

CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA

R. BRUCE JOSTEN  
EXECUTIVE VICE PRESIDENT  
GOVERNMENT AFFAIRS

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WASHINGTON, D.C. 20062-2000  
202/463-5310

April 1, 2015

The Honorable Bob Goodlatte  
Chairman  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Goodlatte:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting and defending America's free enterprise system, appreciates the opportunity to provide feedback on the Online Sales Simplification Act (OSSA) discussion draft. The Chamber has long supported federal legislation that, as your principles on internet sales tax state, put all businesses "on an equal footing." The Chamber believes such legislation must protect businesses from undue complexity, compliance burdens, and unnecessary litigation; prevent the levying of any additional or new tax burdens; and allow the marketplace, and not the tax system, to allocate capital and resources. Thus, we appreciate your continued engagement on this issue and your development of legislation to implement your principles. We look forward to continuing to work to find a solution that we ultimately can support.

On March 3, 2015, the Supreme Court issued a unanimous decision in *Direct Marketing Association v. Brohl* rejecting Colorado's argument that federal courts are barred from hearing challenges to state laws if the result could indirectly affect the collection of state taxes. Justice Kennedy's concurrence indicated that given the rise in internet commerce, he was willing to reconsider the longstanding precedent barring states from forcing out-of-state businesses to collect tax on out-of-state sales. While some may assume the court's ruling removes the pressure from Congress to act because the courts could ultimately address this issue, the Chamber believes strongly that the best path forward is to enact federal legislation where, unlike in a courtroom, business can participate in the drafting and development of a solution that both creates a uniform framework to address this issue while also providing the requisite protections to address the business community's compliance and litigation concerns associated with sales tax collection.

In evaluating the OSSA discussion draft, the Chamber supports your goals of simplification, reduced compliance burdens, and your work to minimize potential audit and litigation risk. However, the current draft legislation would shift away from a traditional destination sourcing approach to sales and use tax supported by the Chamber to a hybrid origin sourcing approach. As a result, sellers would be required to collect taxes based on the rates and rules of the sellers' jurisdictions instead of the purchasers. Since the draft legislation would

require the reporting of the purchaser's jurisdictional information, it seems sensible to shift back to a destination sourcing based approach utilizing tax software made available to remote sellers, as called for in the Chamber's sales tax collection principles. Additionally, as called for in our principles, the Chamber believes sellers should be held harmless for errors or omissions resulting from reliance on software or information provided by the states. The Chamber believes this change could significantly move the discussion forward towards a federal solution. However, as always, the Chamber remains open to discussions about any possible solution that can achieve the "equal footing" your principles call for.

The Chamber appreciates the opportunity to provide its members' feedback on your legislation. Further, we are encouraged by your continuing attention to this issue. We look forward to further discussions and working to find a mutually agreeable federal solution to this critical issue.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Josten". The signature is fluid and cursive, with a large initial "R" and a long, sweeping underline.

R. Bruce Josten