STATE AND LOCAL GOVERNMENT TAXATION ISSUES

The IAFF opposes federal efforts to preempt state and local government taxing authority and supports efforts to enable states to collect taxes already owed.

BACKGROUND

Throughout the nation, reduced revenue is forcing states and local governments to undertake drastic measures to balance their budgets. Despite modest improvements in the past two years, revenues for state and local governments remain at historic lows. As of the third quarter of 2011, state revenues were still 7 percent less than when the Great Recession began. This budget hole is so great that at the current 8 percent rate of growth, it would take seven years to get back on track.

The fire service is not immune from these budget realities, and fire fighters have endured layoffs, station closings and brownouts in recent years. As state and local legislators grapple with difficult budgetary choices, it is imperative that the federal government protect the right of jurisdictions to generate revenue.

While much of the revenue shortfall is due to the Great Recession, two other dynamics jeopardize the ability of states and localities to generate revenue and maintain balanced budgets. The first is the dramatic increase in on-line sales that enable consumers to avoid paying state sales taxes. Not only does this reduce sales tax receipts, it also reduces property taxes as traditional “brick and mortar” retail establishments are being forced out of business by competition from out-of-state e-retailers that don’t charge sales tax.

To address this problem, Congress should empower states and local governments to enforce collection of existing taxes on on-line sales. States are already allowed to charge sales and use taxes on goods and services purchased through the Internet, but cannot currently require out-of-state businesses to collect sales and use taxes if they do not have a physical presence in the state. This limitation results in $23 billion in annual lost revenue. Congress should give states and local governments the right to collect—or not collect—sales and use taxes from remote and online sellers.

The second dynamic that could hinder the ability of states and localities to continue generating the revenue they need to provide important public services is a series of federal bills that directly usurp the sovereign rights of states to impose certain taxes. These initiatives, which are often championed by legislators who claim to support federalism and states’ rights, would potentially cost states billions of dollars.

Among the pending legislative initiatives taking away state taxing authority are proposals to:

- Limit a state’s ability to levy business activity taxes on out-of-state companies that do business in the state;
- Preempt state and local governments from levying sales taxes on digital content like downloadable movies and songs;
- Restrict states from taxing income earned by non-residents who work temporarily in that state;
• Preempt state and local governments from imposing new taxes or different tax rates for wireless mobile services, providers, or property, and
• Restrict taxes imposed by state and local governments on car rentals.

In addition to the loss of revenue, proposals to restrict states taxing authority trample on the rights of states and local governments to establish policies that address the specific needs of their citizens. Although tax laws can vary from jurisdiction to jurisdiction, they reflect the decisions of a democratically elected government. The federal government should not preempt the will of the people by imposing one-size-fits-all solutions from Washington.

Just like the federal government, states are grappling with crippling budget deficits that require hard choices. Congress should respect the right of states to establish their own tax policies, and permit them to collect taxes that are owed.

CURRENT LEGISLATION

Senate: S. 1832, the Marketplace Fairness Act
Sponsors: Senator Michael Enzi (R-WY)
           Senator Richard Durbin (D-IL)

Summary: The Marketplace Fairness Act would give states two voluntary options that would allow them to collect the state sales and use taxes that are already owed if they choose.

CONGRESSIONAL ACTION

On November 9, 2011, S. 1832 was introduced in the U.S. Senate.
KEY POINTS

STATE AND LOCAL GOVERNMENT TAXATION ISSUES

- The federal government should protect the rights of state and local governments to generate revenue, which remains at historic lows. As of the third quarter of 2011, state revenues were still 7 percent less than when the Great Recession began. The budget hole for states is so great that at the current 8 percent rate of growth, it would take seven years to get back on track.

- Congress can help by giving states and local governments the right to collect—or not collect—sales and use taxes from remote and online sellers. States are already allowed to charge sales and use taxes on goods and services purchased through the Internet, but cannot currently require out-of-state businesses to collect these taxes if they do not have a physical presence in the state. This tax loophole results in $23 billion in annual lost revenue for states and local governments.

- Collecting online sales and use taxes will help states balance their budgets and improve their economies. Traditional “brick and mortar” businesses face a competitive disadvantage because they must charge sales tax while out-of-state businesses do not. Not only does this reduce sales tax receipts, it also reduces property taxes as more “brick and mortar” establishments go out of business due to the rise of e-commerce and their competitive tax advantage.

- To address this tax loophole, Congress should pass the Marketplace Fairness Act (S.1832). This bipartisan legislation, introduced by Senators Michael Enzi (R-WY) and Richard Durbin (D-IL), gives states two voluntary options that would allow them to collect the state sales taxes that are already owed if they choose. The first option is the Streamlined Sales and Use Tax Agreement, which is supported by 24 states that have already passed laws to simplify their sales tax collection rules. The second option puts in place basic minimum simplification measures states can adopt to make it easier for out-of-state businesses to comply.

- Congress should also oppose several bills that directly usurp the sovereign rights of states to impose certain taxes. These initiatives, which are often championed by legislators who claim to support federalism and states’ rights, would potentially cost states billions of dollars. These initiatives would:
  - Limit a state’s ability to levy business activity taxes on out-of-state companies that do business in the state;
  - Preempt state and local governments from levying sales taxes on digital content like downloadable movies and songs;
  - Restrict states from taxing income earned by non-residents who work temporarily in that state;
  - Preempt state and local governments from imposing new taxes or different tax rates for wireless mobile services, providers, or property, and
  - Restrict taxes imposed by state and local governments on car rentals.

- Federal bills that restrict states’ taxing authority trample on the rights of states and local governments to establish policies that address the specific needs of its citizens. Although tax laws can vary from jurisdiction to jurisdiction, they reflect the decisions of a democratically elected government. The federal government should not preempt the will of state and local jurisdictions by imposing one-size-fits-all solutions from Washington.
Federal Assault on State and Local Governments

Despite renewed interest in federalism and states’ rights at the start of the 112th Congress, there have been an alarming number of federal bills that would preempt the rights of state and locals governments to raise revenue and meet the specific needs of their citizens. Without the sovereign right to levy taxes and fees as they see fit, state and local governments could be forced to cut essential government services like public safety. That’s why the IAFF opposes the following bills:

- **H.R. 1439**, the Business Activity Tax Simplification Act, would allow large businesses and corporations to avoid paying taxes to states and localities. For the first time ever, states and localities would be prohibited from imposing existing taxes on legitimate business activity by creating a new physical presence rule, which would significantly weaken the current “economic nexus” standard. As a result, H.R. 1439 would limit state and local governments from keeping their own tax systems, and would reward large profitable corporations for making business decisions designed to aggressively avoid taxes. The nonpartisan Congressional Budget Office has determined that H.R. 1439 would be an unfunded mandate on state and local governments, costing $2 billion in the first full year after enactment. Sponsors: Rep. Bob Goodlatte (R-VA) and Bobby Scott (D-VA).

- **H.R. 1002/S.543**, the Wireless Tax Fairness Act, would prohibit for five years state and local governments from raising additional revenue on cell phone services. Specifically, the bill would prohibit state and local governments from imposing new taxes on providers of wireless communications service for five years after enactment of the legislation. States and local governments are still struggling to balance their budgets even as the economy slowly recovers. A new federal mandate restricting their ability to raise additional revenue would fail to take into account that state and local tax systems vary greatly among jurisdictions, taxing goods and services at different rates to meet the specific needs of its citizens. The federal government should not be dictating to sovereign state and local governments how best to meet those needs. Sponsors: Rep. Zoe Lofgren (D-CA) and Sen. Ron Wyden (D-OR).

- **H.R. 1864**, the Mobile Workforce State Income Tax Simplification Act, would restrict states from taxing income earned while working in that state. Specifically, it would prohibit every state government from taxing the income earned in that state of an individual residing in another state, if that non-resident works less than 30 days in the state seeking to impose the tax. H.R. 1864 ignores the reality that state tax systems are autonomous and differ from state to state. It would unfairly impose a one-size-fits-all federal mandate on states and could open the door to subsequent legislation restricting local governments as well. CBO estimates H.R. 1864 will lead to revenue losses in a number of states, including California, Illinois, and Massachusetts. New York State estimates that it would lose between $95 million and $115 million starting in 2013. Sponsor: Rep. Howard Coble (R-NC).

- **H.R. 2469**, the End Discriminatory State Taxes for Automobile Renters Act, would ban state and local governments from applying certain types of taxes on car rentals. Specifically, the bill would seek to ban so-called “discriminatory” taxes on car rentals or car rental companies without any regard to the factors that state and local governments use to determine the specific needs of their constituents. For example, Revere, Massachusetts used revenue from rental car taxes to build police and fire stations, and Arlington County, Virginia uses revenue from car rental taxes to help pay for police, firefighter and emergency medical services to Reagan National Airport, the Pentagon, Arlington National Cemetery, and other popular tourist destinations. The federal government should not undermine these local decisions with a blanket, one-size-fits-all mandate. Sponsor: Rep. Steve Cohen (D-TN).
IAFF Analysis:

Marketplace Fairness Act (S.1832)

As the U.S. economy recovers from the Great Recession, state and local governments continue to face significant budgetary problems. According to the Center on Budget and Policy Priorities, 29 states have either projected shortfalls or have accounted for shortfalls that total $44 billion for FY2013. Without additional revenue to balance their budgets, states will be forced to cut back on essential services. The fire service is not immune from these budget realities. In recent years fire fighters have witnessed layoffs, station closings and brownouts.

One factor contributing to budget shortfalls both at the state and local level is the dramatic increase of online sales. Many e-retailers are not required to charge sales and use taxes because they do not have a physical presence in the state where the purchase is made. This special tax preference gives e-retailers an unfair competitive advantage over traditional “brick and mortar” businesses, which must charge sales taxes on every item sold, regardless of price.

As more consumers have chosen to buy goods and services online, total sales tax receipts for state and local governments have plummeted. A recent University of Tennessee study found that state and local governments are losing $23 billion each year due to e-commerce. In addition, property tax receipts, which help fund municipal fire departments and school districts, have also been affected as more brick and mortar stores go out of business due to the unfair competition from out-of-state e-retailers.

To address this problem, Congress should pass the Marketplace Fairness Act (S.1832). This bipartisan legislation would allow local main street retailers to compete more effectively against out-of-state e-retailers, give states the ability to enforce their own sales and use tax laws, relieve consumers of the legal burden to report to state tax departments the sales and use taxes they owe for online purchases, and help governors and mayors collect taxes already owed, reducing the need to raise new taxes.

Importantly, this bill does not create new taxes or increase existing taxes. Under current law, consumers living in states with a sales tax are required to remit use taxes for online purchases. Compliance with the law is poor, mostly because consumers are unaware of their tax obligations. The Marketplace Fairness Act simply gives states a way to enforce existing sales and use tax laws while eliminating the competitive advantage currently enjoyed by remote retailers at the expense of local businesses. For states without a sales tax, nothing would change. The Marketplace Fairness Act does not require a state to adopt a sales tax. That decision will still rest with the citizens of each state.

In addition to bipartisan support in Congress, a large coalition of organizations has formed to urge passage of the Marketplace Fairness Act. Government organizations such as the National Governors Association and the National Conference of Mayors, business groups such as the National Retail Federation and the International Council of Shopping Centers, Fortune 500 companies such as Amazon and Best Buy, and labor unions all support this important legislation.
January 3, 2012

Dear Colleague:

We urge you to cosponsor the Marketplace Fairness Act (S. 1832), which would give states the right to decide to collect – or not to collect – sales and use taxes from out-of-state businesses that are already owed. The bill would not impose any new tax. This bipartisan legislation was introduced by 5 Republicans and 5 Democrats on November 9, and is supported by the National Governors Association, the National Conference of State Legislatures, the U.S. Conference of Mayors, National League of Cities, National Association of Counties, the National Retail Federation, the Retail Industry Leaders Association, and a number of additional industry organizations and retailers.

The Marketplace Fairness Act was written in the aftermath of the Supreme Court's 1992 Quill decision. Congressional involvement is necessary because the ruling stated that the thousands of different state and local sales tax rules were too complicated and onerous to require businesses to collect sales taxes unless they had a physical presence (store, warehouse, etc.) in the purchaser’s home state.

Currently today, if an out-of-state retailer refuses to collect a sales tax, the burden of paying is on the consumer who is required to report the tax on their annual income tax return or a separate state tax form. However, most consumers are unaware of this legal requirement and very few comply with the law. Across the country, states and local governments are losing billions in owed tax revenue. According to the National Conference of State Legislatures, next year this sales tax loophole will cost states $23 billion in avoided taxes.

The other problem is that millions of local retailers are at a competitive disadvantage. Local retailers in our communities are required to collect sales taxes, while online and catalog retailers selling in the same state are not required to collect any of these taxes. This creates a tax loophole that subsidizes some taxpayers at the expense of others and some businesses over others.

The Marketplace Fairness Act gives states two voluntary options that would allow them to collect the state sales taxes that are already owed if they choose. The first option is the Streamlined Sales and Use Tax Agreement, which is supported by 24 states that have already passed laws to simplify their sales tax collection rules. The second option puts in place basic minimum simplification measures states can adopt to make it easier for out-of-state businesses to comply.

The Marketplace Fairness Act specifically:

- Gives states the right to decide to collect – or not to collect – taxes that are already owed;
- Closes a tax loophole and provides states with the clear authority to require all retailers to collect sales taxes;
- Does not create a new tax;
- Releases consumers from tax remittance obligations;
- Exempts businesses with less than $500,000 in online or out-of-state sales from collection requirements which will protect small merchants and give new businesses time to get started.
State and local governments, retailers, and taxation experts from across the country are urging Congress to pass the *Marketplace Fairness Act* because it gives states the right to decide what works best for their local governments, residents, and businesses. The bill levels the playing field by allowing states to collect sales taxes from all retailers, regardless of where they are located — on the Internet, the local shopping mall or downtown. The bill will allow states to collect taxes already owed and reduce the likelihood that new taxes or higher tax rates will be sought to balance state and local budgets.

Please join us in cosponsoring the *Marketplace Fairness Act*. If you have any questions about the bill, please do not hesitate to contact us or our staff (Randi Reid, Senator Enzi, 224-1306 or Corey Tellez, Senator Durbin, 228-5992).

Sincerely,

Michael B. Enzi  
U.S. Senate

Richard J. Durbin  
U.S. Senate

Lamar Alexander  
U.S. Senate

Tim Johnson  
U.S. Senate

John Boozman  
U.S. Senate

Jack Reed  
U.S. Senate

Roy Blunt  
U.S. Senate

Sheldon Whitehouse  
U.S. Senate

Bob Corker  
U.S. Senate

Mark Pryor  
U.S. Senate
The Marketplace Fairness Act

Senators Durbin, Enzi, Alexander, Tim Johnson, Boozman, Reed, Blunt, Whitehouse, Corker, and Pryor

The Marketplace Fairness Act would allow local main street retailers to compete more effectively against out-of-state internet sellers, give states the ability to enforce their own sales and use tax laws, relieve consumers of the legal burden to report to state tax departments the sales taxes they owe on online purchases, and help governors and mayors collect taxes already owed, reducing the need to raise new taxes. This bill does not create new taxes or increase existing taxes.

Background

The Supreme Court held in its 1992 Quill decision that the current maze of state and local sales tax rules is too complicated to reasonably require remote, on-line retailers to collect sales taxes. Without the ability to collect taxes, states and localities across the country lose billions of dollars. At the same time, states are under increasing pressure to balance their budgets.

While some remote retailers voluntarily collect state and local sales tax at the time of purchase, most choose not to. The burden then falls on the consumer to report sales tax owed for their on-line purchases when they file their state income taxes. Most consumers are unaware of this legal requirement, as well as the potential penalties for failure to report.

Marketplace Fairness Act

The legislation provides all states the ability to enforce existing state and local sales and use tax laws in a way that does not unduly burden e-commerce or remote retailers. This legislation does not require any state to collect sales and use tax. This legislation does not create new taxes or increase existing taxes.

Instead, the legislation provides states the authority to enforce their existing laws, if they choose to do so, by adopting one of the following options:

- **Streamlined Sales and Use Tax Agreement:** The legislation allows any state that is a member of the SSUTA to require remote retailers to collect state and local sales and use taxes.
- **Alternative Minimum Simplification Requirements:** States that are not SSUTA members may require remote retailers to collect state and local sales and use taxes if they adopt minimum simplification requirements.

**Small Seller Exception:** The legislation would prohibit states from requiring remote sellers with less than $500,000 in annual nationwide remote sales to collect state and local sales and use taxes.

**The legislation DOES NOT create new taxes or increase existing taxes:** Consumers already owe sales and use taxes on the goods they purchase. Remote sellers have a competitive advantage over local main street businesses because they are not required to collect sales and use taxes. The legislation simply provides states the authority to enforce existing state and local sales and use tax laws and eliminate the competitive advantage currently enjoyed by remote retailers at the expense of local businesses.
### REPS

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### HOUSE JUDICIARY SUBCOMMITTEE ON COURTS, COMMERCIAL AND ADMINISTRATIVE LAW

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S. 1832

To restore States’ sovereign rights to enforce State and local sales and use tax laws, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 9, 2011

Mr. ENZI (for himself, Mr. DURBIN, Mr. ALEXANDER, Mr. JOHNSON of South Dakota, Mr. BOOZMAN, Mr. REED, Mr. BLUNT, Mr. WHITEHOUSE, Mr. CORRER, and Mr. PRYOR) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To restore States’ sovereign rights to enforce State and local sales and use tax laws, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Marketplace Fairness Act”.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that States should have the ability to enforce their existing sales and use tax laws and to treat similar sales transactions equally, without re-
gard to the manner in which the sale is transacted, and
the right to collect—or decide not to collect—taxes that
are already owed under State law.

SEC. 3. AUTHORIZATION TO REQUIRE COLLECTION OF
SALES AND USE TAXES.
(a) STREAMLINED SALES AND USE TAX AGREEMENT.—Each Member State under the Streamlined Sales and Use Tax Agreement is authorized to require all sellers not qualifying for a small seller exception to collect and remit sales and use taxes with respect to remote sales sourced to that Member State pursuant to the provisions of the Streamlined Sales and Use Tax Agreement. Such authority shall commence beginning no earlier than the first day of the calendar quarter that is at least 90 days after the date of the enactment of this Act.

(b) ALTERNATIVE.—
(1) IN GENERAL.—A State that is not a Member State under the Streamlined Sales and Use Tax Agreement is authorized to require all sellers not qualifying for the small seller exception to collect and remit sales and use taxes with respect to remote sales sourced to that State, but only if the State adopts and implements minimum simplification requirements. Such authority shall commence beginning no earlier than the first day of the calendar
quarter that is at least 6 months after the date that
the State enacts legislation to implement each of the
following minimum simplification requirements:

(A) Provide—

(i) a single State-level agency to ad-
minister all sales and use tax laws, includ-
ing the collection and administration of all
State and applicable locality sales and use
taxes for all sales sourced to the State
made by remote sellers,

(ii) a single audit for all State and
local taxing jurisdictions within that State,
and

(iii) a single sales and use tax return
to be used by remote sellers and single and
consolidated providers and to be filed with
the State-level agency.

(B) Provide a uniform sales and use tax
base among the State and the local taxing juris-
dictions within the State.

(C) Require remote sellers and single and
consolidated providers to collect sales and use
taxes pursuant to the applicable destination
rate, which is the sum of the applicable State
rate and any applicable rate for the local juris-
diction into which the sale is made.

(D) Provide—

(i) adequate software and services to
remote sellers and single and consolidated
providers that identifies the applicable des-
tination rate, including the State and local
sales tax rate (if any), to be applied on
sales sourced to the State, and

(ii) certification procedures for both
single providers and consolidated providers
to make software and services available to
remote sellers, and hold such providers
harmless for any errors or omissions as a
result of relying on information provided
by the State.

(E) Hold remote sellers using a single or
consolidated provider harmless for any errors
and omissions by that provider.

(F) Relieve remote sellers from liability to
the State or locality for collection of the incor-
rect amount of sales or use tax, including any
penalties or interest, if collection of the im-
proper amount is the result of relying on infor-
mary provided by the State.
(G) Provide remote sellers and single and consolidated providers with 30 days notice of a rate change by any locality in the State.

(2) TREATMENT OF LOCAL RATE CHANGES.—For purposes of this subsection, local rate changes may only be effective on the first day of a calendar quarter. Failure to provide notice under paragraph (1)(G) shall require the State and locality to hold the remote seller or single or consolidated provider harmless for collecting tax at the immediately preceding effective rate during the 30-day period. Each State must provide updated rate information as part of the software and services required by paragraph (1)(D).

(c) SMALL SELLER EXCEPTION.—A State shall be authorized to require a remote seller, or a single or consolidated provider acting on behalf of a remote seller, to collect sales or use tax under this Act if the remote seller has gross annual receipts in total remote sales in the United States in the preceding calendar year exceeding $500,000. For purposes of determining whether the threshold in this subsection is met, the sales of all persons related within the meaning of subsections (b) and (c) of section 267 or section 707(b)(1) of the Internal Revenue Code of 1986 shall be aggregated.
SEC. 4. TERMINATION OF AUTHORITY.

The authority granted by this Act shall terminate on the date that the highest court of competent jurisdiction makes a final determination that the State no longer meets the requirements of this Act, and the determination of such court is no longer subject to appeal.

SEC. 5. LIMITATIONS.

(a) In General.—Nothing in this Act shall be construed as—

(1) subjecting a seller or any other person to franchise, income, occupation, or any other type of taxes, other than sales and use taxes,

(2) affecting the application of such taxes, or

(3) enlarging or reducing State authority to impose such taxes.

(b) No Effect on Nexus.—No obligation imposed by virtue of the authority granted by this Act shall be considered in determining whether a seller or any other person has a nexus with any State for any tax purpose other than sales and use taxes.

(c) Licensing and Regulatory Requirements.—Other than the limitation set forth in subsection (a), and section 3, nothing in this Act shall be construed as permitting or prohibiting a State from—

(1) licensing or regulating any person,
(2) requiring any person to qualify to transact intrastate business,
(3) subjecting any person to State taxes not related to the sale of goods or services, or
(4) exercising authority over matters of interstate commerce.

(d) No New Taxes.—Nothing in this Act shall be construed as encouraging a State to impose sales and use taxes on any goods or services not subject to taxation prior to the date of the enactment of this Act.

(e) Intrastate Sales.—The provisions of this Act shall only apply to remote sales and shall not apply to intrastate sales or intrastate sourcing rules. States granted authority under section 3(a) shall comply with the intrastate provisions of the Streamlined Sales and Use Tax Agreement.

SEC. 6. DEFINITIONS AND SPECIAL RULES.

In this Act:

(1) Consolidated Provider.—The term “consolidated provider” means any person certified by a State who has the rights and responsibilities for sales and use tax administration, collection, remittance, and audits for transactions serviced or processed for the sale of goods or services made by remote sellers on an aggregated basis.
(2) LOCALITY; LOCAL.—The terms “locality” and “local” refer to any political subdivision of a State.

(3) MEMBER STATE.—The term “Member State”—

(A) means a Member State as that term is used under the Streamlined Sales and Use Tax Agreement as in effect on the date of the enactment of this Act, and

(B) does not include any associate member under the Streamlined Sales and Use Tax Agreement.

(4) PERSON.—The term “person” means an individual, trust, estate, fiduciary, partnership, corporation, limited liability company, or other legal entity, and a State or local government.

(5) REMOTE SALE.—The term “remote sale” means a sale of goods or services attributed to a State with respect to which a seller does not have adequate physical presence to establish nexus under Quill Corp. v. North Dakota, 504 U.S. 298 (1992).

(6) REMOTE SELLER.—The term “remote seller” means a person that makes remote sales.

(7) SINGLE PROVIDER.—The term “single provider” means any person certified by a State who
has the rights and responsibilities for sales and use
tax administration, collection, remittance, and audits
for transactions serviced or processed for the sale of
goods or services made by remote sellers.

(8) SOURCED.—For purposes of a State granted
authority under section 3(b), the location to
which a remote sale is sourced refers to the location
where the item sold is received by the purchaser,
based on the location indicated by instructions for
delivery that the purchaser furnishes to the seller.
When no delivery location is specified, the remote
sale is sourced to the customer’s address that is ei-
ther known to the seller or, if not known, obtained
by the seller during the consummation of the trans-
action, including the address of the customer’s pay-
ment instrument if no other address is available. If
an address is unknown and a billing address cannot
be obtained, the remote sale is sourced to the ad-
dress of the seller from which the remote sale was
made. A State granted authority under section 3(a)
shall comply with the sourcing provisions of the
Streamlined Sales and Use Tax Agreement.

(9) STATE.—The term “State” means each of
the several States, the District of Columbia, the
Commonwealth of Puerto Rico, Guam, American
Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

(10) **Streamlined sales and use tax agreement.**—The term “Streamlined Sales and Use Tax Agreement” means the multi-State agreement with that title adopted on November 12, 2002, as in effect on the date of the enactment of this Act and as further amended from time to time.

**SEC. 7. SEVERABILITY.**

If any provision of this Act or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this Act and the application of the provisions of such to any person or circumstance shall not be affected thereby.