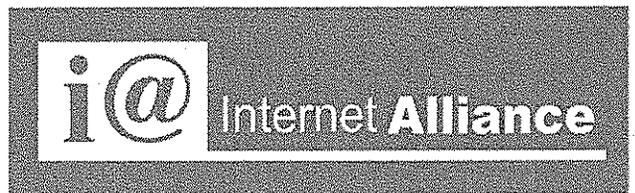


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March 15, 2010

Honorable Eileen Daily, Co-Chair  
Honorable Cameron Staples, Co-Chair  
Joint Finance, Revenue and Bonding Committee  
Room 3700, Legislative Office Building  
300 Capitol Avenue  
Hartford, CT 06106

Dear Senator Daily and Representative Staples:

I represent the Internet Alliance (IA), a national organization of consumer Internet companies that provide goods and services via the Internet. The IA's mission is to build consumer confidence and trust in the Internet so that it may become the leading global marketing medium of this century.

The IA is writing to express opposition to HB 5481, a tax bill scheduled for a hearing in your committee on March 15. This bill proposes to require out-of-state online retailers that enter into an advertising relationship with Websites based in Connecticut to collect sales taxes from customers. Evidence from other states that have attempted this flawed approach shows that this tax will eliminate jobs, reduce state revenue and drive business and consumer dollars out of state.

Three states have attempted to impose this type of tax. In two of these states – North Carolina and Rhode Island – officials have now publicly admitted that these provisions did not produce state revenue and may have actually reduced state revenues in the case of Rhode Island. In fact, the Rhode Island legislature is considering a repeal of this law (see R.I. SB 7071). The New York provision may have generated additional revenue, but that law has been challenged and is currently in litigation.

This legislation arises from a flawed understanding of the relationship between online sellers and affiliate advertisers.

Here is how affiliate marketing works. The only businesses in Connecticut that would be affected by this legislation would be those small businesses that advertise products and services for out-of-state retailers on their Webpages. If someone clicks on the advertisement and then purchases a product or service, the small business receives commission-based revenue from the out-of-state retailer. These small businesses operate entirely independently of the actual retailer and never touch the goods or provide the services that are sold.

If this legislation is enacted, the biggest impact will be on Connecticut businesses and non-profit organizations that generate revenue from advertising commissions. When New York's law was enacted, many out-of-state businesses terminated their commission program with New York residents. Similarly, North Carolina and Rhode Island online retailers cancelled contracts with in-state affiliates, and moved their affiliate relationships to other states that do not tax commission-based advertising.

Consequently, this legislation would not solve the issue of uncollected use taxes on remote sales, since any online seller would be under no obligation to collect sales taxes unless they have a relationship with an in-state affiliate. Rather, it would create an unlevel playing field based on whether an out-of-state seller chose to have an advertising relationship with an in-state firm.

This legislation would face significant legal challenges, if enacted. The U.S. Supreme Court ruled in 1992 (see *Quill Corp. v. North Dakota*, 504 US 298 (1992)) that physical presence, or nexus, is necessary for states to compel companies to serve as tax collectors. This legislation impermissibly attempts to require remote sellers with no physical presence in these states to collect and remit tax based on advertising dollars spent there. A mere advertising relationship – the basis of these proposals – would not constitute physical presence.

Several other businesses and national organizations are opposed to this type of sales tax nexus provision, including the National Conference of State Legislatures (NCSL) Executive Committee Task Force on State and Local Taxation of Communications and Electronic Commerce. Please see the attached NCSL letter that has been, or will be sent shortly, to state legislative leaders opposing this type of tax because it could jeopardize efforts to address the remote sales issue for all remote sales through the Streamlined Sales Tax Project.

We respectfully request that you oppose HB 5481, as it is bad tax policy that would also harm the state's economy. The tax is counterintuitive and a step backward. For all these reasons, the IA strongly opposes this bill.

Please contact me if you would like to discuss this issue further.

Sincerely,

Tammy Cota

Tammy Cota

cc: Joint Committee on Finance, Revenue and Bonding Committee