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# ONE RATE PER STATE FOR *ALL* COMMERCE

*THE ONLY WAY TO ENSURE GENUINE TAX SIMPLIFICATION*

The underlying logic of reducing the number of different sales tax rates in the Nation is uniquely consistent with the Congress's duty under the Commerce Clause to facilitate the flow of commerce among the states and with foreign countries. Incorporated in this responsibility is Congress's duty to limit the imposition of barriers to the free flow of commerce.

Today, there are approximately 7,600 different sales tax rates in the Nation (up from 2,300 in 1967) each with its own tax base, rules and regulations. It is this proliferation of taxing jurisdictions that is symbolic of the complexity of the overall system of sales and use taxation.

In order to get at the root of the complexity problem, the states must adopt a single rate per state for *all* commerce – both remote and in-store. In fact, at the National Tax Association's Communications and Electronic Commerce Tax Project (the precursor to the federal Advisory Commission on Electronic Commerce), which included all the major state and local government organizations and electronic commerce industry trade associations, the only provision unanimously agreed upon was: "There should be one rate per state which would apply to all commerce involving goods or services that are taxable in that state." (Final Report, September 7, 1999, p.ii and p. 13). The Project participants considered, and rejected, the alternative of "two rates – one for remote and the second for in-store transactions." (p. 14) The valuable work, analysis, and compromises of the NTA Project should not be disregarded.

Further, over the years there have been legislative proposals calling for a so-called "blended rate" (i.e., a weighted average of state and local rates) for "remote commerce only." The Internet Tax Fairness Coalition very strongly believes that such a proposal is not genuine tax simplification. A separate, distinct rate for remote commerce would, in fact, add yet another tier of tax rates to what is already a confusing assortment of state and local rates throughout the country. It is not rate-simplification; to the contrary, it would increase the number of different sales tax rates.

A two-tier tax rate system is inherently unstable. It would result in persistent tensions between the interests and objectives of in-state and out-of-state sellers. Legislative proposals for a "remote transactions only" rate employ criteria that continue to rely on existing nexus standards. Consequently, current nexus controversies would persist.

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Worse still, customer confusion would result from a two-tier structure.  A unique rate for remote commerce would not only be unfamiliar to customers, but it would also result in customers paying differing amounts of tax for the same item depending on whether the item were purchased via remote commerce or in-store.  This is not consistent with the objective key of the Commerce Clause to promote the free flow of commerce among the states.

The ITFC believes all merchants (remote or in-store) should be able to move easily between the remote and "bricks and mortar" environments without triggering changes in tax collection obligations.  This is only possible if there is one rate per state for all commerce, and not different rates for remote and local sellers.

Thus, the ITFC views adoption of <u>one sales tax rate per state for all commerce</u> as critical to simplification of the sales and use tax system.

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