



NATIONAL CONFERENCE of STATE LEGISLATURES

The Forum for America's Ideas

January 20, 2016

Dear Legislative Leader:

Curtis Bramble
Senate President Pro Tempore
Utah
President, NCSL

Karl Aro
Director of Administration
Department of Legislative Services
Maryland
Staff Chair, NCSL

William T. Pound
Executive Director

In 1992, the Supreme Court of the United States wrote in the *Quill* decision that “Congress can and should” address the remote sales tax collection problem. Since then, Republican and Democratic governors and state legislators have worked in good faith with Congress and have patiently waited for a federal solution, even as we watched our main street businesses and state tax collections suffer from federal inaction. We have offered solutions, including the simplification of tax bases and uniformity of collection administration, and have worked to develop these solutions into bi-partisan federal legislation, including the Marketplace Fairness Act (MFA) and the Remote Transactions Parity Act (RTPA). While the Senate passed MFA in 2013, the House failed to act. After over 15 years of negotiations and numerous congressional hearings, enough is enough. We cannot depend on Congress to heed the calls of their state legislative partners. It is time for the states to take action in their own legislative chambers to solve the remote sales tax collection problem.

The NCSL Executive Committee Task Force on State and Local Taxation (SALT) met in special session earlier this month to discuss and consider the next steps for states in light of Congressional inaction. The SALT Task Force is comprised of prominent legislative leaders and legislators in the area of tax from across the country. We discussed at length possible state legislative proposals that build and expand upon previous state legislation in order to finally bring a close to this almost two decade congressional charade.

The Task Force also heard from a leading legal expert who discussed what states should consider if they plan on challenging *Quill* and solving the issue through the federal courts. With that guidance in mind, the task force reviewed a legislative proposal that compiled the various legislative efforts into a single package. And as most every state has been considering action on this issue, we have attached the legislative package for your consideration.

The four main legislative avenues discussed were: 1) enacting legislation with the intent of ultimately accepting Supreme Court Justice Anthony Kennedy’s invitation of revisiting and reversing the 1992 *Quill* decision (per *DMA v. Brohl*); 2) expanding a state’s definition of nexus to capture more businesses that would be required to collect and remit applicable taxes; 3) expanding collection requirements to marketplace providers; and 4) expanding a state’s reporting and registration requirements.

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As a legislative leader, you understand our frustration with Congress and its unwillingness to solve this issue that is so vital to state fiscal sovereignty. We cannot go through another holiday season where sales with online merchants outpace sales on Main Street because sales taxes are not being collected. States lose billions of dollars in uncollected sales taxes each year and unless we overturn the *Quill* decision either through federal legislation or through the federal courts, sales taxes will soon become an unreliable source of revenue for state and local governments.

Should you have any comments or questions, please feel free to contact Max Behlke, (max.behlke@ncsl.org or 202.624.3586 or Neal Osten, (neal.osten@ncsl.org or 202.624.8660) in NCSL's Washington D.C. Office.

After almost two decades, it is time for Washington D.C. to hear our voice.

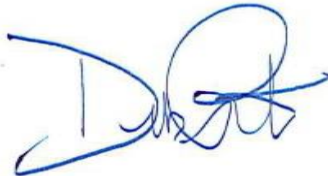
Sincerely,



Senator Curt Bramble
President Pro Tempore, Utah Senate
President, NCSL



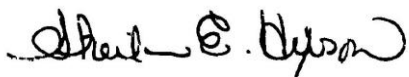
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