

Multistate Tax Commission



Resolution No. 98-1

Interstate Sales Tax Collections

WHEREAS, the continuing growth of interstate sales by mail order, electronic commerce and other direct marketing methods results in a competitive disadvantage for local business and results in a State and local revenue loss estimated at billions of dollars annually, and

WHEREAS, electronic commerce conducted via the Internet and other on-line services is growing dramatically, exacerbating the problem already exhibited by traditional mail order and other types of direct marketing, and

WHEREAS, the U.S. Supreme Court held in *Quill Corp. v. North Dakota*, 112 S.Ct. 1904 (1992) that physical presence is not required to establish State jurisdiction under the Due Process Clause, but that "substantial nexus" is required under the Commerce Clause to require collection of interstate sales taxes by mail order companies, and

WHEREAS, the Court further held that Congress may authorize States to require direct marketing companies to collect appropriate sales and use taxes, and

WHEREAS, there is a clear need for simplicity and uniformity in the taxing rules regarding both traditional interstate commerce and electronic interstate commerce to avoid imposing an "undue burden" on interstate commerce, and

WHEREAS, unnecessary federal interference can be avoided through the cooperation of State and local governments with industry representatives to clarify State rules, and

WHEREAS, the National Tax Association has assisted in the formation of a working group of industry, legal and State and local government authorities, known as the NTA Communications and Electronic Commerce Tax Project, to examine the issues involved in the application of State and local taxes to electronic commerce and to develop recommendations, including model legislation, to address those issues,

NOW, THEREFORE, BE IT RESOLVED that the Multistate Tax Commission believes an appropriate forum for achieving uniform rules for the application of State and local taxes to electronic commerce as well as for the development of a simpler, more uniform system for administering State and local sales and use taxes is the NTA Communications and Electronic Commerce Tax Project, and be it further

RESOLVED that the Multistate Tax Commission believes that it is appropriate and necessary for the NTA Communications and Electronic Commerce Tax Project to consider all forms of remote commerce as it deliberates the application of State and local taxes to electronic commerce, and be it further

RESOLVED that the Multistate Tax Commission believes that the NTA Communications and Electronic Commerce Tax Project should recommend a sales and use tax administration system in which all sellers meeting certain criteria would be required to collect State sales and use taxes on all taxable items sold in conjunction with recommendations to substantially simplify and make more uniform State and local sales and use taxes and their administration, and be it further

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RESOLVED that the Multistate Tax Commission encourages States, industry representatives and other involved parties to support the efforts of and involve themselves in the work of the NTA Communications and Electronic Commerce Tax Project, and be it further

RESOLVED, that the Commission will also provide information to, and assist in any feasible and appropriate manner the work of any national commission considering the same or similar subject now being considered by the NTA Communications and Electronic Commerce Tax Project.

This Resolution expires on August 7, 2003.

Adopted this 7th day of August 1998, by the Multistate Tax Commission.

W. Val Oveson
Chair

Dan R. Bucks
Executive Director