directly to the states.

- This reduces the sales tax liability and cash the businesses are holding "in escrow" then filing and remitting to the states.
- "Marketplace only sellers" (those not selling business to business or on their own shopping cart) can deregister down to their own, single state plus possibly Washington state and a few others.
- This still requires engaging a SALT expert to interpret the current interpretation of the laws and regulations, then to safely de-register and deal with any final notices.

It is not perfect. The challenge is the current laws do not change (or aren't clear) if the law eliminates a business's obligation to file. If the small business still has to file a return for sales tax they aren't collecting or remitting, the compliance costs are the same for a $0 dollar return. Plus, some states like Washington have Business & Occupancy tax based on the sales in the state that requires filing and remitting a sales tax return.

Requested Resolution

We would like to request the following solutions to balance the tax revenue requirements of the states, reduce or eliminate the liability, risk, and compliance costs for all small businesses.

Catching Clouds, LLC
17011 Lincoln Ave. #619
Parker, CO 80134
www.catchingclouds.net

National Clearinghouse for intercommerce sales

- Managed by a private clearinghouse to collect all marketplace & merchant facilitators collected tax funds.
- Have the clearing house remit the funds to the states and manage refunds, compliance and all audits.

Simplify the process

- Continue competition between states on sales tax rates.
- Each state has a single internal rate and single source to remit the tax internally for the states, then the funds are distributed to the counties, cities or special tax districts.
- When collecting and filing sales tax only inside a state.
- Standardized, limited set of tax exemption categories
  - Set and followed by all states
  - Beyond what the SST (Streamlined Sales Tax) provide only standard definitions, not a standard on if food, baby formula, femanie hygiene, etc. are taxed or not.

Merchant Processor Facilitator collection

- Have the merchant processors (Stripe, Square, PayPal, Authorize.net, ChasePaymentech, etc.) collect and remit the sales tax to the national clearinghouse.
- Between the Marketplace Facilitator and Merchant Facilitator this should cover ~95%+ of all online sales, then any cash/check sales can be pushed to the clearinghouse on a monthly or quarterly basis.
- The basic premise of having businesses register for sales tax licenses is that it is easier to have 30 million small businesses collecting sales tax for the states vs. attempting to collect use tax directly from 200+ million consumers. If we make the change to sales tax collection at the point of sale as the purchases are being made through the marketplaces or merchant providers, then the sales tax would be collected by the top 50+ marketplaces and top 2000+ merchant

processors would provide universal collection of sales tax on sales, funds transferred to the states daily (the same way the businesses get their funds and the merchant processors collect their fees on every transaction). This would optimize the flow of tax funds to the states (and federal government) and remove the compliance burden from the 30 million small businesses.

Catching Clouds, LLC
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Parker, CO 80134
www.catchingclouds.net

Limit nexus to only sales taxes

- Sales in a state shouldn't create income tax nexus, "doing business" or any other regulatory burdens for out of state sellers.
- Limit nexus for doing business to where a business is established and has employees.
- Remove inventory from the physical nexus and income tax nexus requirements.
- Employees in a state could continue to create sales tax or business nexus.
- Remove all other notice & reporting, "cookie nexus," and any other forms of nexus or ties to states when only shipping products to customers.

Amnesty

- Historical amnesty for all small businesses under $100 million in annual revenue for any uncollected sales tax, filing fees, interest, and penalties. Including any additional state income tax, franchise taxes, registration fees, county fees, etc.
- Amnesty from any fees related to selling goods into the state, expecting any payroll taxes or costs related to employees in the states.
- Possibly create a process for sellers who paid in sales tax they didn't collect under a VDA or voluntary payment to request some or all of the funds.

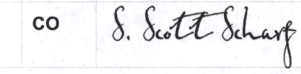
Annual reporting requirement for small businesses

- The marketplaces and merchant providers would provide a Form 1099-SalesTax on the sellers sales and the sales tax that we remitted through their business activities.
- Similar to the 1099 process where businesses report their income annually.
- To review and identify fraud or criminal activity - only audit criminal behaviour vs. compliance to an overly complicated compliance regime.
- Require registration and annual filing for all foreign sellers to confirm compliance and have consistent requirements for all US AND foreign businesses. Without registration, require that the marketplaces and merchants suspend their accounts.

References

- Thomas Frey - https://futuristspeaker.com/business-trends/fixing-our-insanely-broken-sales-tax-system/
- Catching Clouds - YouTube - https://youtu.be/N-57-QDzH_k

Signatures

Name	Company Name	City	State	Signature
Scott Scharf	Catching Clouds LLC	Parker	CO	

Name	Company Name	City	State	Signature
Ann Murphy	Telecommunications Export Co, Ltd	Danvers	MA	

Name	Company Name	City	State	Signature
Jeremy Roberts	Carpe Per Diem, Inc	New York	NY	



Name	Company Name	City	State	
Chris Boggs	Replacement Table Legs LLC	Greensboro	NC	Chris Boggs

Name	Company Name	City	State	
Mark Buehner	OnlineEEI	Romeoville	IL	Mark Buehner

Name	Company Name	City	State	
Miriam Brafman	Packlane Inc	San Francisco	CA	Miriam Brafman

Name	Company Name	City	State	
Blake Cabot	ClownAntics LLC	Newburgh	NY	Blake Cabot

Name	Company Name	City	State	
Jack Haldrup	Dr. Squatch, Inc.	Marina Del Rey	CA	Jack Haldrup

Name	Company Name	City	State	
Jeremy Kocourek	Sewing Parts Online, Inc.	Dickson	TN	Jeremy Kocourek

Name	Company Name	City	State	Signature
Andrew Youderian	Ecommercefuel	Tuscon	AZ	

Name	Company Name	City	State	
Michelle Ellis	Cottage and Bungalow	Tullahoma	TN	Michelle Ellis

Name	Company Name	City	State	Signature
Patrick Barnhill	Specialist ID	Miami	FL	Patrick Barnhill

Name	Company Name	City	State	Signature
Samantha Gardner	Integrated Design Solutions	Juno Beach	FL	Samantha Gardner

Name	Company Name	City	State	Signature
Roy Fung	getfpv.com	Sarasota	FL	Roy Fung

Name	Company Name	City	State	Signature
Don Cole	Cole eVentures	Ladera Ranch	CA	Don Cole

Name	Company Name	City	State	Signature
Michelle Huie	VIM AND VIGR LLC	Missoula	MT	

Name	Company Name	City	State	Signature
Diego Orjuela	Cables and Sensors, LLC	Orlando	FL	

Name	Company Name	City	State	Signature
Jeff Forgrave	Global Family Brands	Brownsburg	IN	

Name	Company Name	City	State	Signature

Miriam Brafman	Packlane Inc.	San Francisco	CA	Miriam Brafman

Name	Company Name	City	State	Signature
Richard Vaughan	Mile High Net Stores	Parker	CO	Rick Vaughan

Name	Company Name	City	State	Signature
Bryan Croft	Holmes Custom	Jacksonville	FL	Bryan Croft

Name	Company Name	City	State	Signature
Mike Avena	Avco Key & Novelty	East Northport	NY	Mike Avena

Name	Company Name	City	State	Signature
Alex Jensen	LL Medico USA Inc.	Flourtown	PA	Alex Jensen

Name	Company Name	City	State	Signature
Sujay Kapadia	Hospitology Products	Addison	IL	Sujay Kapadia

Name	Company Name	City	State	Signature
Jack Haldruo	Dr. Squatch	Marina Del Rey	CA	Jack Haldrup

Name	Company Name	City	State	Signature
Jacob Cook	Tadpull	Bozeman	MT	

Name	Company Name	City	State	Signature
Sarah Baldwin	Bella Luna Toys	Rockland	ME	

Name	Company Name	City	State	Signature
Padraic Ryan	ecommercefuel	Claremont	NH	Padraic Ryan

Name	Company Name	City	State	Signature
Mari Ann Lisenbe	MariGold Foods	Willis	TX	Mari Ann Lisenbe

Name	Company Name	City	State	Signature
Craig Davis	One Faith Boutique	Yukon	OK	Craig Davis

Name	Company Name	City	State	Signature
Peter Awad	Mission Meats	Grand Rapids	MI	Peter Awad

Name	Company Name	City	State	Signature
Daniel Whitehouse	Dayspring Pens	Virginia Beach	VA	

Name	Company Name	City	State	Signature
Will Johnston	Grow and Make	Portland	OR	Will Johnston

Name	Company Name	City	State	Signature

Carson McComas	The Red Porch	Colbert	WA	

Name	Company Name	City	State	
Mark Leenheer	Shooting Targets 7	Hudsonville	MI	Mark Leenheer

Name	Company Name	City	State	Signature
Sam Huebner	Good Life	Parker	CO	Sam Huebner

Name	Company Name	City	State	Signature
William Davidson	DMM Motorsports	Baton Rouge	LA	William Davidson

Name	Company	City	State	Signature

	Name			
Carole Rains	Woodland Hills Enterprises	Peapack	NJ	Carole Rains

Name	Company Name	City	State	Signature
Greg Berry	Municibid.com	Philadelphia	PA	

Name	Company Name	City	State	Signature
Ed Raftery	TrailHeads	Kent	CT	

Name	Company Name	City	State	Signature
Elizabeth Grojean	Manette Creative	New York	NY	Elizabeth Grojean

Name	Company Name	City	State	Signature
Jeremy Kocourek	Sewing Parts Online	Dickson	TN	Jeremy Kocourek

Name	Company Name	City	State	Signature
Mark & Roseann Lowe	Heartland Stores	Holly Springs	NC	Mark Lowe

Name	Company Name	City	State	Signature
Michael Tidwell	Classic OTW Products	Murfreesboro	TN	Michael Tidwell

Name	Company Name	City	State	
Terry Sherry	Terra Trade	Garden Grove	CA	Terry Sherry

Name	Company Name	City	State	Signature
Mark Lauerman	Legacy Industrial Electric LLC	Troy	MI	Mark Lauerman

Name	Company Name	City	State	Signature
Josh Willard	Josh's Frogs	Owosso	MI	Josh Willard

Name	Company Name	City	State	Signature
Anders Bostrom	Quaint Corner Ltd. Co.	Sandpoint	ID	Anders Bostrom

Name	Company Name	City	State	Signature

Keyur Shah	SK Online Inc.	Haward	CA	

Name	Company Name	City	State	Signature
Richard Price	High-Tech Battery Solutions, Inc.	Twinsburg	OH	Richard Price

Name	Company Name	City	State	Signature
John Moore	Spill 911 Inc.	Westfield	IN	John Moore

Name	Company Name	City	State	Signature
John Moore	Everything Truck Parts	Westfield	IN	John Moore

Name	Company Name	City	State	Signature
Patrick Coddou	Citizen Supply Ltd.	Forth Worth	TX	

Name	Company Name	City	State	Signature
Sven Raphael Schneider	Gentleman's Gazette LLC	Minneapolis	MN	

Name	Company Name	City	State	Signature
Jake Peterson	Jake101 Inc.	West Hills	CA	

Name	Company Name	City	State	Signature
Bill Gamble	Pinhole Press	Troy	NY	

Name	Company Name	City	State	Signature
Katie Renon	The Labor of Love Co.	Parker	CO	Katie Renon

Name	Company Name	City	State	Signature
Jeff Morin	Simple Foundry	Sewickley	PA	Jeff Morin

Name	Company Name	City	State	Signature
Brian Godwin	Specialty Living	Arden	NC	Brian Godwin

Name	Company Name	City	State	Signature



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Name	Company Name	City	State	Signature

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Jenson Online Inc.
1189 W 1700 N
Suite 150
Logan, UT 84321

The Honorable Andrew N. Kim
Chairman
U.S. House Committee on Small Business
Subcommittee on Economic Growth, Tax and Capital Access
2361 Rayburn HOB
Washington, DC 20515

The Honorable Kevin R. Hern
Ranking Member
U.S. House Committee on Small Business
Subcommittee on Economic Growth, Tax and Capital Access
2361 Rayburn HOB
Washington, DC 20515

Written Testimony of

Jennifer Jenson, Owner, of Jenson Online Inc.
Hearing on *South Dakota v. Wayfair, Inc.*: How Mainstreet is Fairing and Whether Federal Intervention is Necessary

March 3, 2020

Chairman Kim, Ranking Member Hern, and Members of the Subcommittee, thank you for holding this hearing on state taxation. I am honored to offer my perspective as a small Utah business owner, and to share my story with you.

Background

My name is Jennifer Jenson and I am the Owner of Jenson Online Inc. based in Logan, Utah. As a woman, minority (Native American) business owner, and mother of 4, eCommere was a way for me to help our family financially. To that end, I started selling used books online from my home in 2003 and founded Jenson Online Inc.

Back Taxes

In 2016 we received a letter from the State of Washington stating that we may have Nexus in their state. I was not even familiar with what Nexus was. After Googling what Nexus was I was confident that we did not have Nexus as we had no physical presence in Washington. We filled out the questionnaire to be compliant and were immediately told that we did indeed have Nexus because Amazon had a customer return an item to a warehouse in WA in 2010. Just to make this clear - we never sent anything to WA to be stored. Amazon had a customer return something

there and according to the Washington Department of Revenue (WADOR) that triggered Nexus and we owed sales tax, interest, and penalties on every item shipped there from any location since. In 2010 we had less than 10 employees - hardly a large corporation with a multi-state tax department. The assessment came in at over $185,000. We hired attorneys, appealed through the entire WADOR legal department, and offered a settlement - nothing changed. They put a lien on our Utah business, assessed the full amount, and we are currently making forced payments to WADOR each month for taxes that we were not responsible for in the first place not to mention Business and Operating taxes for a state we have no presence in. This simply is not feasible for a small business owner to register and remit on all 50 states.

We have been receiving threatening letters from California on this matter since 2017 and have been frightened to respond because of what happened to us with Washington. The latest email from California says that we are required to pay sales tax from April 1, 2016 forward but the 2017 letters said no such thing - they wanted back taxes for the last several years. The rules keep changing as this has been a gray area since day one and it needs the help of Congress to make a final ruling as currently a California sales tax judgment would certainly put us out of business. On top of that, we have also been contacted by Minnesota Department of Revenue. When will it end and how much can a small business endure? If other states see these states successfully collecting from out of state sellers what stops them from using the same tactic until every business is belly up? Every year up until 2016 our business was growing and thriving. Since 2016 we have shrunk and become stagnant as we are afraid to borrow money, expand, and take risks - this tax issue has a wide financial impact on all sellers in all states who used the FBA program. I am sure that number is in the tens of thousands having a widespread financial impact on the country.

It would make more sense for us to let WA have our few assets and restart than pay their back tax judgment but we endure because we believe there will be justice. This being said, we are just one more state sales tax judgment away from collapsing as we simply cannot endure any more tax burdens based on our model. Amazon collects 100% of the money, and remits only 25% to us on average, making it unfeasible for us to ever be able to remit 100% of back taxes, interest, and penalties for multiple states. In many cases, the assessed taxes, interest, and fees on an item outweighed the profit we received. In the Fulfillment by Amazon (FBA) model. Amazon decides where products are stored, Amazon collects the entire amount from THEIR customer and only remits a portion to us, and Amazon handles all shipping and returns.

How were we to know that we were responsible for collecting sales tax in this consignment type business when we do not even know where Amazon moves our inventory? Again, we did not transfer the goods OR make the sale, we simply supplied the items to the FBA warehouses, just like any other supplier shipping goods to Target or Walmart.

Further, we later learned that the law as written in Washington State even says it's not our responsibility to pay these taxes, but that has not stopped them from bullying us into near oblivion. The law is quite simple to understand:

> Every consignee, bailee, factor, agent or auctioneer authorized, engaged or employed to sell or call for bids on tangible personal property belonging to another, and, so selling or

> calling, is deemed a seller, and shall collect the retail sales tax upon all retail sales made by him, except sales of certain farm property as hereinafter provided. The tax applies to all such sales even though the sales would have been exempt if made directly by the owner of the property sold. WAC 458-20-159.

And to remove any absence of doubt WA State defines a Consignee under their tax law as:

> **"Consignee"** (or selling agent) has either actual or constructive possession of tangible personal property (the goods), although someone else actually owns the property.

My goods were shipped to Amazon warehouses outside of WA, where they had ACTUAL possession of the goods, and the ability to transfer them to other states or to their customers. It is not surprising, being that Amazon is a WA state company, that their state tax department chose to go after a small Utah seller, instead of holding Amazon accountable for the back taxes they owed. Amazon had a cozy open-door policy with the state, which we discovered via FOIA requests, yet when we wanted to raise our case with the State Tax Director Vikki Smith, we were denied the opportunity, it's no wonder why the state chose to go after us instead of Amazon.

In 2018, Congresswoman Jayapal stated during the last Wayfair hearing that Washington doesn't do retroactive. While I fundamentally believe that this is what she was told by her tax department, I'm here to say I'm living proof that this is false. Washington is aggressively retroactive and manipulates their interpretation of the law to allow the largest online retailer off the hook while attacking defenseless small businesses, like mine.

States prey on weak out-of-state small businesses, and kowtow to the large corporations, they cannot be trusted or left to their own devices. If Congress doesn't put this to an end at the Federal level it will bankrupt many businesses nationwide. Unless Congress takes action to protect us, small eCommerce businesses like ours will continue to be the Gazelles of interstate commerce.

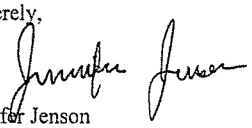
The bottom line is sellers want to comply, we want to know the rules and abide by them, we want to do the right thing and stay in business but as I learned with Washington - no good deed goes unpunished. We are being turned into criminals because of loosely interpreted laws. We are scared and need help and closure. I have faith every day that someone will see it for what it is and step in to help but that wanes as each month passes and each payment is made. Again, WA is holding a lien on my business and I'm required to make monthly payments in order to assert my rights to appeal Washington's ruling against me. I am begging Congress to help protect small sellers. Each and every predatory state that comes after another states businesses unjustly takes tax dollars out of that state and I am confident that Congress will be able to see this for what it is before tens of thousands of small businesses are literally burdened to death.

I also plead with you to amend the State Tax Injunction Act and allow me the right to bring an action in Federal Court to save my business. My constitutional rights have been violated, commerce clause, due process clause, 5th Amendment due process clause, but under the current state of the law, I can't even bring a case before my own federal court to assert those constitutional rights. States get their unchecked power to assert anything they want against small out-of-state businesses because they know we can't fight them. Having a federal court remedy,

in my state that would allow me to seek an injunction when states are egregiously violating the constitutional rights of businesses and would be a first step in checking these overzealous state tax administrators, who really don't care about the consequences of their actions when it comes to out-of-state business owners.

Thank you for your time, if you would like to discuss any of this further, I would be honored.

Sincerely,



Jennifer Jenson

[Company Letterhead or Company Name and Information]

The Honorable Andrew N. Kim
Chairman
U.S. House Committee on Small Business
Subcommittee on Economic Growth, Tax and Capital Access
2361 Rayburn HOB
Washington, DC 20515

The Honorable Kevin R. Hern
Ranking Member
U.S. House Committee on Small Business
Subcommittee on Economic Growth, Tax and Capital Access
2361 Rayburn HOB
Washington, DC 20515

Written Testimony of

Joyce Latimer, Majority Member, SML Marketing LLC

Hearing on *South Dakota v. Wayfair, Inc.*: How Mainstreet is Fairing and Whether Federal Intervention is Necessary

March 3, 2020

Chairman Kim, Ranking Member Hern, and Members of the Subcommittee, thank you for holding this hearing on state taxation. I am honored to offer my perspective as a Virginia small business owner, and to share my story with you.

Background

My name is Joyce Latimer and I am the Majority Member of three Members of SML Marketing LLC. The other Members are my husband and his brother. We are based in Moneta, Virginia. I started my eCommerce business in August 2014 in order to replace the income lost due to my husband's early retirement. Although he didn't qualify for disability, his issues with treatment of sleep apnea made it unsafe for him to continue his job as a career Class A truck driver. So, our business is majority owned by me, a woman.

Back Taxes (If Applicable)

I conferred with my CPA and my lawyer in setting up my business and was advised that I must file for a federal EIN for my LLC and as a resident and business owner in Virginia, a Virginia Sales and Use Tax account to meet my tax obligations for my sales. In December 2018, I received a letter from the California Department of Tax and Fee Administration (CDTFA) saying that they had "received information" that we had inventory stored in warehouses or fulfillment centers in California and therefore we were classified as a California business and were required to register and pay sales tax on sales made to California consumers. (See Exhibit 1, attached). Our primary sales outlet is Amazon FBA (Fulfilled By Amazon) which means that Amazon accepts our product and then distributes it to their warehouses as they see fit. We have no control over that process. The letter advised me to register with the CDTFA before January 15, 2019, that it was their "intent to treat all taxpayers who voluntarily make attempts to correct past reporting errors with the utmost respect and fairness." It was a direct threat.

Other press releases by CDTFA further confused the issue by stating that out of state retailers with sales above a $100,000 or 200 sales threshold must register and start remitting taxes on sales made after April, 1, 2019 (See Exhibit 2, attached). Based on this press release, I registered with CDTFA and they immediately wanted me to pay back taxes from Q4 2014 to date. I did not pay these back taxes because I didn't have that much money available and because I don't think it is legal for California to collect them at all. Their own state treasurer said that it was an illegal demand by the CDTFA (Exhibit 3). I collected and filed the sales tax payment for Q2 2019 (after April 1), but not Q1 2019. It cost me $300 for the online software to calculate those taxes and I had to manually enter the

county/local taxes at a significant loss of time. On July 1, 2019, Amazon assumed the Marketplace Facilitator role for California sales tax collection and payment.

I still get monthly emails and or letters from the CDTFA threatening me about having not paid my back taxes. The one for December 2019 is attached as Exhibit 4. Fortunately, we have not been contacted by any other states about current or back taxes. The payment to California alone would have closed my business.

Taxes Post Wayfair

If we collected taxes, I would certainly turn the over to the states, but how can any small business owner be expected to register in all 47 states collecting sales taxes? We don't have the resources to hire CPA firms or lawyers to handle that much paperwork for even the small amount of income we had. We don't have the funds to fight the tax authorities of all the states either. And, my CPA has warned that registering for sales tax collection and remittance to states outside my home state also put me on the list for those states wanting to collect income tax and other use taxes. Those are not pass-through taxes. Those constitute an additional tax burden and reporting burden for my business.

We have finally identified profitable products so that we can grow our business. Tax issues are not the only negative aspects of selling on Amazon FBA. So, we have considered expanding to our own website, but the tax implications are just overwhelming in complexity and costs for an independent small business owner. I can't afford to go out on my own.

How do we Fix this?

We need for Congress to intervene to protect small businesses from money-hungry state officials and the complexity of tax filing and collection practices from all the individual states. I understand that sales tax is under the individual state's purview but our online businesses are high tech and global these days. There needs some corresponding improvements and communications in how states deal with online retailing - a system that supersedes individual archaic state regulations or the brand new heavy-handed tactics. If we don't succeed, neither will the states!

Conclusion

We have worked hard and suffered our own setbacks in building our small business. We can't have state governments robbing us of the future we can have in online retailing. We're glad to collect and remit state sales taxes collected from those state's citizens. It just has to be done in an efficient and fair manner – going forward, not back! For these reasons I urge Congress to intervene on behalf of small businesses, especially those in online retailing.

Sincerely,

Joyce Latimer

Joyce Latimer

Exhibit 1

STATE OF CALIFORNIA

CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
OUT-OF-STATE OFFICE
3321 POWER INN RD, STE 130
SACRAMENTO, CA 95826
1-916-227-6600 • FAX 1-916-227-6641
www.cdtfa.ca.gov

EDMUND G. BROWN JR.
Governor
MARYBEL BATJER
Secretary, Government Operations Agency
NICOLAS MADUROS
Director

SML MARKETING LLC
1228 CLEARWATER DR
MONETA VA 24121-6172

Letter Date: 13-Dec-2018
Letter ID: L0002037817
Case ID: 872095

Dear Seller:

The California Department of Tax and Fee Administration (CDTFA) has received information that you have inventory that is stored in warehouses or fulfillment centers in California. As such, you meet the definition of a retailer engaged in business in California (Revenue and Taxation Code section 6203) and you are, therefore, required to register with the CDTFA, file sales and use tax returns, and pay tax on sales made to consumers in California.

The CDTFA prides itself on the fair and uniform treatment of all taxpayers, and it is our intent to treat all taxpayers who voluntarily make attempts to correct past reporting errors with the utmost respect and fairness. The CDTFA may, in certain circumstances, relieve penalties imposed in cases where the taxpayer comes forward, registers, and remits the past due taxes and interest.

Please register by January 15, 2019. To register, visit www.cdtfa.ca.gov and select *Register*, then select *Register a New Business Activity or Location*. The start date on your account should reflect the date you began engaging in business in California. You will receive a permit number when your online registration is complete. After registering, please complete the *Registration Confirmation* section below and return it in the enclosed self-addressed envelope. You may also complete this form online by visiting CDTFA online services and select *Respond to Letter/Inquiry* under the Limited Access Functions, and use *the Letter ID* and *Letter Date* listed above. If you need assistance with registering or have any additional questions, please contact our Out-of-State Office at 1-916-227-6600 or email us at OSReg@cdtfa.ca.gov.

California Department of Tax and Fee Administration

REGISTRATION CONFIRMATION:

NAME OF PERSON RESPONDING TO THIS LETTER (please print)	TITLE	DATE
SIGNATURE	TELEPHONE NUMBER ( )	
EMAIL ADDRESS	PERMIT NUMBER	

0002037817 01

Case ID: 872095

CDTFA-486 (12-18)
mL1107-1

Exhibit 2

News Release
For Immediate Release
December 11, 2018

NR 18-59
Contact: Casey Wells
Office of Public Affairs
916-327-8988

California Announces New Use Tax Collection Requirements for In-State and Out-of-State Retailers

Recent U.S. Supreme Court Decision in South Dakota v. Wayfair, Inc. Expands Retailers' Tax Collection Obligations Under California Law

The California Department of Tax and Fee Administration (CDTFA) announced today that beginning April 1, 2019, out-of-state retailers selling above certain thresholds into California will be required to collect California use taxes on their sales into California. Today 's Special Notices (www.cdtfa.ca.gov/news/#Notices-Newsletters) also impact in-state and out-of-state retailers' obligations to collect and remit district use taxes adopted by California localities.

"Today 's announcement does not increase or create any tax," said CDTFA Director Nick Maduros. "Rather, California will now require more out-of-state retailers to collect and remit taxes just as brick-and-mortar retailers have done for decades. With the Supreme Court 's decision in *Wayfair*, California is able to help level the playing field for California businesses."

Requirements for Certain Out-of-State Retailers

The new use tax collection requirement is not retroactive and applies only to sales made on and after April 1, 2019. For out-of-state retailers, the new collection requirement applies if, during the preceding or current calendar year, the retailer 's sales for delivery into California exceed $100,000 or the retailer makes sales for delivery into California in 200 or more separate transactions.

Retailers who are already required to be registered to collect California use tax prior to April 1, 201 will see no change in their registration obligations; retailers with a physical presence in California are still generally required to be registered with the CDTFA.

Although the new requirement to collect California use tax applies only to sales on and after April 1, 2019, retailers may choose to register and collect the tax prior to April 1, 2019. Retailers can register on the CDTFA website at www.cdtfa.ca.gov (http://www.cdtfa.ca.gov) .

"We know the legislature is also looking closely at this issue and we look forward to working with them as we proceed," said CDTFA Director Nick Maduros.

Impact on District Tax Collection Requirements for Out-of-State and In-State Retailers

With today 's announcement, certain retailers selling above these thresholds in a single local jurisdiction (district) will also be responsible for collecting that district 's use tax pursuant to Revenue and Taxation Code section 7262 and the Supreme Court 's decision in *South Dakota v. Wayfair.* This responsibility will apply if, during the preceding or current calendar year, the retailer 's sales into the district exceed $100,000 or the retailer made sales into the district in 200 or more separate transactions. This requirement will apply equally to in-state and out-of-state retailers.

District taxes are the voter-approved sales and use taxes imposed by cities, counties and other local jurisdictions (districts) added to California 's base sales and use tax rate of 7.25 percent to fund important local services. Currently, retailers located in a taxing district are engaged in business in that district. A retailer is also engaged in business in a district where they have some form of physical presence under existing law.

Beginning April 1, 2019, any retailer whose sales into a district exceed $100,000 or who make sales into a district in 200 or more transactions in the preceding or current calendar year is considered to be engaged in business in that district and is required to collect that district 's use tax on sales made for delivery in that district.

Retailers are required to report and pay any district tax to the CDTFA on their sales and use tax return.

The CDTFA plans to begin the interested parties process for rulemaking next year.

Taxpayer Assistance Available

Taxpayers seeking additional information on registration requirements can find the CDTFA's online guide *Use Tax Collection Requirements Based on Sales into California Due to the Wayfair Decision* at www.cdtfa.ca.gov/industry/wayfair.htm (www.cdtfa.ca.gov/industry/wayfair.htm) . Taxpayers may also contact their local office (www.cdtfa.ca.gov/office-locations.htm) for assistance.

Note: This news release may discuss complex tax laws and concepts. It may not address every situation, and is not considered written advice that may be relied on, pursuant to California Code of Regulations, title 18, sections 1705 and 4902. Changes in tax law or regulations may have occurred since the time this news release was written. If there is a conflict between the text of this news release and the law, decisions will be based upon the law and not this news release. For specific help, please contact the CDTFA at 1-800-400-7115.

(mailto:?subject=California Announces New Use Tax Collection Requirements for In-State and Out-of-State

Exhibit 3

FIONA MA, CPA
TREASURER
STATE OF CALIFORNIA

March 8, 2019

The Honorable Gavin Newsom
Governor
State Capitol
Sacramento, CA 95814

RE: Providing Relief to Third-Party Sellers Who Utilize Online Retail Platforms from Unlawful and Unconstitutional Actions by the California Department of Tax and Fee Administration

Dear Governor Newsom:

I want to bring to your attention actions by the California Department of Tax and Fee Administration (CDTFA) against third-party sellers that utilize online retail platforms that are unlawful, unconstitutional and impractical. I write this letter to you in an effort to protect small businesses, both within California and worldwide, from the cost and compliance burdens related to taxes that they are neither well-positioned to collect nor legally responsible for under California law[1].

As a matter of sound policy and consistency, I urge you to ensure that third-party sellers whose goods are sold via online retail platforms — many of whom are women and minority-owned businesses — are not subject to sales tax, either prospectively or retroactively. It makes no sense to expose these small businesses to the risk of actions by CDTFA, as they are not the ones responsible for uncollected sales tax under state law, nor is it constitutionally permissible to impose such burdens on these businesses.

Therefore, I respectfully request you direct CDTFA to cease this activity through the issuance of a CDTFA Special Notice and through the promulgation of an article in CDTFA's quarterly Tax Information Bulletin, both of which may be specifically transmitted to the affected third-party sellers, as well as the general public.

Your ability to do so is plain and unmistakable. Under Article V, Section 1 of the California Constitution, "The supreme executive power of this State is vested in the Governor. The Governor shall see that the law is faithfully executed." Government Code Section 12010

[1] Cal. Code Regs., tit. 18, § 1569 provides: "A person who has possession of property owned by another, and also the power to cause title to that property to be transferred to a third person without any further action on the part of its owner, and who exercises such power, is a retailer when the party to whom title is transferred is a consumer. Tax applies to his gross receipts from such a sale."

915 Capitol Mall, Suite 110, Sacramento, CA 95814 • (916) 653-2995 • Fax: (916) 653-3125
300 S. Spring Street, Suite 8500, Los Angeles, CA 90013 • (213) 620-4467 • Fax: (213) 620-6309
www.treasurer.ca.gov

specifically provides: "The Governor shall supervise the official conduct of all executive and ministerial officers." As you know, the CDTFA answers to you directly through the California Government Operations Agency. Your authority to intervene is clear.

Background

There are millions of third-party sellers who use online retail platforms, such as Fulfillment by Amazon (FBA), allowing their goods to be sold online. Through this innovative approach, online retail platforms have opened their retail marketplace websites to anyone in the world willing to take a chance in business.

However, online retail platform providers typically do not allow these third-party sellers to retain customer information, engage in direct marketing, resolving customer service disputes or dictate return policies. These online retail platforms dictate these terms by contract. These online retail platforms typically also handle the storage, packaging, payment processing, logistics, and delivery of the products. By doing so, they step into the shoes of the third-party seller in every meaningful respect—including, as relevant to this discussion, the exclusive ability to collect and remit sales tax. The third-party sellers lack fundamental privity of contract with their supposed retail customers, as the customers are bound by the online retail platform's contractual terms and conditions, not the third-party seller's.

Despite the online retail platform's level of control over third-party seller transactions, CDTFA claims that third-party sellers, not the online retail platforms, are retailers under state law, and therefore have nexus because goods were stored in warehouses in this state. However, this argument fails (to hold) because the inventory was directed to California by the online retail platform, not the third-party seller. The third-party sellers were often never even told that their goods would end up in California, and even if they were told, the shifting of goods to various warehouses was solely at the online retail platform's discretion, not the third-party seller's. The fact that the online retail platform's terms and conditions dictated that legal title was retained by the third-party seller is factually misleading because these online retail platforms retain substantial constructive ownership rights, such as the ability to seize and even destroy inventory without a judgement or lien from a court.

Further, the Supreme Court has addressed the issue of consigned inventory being placed in a state by another party, saying that the lack of purposeful availment, and the mere placement of goods into the stream of commerce does not establish nexus under the Due Process clause. This overrides any argument that physical presence creates nexus, as both Commerce Clause nexus and Due Process clause nexus are required to establish nexus, as reinforced in Wayfair,[2] and

2 The principal inquiry in cases of this sort is whether the defendant's activities manifest an intention to submit to the power of a sovereign. In other words, the defendant must "purposefully avai[l] it-self of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws." As a result, any property that Amazon moves into California is done so at Amazon's direction, especially when Amazon didn't even tell them, doesn't amount to due process nexus... J. McIntyre Mach. v. Nicastro, 564 U.S. 873 (2011).

"It must be remembered, however, that although this case and Asahi both involve foreign manufacturers, the undesirable consequences of Justice Brennan's approach are no less significant for domestic producers. The owner of a small Florida farm might sell crops to a large nearby distributor, for example, who might then distribute them to grocers across the country... [T]he farmer could be sued in Alaska or any number of other States' courts without ever leaving town." Id.

Wayfair did not address Due Process clause nexus in any meaningful way, as the physical presence test was purely a construct of the Commerce Clause.

For example, when a consignee sells a good that has been consigned to it for sale, the consignee is obligated to collect the sales tax, not the consignor. Online retail platforms that offer fulfillment services operate in the same way, and therefore are considered to be a consignee under California law. This is supported by Cal. Code Regs., tit. 18, § 1569. Adopted in 1933 and amended in 1969, it states:

> "A person who has possession of property owned by another, and also the power to cause title to that property to be transferred to a third person without any further action on the part of its owner, and who exercises such power, is a retailer when the party to whom title is transferred is a consumer. Tax applies to his gross receipts from such a sale."

With the enactment of AB 102 [Ch. Stat. 2017] all lawful rules and regulations established by the BOE were continued in force to CDTFA.

Furthermore, the fact that third-party sellers that utilize an online retail platform's fulfilment program did not direct their warehousing activity to the state, limits the state's ability to hold them accountable for taxes, since the online retail platform directed their goods to California, not the third-party sellers.

Action by CDTFA Against Third-Part Sellers

I believe CDTFA is ignoring the plain reading of California law. Instead, they are pursuing these small businesses with threats of audit, claiming they owe eight years of back taxes, and even going so far as threatening felony prosecution and imprisonment.

The below is a description of a sample of emails and letters sent by CDTFA to third-party sellers:

- In March of 2018, CDTFA Tax Technician, Lelania Fowler informed third-party sellers via email that if they choose not to voluntarily comply to obtain a sellers permit that some of the possible outcomes is "any person who violates this part with intent to defeat or evade the reporting, assessment, or payment of a tax or an amount due required by law to be made is guilty of a felony" [Emphasis added]. Ms. Fowler went on to say "Each offense shall be punished by a fine of not less than five thousand dollars ($5,000) and not more than twenty thousand dollars ($20,000) or imprisonment for 16 months, two years, or three years, or both" [Emphasis added]

Respondent has not established that J. McIntyre engaged in conduct purposefully directed at New Jersey. Recall that respondent's claim of jurisdiction centers on three facts: The distributor agreed to sell J. McIntyre's machines in the United States; J. McIntyre officials attended trade shows in several States but not in New Jersey; and up to four machines ended up in New Jersey. The British manufacturer had no office in New Jersey; it neither paid taxes nor owned property there; and it neither advertised in, nor sent any employees to, the State. Indeed, after discovery the trial court found that the "defendant does not have a single contact with New Jersey short of the machine in question ending up in this state." App. to Pet. for Cert. 130a. These facts may reveal an intent to serve the U. S. market, but they do not show that J. McIntyre purposefully availed itself of the New Jersey market.

- In September of 2018, CDTFA Business Tax Representative Nicole Campbell sent a letter to a third-party seller stating, "a person who is engaged in business as a seller in this state without a permit is in violation of the law and each officer of a corporation may be guilty of a misdemeanor." [Emphasis added]

- On January 24, 2019, Laine Fong for the CDTFA Out of State Office sent an email to a third-party seller that states "the CDTFA can issue determinations for up to eight years when issuing a Notice of Determination (billing) for an unreported period."

- In February of 2019, CDTFA Tax Technician, Becky Smith, sent a letter to a third-party seller stating that "a person who is engaged in business as a seller in this state without a permit is in violation of the law and each officer of a corporation may be guilty of a misdemeanor." [Emphasis added]

CDTFA's approach is inefficient and ineffective, evidenced by the fact that thirty-eight percent of FBA third-party sellers are located in China, demonstrating the impracticalities of individual seller enforcement. Further, CDTFA's current approach, is unconstitutional considering well-established Supreme Court precedent.[3]

But the real travesty is that these actions by CDTFA, while unlawful, unconstitutional and impractical are also causing many of the third-party sellers to go out of business and into bankruptcy.

Many of these third-party sellers are beyond the reach of the State of California. In many cases those that are within the reach of CDTFA will go bankrupt if forced to pay back sales taxes. I recently received a letter from and spoke with Mindy Wright, a third-party seller who lives in Washington State. On January 24, 2019, Mindy wrote a letter to me that said:

> "Recently in last December we received a letter from California's CDTFA asking us to comply with their tax rules and we did. After signing up with California business license department we are now collecting and remitting sale tax starting 1-1-2019. We did not realize that the CDTFA would go after us for the uncollected sales tax and income tax up to 8 years. Now we are facing tens of thousands of dollars in back taxes, penalties and interest. This alone will force us out of business and into bankruptcy. We just do not make much money and we are distraught and frightened."

A copy of her letter is attached. Mindy Wright is not alone. I have received countless such letters and have spoken with many third-party sellers who are in similar situations.

---

[3] In Pike v. Bruce Church, Inc., 397 U.S. 137 (1970), the Supreme Court in establishing a balancing test where state's local interests are weighed against the burden on interstate commerce held that, "where the statute regulates evenhandedly to effectuate a legitimate local public interest, and its effects on interstate commerce are only incidental, it will be upheld unless the burden imposed on such commerce is clearly excessive in relation to the putative local benefits. Huron Cement Co. v. Detroit, 362 U. S. 440, 362 U. S. 443. If a legitimate local purpose is found, then the question becomes one of degree. And the extent of the burden that will be tolerated will, of course, depend on the nature of the local interest involved, and on whether it could be promoted as well with a lesser impact on interstate activities." In this case the nature of the impact is the biggest burden on interstate commerce and the lesser impact, which is also substantially more efficient and effective for states that wish to achieve their local interest is marketplace collection, a remedy that the state could have exhausted prior to Wayfair.

The CDTFA's current treatment of small third-party sellers is not only wrong, it has the effect of unduly impacting minority and women owned small businesses. As Congresswoman Robin Kelly (D-IL), Co-Chair of the Diversifying Tech Caucus said, "We're in the middle of a black entrepreneurship renaissance fueled by the internet and ecommerce."[4] We have an obligation to protect small online businesses and to ensure they are not crushed by a wrong-headed and retroactive administration of the state's tax law.

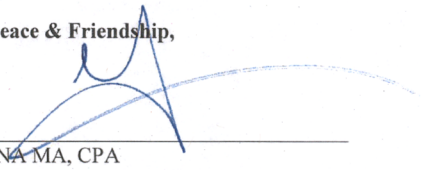
Putting an unbearable tax burden on many small kitchen-table enterprises trying to make a living on these online retail platforms simply does not make sense, and it is not consistent with our state laws, public policies, or our values.

Action by the Governor is Needed

As a former Member of the FTB Board and a former Member/Chair of the State Board of Equalization, I know that it is important to the integrity of the tax system that when an error by the state is identified, it should be corrected. I, therefore, urge your action to spare those who will lose their business if they have to comply with CDTFA's demands. Let's continue to lead the way for entrepreneurs everywhere by setting a tone of appreciation for our nation's newest crop of entrepreneurs. We can do this by making it clear that no third-party seller can be accountable for sales tax, going forward or back, as a result of selling goods on an online retail platform.

Thank you for your attention to this important matter.

In Peace & Friendship,



FIONA MA, CPA
California State Treasurer

cc: Members, California State Assembly
Members, California State Senate
Ana Matosantos, Cabinet Secretary, Office of the Governor
Anthony Williams, Legislative Affairs Secretary, Office of the Governor
Che Salinas, Chief Deputy Legislative Secretary for Operations
Marybel Batjer, Secretary, Government Operations Agency
Nick Maduros, Director, California Department of Tax and Fee Administration

[4] https://blog.aboutamazon.com/working-at-amazon/in-celebration-of-black-history-month-amazon-hosts-minority-owned-small-business-discussion-on-capitol-hill

Exhibit 4

Gmail

KennethJoyce Latimer <smlmarketinginfo@gmail.com>

California Department of Tax and Fees Administration Case ID : 872095 Account : 226-420480 Limited Access Code : f433529y

1 message

Baca, Adam R <Adam.Baca@cdtfa.ca.gov> Fri, Dec 6, 2019 at 11:25 AM
To: "SMLMARKETINGINFO@GMAIL.COM" <SMLMARKETINGINFO@gmail.com>

Dear Joyce Latimer.

In previous contacts you were informed of the requirement to file sales and use tax returns with the CDTFA. As of this date, your account is delinquent for period(s) 2014 , 2015 , 2016 , 2017 , 2018 , and 1Q19 zero return is questionable.

You failed to file the required returns by the date provided during registration. If you do not file the delinquent returns by December 20, 2019, your account may be issued an estimated billing based on information available to the CDTFA or referred to our audit section to examine your company's books and records to determine the amount owed.

Please contact me at the telephone number listed below at your earliest convenience if you need assistance filing or have any further questions.

Adam Baca

Tax Technician, Out-of-State Office

California Department of Tax and Fee Administration

3321 Power Inn Rd., Ste. 130, Sacramento, CA 95826

Phone: 916-227-2499 Fax: 916-227-6641

Let us know how we are doing!

Thank You for Connecting with Us:



www.cdtfa.ca.gov



California Department of
Tax and Fee Administration

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Any written advice is intended to provide general information regarding the application of the tax and will not serve as a basis for relief of liability under Revenue and Taxation Code section 6596.

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The Honorable Andrew N. Kim
Chairman
U.S. House Committee on Small Business
Subcommittee on Economic Growth, Tax and Capital Access
2361 Rayburn HOB
Washington, DC 20515

The Honorable Kevin R. Hern
Ranking Member
U.S. House Committee on Small Business
Subcommittee on Economic Growth, Tax and Capital Access
2361 Rayburn HOB
Washington, DC 20515

Written Testimony of

Alice Kim, Founder of Hanalei Beauty Company
Hearing on *South Dakota v. Wayfair, Inc.*: How Mainstreet is Fairing and Whether Federal Intervention is Necessary

March 3, 2020

Chairman Kim, Ranking Member Hern, and Members of the Subcommittee, thank you for holding this hearing on state taxation. I am honored to offer my perspective as a Hawaii small business owner, and to share my story with you.

My name is Alice Kim and I am the Founder of Hanalei Beauty Company, a female- and minority-owned business, which I started with my husband. We are based in Honolulu, Hawaii. We employ a total of 25 people.

In 2019, we received a call from the State of California saying the company owed more than $10,000 in back taxes at the time. We tried to explain to them how we aren't the retailer and that Amazon is the correct retailer on record, as they have control of the customer and placement of their inventory throughout their warehouses across the US. This all fell on deaf ears as they threatened us and we eventually paid the taxes that they claimed we owed. Just about every state legally defines a sale as the transfer of title or possession to the consumer. When we sell on Amazon and use their fulfillment centers, my goods are stored in Amazon's warehouse where Amazon transfers title and possession to their customer. It's not my customer, it is in fact, Amazon's customer. Even the State of California's Treasurer, Fiona Ma, knew this was wrong and wrote a letter to the Governor explaining why the California tax division was wrong and that Amazon owed the back taxes, but he ignored it. And even though many states are passing marketplace laws, making companies like Amazon responsible to collect taxes, states are still trying to "have it both ways" and are still going after small businesses for back taxes.

While selling on Amazon has been great for my business, over the years it has become more and more challenging and complex for a small business like mine. Unfortunately, given the threat of states to go after business who owe taxes, many of us our forced to register in all states that Amazon has warehouses, which we did for Hanalei but it costs us thousands in filing fees, professional fees, and administrative fees to be compliant. In addition, in some states my quarterly sales tax was less than $20, but I had to file a return and pay a filing fee that was way more than what my company owed! This will be a serious hurdle for people to start up Amazon/ecommerce businesses, as the cost to register, file and be compliant with all the states will be a cost that most small businesses can't afford, which will kill small businesses growth and jobs.

In order to fix this problem, we need Congress to intervene. Small businesses need to be protected from foreign state tax administrators who act like overzealous prosecutors who rely on bullying rather than the law to generate revenue from out of state businesses and placing an undue burden on small businesses and will force many of them to close down. And Congress should investigate the behavior of tax administrators' dealings with Amazon and how that impacted their decision to go after

hanalei

small out-of-state businesses. For more information on some of the states' behavior, an amicus brief was filed by the Online Merchants Guild ("OMG") in 2018: https://www.supremecourt.gov/DocketPDF/17/17-494/42306/20180404170521046_17-494bsacOnlineMerchantsGuild.pdf . Congress should require states to create a clearinghouse to processes tax returns based on data that comes directly from eCommerce platforms and marketplaces such as Shopify or Amazon, as requiring small businesses to register in 50 states is madness and the burden to us would be insurmountable. We, as small businesses, are not trying to evade paying taxes, but we need help, and the right thing to do is to place the burden on states or marketplaces to collect the tax for us, as it's a cost that we can't afford to bear.

Conclusion

For these reasons I urge you to carefully consider the testimony of Online Merchants Guild. OMG is an eCommerce seller organization, and its members are only small eCommerce business owners like me. They are my voice, and nobody else's. They fought for us during Wayfair, and are fighting for us every day, and I urge you to work with them going forward, to help you solve this issue.

Sincerely,

Alice Kim
Founder
Hanalei Company

cc: Ed Case, Congressman, Hawaii, District 1

darn good yarn

February 25, 2020

SENT VIA ELECTRONIC MAIL
The Honorable Nydia M. Velazquez
Chairwoman
House Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515

Dear Chairwoman Velazquez:

I wanted to submit my experience for the *"South Dakota v. Wayfair, Inc.*: Online Sales Taxes and their Impact on Main Street" hearing taking place on Tuesday, March 3, 2020 at 10:00am. My company, Darn Good Yarn Inc., was featured on the front page of the *Wall Street Journal* on December 29, 2019 regarding the ruling and impact of the *Wayfair* case.[1]

Business Background. My business is 100% self-funded and I grew it out of my guest bedroom 12 years ago. Last year, I had sales of $9.1MM. Darn Good Yarn focuses on creating jobs here in the US as well as to the highly impoverished populations within India and Nepal. Since inception, Darn Good Yarn has saved over 2MM pounds of material waste and repurposed turning it into craft materials and clothing. We impact about 592 artisans world-wide that would normally fall into the staggering statistic of making less than $1.90 per day!

Wayfair's Ruling Effects. With the ruling, it has been a tumultuous and very expensive journey for my company. Last year alone, I paid out $90,000 in sales tax to 34 states (all on different payment schedules). I spent about $25,000 for preparation and compliance along with software last year. So far this year, the expenses are in line to stay in place and not decrease.

Opportunities. One large takeaway from this ruling is that lawmakers are under the impression from tax software companies that their solutions are "plug and play." As a small business owner, this is the furthest thing from the truth. There is also predacious billing and expensive feature upgrades that are required to make their systems work. I think it's important for lawmakers to understand the heavy toll and risk that has been imposed on all small businesses who sell online in America. We are the job creators and this roll out has been tough to execute on.

When I was in the Air Force, I worked in contracting and helping with the administration of contracts between small businesses and Vandenberg Air Force Base. One HUGE opportunity would be to do what we did back then - standardize forms and reporting to make it easier on small business. The sales tax form fill-ins for each state vary. Their reporting cadence varies. Their announcement cadence varies.

[1] Ruth Simon, "Sales-Tax Ruling Straining Small Online Sellers," *Wall Street Journal*, December 29, 2019.

11A Solar Drive
Halfmoon, NY 12065
www.darngoodyarn.com

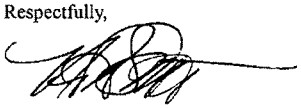
darn good yarn

Lawmakers can work to standardize and simplify the process.

Furthermore, local businesses can choose their physical location where they are subject to one sales tax jurisdiction. This ruling means that remote sellers, by simply collecting sales online can be subject to 12,000 taxing jurisdiction and audit risk from 50 states. That means 50 separate court systems. That is not parity.

Outcomes. This increased lift on my business means that I am contracting the business because we run on the threshold of nexus for many states. This means that it's a reduction in US jobs. We simply do not have the continued resources to support the implications of this decision.

Respectfully,



Nicole Snow, CEO & Founder

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Halfmoon, NY 12065
www.darngoodyarn.com

Drone Speed LLC
Spencer Thorpe
5005 Rock Way
Central Point, OR 97502

The Honorable Andrew N. Kim
Chairman
U.S. House Committee on Small Business
Subcommittee on Economic Growth, Tax and Capital Access
2361 Rayburn HOB
Washington, DC 20515

The Honorable Kevin R. Hern
Ranking Member
U.S. House Committee on Small Business
Subcommittee on Economic Growth, Tax and Capital Access
2361 Rayburn HOB
Washington, DC 20515

Written Testimony of

Spencer, Co-Owner of Drone Speed
Hearing on *South Dakota v. Wayfair, Inc.*: How Mainstreet is Fairing and Whether Federal Intervention is Necessary

February 26th, 2020

Chairman Kim, Ranking Member Hern, and Members of the Subcommittee, thank you for holding this hearing on state taxation. I am honored to offer my perspective as an Oregon small business owner, and to share my story with you.

Background

My name is Spencer Thorpe and I am the Owner of Drone Speed, we are based in Central Point, Oregon. As a young kid I sold popsicles at our local 4th of July Parade and have always had a interest in entrepreneurship. I started my eCommerce Fulfillment by Amazon (FBA) business in August of 2015 and started working nights and weekends in order to pay off my student debt while pursuing full time pastoral ministry. When the business took off having paid off these students loans has given our family incredible flexibility. I have been able to hire my wife and keep her at home with our two toddlers.

Back Taxes

In November 2018 I received a letter from the state of California stating I needed to register or else be liable for severe tax penalties. I registered shortly after and then was told I needed to pay $16,000 in back taxes for 2016 and 2017 even though Amazon was fulfilling my orders all these years! Keep in mind I only took a payroll of $25,000 last year. This $16,000 is an incredible burden that California can claim on my livelihood from 2016 and 2017. In Fulfillment by Amazon (FBA) I never knew where my inventory was being transferred to or even who would click the buy button as Amazon was fulfilling my inventory for me. Amazon is the retailer yet California would claim that I am liable for all sales to their state. When I sell on Amazon my goods are stored in an FBA warehouse where Amazon transfers possession and title to their customer. I don't understand why I was targeted when Amazon is clearly fulfilling these orders. Fiona Ma (Treasurer of California and Member of the Tax Board) even brought this up to her own state yet was ignored.

I was called and threatened multiple times by the state of California causing much distress to my wife and self. I remember getting off the phone the day after thanksgiving and shaking. What do I do? Do they really have the ability to tell me what I need to pay even though I live in Oregon and Amazon was fulfilling orders to California? Should I close shop and send my wife back to work?

I honestly felt bullied by the whole process and am currently in a payment plan but do not have the ability to take a paycheck right now because of the stress of this $693.14 monthly tax back payment (that will last for the next 22 months). I am wanting to buy a new printer for my business that costs only $300 but can't move forward simply because of this tax bill.

Amazon has taken control of remitting future tax payments but I am still at a loss from 2016 and 2017. Plus, if I were to ever open up a shopify site, how could I possibly figure this out on my own? Do I register in all 50 states and which is time intensive and expensive?

Taxes Post Wayfair

While selling on Amazon has been great for my business, over the years it has become more and more challenging and I want to be able to expand into other platforms that currently do not remit taxes to these states. Unfortunately, given the state of affairs I am scared about moving forward even though demand for product is still strong. I love entrepreneurship and am already teaching it to my 3 year old but this future tax problem is ridiculous.

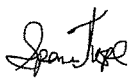
How do we Fix this?

In order to fix this problem, we need Congress to intervene. Small businesses need to be protected from overzealous tax prosecutors and there ought to be a more efficient system in place where technology can solve remission of taxes to these states, not whoever wants to write me a letter and threaten the future of our company that my wife and I have built of the past 5 years. I'm not evading anything, just trying to do the right thing.

Conclusion

For these reasons I urge you to do something to make this process easier for small businesses. I would like to keep my wife at home with our children but the stress and confusion with tax laws in EVERY state makes this nearly impossible.

Sincerely,



Spencer Thorpe
Co-Owner of Drone Speed

Flashback Limited
2179 S. State Street
Ann Arbor, MI 48104
www.flashbackltd.com

The Honorable Andrew N. Kim
Chairman
U.S. House Committee on Small Business
Subcommittee on Economic Growth, Tax and Capital Access
2361 Rayburn HOB
Washington, DC 20515

The Honorable Kevin R. Hern
Ranking Member
U.S. House Committee on Small Business
Subcommittee on Economic Growth, Tax and Capital Access
2361 Rayburn HOB
Washington, DC 2051

Written Testimony of

Zachary Williams, President of Flashback Limited

Hearing on South Dakota v. Wayfair, Inc.: How Mainstreet is Fairing and Whether Federal Intervention is Necessary

February 26th, 2020

Chairman Kim, Ranking Member Hern, and Members of the Subcommittee, thank you for holding this hearing on state taxation. I am honored to offer my perspective as a Maryland and Michigan small business owner, and to share my story with you.

Background

My name is Zachary Williams and I am the President of Flashback Limited, a small business based in Ann Arbor, Michigan. I started my eCommerce business in Columbia, Maryland, before expanding to a warehouse in Michigan, and hiring two employees to staff it. We have a total of three employees including myself. All are provided a living wage, a 401k plan and health benefits.

Back Taxes

I have a certified CPA and tax advisor that I consult with during the normal course of business. It was determined that I should only have sales tax obligations in Michigan and Maryland, the states where my warehouse is located and where I work.

In 2018 I received a letter from the CDTFA (California Department of Tax and Fee Administration) saying that they have determined we have a sales tax nexus in their state as we are an FBA retailer.(Exhibit 1) FBA (Fulfilled By Amazon) means we have sent inventory to Amazon warehouses, which Amazon uses to fulfill orders to their customers. As such, the CDTFA required that we register and file sales tax returns going back to the start of business in the state.

We were stunned. Amazon controls the entire sales process for us. We appealed with the CDTFA stating that Amazon had possession of our inventory and the authority to transfer title, making it a consignment sale under California law.(Exhibit 2) The CDTFA disagreed with this interpretation, stating: "Our legal staff has determined that Amazon is not responsible for the tax due on sales made through Fulfillment by Amazon sellers prior to October 1, 2019. As such, the tax, interest, and any penalty due on your original return filing for the above period remain due."(Exhibit 3) I was shocked that they could disagree, given how clear an unambiguous their law was written, and provide no legal explanation as to why. I can't afford to go to court, so I have little to no recourse.

For reference, Regulation 1569 of the California Code states:

"A person who has possession of property owned by another, and also the power to cause title to that property to be transferred to a third person without any further action on part of its owner, and who exercises such power, is a retailer when the party to whom the title is transferred is a consumer. Tax applies to his gross receipts from such a sale."

Paying these back taxes has significantly affected our business. For the first time since our inception, we posted a net loss. We also had to draw significantly on our line of credit for operations. For the first time in 2 years we were unable to make a profit sharing contribution for our employees. We were also unable to expand into new markets or product lines. Ultimately, we are in a more precarious financial position due to the overzealous actions of the CDTFA, which disregard black letter law.

Taxes Post Wayfair

As a result of the Wayfair decision, I must now file and remit sales taxes in 30 states, not to mention recording dozens of different county and district level taxes for many of those states. It typically takes two full days each month to compile all of the data and submit the filings.

How do we Fix this?

In order to fix this problem, we need Congress to intervene. Small businesses like mine need to be protected from predatory state collection actions. It is unreasonable for states to collect back taxes from out of state retailers, when even professional tax advisors didn't believe the FBA program would create sales tax obligations.

I believe there needs to be a nationwide standard that includes a mandatory one rate per state for out-of-state retailers, instead of requiring retailers to keep track of all tax jurisdictions in all states where they have filing obligations. The State of Louisiana has already implemented such a program for out-of-state sellers called Direct Marketer, and it has drastically simplified our filing in that state. A single rate per state would minimize the burden on retailers by making it simple to calculate, collect, and remit their obligations. Marketplace Facilitator laws in many states are helping to reduce the burden for businesses who only sell on marketplaces (like Amazon, Walmart, or Ebay). However, since we also sell on our own website, we still have complex filing obligations.

Conclusion

I have worked hard to build a responsible business that treats its customers and employees well. States like California seeking back taxes under questionable legal interpretations, and the Wayfair decision creating additional regulatory burdens on my business, have limited the time and monetary resources we have available to grow and reward our hard working employees. For these reasons, I urge Congress to intervene to protect responsible small businesses like mine.

Sincerely,

Zachary Williams

Exhibit 1

STATE OF CALIFORNIA

CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
OUT-OF-STATE OFFICE
3321 POWER INN RD, STE 130
SACRAMENTO, CA 95826
1-916-227-6600 • FAX 1-916-227-6641
www.cdtfa.ca.gov

EDMUND G. BROWN JR.
Governor
MARYBEL BATJER
Secretary, Government Operations Agency
NICOLAS MADUROS
Director

FLASHBACK LIMITED
[redacted]

Letter Date: 13-Dec-2018
Letter ID: L0002184964
Case ID: 707662

Dear Seller:

The California Department of Tax and Fee Administration (CDTFA) has received information that you have inventory that is stored in warehouses or fulfillment centers in California. As such, you meet the definition of a retailer engaged in business in California (Revenue and Taxation Code section 6203) and you are, therefore, required to register with the CDTFA, file sales and use tax returns, and pay tax on sales made to consumers in California.

The CDTFA prides itself on the fair and uniform treatment of all taxpayers, and it is our intent to treat all taxpayers who voluntarily make attempts to correct past reporting errors with the utmost respect and fairness. The CDTFA may, in certain circumstances, relieve penalties imposed in cases where the taxpayer comes forward, registers, and remits the past due taxes and interest.

Please register by January 15, 2019. To register, visit www.cdtfa.ca.gov and select *Register*, then select *Register a New Business Activity or Location*. The start date on your account should reflect the date you began engaging in business in California. You will receive a permit number when your online registration is complete. After registering, please complete the *Registration Confirmation* section below and return it in the enclosed self-addressed envelope. You may also complete this form online by visiting CDTFA online services and select *Respond to Letter/Inquiry* under the Limited Access Functions, and use *the Letter ID* and *Letter Date* listed above. If you need assistance with registering or have any additional questions, please contact our Out-of-State Office at 1-916-227-6600 or email us at OSReg@cdtfa.ca.gov.

California Department of Tax and Fee Administration

REGISTRATION CONFIRMATION:

NAME OF PERSON RESPONDING TO THIS LETTER (please print)	TITLE	DATE
SIGNATURE	TELEPHONE NUMBER ( ) -	
EMAIL ADDRESS	PERMIT NUMBER	

0002184964 01

Case ID: 707662

CDTFA-486 (12-18)
mL1107-1

Exhibit 2

December 29th, 2019

To whom this may concern,

Flashback Limited has filed amended returns for the tax years 2016, 2017 and 2018. The reason for this amendement is due to mis-categorization of sales on the original returns. Specifically, there were sales of property not in our posession and also not in our power to transfer title, making these transactions consignment sales.

Regulation 1569 states:

"A person who has possession of property owned by another, and also the power to cause title to that property to be transferred to a third person without any further action on the part of its owner, and who exercises such power, is a retailer when the party to whom title is transferred is a consumer. Tax applies to his gross receipts from such a sale."

As we neither had posession of the property nor the power to cause title to be transferred to a third person, we are not considered the retailer for this transaction.

A court case is pending, Case No. 19stcv27757, that seeks to further clarify issues regarding Amazon Services LLC and Amazon Fulfillment Services INC and their responsibilty in regards to sales made and title transferred via their services.

Our amended returns now exclude transactions that involved property stored with Amazon Fulfillment Services INC, and title transferred by Amazon Services LLC to consumers, as is appropriate under Sales and Use Tax regulations.

Please advise if any further information is required to finalize the amended returns, and for an appropriate refund to be issued.

Sincerely,

Zachary S Williams 12-29-19

Zachary Williams
President
Flashback Limited

Exhibit 3

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
OUT-OF-STATE OFFICE, SACRAMENTO, CA
3321 POWER INN ROAD, SUITE 130
SACRAMENTO, CA 95826-3893
1-916-227-6600 • FAX 1-916-227-6841
www.cdtfa.ca.gov

GAVIN NEWSOM
Governor

NICOLAS MADUROS
Director

January 30, 2020

Mr. Zachary Williams
Flashback Limited
[redacted]

Re: Flashback Limited
Account Number: 204-325632
Period Begin: May 1, 2016
Period End: December 31, 2018

Dear Mr. Williams:

This letter is in regard to your letter of December 29, 2019, copy enclosed, submitted with amended sales and use tax returns for tax years 2016, 2017, and 2018 to the California Department of Tax and Fee Administration (CDTFA). As detailed below, after consideration of the reason provided in your letter, we are not able to process your amended tax returns filed for these periods.

In your letter you state the amended returns were filed due to a mis-categorization of sales on the original returns. Specifically, you state there were sales of property not in your possession and also not in your power to transfer title, making these transactions consignment sales. Amazon was responsible for the tax.

The CDTFA disagrees with the interpretation you stated above. Our Legal staff has determined that Amazon is not responsible for the tax due on sales made through Fulfillment by Amazon sellers prior to October 1, 2019. As such, the tax, interest, and any penalty due on your original return filings for the above periods remain due.

We understand that a pending lawsuit has been filed regarding the consignment issue. If the court determines that Amazon owes the tax as the consignee then you may get any taxes, interest, and penalties that you paid refunded to you. You need to file a claim for refund with the CDTFA to protect your right to obtain the refund. No refund will be issued until there is a decision by the court. Please refer to our Publication 117[1], *Filing a Claim for Refund,* for important information on how to file a timely claim.

If you have any additional questions or need assistance, please contact me at (916) 227-6631 or by email at *dalia.ascencion@cdtfa.ca.gov*.

Sincerely,

Dalia Ascencion
Senior Tax Representative
Out-of-State Office

Enclosure:
Letter submitted with amended returns, dated December 29, 2019

[1] https://www.cdtfa.ca.gov/formspubs/pub117/#filing

CQC Boutique, LLC
17 Stone Creek Drive
Hawthorn Woods, IL 60047

The Honorable Andrew N. Kim
Chairman
U.S. House Committee on Small Business
Subcommittee on Economic Growth, Tax and Capital Access
2361Rayburn HOB
Washington DC, 20515

The Honorable Kevin R. Hern
Ranking Member
U.S. House Committee on Small Business
Subcommittee on Economic Growth, Tax and Capital Access
2361Rayburn HOB
Washington DC, 20515

Written Testimony of

Denise Rasbid, Owner of CQC Boutique, LLC

Hearing on *South Dakota v. Wayfair, Inc.*: How Mainstreet is Fairing and Whether Federal Intervention is Necessary

March 3, 2020

Chairman Kim, Ranking Member Hern, and Members of the Subcommittee, thank you for holding this hearing on state taxation. I am honored to offer my perspective as a small woman-owned and operated business, and to share my story with you.

Background

My name is Denise Rasbid, the owner and founder of CQC Boutique, LLC, based in Hawthorn Woods, Illinois. Before starting my eCommerce business in 2008, my previous career was in sales, working for a large healthcare company. I retired from corporate life in 1999 after the birth of my twins. In 2002 I was diagnosed with the first of two serious auto-immune diseases which made life more challenging. My second diagnosis came in late 2007. Combined, these two diseases have taken their toll on me every day with side effects ranging from joint and muscle pain, dry eyes and vision problems, numbness and pain in my hands and feet, chronic insomnia, digestive issues, food intolerance and the list goes on. Due to the complications of my diseases it is important to not only work for myself, but also to work from home. It is imperative that I have a schedule that is flexible so if I am having experiencing symptoms, I can adjust my schedule accordingly. Working in eCommerce allows me to do both while also being available for my family.

I started my eCommerce business in 2008 shortly after moving to Illinois. As a stay-at-home mom to three children, I wanted to provide income for our family while also being home with my children. What started as a business grossing just a few thousand dollars annually, rapidly grew

over the years until I was grossing nearly $1 million in annual sales. In the beginning I was selling on eBay and on my own Shopify website. Most of my growth came after an Amazon sales representative recruited me as a third party seller in November 2013. Shortly after beginning with Amazon I joined the Fulfillment by Amazon (FBA) program. I was soon paying myself approximately $60,000 per year for a couple of years due to my Amazon success. I also hired my first four employees, all working part time, at five to twenty hours per week. When I started my business in 2008 I applied for an Illinois sales and use tax license. I have paid my Illinois sales tax as required since 2008.

Back Taxes

In July 2019 I received an email from the state of California (CDTFA) asserting that my business was a "qualifying retailer" for sales into their state between April 1, 2016 and March 31, 2019 because I used the Amazon FBA program to fulfill orders into their state. With the FBA program, I send inventory into Amazon's fulfillment centers, and when a customer purchases one of my products, Amazon fulfills the order on my behalf. Most often Amazon has me send inventory into warehouses nearby. From there, Amazon, at their sole discretion, redistributes the inventory to THEIR warehouses across the country, something most sellers, including myself were never aware of until recently. In the email California urged me to register with the CDTFA by September 25, 2019, file completed tax returns dating back to 2016, and either pay the tax due or apply for a payment plan. California not only asserted that because I had inventory in their state that I not only had physical nexus, but I was also a qualifying retailer. I know now that shipping goods to my home state and having it placed in another state by Amazon, at their direction, doesn't amount to nexus, despite what the states have claimed. The Supreme Court has never found that to be the case in the past, and if I could afford to bring my own case, I know they would see this for what it is, just a shakedown.

I'm the out-of-state small business owner, they are the big scary Government, what chance do I have to successfully challenge them? I also know that while Amazon claimed it was not a retailer (i.e. the store), it actually is one, and they should have been collecting the tax. Not me, and the millions of other sellers who are merely their suppliers. After all, when you compare how a retailer operates in a mall, and how Amazon operates, it becomes pretty obvious Amazon is and always has been the retailer, and should have been collecting the whole time. The store belongs to Amazon, not me. I don't have a retail customer. Amazon forbids contacting customers in order to market products to their customers, something that malls don't do with their tenants, Amazon also controls my inventory and fulfillment, they control the return process – setting the policy and making a determination of when their customers can get their money back outside of it (almost always), and Amazon even keeps my sales proceeds and disburse them only every 14 days, and more. What mall

has the final say in who can return your product? Does the Mall of America tell Apple that it must refund its customers money because the customer is unhappy with their two-year-old iPhone, certainly not, but Amazon does these types of things to sellers all the time. After all, it's Amazon's store and their customer, so Amazon calls the shots, just like Costco does in their stores. But unlike Costco that collects tax in their store, why didn't the states make Amazon collect the tax in theirs, they had nexus, that wasn't the issue? Why did states go out of their way to give Amazon a pass, just so they could squeeze whatever they can out of me? This doesn't seem fair, it doesn't seem constitutional, it doesn't seem legal. It's not, but what can I do about it, go to court in California, or however many other states decide to follow suit?

Realizing I was helpless, I became overwhelmed with fear at the receipt of this email, panic ensued. I had no idea how to start determining what I could possibly owe, or how I would pay for it. When I started making very time consuming calculations, it appeared that I could owe more than I could afford to pay the state, and that was just one state. I also understood I would be told I owe penalties and interest in an undetermined amount. I knew that if I did register, California would then require me to start paying money that I simply did not have. My husband and I weighed all of our options from immediately complying and starting a savings plan, in preparation for when California eventually sends us a "bill" for what they believe we owe, as they have done to so many other sellers. Every day I hold my breath as I look at the mail, knowing that other Amazon sellers are reporting receiving letters from California and other states threatening them to comply with new tax laws. Other sellers I have spoken with have shown me letters and emails with threats of jail time. Sellers have had their bank accounts frozen and levied, and more. And not just by California. California was just the first one to contact me. I expect there will be more states on the way. California always leads the way when it comes to taxes.

Post Wayfair Decision

Unfortunately, my financial success was short lived due to the turmoil caused by the decision in *South Dakota v. Wayfair*, and the fear of back taxes constantly looming over me. As my stress from the new burden imposed by the decision turned into fear of the unknown, I found myself diverting sales away from my independent website and trying to minimize my Amazon sales to reduce my potential risk and exposure. My nearly million dollars in sales has been cut in half in one short year. I paid myself just under $11,000 in 2019 while working 40-60 hours per week. That's just $4.31 per hour for 40-60 hours of work per week! Compare this to paying my one part time employee (working an average of 10-15 hours per week at $16/hour) just under $10,000 in 2019. Today I am no longer the self-reliant businesswoman I once was thanks to the overindulgent enforcement mentality of these states. I am no longer putting money into the college savings accounts for my three children and I am carrying debt on business credit cards of nearly $30,000. The stress is

almost unbearable at times. Instead of trying to grow my business I have felt pressure to stifle it to protect family and what little I have left to show for the fact that I was once a thriving eCommerce business owner.

But I am resilient, and I'm ready to bounce back and build my next eCommerce business, but not until Congress requires the states to make tax compliance easy. Why was it ever decided that the burden of sales tax compliance should be placed on us, when in the 25 years between Quill and Wayfair, the states have done nothing to effectively streamline the process of sales tax. Why doesn't Congress put the burden on them for a change. Congress doesn't need to rewrite the sales tax code, they just need to mandate that the states come up with a 21st century solution to a 21st century problem, instead of forcing us as small businesses to adapt to their medieval one. Thresholds are like plugging the hole of a leaky boat with your finger until you can implement a permanent fix, and they aren't even very effective. Because Amazon's FBA is so crucial to so many eCommerce companies, most states say that the mere use of FBA in one part of your business, negates the economic nexus threshold altogether. For example, I could sell $5,000 of goods to California, $4,900 via Amazon, and $100 via my website. Now even though Amazon will collect sales tax (as of October 2019 – but should have since 2012), the state of California will say that I'm not entitled to their $500,000 threshold because I used FBA, meaning I should be registered and collecting $7.25 of tax on the website sales. It's pointless in today's modern eCommerce environment to have a threshold if the states are just going to ignore because you use the one dominant marketplace platform and their mandatory service called FBA, which is the only way to get the benefit of your product being featured as Prime. But the states don't get that, or they do, but they don't care.

How Do We Fix This?

I believe the only way to fix this is by asking Congress to intervene. Congress can and should stop individual states from bullying and threatening small businesses. In today's world, a law from 1948 called the Tax Injunction Act prevents me from asserting my core constitutional rights in my home state of Illinois. So anytime a state wants to bully me, I am required to go through years of litigation, hiring attorneys that are typically reserved for Fortune 500 companies, no matter how baseless. All a state has to do is send me a piece of paper, and if I don't fight them, they can get a judgement. This law prevents me from seeking sanctuary in my home state, and it needs to be fixed.

I know that small businesses want to be in 100% compliance, but most do not know how to do that affordably and without complicated and time-consuming processes. I feel that a national tax clearing house for small businesses owning their own website is the solution in addition to

requiring marketplace facilitator laws for online marketplaces such as Amazon, Ebay, Poshmark etc. in every state that requires the collection of sales tax.

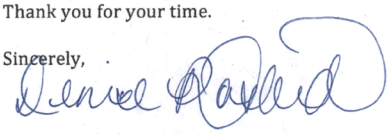
However, I know that a streamlined solution to sales tax will take time for Congress to figure out. But what won't take time is for Congress to pass an emergency tax sanctuary law for small business owners who are facing tax assessments from foreign states. Give us the protection to assert our core constitutional rights and let us defend ourselves from states who trample all over them. Allow me the right to seek protection from a federal court in my home state when a foreign state rely on bullying, not sound administration, in order to fill their coffers. Amend the tax injunction act and allow small businesses the right to sanctuary and due process in their home state federal courts.

Conclusion

I am respectfully asking you to sponsor and support an emergency small business tax sanctuary bill, that allows small sellers to seek the right of sanctuary in their home federal court. This cannot wait. This must be done now and with urgency! While a more simplified system for the collection and remittance of sales tax for small businesses is of the utmost priority, we know it won't happen overnight. But we can't let states crush the small business movement in the meantime. So many women-owned business owners and people with disabilities, like me, have found a path to self-reliance in eCommerce, it would be a tragedy if states were free to crush our opportunities because Congress was asleep at their post. Until a technologically sound solution to the sales tax issue can be implemented, small businesses needs to be given an immediate life-raft to navigate these choppy, shark-infested waters of interstate commerce, or else we will drown.

Thank you for your time.

Sincerely,



Denise Rasbid
Owner
CQC Boutique, LLC

BEDFORD CAMERA & VIDEO

3 March 2020

Written Testimony of Jeff Beauchamp, President, Bedford Camera & Video, Inc

Chairman Kim, Ranking Member Hern, and Members of the Subcommittee, Thank You for holding this hearing on state taxation. I am honored to share our perspective from a small business.

Bedford Camera & Video was started in 1974, in Springdale, AR with one employee. Today the company a Woman owned small business has 8 locations, across Arkansas, Oklahoma and Missouri. Now with over 100 associates and great community involvement. In the past ten years we have focused a lot on our eCommerce business in addition to the Brick and Mortar locations in an effort to reach a broader population. This allows us to reach photo enthusiast across America and compete with other out of state large retailers.

For years we faced a huge unfair advantage as our out of state competitors were not charging customer's sales tax. Thanks in part to the South Dakota v. Wayfair case, many of the states have been able to pass laws dealing with collection of these uncollected taxes and we are now on a more even playing field. However, we now find ourselves trying to stay up to date with the laws in 50 states, dollar thresholds, transaction counts, and other specific requirements. Collecting correct tax, then submitting that to multiple state Finance departments, and submitting required paperwork has made it very labor some, and challenging. Likewise the inconsistency between states is often puzzling at best.

Our hope would be that Congress could in bipartisan fashion create a standard that all states could work from. I personally believe most states would actually prefer some consistent standard, knowing that all business owners would be clear on the standards for Nexxus. Additionally a central processing center that could handle all online data from a range of eCommerce software platforms would allow business owners a way to expedite the transactions to all the required states, and hopefully create a volume and ease of business that would lower our current cost.

I am aware that this is a huge and complicated issue, but as online sales continue to grow and retailers face more and more obstacles it becomes a very worthy and essential discussion. The Urgency for small business owners is real, and requires Congress to intervene on our behalf.

My Thanks to each of you, and your leadership, wisdom and passion for our country.

Sincerely,

Jeff Beauchamp, President J Beauchamp

Bedford Camera & Video, Inc
610 West Emma Ave
Springdale, AR 72764

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610 W. EMMA AVE.
SPRINGDALE, AR 72764
479.751.1212

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TULSA, OK 74133
918.252.3652

BEDFORD
CAMERA & VIDEO
3110 NORTH MAY AVE.
OKLAHOMA CITY, OK 73112
405.943.1047

BEDFORD
CAMERA & VIDEO
2550 SOUTH CAMPBELL AVE.
SPRINGFIELD, MO 65807
417.883.8300

BEDFORD
CAMERA & VIDEO
11400 NORTH RODNEY PARHAM RD.
LITTLE ROCK, AR 72212
501.224.2020

BEDFORD
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4204 W. GREEN ACRES RD. STE 120
ROGERS, AR 72758
479.636.2424

BEDFORD
CAMERA & VIDEO
3277 N. COLLEGE AVE.
FAYETTEVILLE, AR 72703
479.521.1212

BEDFORD
CAMERA & VIDEO
2801 ROGERS AVE.
FORT SMITH, AR 72703
479.785.1212



February 28, 2020

Representative Andy Kim
1516 Longworth House Office Building
Washington, DC 20515

Representative Kevin Hern
1019 Longworth House Office Building
Washington, DC 20515

Dear Representative Andy Kim and Representative Kevin Hern,

Thank you for your work to bring attention to the important issue of burdensome remote seller tax laws by states across the country.

I am the Founder and CEO of Quick Ship Electronics, a company of over 50 people. We sell a range of Open Box and Refurbished electronics and operate two facilities in Woodinville and Indianapolis with a 30,000 SQ FT presence. Since being founded in 2007, Quick Ship Electronics has shipped over one million devices all around the world and maintains a 99.8% customer satisfaction rate.

In the post-Wayfair tax environment, I have spent significant time and money to be in compliance with all relevant state and local tax jurisdiction requirements. This investment has become extremely burdensome to my Company, taking away resources that would alternatively be used in growing the business. As a small and medium sized business, (SMB) we were an early adopter of these new compliance requirements back in late 2018. Although it has been a few years, the process is still extremely difficult and cumbersome. So difficult in fact, I have lost key employees, including my long time, trusted CPA and Controller, who had been with us for over five years.

For me, the cost of compliance has been more than originally anticipated. In order to appropriately comply with all state remote seller laws, my compliance costs in 2019 alone were above $100,000. On top of these general compliance costs, I had an extra $90,000 tax liability paid to the State of California, based on confusions with collection in April 2019. These types of requirements and additional costs are untenable for a company of my size, let alone smaller businesses. I could not imagine just starting out or trying to start a new business in the current tax environment.

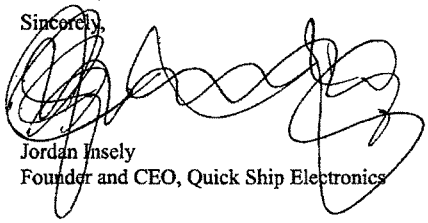
The uncertainty the current tax environment has created is making it even more difficult to run my business. The state laws are constantly in flux and are changing year to year, month to month, and with the various jurisdiction and rates, I anticipate a somewhat regular occurrence of $15,000 - $20,000 additional costs for new views on how a tax law is interpreted by a given state. I understand there have been some efforts to organize states into similar tax regimes or with similar definitions, like that of the Streamlined Sales and Use Tax Agreement (SST), however I haven't seen much benefit from those efforts.

Although I have been able to continue to steadily grow over the last 13 years as a SMB, many other businesses have not been as fortunate. Even during a normal business climate, succeeding as a SMB is extremely difficult. Now in this next to impossible tax environment, it makes operating a business that much harder. With the increase in tax obligations, compliance costs, and overall uncertainty, I may be forced to take drastic steps, which could include reductions in operations, personnel, and maybe even facilities, in order to survive.

I applaud your efforts to draw attention to this important matter. Congress should be actively working to find a solution at the federal level to provide certainty to small businesses and to encourage streamlined compliance across the country.

Thank you for your attention to this important matter. Please let me know how I can be of further assistance.

Sincerely,



Jordan Insely
Founder and CEO, Quick Ship Electronics

The Honorable Andrew N. Kim
Chairman
U.S. House Committee on Small Business
Subcommittee on Economic Growth, Tax and Capital Access
2361 Rayburn HOB
Washington, DC 20515

The Honorable Kevin R. Hern
Ranking Member
U.S. House Committee on Small Business
Subcommittee on Economic Growth, Tax and Capital Access
2361 Rayburn HOB
Washington, DC 20515

Written Testimony of

William Kingston, CEO of Crazy Dog T-Shirts
Hearing on *South Dakota v. Wayfair, Inc.*: How Mainstreet is Fairing and Whether Federal Intervention is Necessary

February 25, 2020

Chairman Kim, Ranking Member Hern, and Members of the Subcommittee, thank you for holding this hearing on state taxation. I am honored to offer my perspective as a small New York State small business owner, and to share my story with you.

I am a small business owner operating a t-shirt company from upstate New York. My company started as a one man operation out of my mother's basement, but has grown into a large warehouse with dozens of employees. Although I would like to attribute this growth to my own grit and determination, I have to admit that it would not have been possible to grow this business from my hometown without eCommerce platforms. These platforms allow us to sell to customers all over the country in a trusted, secure marketplace. The majority of our sales are on these eCommerce platforms.

Amazon in particular has generated the bulk of our sales and we have made it a priority to capitalize on that marketplace. We learned early on that Fulfillment by Amazon (FBA) was integral to success on Amazon. FBA items are first shipped to Amazon's warehouse, and amazon will then ship that item to a customer when it sells. Having items stocked as FBA is essential for generating sales because customers trust that the item will arrive and rely on the fast free shipping. Deciding to enroll our inventory in FBA was a simple decision as it meant we could grow our business.

I was never aware that enrolling in the FBA program would put me at risk of violating tax law. This was never communicated to me by Amazon, and our New York State accountant did not bring up this potential liability until after the Wayfair decision. The situation seemed pretty simple to us, we are only located in New York State so we were only responsible for paying NYS sales tax.

We are now very concerned about the current tax situation. State prosecutors have contacted us demanding payment on tax we were never aware we would have to collect. If we were to comply with the demands of every state, we would be put out of business. What's worse, is that I've come to learn that my accountant was right. I didn't have nexus because of Amazon, because the courts, including the Supreme Court, have routinely held mere placement of goods into the stream of commerce, is not nexus creating, under the Due Process Clause. I did not store goods in California, I did not ship goods to California, I was never even aware, or had the ability to be aware, that my goods were in California until years later, when the state contacted us. If California knew this was happening, why didn't they tell Amazon to at least warn us? This alone is a violation of 5th amendment due process clause, but again, the states don't care about the violation of constitutional rights, especially when it comes to out-of-state businesses.

And, under state law, when it comes to Amazon, I'm not even the retailer, California's tax regulation 1569 plainly states that Amazon would have been. However, California and other states have no regard for the constitutional protections of small businesses, or for their own black letter law. Even after California's Treasurer, and former State Sales Tax Board Member, openly criticized California's actions of going after small sellers for these back taxes, stating it was inconsistent with state and federal law, California continued in its efforts to recover illegal back taxes from thousands of sellers like myself.

There is even a lawsuit against the state of California for failing to impose an obvious tax collection against Amazon, who has nexus in the state. California refused to enforce that plainly written law, giving Amazon a tax pass, choosing to recover their losses by unconstitutionally persecuting small business sellers around the country. To add insult to injury, the Attorney General of Clalifornia is actively defending Amazon's failure to pay taxes, trying to prevent the state from recovering the Billions in taxes Amazon owes to the state, not the small sellers. The conflict of interest is obvious, Amazon has 20,000 jobs in the state of California, and I'm just a guy in upstate New York.

I can't afford to defend myself in complex litigation in California, like the Fortune 500 can. But I am also without a remedy in my home state. No matter how nefarious a state's actions are, we as small businesses don't even have a right to assert our own constitutional rights in our own state court, after the Supreme Court's Hyatt decision, and according to a Virginia court in the Crutchfield case, and certainly no right to seek constituttional protection from a Federal Court in my home state, due to the State Tax Anti-Injunction Act. I'm without any remedy when states like California "go rogue" and decide to persecute me as a small out-of-state business. As a small business owner, I should be able to go to my own federal court and seek basic constitutional protection from aggressive states that disregard our constitution entirely and have no regard for the burdens they place on small interstate commerce sellers like myself. That is why, as a part of this review, we also urge Congress to create a small seller exception to the State Tax Anti-Injunction Act, so that we are not forced to pay absurd tax bills, and litigate in foreign states, in order to assert our basic constitutional rights.

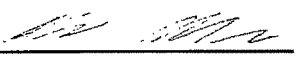
Today, keeping track of sales tax is a major challenge to a small business like ours. The NYS accountant we've used for years is unfamiliar with tax law in any of the other states, so we must rely on our own staff and online services to attempt to figure out the situation. I certainly can't afford to hire a Big 4 accounting firm with multistate expertise, or other firms reserved for the Fortune 500, yet that seems to be what is expected of me?

For every state we need to spend valuable time figuring out if we have nexus, how we register for sales tax, how much sales tax we owe, and how to pay. To give you an example, California sales tax takes hours to register, requires physical letters and weeks of time for confirmation, uses a unique online system for payment that is different from all other states, and constantly sends misleading emails about non-existent messages. It occupies a significant portion of my top employees' time just to stay as compliant as possible. In some states, our sales tax amounts to less than $100 a month so we lose more money trying to submit a return than actually paying sales tax.

We want to stay as compliant as possible and would be fine if our sales generated income for any state. However, we can't be expected to navigate the current system with our small team nor can we handle state prosecutors trying to collect on non-existent sales tax. The system needs to change to put these undue burdens off of us.

Sincerely,

2/25/2020

X 

William Kingston
CEO of Crazy Dog T-Shirts
Signed by: William Kingston

US-Mattress.com®
1-800-455-1052 how to buy a mattress™

The Honorable Andrew N. Kim
Chairman
U.S. House Committee on Small Business
Subcommittee on Economic Growth, Tax and Capital Access
2361 Rayburn HOB
Washington DC 20515

The Honorable Kevin R. Hern
Ranking Member
U.S. House Committee on Small Business
Subcommittee on Economic Growth, Tax and Capital Access
2361 Rayburn HOB
Washington DC 20515

Written Testimony of
Joe Nashif, President US-Mattress.com
Hearing on South Dakota v Wayfair, Inc.: How Mainstreet is Fairing and Whether Federal Intervention is Necessary

March 3rd, 2020

Chairman Kim, Ranking Member Hern, and Members of the Subcommittee, thank you for holding this hearing on state taxation. I am honored to offer my perspective as a Michigan small business owner, and to share my story with you.

I'm seeking your assistance with respect to California's unconstitutional overreach for sales tax from our Michigan business which has no physical nexus in California. (We've never had a problem with any other state.)

About Us
US-Mattress is a Brighton, MI, retailer of mattresses established in 2001. This business literally began in my basement at night while I worked at General Motors during the day. We were the first online retailer of mattresses and remain a leader with annual revenues of approximately $40 million. We proudly employ 70 people with good wages & benefits. We also contribute to the community, most notably to the Michigan Humane Society with over $500,000 to date.

Back Taxes Demand from State of California
US-Mattress has physical presence in Michigan where we're based and in North Carolina where we have a furniture store. We ship our products via ***national common carriers*** who offer their shipping services to thousands of other companies.

California asserts that our national common carriers 'transformed' and became *selling agents* because they entered homes, set up furniture and removed old mattresses – all standard services offered by a variety of common carriers like Ryder, JB Hunt, UPS, XPO Logistics and many others. **California assessed sales taxes of $6,179,146 going back to 2007.**

US-Mattress.com®
1-800-455-1052 how to buy a mattress™

Our business has no past or present physical presence in California (no leases, property, employees, inventory, etc.) We've always operated with the widely held understanding that physical presence was required to establish nexus. (US-Mattress then began collecting sales taxes in states as required, including California, per the Wayfair court decision.)

Furthermore, per California statute the entire tax case is administered, appealed and determined within their agency, the CDTFA. No state court relief is available to us until if and when we lose our appeals, pay the $6 million tax (which is not possible), *and then* sue in state court for a refund. So we're in an impossible position.

This never collected sales tax assessment is beyond our ability to pay and therefore threatens our business with bankruptcy and we seek your help to defend our Michigan business. Our company is a nice size for California; we're big enough for sizable revenue, yet too small to adequately defend ourselves.

We have spent over $750,000 so far defending ourselves, and we're on the way to top $1 million in 2020. This time and money drains our limited resources away from productive investments in Michigan infrastructure and personnel – better jobs!

Needed Relief
States have a significant resource advantage vs remote retailers who are small businesses. We need federal protection to bar remote taxing states from (1) applying their own standards to cross border tax matters where the taxpayer has no independent redress (state court, federal court, or transfer cases back to retailer's home state.)

I urge you to act quickly to provide legislative protective assistance because businesses like mine are being ruined by ongoing actions such as this.

Sincerely,

Joe Nashif
President

MCR Medical
3341 Centerpoint Drive Suite C
Grove City, Ohio 43123

The Honorable Andrew N. Kim
Chairman
U.S. House Committee on Small Business
Subcommittee on Economic Growth, Tax and Capital Access
2361 Rayburn HOB
Washington, DC 20515

The Honorable Kevin R. Hern
Ranking Member
U.S. House Committee on Small Business
Subcommittee on Economic Growth, Tax and Capital Access
2361 Rayburn HOB
Washington, DC 20515

Written Testimony of

Wesley W. Almond, Vice President of MCR Medical

Hearing on South Dakota v. Wayfair, Inc.: How Mainstreet is Fairing and Whether Federal Intervention is Necessary

February 26, 2020

Chairman Kim, Ranking Member Hern, and Members of the Subcommittee, thank you for holding this hearing on state taxation. I am honored to offer my perspective as a small [STATE] small business owner, and to share my story with you.

MCR Medical is a small business with 100% of our sales coming from eCommerce transactions. We started, as a husband and wife company in a spare bedroom with the intent to secure additional income to offset personal healthcare needs. Currently, we employ 15 colleagues and partner with several other small businesses to continue our growth.

Due to the South Dakota vs Wayfair, Inc. ruling, companies who meet the state mandated threshold for transactions and/or revenue have to file to collect sales tax. Last year, we needed to comply in 27 states, therefore we followed suite. The threshold rules are constantly changing and states are adopting new mandates at different times, so we hired attorneys and tax automation compliance software to assist with being compliant. In 2019, we spent over $45,000 on compliance in 27 states. This does not include our direct labor, time spent on tax compliance discussions rather than working towards growing our small business, nor the sales tax collected and remitted to the states. This has been a daily burden for our ownership team.

Once we filed in the appropriate states, a select few started to send us threating letters regarding back taxes. We have seen several states attempt to collect back taxes because Amazon had inventory in their state through Amazon's Fulfilled By Amazon (FBA) program. As a seller, we send product to FBA warehouses and Amazon elects where to receive the product, then without notice or knowledge, they internally move the product to warehouses in states they determine are geographically appropriate for the customers buying trends. The unannounced move, places inventory in warehouses in their states, therefore they claim we have a physical presence. We sell nationwide, but only qualify for a physical presence in Ohio.

We respectfully ask that Congress consider a more efficient way for a blanket sales tax across all states and eCommerce platforms. The financial cost of maintaining compliance in each state is a burden to our company.

Thank you in advance for your consideration,

Wesley W. Almond



MacKinney Systems

4411 E. State Hwy D, Suite F
Springfield, MO 65809
417 882 8012

www.mackinney.com

Burden of collecting sales tax for multiple state and local jurisdictions

I'm the CEO of a small (around $5 million in sales) software business in Springfield, MO with eight full time and three part time employees. For the last several months, two of us have spent most of our time researching tax laws regarding software sales in all the other states where we have customers, changing the software we use to run our business to help in billing customers for state and local taxes for multiple states and thousands of local tax jurisdictions, registering with multiple states (some states take hours) and learning how to navigate their tax filing software, building spreadsheets of payments received since Oct 1, 2018 and calculating state and local taxes that should have been billed and collected originally, invoicing customers for sales tax for those past sales, filing sales tax forms, and paying sales tax we have not yet collected to avoid additional penalties and interest, refunding sales taxes to our customers in IL who all qualify for a loophole in IL tax law that we had not discovered when we invoiced them, and monitoring our sales for each state monthly to see if we are going over the threshold that requires us to collect their sales tax. All this effort was caused by a judge overriding Congress and deciding that states should now be allowed to force businesses in other states to collect sales tax for internet sales to customers in their state, and SCOTUS upholding the decision 5-4. The decision has the impact of a law but lacks the detailed regulations that would be in a law, so each state makes their own decision regarding thresholds, what is taxable, who is exempt, etc. Kansas went so far as to claim a zero dollar threshold so we are collecting, filing, and paying sales tax for them even though we only have five customers in their state.

Current Sales Tax on remote sellers unfair to small states and small business

I understand the fairness issue of internet sales being tax free while local stores have to charge sales tax, but the burden on small businesses like ours to deal with the multitude of tax laws and bookkeeping requirements is horrible. The Wayfair decision also hurts small states because they are much less likely to have businesses reach the $100,000 threshold that requires them to collect sales tax than a large population state, thus they get less tax revenue per dollar of internet sales than the large states. It also hurts small businesses who spend much more per dollar of revenue collecting, filing, and remitting sales taxes than large businesses. We have filed and paid monthly sales taxes of under $10 to some states which probably cost us ten times that much to collect, file, and remit the payment.

Wayfair and Income Tax on Remote Sellers

The Wayfair decision has also emboldened states to try to force remote sellers to pay income tax based on their internet sales to customers in that state. This results in double taxation for the same income since the home state of the seller also collects income tax, and it increases the paperwork burden tremendously when you have to file income tax for many states instead of just your home state. For pass-through corporations, some states require every stockholder of the business to file an income tax return and the corporation to provide the information to those stockholders that they need to file. For many stockholders, the cost of filing the tax return will be

much more than the actual tax they have to pay to many of the states. A huge business can handle the additional overhead but for us, it keeps valuable employees from doing their real jobs. Legislation at the federal level that defines nexus for all states (preferable a very tight limit) would rein in these states that are trying to tax every business that has a customer in their state. The constitution delegates regulation of interstate commerce to the federal government to prevent situations like this.

Local Tax Jurisdictions adding to the Burden on Small Business

If it wasn't bad enough that states are trying to tax businesses located outside their jurisdiction, now local tax jurisdictions are joining the gold rush. It's a huge burden for a small business to file in every state where they make a sale, but if we also have to file and pay income taxes to counties, cities, stadium districts, fire protection districts, etc, the problem will be untenable. We got a long questionnaire from the City of Philadelphia a few weeks ago asking for information that will allow them to assess us for income tax and other cities are doing the same. Just answering the questionnaires is time consuming and costly.

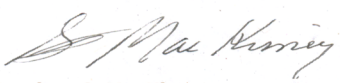
Example of Dealing with a State that Requires Income Tax from Remote Sellers

We have been fighting with Wisconsin for several years as they try to make our corporation and each shareholder file franchise/income tax returns going back to 2009 (and they can ask for more years since there is no statute of limitations in WI for failing to file a return). We had no idea that we were supposed to file and pay income tax to Wisconsin since we are a Missouri corporation and our shareholders pay income tax there.

Other states have also tried to convince us to file tax returns but have backed off after we responded, but Wisconsin has added penalties and interest so the amount they claim we owe is now more than double the original tax they invoiced us for. When we refused to pay, they filed tax levies against our customers to coerce them into paying our tax bill and deducting it from any amounts they owe us. I can see this movement growing until all fifty states are trying to make every business (and shareholder in the case of a sub-chapter S corporation) file and pay taxes, killing small businesses who can't handle the additional overhead like a large business can. Legislation defining nexus for all states and limiting their ability to tax out of state businesses would be good for the economy and for the competitiveness of small business.

We also need protection from local tax jurisdictions who now think that they can force us to pay income tax on the income earned on any sales to a customer within their jurisdiction.

Sincerely,



Stephen C. MacKinney

CEO, MacKinney Systems, Inc.
smackinney@mackinney.com



Robin Vos
Assembly Speaker
Wisconsin
President, NCSL

Martha R. Wigton
Director
House Budget & Research Office
Georgia
Staff Chair, NCSL

Tim Storey
Executive Director

March 2, 2020

The Honorable Nydia Velázquez
Chairwoman, House Committee on Small Business
2302 Rayburn House Office Building
Washington, DC 20515

The Honorable Steve Chabot
Ranking Member, House Committee on Small Business
2408 Rayburn House Office Building
Washington, D.C. 20515

Re: Letter to House Small Business Subcommittee

Dear Chairwoman Velázquez and Ranking Member Chabot:

On behalf of the National Conference of State Legislatures (NCSL), I write to oppose any legislation that would impose federal requirements for the collection of taxes from remote sellers. Federal legislation in this area would create costly bureaucracy and regulations, while undermining the diversity of state policy and overall fiscal federalism. Any act of Congress to preempt states from enforcing their own laws will create market distortion that will result in higher income and property taxes as the sales tax will no longer be a viable revenue source. A one-size-fits all approach would only stifle the ability of states to implement the tax schemes best suited for their economies. NCSL is disappointed that it was not invited to provide the state policy perspective on implementation of sales tax collection post-*Wayfair* before the subcommittee during the March 3 hearing and hopes that it will have the opportunity in future hearings on this subject.

NCSL led the effort to prepare states for the eventual conclusion reached in *Wayfair*–that states can collect sales taxes from remote sellers and the requirement of physical presence in the state set forth in *Quill v. North Dakota* was no longer good law. For the nearly two decades before the *Wayfair* decision, states have been working collaboratively to ensure that remote sales tax implementation is done properly should they be afforded the opportunity. This collaboration did not cease after the court's ruling. Shortly after the *Wayfair* decision, NCSL adopted its Statement of Principles for State Sales Tax Collection and Administration (also attached). These principles, which were shared with state leaders, have the goal of assisting state policymakers in preparing for enforcement of new or revised sales tax laws on remote sellers and marketplace facilitators, providing key implementation elements to streamline the collection process and promote efficiency, and ensuring that all processes are transparent to all parties.

NCSL, through its State and Local Taxation (SALT) Task Force—a bi-partisan forum comprised of state

legislators that has analyzed state tax policy issues for 20 years—created the Marketplace Facilitator Working Group in 2019. This working group was comprised of a sub-set of SALT Task Force members, as well as public and private sector members who are experts in this complex issue, members of the Multistate Tax Commission, the Federation of Tax Administrators and the Streamlined Sales Tax Board. The group drafted and the NCSL Executive Committee approved state model legislation (also attached) that serves to further guide states in this process. This resource represents an exhaustive and inclusive year-long effort to help reduce the burden on states and businesses as they continue to fine-tune remote sales tax collection efforts.

NCSL as a bipartisan organization representing all 50-state legislatures and those of the territories is uniquely positioned to assist Congress in assessing the remote sales tax collection process and assuaging its concerns regarding the impact on the small business community. Working in concert with the business community, states have already demonstrated leadership and expertise in addressing the erosion of their tax bases and federal involvement would only stymie that progress. NCSL encourages all businesses–small, medium, and large–to communicate concerns to their state policymakers to assist their state in implementing sound tax policy. This collaboration will instill confidence and serve to build stronger relationships between state legislators and the business community.

We appreciate the subcommittee's thoughtful and transparent consideration of this issue and look forward to working with your offices to address your concerns. We respectfully request that this letter be submitted for the record for the 3 March 2020 hearing "South Dakota v. Wayfair, Inc.: Online Sales Taxes and their Impact on Main Street." If you have any further questions regarding this issue, please feel free to contact Erlinda A. Doherty, Director of the Budgets & Revenue Committee, at 202.624.8698 or erlinda.doherty@ncsl.org.

Sincerely,

Tim Storey

Tim Storey
Executive Director
National Conference of State Legislatures

FIONA MA, CPA
STATE BOARD OF EQUALIZATION

August 31, 2017

[redacted]
Cabinet Secretary
Office of Governor Edmund G. Brown Jr.
State Capitol
Sacramento, CA 95814

RE: Amazon

Dear Ms. Bosler,

In May of 2016, [redacted] President of [redacted] LLC based out of Delaware, contacted my office regarding the State Board of Equalization's audit. [redacted] LLC is a Fulfillment by Amazon (FBA) retailer and has orders fulfilled by Amazon's California fulfillment centers. Amazon offers the following services to its FBA retailers: storage of inventory in Amazon warehouses, packaging, delivery, customer service, and returns and an option to assess/collect sales taxes to a state. The utilization of Amazon's California fulfillment centers, as well as Amazon's FBA services, creates nexus in California and a tax reporting obligation for FBA retailers per Assembly Bill 155 (Charles Calderon).

Once [redacted] was aware that he was required to remit sales tax to California, he immediately started complying. He expressed concern that he was being punished unfairly for being billed for sales taxes over the prior 3years that he did not charge/collect but should have. [redacted] contends that this was "unequal" treatment while most FBA retailers who are having orders fulfilled by Amazon in California are not remitting California sales tax.

[redacted] raises an important issue for the State of California: California is losing billions of dollars in tax revenue from FBA retailers who are not remitting state sales taxes. Earlier this year, my office and I travelled with David Gau, Executive Director of the Board of Equalization to Amazon's Seattle Headquarters to meet with Kurt Lamp, Vice President of State Tax and Tax Ops on January 13, 2017.

During the meeting we learned:

- More than 50% of Amazon's California inventory is from 3rd party sellers that use Amazon's FBAs
- Amazon employs 30k+ employees in California
- Amazon has fulfillment centers in Sunnyvale, Tracy, and San Bernardino with planned expansion in Sacramento and the Central Valley

455 GOLDEN GATE AVENUE, SUITE 10500, SAN FRANCISCO, CA 94102 • TEL: 1-415-557-3000 • FAX: 1-415-557-0287
1201 K STREET, SUITE 710, SACRAMENTO, CA 95814 • TEL: 1-916-445-4081 • FAX: 1-916-324-2087
EMAIL: Fiona.Ma@boe.ca.gov
WEBSITE: www.boe.ca.gov/Ma

Amazon gives their 3rd party sellers two options:

1. They can request Amazon to assess/collect state sales taxes however the responsibility to file the actual state sales tax returns remains with the 3rd party seller or
2. The 3rd party seller retains the responsibility to assess/collect/remit state sales taxes. There is an internal Amazon website where 3rd party sellers can track where Amazon ships their products around the U.S.

According to a March 2017 report by Capitol Forum, California lost the most in foregone sales taxes, with missing sales tax revenues of $431 million. Among 5,000 of the top sellers using FBAs, the sales tax compliance rate for cases in which products were stored in fulfillment centers and sold in the same state was a poor 5.5 percent. (https://thecapitolforum.com/wp-content/uploads/2017/03/Amazon-2017.03.21.pdf)

We really do not have good figures to even estimate how much Amazon is selling in California however, we know that a vast majority of FBA retailers are not assessing/collecting/remitting the required sales taxes owed to California. It is also inefficient, if not impossible for the California Department of Tax and Fee Administration (CDTFA) to properly audit thousands of FBA retailers around the U.S. who are having orders fulfilled through Amazon fulfillment centers in the State of California.

Considering the extensive nexus created by Amazon's California fulfillment centers and FBA services, I recommend that the Governor request Amazon to:

1. Assess/collect/remit sales tax on ALL of the FBA retailers who are fulfilling orders with Amazon in the State of California.
2. Assess/collect/remit the LOCAL sales taxes on all Amazon-owned products. It is our understanding that Amazon only assesses/collects/remits the 7% California state level sales tax portion.

We discussed the possibility of accomplishing #1 and #2 with Mr. Lamp back in January, 2017 and hope they would be amenable to furthering the discussion with our office. By doing so, CDTFA would only have to audit one company and compliance would significantly improve. The State of California would also see billions of dollars of additional revenue that could fund vital programs and services.

Thank you for your attention to this matter.

In Peace and Friendship,

Fiona Ma, CPA
Member, Board of Equalization-District 2

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EMAIL: Fiona.Ma@boe.ca.gov
WEBSITE: www.boe.ca.gov/Ma

FIONA MA, CPA
TREASURER
STATE OF CALIFORNIA

March 8, 2019

The Honorable Gavin Newsom
Governor
State Capitol
Sacramento, CA 95814

RE: Providing Relief to Third-Party Sellers Who Utilize Online Retail Platforms from Unlawful and Unconstitutional Actions by the California Department of Tax and Fee Administration

Dear Governor Newsom:

I want to bring to your attention actions by the California Department of Tax and Fee Administration (CDTFA) against third-party sellers that utilize online retail platforms that are unlawful, unconstitutional and impractical. I write this letter to you in an effort to protect small businesses, both within California and worldwide, from the cost and compliance burdens related to taxes that they are neither well-positioned to collect nor legally responsible for under California law[1].

As a matter of sound policy and consistency, I urge you to ensure that third-party sellers whose goods are sold via online retail platforms — many of whom are women and minority-owned businesses — are not subject to sales tax, either prospectively or retroactively. It makes no sense to expose these small businesses to the risk of actions by CDTFA, as they are not the ones responsible for uncollected sales tax under state law, nor is it constitutionally permissible to impose such burdens on these businesses.

Therefore, I respectfully request you direct CDTFA to cease this activity through the issuance of a CDTFA Special Notice and through the promulgation of an article in CDTFA's quarterly Tax Information Bulletin, both of which may be specifically transmitted to the affected third-party sellers, as well as the general public.

Your ability to do so is plain and unmistakable. Under Article V, Section 1 of the California Constitution, "The supreme executive power of this State is vested in the Governor. The Governor shall see that the law is faithfully executed." Government Code Section 12010

[1] Cal. Code Regs., tit. 18, § 1569 provides: "A person who has possession of property owned by another, and also the power to cause title to that property to be transferred to a third person without any further action on the part of its owner, and who exercises such power, is a retailer when the party to whom title is transferred is a consumer. Tax applies to his gross receipts from such a sale."

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specifically provides: "The Governor shall supervise the official conduct of all executive and ministerial officers." As you know, the CDTFA answers to you directly through the California Government Operations Agency. Your authority to intervene is clear.

Background

There are millions of third-party sellers who use online retail platforms, such as Fulfillment by Amazon (FBA), allowing their goods to be sold online. Through this innovative approach, online retail platforms have opened their retail marketplace websites to anyone in the world willing to take a chance in business.

However, online retail platform providers typically do not allow these third-party sellers to retain customer information, engage in direct marketing, resolving customer service disputes or dictate return policies. These online retail platforms dictate these terms by contract. These online retail platforms typically also handle the storage, packaging, payment processing, logistics, and delivery of the products. By doing so, they step into the shoes of the third-party seller in every meaningful respect—including, as relevant to this discussion, the exclusive ability to collect and remit sales tax. The third-party sellers lack fundamental privity of contract with their supposed retail customers, as the customers are bound by the online retail platform's contractual terms and conditions, not the third-party seller's.

Despite the online retail platform's level of control over third-party seller transactions, CDTFA claims that third-party sellers, not the online retail platforms, are retailers under state law, and therefore have nexus because goods were stored in warehouses in this state. However, this argument fails (to hold) because the inventory was directed to California by the online retail platform, not the third-party seller. The third-party sellers were often never even told that their goods would end up in California, and even if they were told, the shifting of goods to various warehouses was solely at the online retail platform's discretion, not the third-party seller's. The fact that the online retail platform's terms and conditions dictated that legal title was retained by the third-party seller is factually misleading because these online retail platforms retain substantial constructive ownership rights, such as the ability to seize and even destroy inventory without a judgement or lien from a court.

Further, the Supreme Court has addressed the issue of consigned inventory being placed in a state by another party, saying that the lack of purposeful availment, and the mere placement of goods into the stream of commerce does not establish nexus under the Due Process clause. This overrides any argument that physical presence creates nexus, as both Commerce Clause nexus and Due Process clause nexus are required to establish nexus, as reinforced in Wayfair,[2] and

2 The principal inquiry in cases of this sort is whether the defendant's activities manifest an intention to submit to the power of a sovereign. In other words, the defendant must "purposefully avai[l] it-self of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws." As a result, any property that Amazon moves into California is done so at Amazon's direction, especially when Amazon didn't even tell them, doesn't amount to due process nexus... J. McIntyre Mach. v. Nicastro, 564 U.S. 873 (2011).

"It must be remembered, however, that although this case and Asahi both involve foreign manufacturers, the undesirable consequences of Justice Brennan's approach are no less significant for domestic producers. The owner of a small Florida farm might sell crops to a large nearby distributor, for example, who might then distribute them to grocers across the country... [T]he farmer could be sued in Alaska or any number of other States' courts without ever leaving town." Id.

Wayfair did not address Due Process clause nexus in any meaningful way, as the physical presence test was purely a construct of the Commerce Clause.

For example, when a consignee sells a good that has been consigned to it for sale, the consignee is obligated to collect the sales tax, not the consignor. Online retail platforms that offer fulfillment services operate in the same way, and therefore are considered to be a consignee under California law. This is supported by Cal. Code Regs., tit. 18, § 1569. Adopted in 1933 and amended in 1969, it states:

> "A person who has possession of property owned by another, and also the power to cause title to that property to be transferred to a third person without any further action on the part of its owner, and who exercises such power, is a retailer when the party to whom title is transferred is a consumer. Tax applies to his gross receipts from such a sale."

With the enactment of AB 102 [Ch. Stat. 2017] all lawful rules and regulations established by the BOE were continued in force to CDTFA.

Furthermore, the fact that third-party sellers that utilize an online retail platform's fulfilment program did not direct their warehousing activity to the state, limits the state's ability to hold them accountable for taxes, since the online retail platform directed their goods to California, not the third-party sellers.

Action by CDTFA Against Third-Part Sellers

I believe CDTFA is ignoring the plain reading of California law. Instead, they are pursuing these small businesses with threats of audit, claiming they owe eight years of back taxes, and even going so far as threatening felony prosecution and imprisonment.

The below is a description of a sample of emails and letters sent by CDTFA to third-party sellers:

In March of 2018, CDTFA Tax Technician, Lelania Fowler informed third-party sellers via email that if they choose not to voluntarily comply to obtain a sellers permit that some of the possible outcomes is "any person who violates this part with intent to defeat or evade the reporting, assessment, or payment of a tax or an amount due required by law to be made is guilty of a felony" [Emphasis added]. Ms. Fowler went on to say "Each offense shall be punished by a fine of not less than five thousand dollars ($5,000) and not more than twenty thousand dollars ($20,000) or imprisonment for 16 months, two years, or three years, or both" [Emphasis added]

Respondent has not established that J. McIntyre engaged in conduct purposefully directed at New Jersey. Recall that respondent's claim of jurisdiction centers on three facts: The distributor agreed to sell J. McIntyre's machines in the United States; J. McIntyre officials attended trade shows in several States but not in New Jersey; and up to four machines ended up in New Jersey. The British manufacturer had no office in New Jersey; it neither paid taxes nor owned property there; and it neither advertised in, nor sent any employees to, the State. Indeed, after discovery the trial court found that the "defendant does not have a single contact with New Jersey short of the machine in question ending up in this state." App. to Pet. for Cert. 130a. These facts may reveal an intent to serve the U. S. market, but they do not show that J. McIntyre purposefully availed itself of the New Jersey market.

- In September of 2018, CDTFA Business Tax Representative Nicole Campbell sent a letter to a third-party seller stating, "a person who is engaged in business as a seller in this state without a permit is in violation of the law and each officer of a corporation may be guilty of a misdemeanor." [Emphasis added]

- On January 24, 2019, Laine Fong for the CDTFA Out of State Office sent an email to a third-party seller that states "the CDTFA can issue determinations for up to eight years when issuing a Notice of Determination (billing) for an unreported period."

- In February of 2019, CDTFA Tax Technician, Becky Smith, sent a letter to a third-party seller stating that "a person who is engaged in business as a seller in this state without a permit is in violation of the law and each officer of a corporation may be guilty of a misdemeanor." [Emphasis added]

CDTFA's approach is inefficient and ineffective, evidenced by the fact that thirty-eight percent of FBA third-party sellers are located in China, demonstrating the impracticalities of individual seller enforcement. Further, CDTFA's current approach, is unconstitutional considering well-established Supreme Court precedent.[3]

But the real travesty is that these actions by CDTFA, while unlawful, unconstitutional and impractical are also causing many of the third-party sellers to go out of business and into bankruptcy.

Many of these third-party sellers are beyond the reach of the State of California. In many cases those that are within the reach of CDTFA will go bankrupt if forced to pay back sales taxes. I recently received a letter from and spoke with Mindy Wright, a third-party seller who lives in Washington State. On January 24, 2019, Mindy wrote a letter to me that said:

> "Recently in last December we received a letter from California's CDTFA asking us to comply with their tax rules and we did. After signing up with California business license department we are now collecting and remitting sale tax starting 1-1-2019. We did not realize that the CDTFA would go after us for the uncollected sales tax and income tax up to 8 years. Now we are facing tens of thousands of dollars in back taxes, penalties and interest. This alone will force us out of business and into bankruptcy. We just do not make much money and we are distraught and frightened."

A copy of her letter is attached. Mindy Wright is not alone. I have received countless such letters and have spoken with many third-party sellers who are in similar situations.

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[3] In Pike v. Bruce Church, Inc., 397 U.S. 137 (1970), the Supreme Court in establishing a balancing test where state's local interests are weighed against the burden on interstate commerce held that, "where the statute regulates evenhandedly to effectuate a legitimate local public interest, and its effects on interstate commerce are only incidental, it will be upheld unless the burden imposed on such commerce is clearly excessive in relation to the putative local benefits. Huron Cement Co. v. Detroit, 362 U. S. 440, 362 U. S. 443. If a legitimate local purpose is found, then the question becomes one of degree. And the extent of the burden that will be tolerated will, of course, depend on the nature of the local interest involved, and on whether it could be promoted as well with a lesser impact on interstate activities." In this case the nature of the impact is the biggest burden on interstate commerce and the lesser impact, which is also substantially more efficient and effective for states that wish to achieve their local interest is marketplace collection, a remedy that the state could have exhausted prior to Wayfair.

The CDTFA's current treatment of small third-party sellers is not only wrong, it has the effect of unduly impacting minority and women owned small businesses. As Congresswoman Robin Kelly (D-IL), Co-Chair of the Diversifying Tech Caucus said, "We're in the middle of a black entrepreneurship renaissance fueled by the internet and ecommerce."[4] We have an obligation to protect small online businesses and to ensure they are not crushed by a wrong-headed and retroactive administration of the state's tax law.

Putting an unbearable tax burden on many small kitchen-table enterprises trying to make a living on these online retail platforms simply does not make sense, and it is not consistent with our state laws, public policies, or our values.

Action by the Governor is Needed

As a former Member of the FTB Board and a former Member/Chair of the State Board of Equalization, I know that it is important to the integrity of the tax system that when an error by the state is identified, it should be corrected. I, therefore, urge your action to spare those who will lose their business if they have to comply with CDTFA's demands. Let's continue to lead the way for entrepreneurs everywhere by setting a tone of appreciation for our nation's newest crop of entrepreneurs. We can do this by making it clear that no third-party seller can be accountable for sales tax, going forward or back, as a result of selling goods on an online retail platform.

Thank you for your attention to this important matter.

In Peace & Friendship,

FIONA MA, CPA
California State Treasurer

cc: Members, California State Assembly
Members, California State Senate
Ana Matosantos, Cabinet Secretary, Office of the Governor
Anthony Williams, Legislative Affairs Secretary, Office of the Governor
Che Salinas, Chief Deputy Legislative Secretary for Operations
Marybel Batjer, Secretary, Government Operations Agency
Nick Maduros, Director, California Department of Tax and Fee Administration

[4] https://blog.aboutamazon.com/working-at-amazon/in-celebration-of-black-history-month-amazon-hosts-minority-owned-small-business-discussion-on-capitol-hill

FIONA MA, CPA
TREASURER
STATE OF CALIFORNIA

The Honorable Andrew N. Kim
Chairman
U.S. House Committee on Small Business
Subcommittee on Economic Growth, Tax and Capital Access
2361 Rayburn HOB
Washington, DC 20515

The Honorable Kevin R. Hern
Ranking Member
U.S. House Committee on Small Business
Subcommittee on Economic Growth, Tax and Capital Access
2361 Rayburn HOB
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Written Testimony of

Fiona Ma, California State Treasurer

Hearing on *South Dakota v. Wayfair, Inc.*: How Mainstreet is Faring and Whether Federal Intervention is Necessary

March 3, 2020

Chairman Kim, Ranking Member Hern, and Members of the Subcommittee, thank you for holding this hearing on state taxation. I am honored to offer my testimony as California State Treasurer.

Introduction

The California State Board of Equalization (SBOE) was created in 1879 to oversee property taxes. In the 1930's, income tax, sales tax and fuel tax were added to the duties of the SBOE. I was elected as the 34th California State Treasurer in November 2018. Prior to becoming State Treasurer, I served as an elected member of the SBOE representing District 2 from 2014-2018, and served as Chairperson from March 2016 to March 2017. As Chairperson, I asked for three outside audits, asked the Governor to assign a trustee, asked the Attorney General to assign us legal counsel, and testified at Assembly and Senate hearings. On July 1, 2017, the Legislature and the Governor transferred all tax/fees administration to a new agency called the California Department of Tax and Fee Administration (CDTFA).

Nexus

I believe Amazon and other online retailers/marketplace facilitators that have sold products into California since September 2012 had the obligation to assess and collect sales taxes. Regarding Amazon sales, Amazon had nexus since they stored inventory in their warehouses; as well as packaged, delivered, and provided other customer services and returns. The third-party supplier that participated in the Fulfillment by Amazon (FBA) program did not know where their products went, who or where the products went to, the amount that was ordered, or when the products were purchased. Similar to consignment stores, the retail store (consignee) that sells products is the party responsible to collect and remit the sales tax to the taxing authority and then remits the agreed-upon amount back to original owner (consignor).

Historical Perspective

In September 2011, AB155 (C. Calderon) was signed into California law that required online sellers to collect sales taxes starting in September 2012. In May 2016, I was contacted by a Fulfillment by Amazon (FBA) retailer based in Delaware that complied; however, he felt he was being punished unfairly for being billed for 3 years in back taxes that he did not charge/collect but should have according to the SBOE. This retailer felt this was "unequal" treatment since most FBA retailers who had orders fulfilled by Amazon in California were not remitting California sales taxes.

On January 13, 2017, members of SBOE leadership, members of my team, and I travelled to Amazon's Seattle Headquarters to meet with Amazon's tax executives. After the transfer of the tax/fees authority from the SBOE to the new CDTFA, I felt compelled to write to Governor Brown's Cabinet Secretary on August 31, 2017, summarizing our Seattle meeting on January 13, 2017 and recommended Governor Brown request Amazon to:

1. Assess/collect sales tax on ALL of the FBA retailers who are fulfilling orders with Amazon in the State of California.
2. Assess/collect/remit the LOCAL sales taxes on all Amazon-owned products. It is our understanding that Amazon only assess/collects/remits the 7% California state level tax portion.

Sometime after July 1, 2017, Amazon confirmed at a legislative hearing that they turned over the personal information of all its FBA merchants whose inventory wound up in California. CDTFA then sent letters to those merchants assessing current and back taxes (going back 6 to 8 years) including threats of criminal incarceration. I again felt compelled to write a letter to the new Governor Newsom, dated March 8, 2019, stating how I felt the action by the CDTFA against third party sellers that utilized online retail platforms were unlawful, unconstitutional and impractical. **As a part of my official testimony for the record before this Subcommittee, I am including a copy of my letter to the Governor, as well my letter to his Cabinet Secretary, for your reference.**

After the South Dakota v. Wayfair, Inc. case on June 21, 2018, I sponsored AB 147 with Assemblywoman Autumn Burke and Senator Mike McGuire requiring all retailers and marketplace facilitators, whether located inside or outside of California, to collect all local and state sales/use taxes for sales exceeding $500,000 effective April 25, 2019. I urged the Governor to sign AB 147 and apply the assessment/collection law prospectively only since AB 147 clarified the intention of state law moving forward. Unfortunately, the Governor signed the bill, but then incorporated a provision that allowed the CDTFA to assess/collect back taxes up to 3 years in his 2019 Budget. This has caused more angst and confusion amongst third party sellers who never collected the sales/use tax to begin with and are now seemingly on the hook for extraordinarily high current and back taxes. These sellers do not even have control over which states Amazon ships their products to, so they would never know they were not complying with states' laws in the first place.

Finally, please know that California is not the only state to take this back tax position against sellers. I have received reports of small merchants in California being subject to similar tax assessments from Washington, Massachusetts, Minnesota and Wisconsin. Therefore, I urge you to take action that would guarantee small merchants the right to seek injunctive relief from erroneous tax assessments, in their respective home states.

Thank you for the opportunity to share my comments.

In peace and friendship,

Fiona Ma, CPA
California State Treasurer

MBW Northwest Incorporated
Brandon & Mindy Wright
Owners and Operators
2131 NE 12th Street
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The Honorable Andrew N. Kim
Chairman
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Written Testimony of
Brandon and Mindy Wright, MBW Northwest Incorporated
Hearing on South Dakota v. Wayfair, Inc: How Mainstreet is Fairing and Whether Federal Intervention is Necessary

February 25th, 2020

Chairman Kim, Ranking Member Hern, and Members of the Subcommittee, thank you for holding this hearing on state taxation. I am honored to offer my perspective as an Online, home based small business owner and operator.

Background

My name is Brandon Wright and my Wife is Mindy Wright, we are based in Renton Washington. During the last great recession in 2009, we experiencing setbacks with our jobs and our financial situations was not looking good. We both knew that we had to do something to pick ourselves up and we realized since we were spending more time at home that we should start a "work from home" business. We saw an opportunity to start an online retail store, since anyone anywhere could just make a go at it. We started listing used items that we could find for free off Craigslist on Amazon.com. We were determined to make it and we kept on going. After 1 year, we took $300 of my bar tendering tip money and invested it into new products that we bought wholesale. 2 years in and we saved up $6000 of our profit and reinvested into more products and product lines. Amazon was the best place for online retailers and Amazon said if we want to grow our business, use their Fulfillment By Amazon program. So in 2011 we sent our first shipment to Amazon's FBA centers. After 4 years of pursuit we were able to quit our fulltime jobs and we were living the American dream. Amazon kept encouraging us to send more to their FBA Centers and by 2016 we sold over 1 million in revenue out of basement and garage. We continued this path and we were proud bona fide online retailers. We chose to keep our business model recession proof by keeping it a home based business. We were happy, optimistic and had 2 beautiful little girls. 2019 would be a different story for us.

Back Taxes

In 2018 we received a letter from the state of California's CDTFA stating that we needed to register our business with the state of California to start collecting and remitting sales tax. They gave us a deadline and being good, honest people we saw no reason not to do as they request. On January 3rd of 2019 we registered our business to comply. About 3 weeks later we received a letter that we needed to correct our start date to when we first sent items FBA centers in California which was in 2011. We also were informed that we needed to send the CDTFA all info regarding how much sales were made in the state of California since 2012. We realized what they wanted was us to pay all uncollected sales taxes from every order in California since 2012. We woke up to a frightening nightmare that we were being shaken down for well over $100,000. Even though we did well on Amazon, selling over a million a year, we were just making a modest living of about $180,000 a year for both of us. The amount of tax burden and tax documentation needing to be prepared would easily bankrupt us. It was a dark time for us and it still is. Our story got out and we became the poster child for this online sales tax issue. Since we are "old school online sellers working from home" the actions or lack of actions by both Amazon and the CDTFA would bankrupt us and force us out of business. We wrote a letter to the California's state treasurer Fiona Ma asking for here help. She replied as she knew this was wrong. We ended up traveling to California to meet with the CDTFA and Fiona Ma to confront the CDTFA and plea with them. Although we made our voice heard, we are still being called and threatened by the CDTFA to comply or face worse liabilities.

Taxes Post Wayfair

Since 2019 we knew that our business was no longer sustainable with all these tax issues, we were frightened of the fact if just one state could impose back tax liabilities, what could happen of the majority of states were to follow in California's footsteps. We estimated that we could possibly have a burden well over $500,000 with all states combined on back taxes alone. Also, how do we manage collecting and remitting sales taxes to all the states that Amazon is not doing for their 3rd party sellers? This alone would be impossible task for a husband and wife operated business. Registering business licenses in all 50 states, collecting and remitting sales taxes realistically would just not be possible for us or anyone but the large corporations, therefore we have decided to quit online retail in fear of being tax evaders. The Wayfair decision is the genocide for small online retailers.

How do we fix this

In order to fix and solve this problem we need Congress to take action. Small businesses should not have to go through what we have. Congress needs to enact laws to protect small businesses from over aggressive and ridiculous tax state and federal prosecutors from pre Wayfair tax collection. Congress needs to enact laws to force Amazon and other online market places to have integrated tax facilitators for all 50 states and territories.

Conclusion

I urge you to hear our story. The Wayfair decision has been detrimental to my family but we are strong Americans and we will not live in fear of back taxes or lack of hope. We continue to pursue new ventures but we refuse to not sale direct to our customers online due to this online tax issue. As of October 1st 2019 the market place facilitator is in effect but our business MBW Northwest is dead. In November 2019 we launched a new company Lil Advents LLC which is much different business model from our previous. We still cannot sell direct to consumers from our own website due to the daunting

online tax requirements that the Wayfair has imposed for collecting and remitting sales tax for all states but we can sell on Amazon moving forward without the fear of being tax evaders.

Sincerely,

Mindy Wright
Brandon Wright

Brandon and Mindy Wright



The Wright Family : Brandon, Daisy, Mindy & Ruby