



HOUSE OF REPRESENTATIVES

STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

May 27, 2011

VIA Email and Mail

Mr. Joe Huddleston
Executive Director
Multistate Tax Commission
444 No. Capitol St., NW, Suite 425
Washington, DC 20001

Ms. Shirley Sicilian
General Counsel
Multistate Tax Commission
444 No. Capitol St., NW, Suite 425
Washington, DC 20001

Dear Mr. Huddleston and Ms. Sicilian:

Attached is my testimony IN SUPPORT of the MTC Model Statute.

Thanking you in advance for your consideration.

Sincerely,

Isaac W. Choy
State House Representative
Member AICPA

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TESTIMONY OF

Representative Isaac W. Choy
Hawaii State House of Representatives

May 27, 2011

- RE: 1) Late testimony in support of the MTC Draft Model Sales & Use Tax Notice and Reporting Statute (dated April 18, 2011) (MTC Model Statute)
- 2) Rebuttal to testimony submitted by the American Institute of Certified Accountants (AICPA)

I would like to first apologize for submitting this late testimony.

I am testifying in support the MTC Model Statute. The collection of sales tax on internet sales is a fairness issue to the brick and mortar establishments in various states. A majority of the public accountant members of the AICPA serve these businesses and support the collection of taxes from sales transactions over the internet. These mainstream businesses support their communities, and pay taxes to the states where they are located. As the sales over the internet grows, it is unfair to these local businesses who currently pay local taxes. The reasons for supporting the Model statute are:

1. The Streamline Sales and Use Tax Project is a good effort, but has failed to collect the majority of revenues that is loss. The main reason for this failure is that compliance is voluntary.
2. Federal legislation has been attempted many times and also has not gained much momentum.
3. There is an argument that implementation of a consumer education program will enhance the collection of use taxes. This will probably have little impact just like a voluntary compliance scheme of the streamline sales and use tax project.
4. The Colorado case which resulted in a preliminary injunction is still pending. The anomaly in this case is that the federal court took jurisdiction, had this case have gone through the state court system, the outcome may have been different.
5. The undue burden analysis of the U.S. Supreme Court case, Quill Corp v. North Dakota, 504 U.S. 298 (1992). Note the date of the case. I believe this case was decided prior to the prevalent use of the internet for sales transactions. I would argue that today, to figure out the tax requirement for the approximate 7500 taxing jurisdictions across our country would merely require the use of a software program.

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6. The cost of the reporting requirement in your model act is no more of a burden than the supplying of 1099 data. If the businesses determine that the cost of reporting is too high, they can simply collect and remit the sales tax.
7. Our entire tax system is based on voluntary compliance. Would compliance by a taxpayer be any different if taxpayer knew that a state tax department had a list of purchases from out of state sellers?

In conclusion as sales over the internet grows the collection of sale taxes from out of state sellers must occur. The undue burden arguments of the Quill case and others that followed, and even the commerce clause should be evaluated in light of not only current technological advancements but tomorrow's technology. Using these antiquated edicts is like telling a young person to use a rotary phone.

Thank you allowing me to testify in support of MTC Draft Model Sales & Use Tax Notice and Reporting Statute.