



COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF THE GOVERNOR  
HARRISBURG

THE GOVERNOR

April 20, 2012

The Honorable Pat Toomey  
United States Senate  
502 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Toomey:

As Pennsylvania's Governor, it is important to provide you with some information concerning efforts to streamline sales and use tax ("SUT") collection on sales made by remote sellers, such as internet and mail-order companies.

For many years, states have struggled with collecting SUT due on sales from remote sellers to a state's citizens. If the remote seller doesn't collect sales tax, the purchaser is required to remit use tax. The Supreme Court of the United States held in *Quill v. North Dakota* (1992) that, in order for a state to require a seller to collect SUT on taxable goods and services sold to a state's residents, the state must establish "*nexus*." Nexus refers to the threshold level of presence that a business must have in a state in order to be taxable in the state. If a business conducts certain physical activities in the commonwealth it has established *nexus*. The Supreme Court made clear that the Commerce Clause authorizes Congress to regulate interstate commerce. Thus, Congress can choose to establish parameters whereby remote sellers can be required to collect the sales tax rather than require purchasers to remit the use tax.

The problem that the states experienced in 1992 has gotten larger, particularly during the last few years, with the tremendous growth of internet sellers. Pennsylvania state government is working diligently to enforce existing law that requires remote sellers with nexus to collect sales tax and to require purchasers to directly remit the use tax when the seller does not collect the sales tax. Late last year, Pennsylvania's Department of Revenue issued guidance to remote sellers, explaining nexus and clarifying situations in which nexus is established. In addition, we have provided a use tax reporting line on the 2011 state income tax return to provide citizens with a convenient method to remit use tax. These efforts have received a great deal of press coverage, and we have been working to educate businesses and our citizens of their legal requirements. Absent federal legislation, the states' hands are tied.

Therefore, I urge you to support enactment of legislation that would provide a reasonable framework for state sales tax collection by large remote sellers under federal law. Senate Bill

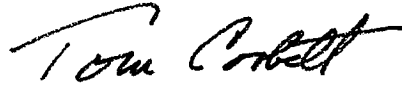
1832, the Marketplace Fairness Act (MFA), is the best of several competing proposals on this subject.

For states that have joined the Streamlined Sales Tax system, the MFA endorses and supports their efforts. However, it also provides a path for states like Pennsylvania, that are not a part of that project, to achieve the same result.

The bill requires a set of minimum simplifications for states to adopt if they wish to opt in to the system. It protects small remote sellers by exempting those with less than \$500,000 in gross annual remote sales from collection requirements. In addition, it provides a hold-harmless rule for remote sellers that use a state-certified service provider to calculate the tax due. These and other provisions are designed to balance the competing interests of remote sellers and local retailers in a way that is fair and reasonable. I urge your support of Senate Bill 1832.

If you have any questions or comments, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Tom Corbett". The signature is written in a cursive, slightly slanted style.

TOM CORBETT  
Governor