MULTISTATE TAX COMMISSION

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Policy Resolution No. 2009-01

Improving State Sales Taxes to Achieve Fairness and Simplicity

Whereas, forty-five states, the District of Columbia and numerous local jurisdictions impose sales and use taxes; and

Whereas, the continuing growth of interstate sales by mail order, electronic commerce and other direct marketing methods to consumers results in a competitive disadvantage for local businesses and the erosion of state and local tax revenues; and

Whereas, the U.S. Supreme Court held in *Quill Corp. v. North Dakota* that physical presence is not required to establish state jurisdiction over interstate sellers under the Due Process Clause, but that "substantial nexus" is required under the Commerce Clause to require an interstate seller to collect tax; and

Whereas, the Court further held that Congress may authorize States to require interstate sellers to collect appropriate sales and use taxes; and

Whereas, many States, with the support and participation of the business community, have developed the Streamlined Sales and Use Tax Agreement, which radically simplifies state and local sales tax administration to reduce the compliance burden for all types of retailers; and

Whereas, the Agreement came into force on October 1, 2002, and is now fully functional with a Governing Board, officers and committees and a process for facilitating operations; and

Whereas, the Agreement calls for, and the States have implemented, a centralized registration system for volunteer, non-nexus remote sellers to register with all member states and the Governing Board has approved Certified Service Providers to collect and remit sales tax on behalf of remote sellers who choose to use them; and

Whereas, to date, a substantial number States have conformed their sales and use tax laws to the Agreement; now, therefore, be it

RESOLVED, that the Multistate Tax Commission encourages States imposing a sales tax to participate in the simplification effort by enacting the Agreement or similar measures into law; and be it further

RESOLVED, that the Multistate Tax Commission calls on Congress to re-establish fairness in state sales and use tax systems by requiring remote sellers making sales above a reasonable threshold level to collect sales and use taxes for any state that simplifies its tax system in accordance with the principles of the Streamlined Sales and Use Tax Agreement; and be it finally

RESOLVED, The Multistate Tax Commission is opposed to legislation that would link federal restrictions on state authority to levy business activity taxes to the implementation to an expanded duty for remote sellers to collect sales and use taxes.

Adopted this 30th day of July 2009 by the Multistate Tax Commission.

Joe Huddleston
Executive Director

This resolution shall expire at the Annual Business Meeting of the Multistate Tax Commission in 2014.