May 20, 2013

Dear Member of Congress,

Our belief in core conservative values leads our organizations to support S.336, the Marketplace Fairness Act. We ask that you vote in favor of this bill to close a tax loophole that punishes small businesses.

The Marketplace Fairness Act is in response to the Supreme Court ruling (*Quill v. North Dakota*), that States, without Congressional authority, cannot require online retailers to collect sales taxes at the point of sale, as they often require brick-and-mortar shops to do. Congress' failure to act in these regard has given remote retailers as much as a 10 percent market advantage over some of their local competitors. This government sanctioned advantage favors one set of players within an industry over another. It is a clear case of government picking winners and losers in the economy.

The Marketplace Fairness Act is a common-sense solution to the current unequal tax treatment of online retailers and their brick-and-mortar competitors. If this government sanctioned price subsidy was present in any other industry conservatives would uniformly rally for reform, as they have when opposing special treatment for Solyndra and other so-called "green energy" boondoggles.

Importantly, the Marketplace Fairness Act asserts federalism, by returning decision making authority over the collection of state taxes to state legislatures, where it belongs. States should have the ability to make their own revenue policy choices. We may not like the choices every state makes, but that is hardly a justifiable reason for federal usurpation of their authority. Federalism requires us to allow good states to make good decisions, and challenges us to pressure those that have lost their way to change direction. The leadership of Governor Walker in Wisconsin, who recently pledged to reduce the state income tax if the Marketplace Fairness Act passes, is evidence of this theory.

Under current law, Americans who buy products online are required to self-report their purchases and remit the sales taxes owed on their tax return. If the same product were purchased at a Main Street store, it would have been taxed at the point of sale. Although we oppose plans to increase government revenues by raising taxes, we fully support efforts to fairly and uniformly enforce taxes already on the books. Compliance with tax law is not an unnecessary government intrusion; it is a fundamental principle of pro-growth economics. Higher compliance with taxes on the book allows for a lower broader tax rate and is a safeguard against higher taxes on other citizens.

We are joined by a broad range of conservative scholars and leaders in supporting this common-sense, pro-growth legislative solution. Here's what some top conservative leaders have said about the Marketplace Fairness Act:

> "If the advantage of tax-free Internet commerce marginally closes out local industry, reforms are required... The mattress maker in Connecticut is willing to compete with the company in Massachusetts, but does not like it if out-of-state businesses are, in practical terms, subsidized; that's what the non-tax amounts to. Local concerns are complaining about traffic in mattresses and books and records and computer equipment which, ordered through the Internet, come in, so to speak, duty free." (William F. Buckley, "Get That Internet Tax Right," National Review Online, 10/19/01)

> "Therefore – as with any pro-growth tax reform – the sales tax base in the states should be broadened by treating Internet retailers similarly to in-state retailers, and the marginal income-tax rate should be reduced such that the total static revenue collected by the state government is held constant. … Addressing e-fairness from a pro-growth perspective creates several benefits for the economy." (Arthur Laffer, "Tax Internet Sales, Stimulate Growth," *Wall Street Journal, 4/17/2013)*

> "Unfortunately, due to a loophole caused by the 1992 Quill Supreme Court decision, our independent Christian retailers are put at disadvantage because Internet-only companies are not required to collect sales taxes. This un-level playing field has resulted in staffing reductions and the closing of many of our independent Christian retailers over the past few years, threatening the very existence of our membership and their ability to serve our Christian communities… As the saying goes, a sale, is a sale, is a sale, and our sales tax collection policies should be the same regardless if an item was purchased online or through one of our members' store fronts. Local independent businesses are a more important economic generator for our communities than out-of-state businesses seeking tax avoidance." (Curtis Riskey, President of The Association of Christian Retail, in a letter to Senator Roy Blunt, April 2012)

> "Current policy gives remote sellers a price advantage, allowing them to sell their goods and services without collecting the sales tax owed by the purchaser. This price difference functions like a subsidy. It distorts the allocation between the two forms of selling. The subsidy from not collecting tax due means a larger share of sales will take place remotely than would occur in a free, undistorted market."(Hans Kuttner, The Hudson Institute, "Future Marketplace: Free and Fair," May 2012.)

We join these conservative thought leaders in their support for the Marketplace Fairness Act because it is pro-free market, pro-business, pro-fairness and pro-growth.

A few of our usual allies have recently advocated against this legislation. Unfortunately, a number of their claims have been outright false and an even greater number have been misleading at best. For example, the Heritage Foundation, in a recent flyer against the Act, wrote that the legislation would force online retailers to comply with "…tax code in 9,646 difference jurisdictions." This false claim was repeated in a coalition letter they released which said, "The result would be added costs for retailers and American consumers, directly through the sales taxes imposed, but also through the added burden of collecting the taxes for the 9,600 separate taxing jurisdictions in the U.S., each with its own unique definitions, holidays, and rates." This is simply untrue. As the legislation says in plain language, a state must; Identify "a single State-level agency to administer all sales and use tax laws including the collection and administration of sales and use taxes for sales sourced to the State made by remote sellers…" and "provide a uniform sales and use tax base within a state."

Another of the many dubious claims that has been made is that the legislation will lead to retailers interrogating their customers. In a letter signed by leaders from R Street and Americans for Tax Reform they write that the legislation forces "…remote retailers to interrogate their customers about their place of residence." Either they do not understand how the legislation works or they do not know how e-commerce works. Anyone that has bought anything online knows that it has to be shipped to you. Adding one's shipping address when buying something online hardly qualifies as interrogation, as they have repeatedly claimed.

In summary, we the undersigned believe that the Marketplace Fairness Act is a simple piece of legislation that would eliminate an implicit government subsidy of one segment of an industry over another, would return power to states to control their own tax systems, and would increase compliance with taxes already on the books thus reducing the likelihood of tax rate increases in the future. The Marketplace Fairness Act is a common sense, pro-growth solution to an ever increasing problem. We urge you to reject red herring arguments that have arisen in recent weeks, and closely evaluate this important piece of legislation on its merits.

Sincerely,

Colin Hanna, President, Let Freedom Ring
Ned Ryun, President, American Majority
Jim Martin, Chairman, 60 Plus Association
Stephen DeMaura, President, Americans for Job Security