

November 13, 2014

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

Dear Majority Leader Reid and Minority Leader McConnell:

As leaders in the food wholesale and retail industry, we are writing to urge you take up and pass e-fairness legislation as part of your efforts to extend and renew the internet tax moratorium before Congress adjourns. These two proposals are complementary and fulfill the important public policy goal of promoting a fair and balanced playing field for consumers, online businesses and brick and mortar retailers.

E-fairness legislation – such as the Marketplace Fairness Act, which the Senate passed with a strong, bipartisan majority in May 2013 – is a vital update to an outdated quirk of the tax code that prevents state and local governments from requiring retailers who do not have a physical presence in the state to collect and remit sales taxes. In the pre-Internet era, such policy may have made sense, but in 2014 online commerce is a mature competitor to brick and mortar retailers and should no longer be allowed to avoid paying the taxes it rightfully owes. Not only have online sales grown every year for the past decade, but forecasters (including the U.S. Census Bureau) expect this growth trend to continue and accelerate into the next decade. Online retailers have come to dominate sales in entire industries, such as books and jewelry, and have begun to significantly erode several product categories carried in supermarkets and grocery stores like diapers and over-the-counter pharmaceuticals.

Our support for e-fairness is not an attempt to impede or halt the growth of online sales; in fact, many of us have e-commerce platforms that we are using to enhance the consumer experience, both online and in our stores. Rather, our support is about basic fairness. The food wholesale and retail industry operates on an incredibly tight margin, historically averaging one percent or less a year. Online retailers who are able to avoid having to collect and remit sales taxes thus start out with a competitive advantage exceeding our total profit margin before any other economic factors even come into play. Public policy, however accidentally enacted, is picking winners and losers. In the current environment, brick and mortar retailers are effectively being asked to compete with one arm tied behind their backs. E-fairness legislation would simply restore an even-handed approach to tax policy and level a playing field that is badly tilted in the favor of online retailers.

Despite what some critics claim, legislative vehicles like as the Marketplace Fairness Act do not force any state to begin requiring online retailers to collect and remit sales taxes. Rather, they simply allow the states to institute this policy if legislators determine it is appropriate and if the state tax authorities comply with a series of simplification procedures. The legislation does not impose any new federal obligations; rather it returns to the states the authority that they should always have had in place.

The Senate has already voted in support of the Marketplace Fairness Act, but now it has the opportunity to push the e-fairness legislation over the finish line and get it signed into law. We urge you to use every means at your disposal – including pairing it with the internet tax moratorium – to complete work on e-fairness before Congress adjourns.

Sincerely,

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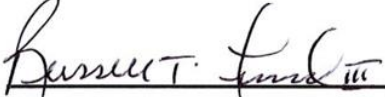
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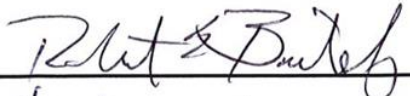

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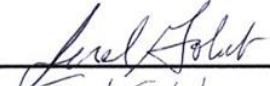
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