

## **Congress must protect small businesses from unreasonable burdens on interstate commerce.**

In July 2010, Rep. Delahunt (D, MA) introduced HR 5660, which would force retailers across the nation to become tax collectors for states that have joined the Streamlined Sales Tax Project (SST). This legislation would mandate that out-of-state sellers collect taxes for states where they have no physical presence, thus overturning the Supreme Court's Quill ruling that state tax systems are so complex that they represent an unreasonable burden on interstate commerce.

Moreover, HR 5660 is a radical departure from SST legislation introduced in previous sessions of Congress. In HR 5660, Congress abandons its historical role of protecting small businesses from the new tax collection burdens of SST.

Previous SST legislation exempted sellers if they had less than \$5 million in remote taxable sales in the previous year. But HR 5660 removes this protection and lets the SST's Governing Board determine the small seller exception. The Governing Board is dominated by tax administrators who want to maximize new tax revenue, so it's no surprise that they've slashed the small seller exception from \$5 million to just \$100,000 in remote sales.

The SST Governing Board should not be trusted to protect small sellers. If Congress were to overturn Quill, it must maintain oversight to protect small sellers from unreasonable burdens on interstate commerce. Here are three main reasons:

Reason 1: Tax collection burdens fall hardest on small sellers. In a [study](#) commissioned by the SST Governing Board, PriceWaterhouseCoopers found that for small sellers (under \$1 million in annual sales), the cost of collection is nearly 17 cents on every dollar of tax collected (not including initial costs for programming, systems integration, and employee training).

Reason 2: The Governing Board is not capable of holding member states to any standard of simplification. By back-sliding on its promise to simplify, the SST Governing Board is losing its credibility as a governance mechanism. To attract new member states, the Governing Board has abandoned initial simplification promises such as a single rate per state, uniform sourcing, and elimination of sale thresholds. Moreover, when member states create replacement taxes to avoid simplification, the Governing Board looks the other way. As in previous versions of this legislation, Congress should require 'Minimum Simplification' conditions, including a Congressional determination of the small business exception.

Reason 3: Only Congress can represent sellers in all states. The SST Governing Board represents only the governments of its member states. However, they want Congress to mandate collection by sellers *in ALL states* – not just in member states. There are millions of small sellers in the states that have no sales tax and in states that decide not to join SSTP. These businesses are entitled to the protection of Congress — including an adequate small seller exception — to prevent unreasonable burdens on interstate commerce.

The small seller exception for SST should be determined by Congress. If Congress defers to the Governing Board on the small seller exception, nobody will be safe from new burdens of being tax collectors for the states.