



FOR IMMEDIATE RELEASE
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Contact: Sean Neary/Meaghan Smith
(202) 224-4515

Floor Statement of Senator Max Baucus (D-Mont.)
In Opposition to the Internet Sales Tax Bill
As prepared for delivery

Mr. President, I rise today to urge the Senate not to move forward on the Marketplace Fairness Act. This bill forces small businesses across the country to spend time and resources they should be using to create jobs, jumping through new bureaucratic hoops.

In Montana, it forces our small businesses to play tax collector for other states, with absolutely no benefit to them. Instead of slapping more red tape on our small businesses, we need to be supporting their work to create jobs and get our economy going. Let me be very clear, this bill is bad for business and bad for jobs.

This bill is not ready for debate on the Senate floor. It has not been completely thought through. It is full of unintended consequences that could seriously harm America's small businesses.

Supporters of the Marketplace Fairness Act claim this bill would level the playing field between Main Street businesses and the out-of-state businesses by forcing both to collect sales taxes from customers. The bill's sponsors claim this is "fair."

The reality however, is this legislation is anything but fair to America's small businesses.

This legislation doesn't help businesses expand and grow and hire more employees. Instead, it forces small businesses to hire expensive lawyers and accountants to deal with the burdensome paperwork and added complexity of tax rules and filings across multiple states.

Our vanishing downtowns are in a crisis. We must find ways to revitalize Main Streets across America by supporting our small retailers. In doing so, we foster economic growth and job creation in our communities.

Let me just read you one of the hundreds of letters I have received from small business owners in Montana and across America who are opposed to the Marketplace Fairness Act.

"Dear Senator Baucus, at a time when the economy is just recovering, the pending internet sales tax legislation will cost small business jobs, reduce consumer demand, [and] reduce e-commerce innovation.

"As you know, TicketPrinting.com is the largest private employer in Wheatland County...

“We expect this legislation to cost 13 to 20 jobs in one of the poorest counties in the United States, where a job means everything. Rather than rewarding the thousands of small businesses for their innovation and our hard work, Congress will be taxing the job engine of the economy and reducing jobs across the nation. Sincerely, Lance Trebesch.”

There are mom and pop businesses like Mr. Trebesch’s across the country asking for our help.

Unfortunately, this bill does not provide the help they need. It will not solve the challenges facing Main Street. Instead, the Marketplace Fairness Act only creates new challenges that will put many of America’s small businesses at a disadvantage.

This bill imposes additional burdens and compliance demands on businesses already weighed down by federal and state tax systems that are too complex, too time consuming and too costly to comply with.

I encourage my colleagues to look at this bill very closely. It requires America’s businesses to track thousands of different tax codes in 7,500 different jurisdictions if they do online business out-of-state.

Look at this bill closely. It will force small businesses to hire expensive accountants and implement costly systems to deal with the complexity of collecting sales tax on purchases made in other states.

And who is policing all this? The bill, as written, has no audit or enforcement protection. As a result, it opens up small businesses to aggressive out-of-state tax collectors. States will be taxing businesses beyond their borders.

This bill helps states target those businesses that are truly operating out-of-state and subjects them to the same broken and confusing state sales tax systems that are currently in place. Now tell me; how does this grow our economy? How does this create jobs?

The promises of simplification in the Marketplace Fairness Act are a ruse. First of all, they provide no simplification to the businesses that are already collecting sales taxes in multiple jurisdictions. Those businesses are not even considered in this bill. They’re left out.

Second, the bill offers no real simplification for the businesses that will now be required to collect sales taxes. It only adds complexity with no resources for guidance.

This bill does not streamline the 7,500 different tax rates.

It does not require the states to agree on definitions of taxable and exempted products.

It does not establish standard requirements for electronic filing.

It does not establish a central location for registration or filing.

It does not offer uniform forms and paperwork.

The list goes on and on.

Even more concerning, this bill does not establish one audit system for all states. Businesses will be exposed to audit by all 50 states. So any state can decide at any time it wants to audit a business beyond its borders.

This bill does not even establish any rules or procedures for dispute resolution. Got a problem with a tax collector in a state across the country? Good luck. You'll have to work it out with that state's court system.

The bill sponsors tell us not to worry. They say that computer software can calculate the sales taxes owed, collect the money due, and file the reports with the states by linking to the seller's website.

Is offering a business the chance to pay someone else to calculate their taxes for them really what passes for simplification? And those software providers cannot protect the business from exposure to audit, collection and enforcement by 50 different states.

Still worried? The bill sponsors tell us they will exempt businesses that have one million dollars or less in sales to other states where sales taxes are not being currently collected.

Why this threshold? Studies show that the burden of collecting sales taxes on the very smallest are the highest. It costs approximately 13% of the tax collected for these small sellers to comply.

As a result, they are not profitable tax collectors for the states. What about the business with one million and one dollar in sales? Are they somehow a more efficient tax collector?

These are not just empty fears. Businesses call me exasperated with current state law collection requirements. Last Friday, I received a call from the director of a farmers' cooperative. He explained that many states exempt farmers from sales tax on certain goods. But the laws vary greatly by state on what items qualify for exemptions.

Businesses selling to farmers already spend a lot of time determining what qualifies for exemption and what does not. They spend even more time tracking exemption certificates.

The director explained that "If the Marketplace Fairness Act becomes law, it appears that a regional agribusiness, which might occasionally make internet sales to farmers in states outside of its territory, would have to invest just as much time and effort into studying and complying with the sales tax laws of far-flung states, as it does in the half dozen states where it has facilities."

"The burden of such compliance would clearly outweigh the benefits of occasional sales," he said.

This legislation is ripe with unintended consequences.

Let me give you another example — a key loophole in this bill is that states get to decide what is and what is not taxable.

A state could decide that stock trades are taxable goods or services. Then, when that state's resident purchases shares through his broker, that Wall Street firm will be responsible for registering as a business for sales tax purposes, collecting the sales tax, and remitting the tax to the state.

True, states have the authority to decide what is and isn't taxable today — even without this bill. But, right now the only way to collect taxes on transactions with out-of-state businesses is through use taxes.

If states now can require out of state businesses to collect on their behalf, there is an incentive to expand the items that are taxable.

The Marketplace Fairness Act is going to make it very desirable for states to start taxing and collecting on all sorts of services – not just the financial world, but also on services provided by attorneys, architects, engineers and accountants.

By not asking the states to do anything to simplify their systems in return for the benefit of having out-of-state business collect taxes for them, we are giving a carte blanche to states to impose even more taxes on business.

The Marketplace Fairness Act is also an abdication of the responsibility given to Congress under the Commerce Clause. We have the duty to recognize that the state sales tax systems are still too complicated and would burden interstate commerce if imposed on more businesses.

The Finance Committee is committed to tackling these issues to provide real relief to America's families and small businesses. We have held more than thirty hearings on tax reform, including one specifically dedicated to state tax issues such as the Marketplace Fairness Act. And I have affirmed repeatedly to Senators Enzi and Durbin that the Finance Committee would work with them to mark-up the bill in the next work period.

Circumventing the committee process allowed this bill to come to the floor full of so many unanswered questions.

Avoiding the committee process quashes any chance to improve this bill. Evading the committee process denies the chance to provide a fair playing field among businesses and reduce the heavy burden imposed by state compliance.

I know some may dismiss my concerns as just coming from a non-sales tax state. Granted, I am always proud to protect Montana businesses.

But this is not a Montana-only issue. Nor is it an issue just for states without sales taxes. Lance Trebesch of TicketPrinting.com and Main Street business owners across America show us that our interests are tied. We need to stop burdening America's small businesses with more compliance costs and figure out ways to help them grow.

I urge you to vote against cloture. Do not give small businesses in your state more regulations and more risks. Do not set your Main Street businesses up to be audited by other states' tax collectors.

Give the members of the Finance Committee the opportunity to make this bill work and make it fair. I urge you to vote against this motion so that we can do so.

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