

**NetChoice** *Promoting Convenience, Choice, and Commerce on The Net*

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February 23, 2016

Sen. Deidre M. Henderson, Chair  
Senate Revenue and Taxation Committee  
Utah State Capitol  
Salt Lake City, Utah 84114

**RE: Opposition to SB 182 – Sales and Use Tax Revisions**

Dear Chair Henderson and members of the committee:

We ask that you do not pass SB 182. Utahns will likely see it as a new tax, since any tax collected will come from the pockets of Utahns, not from out-of-state businesses.

In late January, we polled over 600 Utah citizens across a broad spectrum of demographic characteristics. Polling results show significant opposition to legislation such as SB 182:

Sixty-seven percent said that imposing sales tax obligations on businesses that have no physical presence in the state would amount to a statewide tax increase.

Sixty-seven percent of Utahns said the “issue has largely solved itself and requiring small merchants to collect and send taxes to 46 states is overly burdensome.” Only 16 percent said there “should be federal or state laws that require merchants large and small to collect and pay taxes to tax collection agencies in nearly every state.” Two-thirds said they oppose laws that would allow state tax authorities to audit businesses from other states.

Utahns support the current online sales tax system. An overwhelming 78 percent said that the current system is “fine, I like it as it is.” Only 8 percent said “it needs to change. More purchases should be taxed.”

Utahns are also worried about a boomerang effect on Utah businesses if state lawmakers passed laws forcing online businesses in other states to collect and file taxes when they sell to Utah customers. Seventy-three percent of those surveyed said they think the proposed law would encourage other states to impose similar obligations on Utah businesses that sell to customers in other states.

Polling questions and results are available at <http://NetChoice.org/UtahTaxPoll>

SB 182 anticipates a constitutional challenge that it is not likely to survive. Still, enactment and litigation could prompt other states to force Utah businesses to comply with *their* tax rules, rates, tax holidays, thresholds, and caps. SB 182 could thereby encourage 45 additional state tax auditors to go after Utah

businesses. Imagine telling your local businesses that New York and Illinois tax auditors can now go after them for taxes due on past sales to out-of-state customers.

Some advocates of SB 182 have said they introduced this bill with the intent of sparking litigation, all the way to the US. Supreme Court. What advocates are not discussing is the cost of this lawsuit to Utah taxpayers. The US Supreme Court has repeatedly upheld the protection of businesses from other states' tax auditors.

Not only is it unlikely that the Supreme Court would overturn a hundred years of jurisprudence, but such a challenge would cost Utah taxpayers millions of dollars. Utah has so many better ways to spend taxpayer money, other than paying lawyers to fight an issue on which the Supreme Court has already repeatedly ruled.

Regardless of the outcome of SB 182 and its Supreme Court challenge, *no new money will flow into the state*. Any sales taxes collected as the result of SB 182 would not come from out-of-state businesses, but would instead come from the pockets of Utahns. In essence, all SB 182 would do is transfer money from Utah citizens to state tax coffers.

We ask that you not pass SB 182 and instead protect Utah businesses from out-of-state tax auditors, protect Utah citizens from a new tax, and protect Utah from costly litigation.

Thank you for considering our views and please let me know if we can provide further information.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve DelBianco", with a long horizontal flourish extending to the right.

Steve DelBianco  
Executive Director, NetChoice

**NetChoice** is a trade association of e-Commerce and online businesses. [www.netchoice.org](http://www.netchoice.org)