

# HOUSE BILL REPORT

## HJM 4012

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### As Reported by House Committee On: Ways & Means

**Brief Description:** Requesting the adoption of federal legislation granting states remote collection authority for remote sales.

**Sponsors:** Representatives Sullivan, Hunter, Billig, Ladenburg, Fitzgibbon, Kenney and Ormsby.

**Brief History:**

**Committee Activity:**

Ways & Means: 12/12/11, 12/13/11 [DP].

**Brief Summary of Bill**

- Requests Washington's congressional delegation to support the swift adoption of federal legislation that would allow states to collect sales and use taxes on remote sales.

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### HOUSE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass. Signed by 23 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Carlyle, Cody, Dickerson, Haigh, Haler, Hudgins, Hunt, Kagi, Kenney, Ormsby, Parker, Pettigrew, Ross, Seaquist, Springer, Sullivan and Wilcox.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Orcutt, Assistant Ranking Minority Member; Chandler and Schmick.

**Staff:** Jeffrey Mitchell (786-7139).

**Background:**

Washington and 45 other states impose retail sales and use taxes. These taxes are imposed on the retail sale or use of most items of tangible personal property and digital products and some services. The rates, definitions, and administrative provisions relating to sales and use

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taxes vary greatly among the approximately 7,500 state and local taxing jurisdictions. This variety is one reason cited in *Quill v. North Dakota*, 112 S.Ct. 1904 (1992), where the United States Supreme Court held that the federal commerce clause prohibits a state from requiring mail-order, and by extension Internet, firms to collect and remit state and local sales taxes unless they have a physical presence in the state.

An effort was started in early 2000 by the Federation of Tax Administrators, the Multistate Tax Commission, the National Conference of State Legislatures, and the National Governors Association, to simplify and modernize sales and use tax collection and administration nation-wide. The effort is known as the Streamlined Sales Tax Project (SSTP). The purpose of the project was to simplify sales tax collection across the country in order to address the issues raised in the *Quill* case. In the 2002 Legislative Session, the Legislature adopted the Simplified Sales and Use Tax Administration Act, which authorized the Department of Revenue (DOR) to be a voting member in the SSTP. Many other states have also authorized such participation, and representatives have met to develop an agreement to govern the implementation of the SSTP. This agreement, called the Streamlined Sales and Use Tax Agreement (SSUTA), was adopted by 34 states and Washington, D.C. in November 2002. During the 2003 Legislative Session, the Legislature enacted legislation at the request of the DOR to implement the uniform definitions and administrative provisions of the SSUTA. However, the legislation did not implement several provisions that are necessary for the state to conform fully to the SSUTA, including a provision that would require the state to change its local sales and use tax sourcing rules. In 2007 the Legislature adopted the remaining provisions needed to fully conform to the SSUTA, which allowed Washington to be a full member state. To date, 24 states are in full compliance with the SSUTA.

In 2011 several bills have been introduced in the United States Congress that would grant states the authority to require all sellers, regardless of nexus, to collect those states' sales and use taxes.

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**Summary of Bill:**

The Joint Memorial requests Washington's congressional delegation to support federal legislation that would grant states the authority to require all sellers to collect those states' sales and use taxes. It also asks President Obama to sign the federal legislation into law, upon passage by Congress.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Staff Summary of Public Testimony:**

(In support) This bill is about supporting main street fairness. We are closer than ever to the passage of federal legislation. The federal legislation would level the playing field for both

in-state, as well as out-of-state businesses, that have customers in Washington. There are currently three bills in Congress that would allow states to collect sales tax on remote sales. There is bi-partisan support in Congress for the bills. The federal legislation is about tax fairness for brick and mortar stores in Washington that have to collect sales tax and that compete against out-of-state businesses that may not have to collect Washington sales tax. The federal legislation would remove obstacles to state investment. Some businesses with a small footprint in a particular state may be reluctant to create a more established presence in the state because it might create a sales tax obligation. The legislation would also modernize the tax base as we move to a more electronic environment. Retailers at both the local and national levels are beginning to push for the federal legislation. Major local government associations also support the legislation. A number of media outlets are also in support. The retail industry is extremely competitive and therefore, it is important to have a level playing field from a tax perspective. Our company rents premium real estate and creates a large number of jobs with good wages and benefits. The retail industry has a massive spillover effect in the economy. The current tax structure hurts small businesses. This is not a new tax on Internet sales. Online sales are growing dramatically. If people paid the use tax on their purchases as required under law we would not need Congress to act. The federal legislation would promote fairness and equity. This bill raises revenues that would allow the state to avoid some of the painful budget cuts.

(Opposed) None.

**Persons Testifying:** Drew Shirk and Tim Jennrich, Department of Revenue; Marc Berejka, REI; Mark Johnson, Washington Retail Association; Amber Carter, Association of Washington Business; Steve Gano, Wal-Mart Stores, Inc.; and Nick Federici, Rebuilding Our Economic Future Coalition.

**Persons Signed In To Testify But Not Testifying:** None.