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## **Wyden Statement at Finance Committee Hearing Examining the Impact of *South Dakota v. Wayfair* on Small Business** *As Prepared for Delivery*

This morning the Finance Committee meets to discuss a major source of headaches and costs for small businesses around the country today — online sales taxes.

Running a small business has always been a big challenge, and these days the impact of inflation is making it even more challenging. Small businesses are also dealing with the impact of the 2018 Supreme Court ruling in the case *South Dakota v. Wayfair*.

In the *Wayfair* decision, as it's known, the Court gave states a green light to force small businesses into becoming tax collectors when they sell online — collecting taxes even for states where those businesses had no brick-and-mortar presence.

Small businesses had never been responsible for this kind of tax collection before. Almost immediately after the ruling came out, states across the country began passing these tax collection laws.

Small businesses in my home state of Oregon, which doesn't have a sales tax, were among the first to speak out about the costs and complexities they were facing for the first time. Speaking out alongside them were people in New Hampshire and Montana, also states without sales taxes. That's why Senator Hassan has been a leader on this issue, as well as Senator Daines.

But it's not just a burden in states without sales taxes. It's a burden for small businesses everywhere.

Sales taxes in America are extremely complicated. Forty-five states and hundreds of localities have different laws for sales taxes. Different tax rates. Different regulations for who collects taxes. Different rules and definitions for taxable products.

In Illinois, you'll pay sales tax on a Snickers bar, but not on a Twix. If you take up sewing in New Jersey you're in for some confusion. Yarn bought for art projects will get taxed, but yarn for sweaters — that's tax free.

After the *Wayfair* decision, small businesses are on the hook for managing that complex web of laws. They're essentially forced into buying costly software and hiring consultants to get it all straight.

My view is, as long as the *Wayfair* ruling stands, the Congress ought to step in and give small businesses some relief. That ought to start with exempting small businesses that have revenues under a certain threshold. And Congress ought to create clear, standardized rules that lay out what states can require of small businesses outside their borders. That's what Senators Hassan, Shaheen, Merkley and I sought to accomplish when we introduced the *Online Sales Simplicity and Small Business Relief Act*.

If Congress fails to act, you're going to see increasing numbers of Oregon small businesses chased and hassled by authorities from Texas, Florida or California over tax liabilities they can't effectively dispute. This is a conflict the Congress ought to help prevent. Otherwise, my view is, you're going to find that Oregon and other states won't be interested in helping these actions against our residents move forward.

The bottom line is that small businesses have it plenty challenging today just trying to keep their doors open. The family-owned furniture makers, tool and die shops, clothing boutiques — they shouldn't be forced into spending big on sales tax consultants and software. This committee has a bipartisan interest in helping small businesses get ahead, and this is an opportunity for us to lower their costs and save a lot of headaches.

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