



MARYLAND CHAMBER OF COMMERCE
TESTIMONY TO THE SENATE BUDGET & TAXATION COMMITTEE
REGARDING MARYLAND SALES TAX ISSUES

July 26, 2011

Thank you for the opportunity to testify this afternoon. I am Kathy Snyder, President & CEO of the Maryland Chamber of Commerce. The Maryland Chamber has more than 800 members who employ 443,000 persons in our state. We also coordinate a Chamber Action Network comprised of 50 local Chambers and their 22,000 business members. We appreciate the opportunity to bring a panel of experts to assist you in your review of Maryland's sales tax, and options for changing the tax. We will primarily focus on the issues of sales taxation of business services and extension of the sales tax to online sales.

Competition, Taxes, and Jobs

Maryland has lagged other states in job creation over the past year. We know that many studies show Maryland to have comparatively high costs for doing business. Some potential changes in sales taxes will not only further raise the cost of doing business – they can put certain employers out of business. Therefore, it is imperative that the Committee, in evaluating sales tax changes, avoid adopting policies that make Maryland less competitive for jobs and investment with other states.

Sales Taxation of Business Services

There are good policy reasons that services used by businesses are typically not taxed in Maryland or other states:

- Job Losses – As we learned from the short-lived Tech Tax, professional services such as accounting, legal, engineering and computer services can be rendered remotely from anywhere. Imposing a 6% tax on those services can make the difference in those services being sourced out of state (or out of the country) at a cost of thousands of Maryland jobs. Tax studies performed by Ernest & Young for the Maryland Chamber over the past four years confirm the negative impact of extending the sales tax to business and professional services.
- Tax Pyramiding – Taxation of services purchased by businesses will increase the cost of the ultimate product produced. If this product is also subject to the sales tax, the tax paid by the ultimate consumer is further inflated.

- Negative Impact on Small Businesses – Taxation of business services causes larger businesses to hire employees to perform the services in-house. Small businesses lack the scale to in-source such services and wind up at a competitive disadvantage.
- Administrative Complexity – Taxation of business services would raise complex administrative and compliance issues for businesses and the Comptroller’s office when services were purchased by national companies for use throughout the country. Some business services might also be performed by a vendor from offices in different states, raising difficult sourcing issues.

For these reasons, we strongly urge the Committee not to recommend extending the sales tax to services used by businesses.

Sales Taxation of Online Purchases

States tend to fall into one of two groups as they establish policies regarding the taxation of online sales. The first group seeks to make it easier for all businesses to collect sales taxes by adopting nationwide standards for tax bases, definitions, sourcing rules, and a centralized electronic registration system for vendors. By making it easier to do business, these states reap higher voluntary compliance from out-of-state vendors in sales tax payments.

A second group of states is increasing the burden of sales tax compliance by enacting varying laws that attempt to require out-of-state vendors to collect sales tax based on their advertising contracts with in-state persons. These laws produce little revenue for the states, cost the states jobs and tax revenues from in-state advertisers, and are mired in litigation.

- Streamlined Sales Tax is Preferable – Two dozen states have made their jurisdictions a more attractive place to do business by enacting conforming changes to simplify their sales tax laws. Hundreds of millions of dollars of sales taxes have been voluntarily paid by out-of-state vendors to those jurisdictions as a result of those changes (see attached NCSL letter). For those reasons, we have supported legislation to move Maryland toward adoption of the Streamlined Sales and Use Tax Agreement. That agreement rationalizes and standardizes tax laws among the states so that businesses can manageably collect sales and use taxes across the country. It is the business friendly approach to tax administration.
- Litigation – Not Revenues - In contrast, several states have attempted to force out-of-state vendors to collect sales and use tax while making none of the standardizing changes necessary to allow for nationwide administration. It is an attempted end run around the constitutional

requirement that a vendor have a physical presence in the state in order to be subject to the sales tax. Such laws will be litigated for years by out-of-state vendors, as is the case in New York. The laws also cause a loss of income and jobs for in-state marketers that see their affiliate contracts terminated by remote sellers. Maryland has thousands of direct marketers whose income and jobs would be at risk from the passage of such legislation. We encourage you to view a video that shows FatWallet.com moving out of Illinois after that state enacted such a tax: http://www.youtube.com/watch?v=ckP0HWI_w3c

- Online Sales Taxes Do Not Level the Playing Field – Such legislation does not promote tax fairness. To the contrary, it attempts to subject all businesses making interstate sales to the sales tax laws of thousands of states and localities across the country – each with their own tax rates, exemptions and compliance requirements. This would be an impossible situation for any business to comply with, whether they are on Main Street or in another state. In such a scenario, interstate commerce through the Internet would grind to a halt, harming consumers and businesses throughout the country.

Ultimately, Congress must enact legislation that sets reasonable standards for minimum nexus in order for states to impose sales taxes and other taxes on businesses. Meanwhile, Maryland should start down the road for adopting changes to our sales tax laws that will promote voluntary compliance with the taxation of online sales, enter into the Streamlined Sales and Use Tax Agreement, and make Maryland a more attractive place to do business.