



Internet Association



May 30, 2017

The Honorable Mark Dayton  
116 Veterans Service Building  
20 W 12<sup>th</sup> Street  
St. Paul, MN 55155

**RE: HF 1, Sales Tax Collection Requirement on Out-of-State Sellers**

The undersigned associations represent hundreds of the country's leading technology companies in high-tech manufacturing, computer networking, and information technology, clean energy, life sciences, Internet media, ecommerce, education, and sharing economy sectors. Our member companies are committed to advancing public policies and private sector initiatives that make the U.S. the most innovative country in the world.

We have a number of concerns with the marketplace sales tax provisions of HF 1, located in Article 3, sections 9-12. This section requires marketplace providers without any presence in the state to collect and remit sales and use taxes for other sellers' sales that are "facilitated" by the marketplace provider. We are extremely concerned about the implications this policy would have on business – small and large – in the state and the negative precedent it would set for online commerce nationally.

Requiring internet-enabled businesses to comply with a piecemeal approach on a state-by-state level leads to a number of workability issues. Article 3, sections 9-12 confuses the mechanism for what party has the responsibility to collect and remit the tax to the state, creating new liabilities for both parties. The bill sets a precedent that could negatively impact businesses around the country with enormous tax and administrative burdens.

The U.S. Supreme Court has drawn a bright line with the decision in *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992): states do not have the power to require sales tax collection by out-of-state sellers having no physical presence in the state. Passing the bill with this language is likely unconstitutional and misguided use of state public policy in an attempt to force the federal government to act. The language proposed in HF 1 is constitutionally suspect and will likely be the subject

of protracted legal challenges while purportedly generating revenues that are speculative at best.

For Minnesota this bill is especially unnecessary as 24 of the top 25 online retailers already collect sales tax for the state. This means that a majority of uncollected sales tax revenue is already scheduled for collection.

As businesses plan where to place new data centers, or invest in other ways, there is a need for certainty on tax expectations. Article 3, sections 9-12 create unpredictability that might have a chilling effect on new investments in the state from technology companies.

Today, Minnesota businesses are only required to collect and remit taxes in states where they have a physical presence. So they are not required to follow and comply with 12,000 tax jurisdictions or face audits from 45 states and the District of Columbia. This protects Minnesota businesses that do not collect sales taxes for out-of-state sales. HF 1 would encourage other states to force Minnesota businesses to comply with their tax rules, rates, audits, tax holidays, thresholds, and caps.

Minnesota should continue to support small businesses, and the flexibility of schedules and income to support families that marketplaces can provide for online sellers. HF 1 sets the tone of overly-broad taxation that threatens to take this away from small businesses outside the state and ultimately, those in Minnesota as other states' tax authorities follow suit.

Finally, in polling conducted by NetChoice, Minnesotans largely oppose and see this as a new tax (see <http://netchoice.org/Mnpoll>).

- 79% with an opinion do not support
- 69% with an opinion consider the proposal a statewide tax increase
- 88% with an opinion see no problem with the current tax system

For all these reasons, we ask that you to veto HF 1. Thank you for considering our views.

Respectfully submitted,

TechNet  
Internet Association  
Internet Coalition  
NetChoice