

1 **JOINT RESOLUTION URGING CONGRESS TO SUPPORT**
2 **EQUITY AND SALES TAX FAIRNESS**

3 2015 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Wayne A. Harper**

6 House Sponsor: Steve Eliason

8 **LONG TITLE**

9 **General Description:**

10 This joint resolution of the Legislature urges the United States Congress to pass
11 legislation for fair and constitutional collection and remittance of state and local sales
12 and use taxes by both in-state and remote sellers.

13 **Highlighted Provisions:**

14 This resolution:

- 15 ▶ urges Congress to pass, without delay, federal legislation for the fair and
16 constitutional collection of state and local sales and use taxes;
- 17 ▶ urges that Congress consider the following principles and ideas when drafting the
18 legislation:
 - 19 • utilizing state-provided or state-certified tax collection and remittance software
20 that is simple to implement and maintain;
 - 21 • immunity from civil liability for retailers utilizing state-provided or state-
22 certified software in tax collection and remittance;
 - 23 • tax audit accountability to a single state tax audit authority;
 - 24 • elimination of interstate tax complexity by streamlining taxable good categories;
 - 25 • adoption of a meaningful small business exception so that small businesses that
26 sell remotely are not adversely affected by the legislation; and
 - 27 • fair compensation to the tax collecting retailer; and



- 28 ▶ affirms that, through passage of the legislation, Congress will:
- 29 • foster consistent standards for in-state and remote sellers who are obligated to
- 30 collect state and local sales and use taxes, providing equal, consistent, and fair
- 31 treatment among traditional brick and mortar retailers, brick and click retailers,
- 32 catalogue retailers, and Internet only based retailers; and
- 33 • require similarly situated purchasers to pay the same sales and use tax rates,
- 34 regardless of which type of retailer they make their purchases from and
- 35 regardless of where that retailer is located.

36 **Special Clauses:**

37 None



39 *Be it resolved by the Legislature of the state of Utah:*

40 WHEREAS, United States Supreme Court decisions in National Bellas Hess v.
 41 Department of Revenue, 386 U.S. 753 (1967) and Quill Corp. v. North Dakota, 504 U.S. 298
 42 (1992), require a seller to have physical presence in a taxing state before the state may require
 43 the seller to collect and remit sales and use taxes on transactions that occur within that state;

44 WHEREAS, the United States Supreme Court also declared in the Quill Corp. v. North
 45 Dakota decision that Congress could exercise its authority under the commerce clause of the
 46 United States Constitution to decide "whether, when, and to what extent" the states may require
 47 sales and use tax collection and remittance on remote sales;

48 WHEREAS, states and localities that use sales and use taxes as a revenue source may
 49 not collect revenue from some portion of remote sales commerce;

50 WHEREAS, since 1999, various state legislators, governors, local elected officials,
 51 state tax administrators, and representatives of the private sector have worked together to
 52 develop a streamlined sales and use tax system currently adopted in some form in 24 states
 53 under the Streamlined Sales and Use Tax Agreement;

54 WHEREAS, between 2001 and 2002, forty states enacted legislation expressing their
 55 intent to simplify the states' sales and use tax collection systems, and to participate in
 56 discussions to allow for the collection of states' sales and use taxes;

57 WHEREAS, the actions of these states provide justification for Congress to enact
 58 legislation to allow states to require remote sellers to collect the states' sales and use taxes;

59 WHEREAS, any federal legislation should be fair to both in-state and remote sellers
60 and purchasers, whether such legislation requires sales and use taxes to be collected on a point
61 of sale or point of delivery basis;

62 WHEREAS, Congress, in considering federal legislation, should consider the following
63 principles and ideas:

64 • utilizing state-provided or state-certified tax collection and remittance software that is
65 simple to implement and maintain;

66 • immunity from civil liability for retailers utilizing state-provided or state-certified
67 software in tax collection and remittance;

68 • tax audit accountability to a single state tax audit authority;

69 • elimination of interstate tax complexity by streamlining taxable good categories;

70 • adoption of a meaningful small business exception so that small businesses that sell
71 remotely are not adversely affected by the legislation; and

72 • fair compensation to the tax collecting retailer;

73 WHEREAS, the Utah State Legislature and other state legislatures have acknowledged
74 the complexities of the current sales and use tax system, formulated varied alternative
75 collection systems, and shown the political will to make changes in their respective sales and
76 use tax systems;

77 WHEREAS, the enactment of legislation by Congress that allows states to require
78 remote sellers to collect the states' sales and use taxes will facilitate the states' ability to enforce
79 their current laws for collecting sales and use taxes on remote sales;

80 WHEREAS, requiring remote sellers to collect sales and use taxes may broaden Utah's
81 sales and use tax base and potentially enable the Utah State Legislature to lower sales and use
82 tax rates;

83 WHEREAS, empowering states to collect sales and use taxes on in-state and remote
84 sales is consistent with the Tenth Amendment to the United States Constitution and is a states'
85 rights issue; and

86 WHEREAS, adoption of hybrid origin sourcing provisions in legislation enacted by
87 Congress will:

88 • create an unlevel playing field between in-state and remote sellers by giving an
89 advantage to those remote sellers located in the lowest rate state;

- 90 • result in a tax increase on all purchasers who make purchases from remote sellers
- 91 located in any taxing jurisdiction with a rate higher than the rate in the purchaser's jurisdiction;
- 92 • require purchasers to pay sales or use tax on certain purchases from remote sellers that
- 93 are currently exempt from sales and use tax;
- 94 • require sellers that make both remote and non-remote sales to have two tax calculation
- 95 systems operating simultaneously;
- 96 • put the sales and use tax revenues of a state that are generated by remote sales into the
- 97 hands of the other states; and
- 98 • likely cause the sales and use revenues to decline as sellers and purchasers develop
- 99 methods to legally circumvent paying sales and use taxes:

100 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah
101 urges the United States Congress to pass, without delay, and the President of the United States
102 to sign, federal legislation that provides for the fair and constitutional collection of state and
103 local sales and use taxes.

104 BE IT FURTHER RESOLVED that the Legislature of the state of Utah urges that, in
105 passing this federal legislation, Congress consider the following principles and ideas:

- 106 • utilizing state-provided or state-certified tax collection and remittance software that is
- 107 simple to implement and maintain;
- 108 • immunity from civil liability for retailers utilizing state-provided or state-certified
- 109 software in tax collection and remittance;
- 110 • tax audit accountability to a single state tax audit authority;
- 111 • elimination of interstate tax complexity by streamlining taxable good categories;
- 112 • adoption of a meaningful small business exception so that small businesses that sell
- 113 remotely are not adversely affected by the legislation; and
- 114 • fair compensation to the tax collecting retailer.

115 BE IT FURTHER RESOLVED that the Legislature of the state of Utah affirms that,
116 through passage of this legislation, the United States Congress will foster consistent standards
117 for in-state and remote sellers who are obligated to collect state and local sales and use taxes,
118 providing equal, consistent, and fair treatment among traditional brick and mortar retailers,
119 brick and click retailers, catalogue retailers, and Internet only based retailers and require
120 similarly situated purchasers to pay the same sales and use tax rates, regardless of which type

121 of retailer they make their purchases from and regardless of where that retailer is located.

122 BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Majority
123 Leader of the United States Senate, the Speaker of the United States House of Representatives,
124 the chair and co-chair of the Senate Finance Committee, the chair and co-chair of the House
125 Judiciary Committee, and the members of Utah's congressional delegation.

Legislative Review Note
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Office of Legislative Research and General Counsel