



League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814
(916) 658-8240

California State Association of Counties
1100 K Street, Suite 101
Sacramento, CA 95814
(916) 327-7500

October 18, 2012

The Honorable Dick Durbin
711 Hart Senate Office Building
Washington, DC 20510

The Honorable Michael Enzi
379A Russell Senate Office Building
Washington, DC 20510

The Honorable Lamar Alexander
455 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Steve Womack
1508 Longworth House Office Building
Washington, DC 20515

The Honorable Jackie Speier
211 Cannon House Office Building
Washington, DC 20515

RE: S 1832 - Marketplace Fairness Act and HR 3179 - Marketplace Equity Act

Dear Senators and Representatives:

As Congress works to prepare a compromise version of S 1832 (Marketplace Fairness Act) and HR 3179 (Marketplace Equity Act) for consideration in the post-election session, we are writing on behalf of the League of California Cities (League) and the California State Association of Counties (CSAC) to thank you for your efforts in organizing legislation that will help state and local governments recover taxes from remote sellers, as well as offer the recommendations of California's local governments on the most optimal components of each of these bills to include in the final package you bring together.

Improving use tax collection has long been of interest to local officials with the increasing volume of sales occurring on the internet. After Congress introduced S 1832 and HR 3179, the League assembled a working group to examine the measures, analyzing potential benefits as well as provisions of concern, and began discussions with the state's tax administering agency – the California State Board of Equalization – on how local governments could work with the state to implement some version of these bills. The working group found much to like in the legislation, as well as some areas of concern.

As currently drafted, S 1832 and HR 3179 both offer a number of positive features that have not been proposed in previous federal legislation. For example, both bills would permit state and local governments to require online retailers to collect and remit sales taxes without having to join the Streamlined Sales and Use Tax Agreement. S 1832 also includes some other positive features, such as requiring sellers to collect the full destination rate of sales tax on remote sales (both state and local), and language specifying that the measure is limited solely to the collection of sales and use taxes.

Some of the concerns raised by the League's working group include language in HR 3179 related to the definition of "tax", which does not expressly limit the definition to the collection of sales and use tax. As a result of broad drafting of the bill's language, online travel companies could be permitted to escape remittance of transient occupancy taxes (TOT) owed to local governments for the rental of hotel rooms, as well as erode the ability of California's localities to collect utility user taxes (UUT). Loss of revenue to California cities and counties from these sources would total over \$1.7 billion and \$206 million, respectively. The League and CSAC would like to work with you to ensure that any compromise measure developed on these bills amends these definitions and references so that they do not inadvertently impact other local revenue sources.

In addition, we would like to work with you to include S 1832's alternative approach to joining the Streamlined Sales and Use Tax Agreement (from Section 3) in the compromise bill instead of Section 2 from HR 3179. This section of HR 3179 provides three options with respect to the collection of remote sales, two of which would be very harmful to California's local governments. The League and CSAC would like to work with you to make certain that language is included in the final compromise measure that clearly states that the legislation does not affect how states handle the allocation of revenue for intrastate sales, and that the bill does not impact how individual states distribute taxes from sales which occur within the state.

Finally, we would like to work with you to ensure that final compromise legislation you develop on these bills is able to move forward without being paired with dangerous policy riders from other bills currently circulating in Congress. Such bills include the Digital Goods and Services Tax Fairness Act and the Wireless Tax Fairness Act, which unless amended would bar localities from imposing sales tax on the full retail price of both physical and digital goods and services sold by online intermediaries, as well as jeopardize the existing tax revenue of many California local governments.

Thank you again for your work on this important issue and for your review of the priorities and concerns presented in this letter. We look forward to working with you to shape the final compromise bill, and supporting its advancement in November. Please let us know if you have any questions or need any additional information. You can also contact the League's Washington advocate, Dustin McDonald, at (202) 419-2511, or CSAC's Washington representative, Hasan Sarsour, at (202) 898-1444. We look forward to continuing to work with you on California's important local priority issues.

Sincerely,



Chris McKenzie
Executive Director
League of California Cities



Steve Keil
Interim Executive Director
California State Association of Counties

Cc: The Honorable Dianne Feinstein
The Honorable Barbara Boxer
The Honorable Max Baucus
The Honorable Orrin Hatch
The Honorable John Rockefeller
The Honorable Kay Bailey Hutchison
The Honorable Lamar Smith
The Honorable John Conyers
The Honorable Elton Gallegly
The Honorable Dan Lungren
The Honorable Darrell Issa
The Honorable Howard Berman
The Honorable Zoe Lofgren
The Honorable Maxine Waters
The Honorable Judy Chu
The Honorable Linda Sanchez