
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 571 Session of
2013

INTRODUCED BY SIMMONS, SCHLOSSBERG, READSHAW, HELM, COHEN, COX,
SANKEY, R. MILLER, DUNBAR, CUTLER, MUSTIO, REED, KIRKLAND,
GROVE, LUCAS, GINGRICH, ROCK, STURLA, JAMES AND EVANKOVICH,
DECEMBER 9, 2013

REFERRED TO COMMITTEE ON FINANCE, DECEMBER 9, 2013

A RESOLUTION

1 Memorializing the Congress of the United States to pass and the
2 President of the United States to sign the Marketplace
3 Fairness Act of 2013 or a similar act to provide uniform
4 measures for the collection of states' sales and use taxes.

5 WHEREAS, As the result of a series of United States Supreme
6 Court cases dealing with state taxation of mail order catalog
7 retailers, including *Quill Corp. v. North Dakota*, 504 U.S. 298
8 (1992) and *National Bellas Hess, Inc. v. Department of Revenue*
9 *of Illinois*, 386 U.S. 753 (1967), a state is generally unable to
10 require a retailer without a physical presence in that state to
11 collect sales and use tax on its behalf; and

12 WHEREAS, Pennsylvania has long imposed a sales tax on each
13 sale at retail of tangible personal property or taxable services
14 within this Commonwealth, with the retailer required to collect
15 the tax from the purchaser and to remit the collected tax to the
16 Commonwealth; and

17 WHEREAS, If the retailer does not collect the sales tax on a
18 taxable sale at retail, and the purchaser uses the purchased

1 item or service within this Commonwealth, the purchaser is
2 legally required to pay use tax directly to the Commonwealth;
3 and

4 WHEREAS, The burden on individual purchasers or consumers to
5 track, calculate and remit the correct amount of use tax is
6 significant, resulting in low rates of compliance and reduced
7 state tax collections; and

8 WHEREAS, A 2011 study by Robert Strauss, Professor of
9 Economics and Public Policy at the Heinz College, Carnegie
10 Mellon University, projected that Pennsylvania would lose
11 between \$254 million and \$410 million in sales and use taxes in
12 2012 due to the inability to require retailers without a
13 physical presence in this Commonwealth to collect sales and use
14 taxes; and

15 WHEREAS, The Pennsylvania Department of Revenue has taken
16 measures to improve the collection of this tax, including the
17 addition of a section for the use tax on the standard
18 Pennsylvania tax return form (PA-40) and by clarifying the nexus
19 standard for retailers with physical presence in this
20 Commonwealth through a subsidiary, representative or agent; and

21 WHEREAS, While the recent measures by the Department of
22 Revenue to improve collections have resulted in increased
23 compliance, much remains uncollected; and

24 WHEREAS, The inability to collect sales and use tax on
25 purchases made from retailers that do not have a physical
26 presence in this Commonwealth has created a disadvantage for
27 this Commonwealth's brick-and-mortar retailers that are required
28 to collect the sales and use tax; and

29 WHEREAS, The 2011 study by Professor Strauss projected that
30 uniform collection of the sales and use tax across all retailers

1 would result in job growth by Pennsylvania-based brick-and-
2 mortar retailers of between 1,530 and 2,766 jobs, which would
3 generate between \$66 million and \$119 million in wages; and

4 WHEREAS, The growth of retail sales on the Internet has
5 exacerbated the problem for taxpayers and the Commonwealth far
6 beyond the circumstances considered when the *Quill* case was
7 decided; and

8 WHEREAS, Congress is in the best position to standardize the
9 nationwide collection of sales and use taxes from retailers that
10 do not have a physical presence in the state where the tax is
11 due; and

12 WHEREAS, The United States Supreme Court stated in *Quill* that
13 the problem "is not only one that Congress may be better
14 qualified to resolve, but also one that Congress has the
15 ultimate power to resolve"; and

16 WHEREAS, On May 6, 2013, the United States Senate passed the
17 Marketplace Fairness Act of 2013, which would provide nationwide
18 standards for the collection of sales and use taxes from out-of-
19 state retailers, by a vote of 69 to 27; and

20 WHEREAS, The Marketplace Fairness Act of 2013 is currently
21 being considered by the Committee on the Judiciary in the United
22 States House of Representatives; and

23 WHEREAS, On September 18, 2013, Chairman Bob Goodlatte (R-
24 Va.) and Subcommittee on Regulatory Reform, Commercial and
25 Antitrust Law Chairman Spencer Bachus (R-Ala.) issued a
26 statement outlining the framework the committee will follow when
27 considering the legislation; and

28 WHEREAS, The Marketplace Fairness Act of 2013 would simply
29 standardize the collection of existing taxes that are already
30 due; it would not expand an existing tax nor would it create a

1 new tax; and

2 WHEREAS, The additional revenue that is already due to the
3 Commonwealth that would be collected under the Marketplace
4 Fairness Act of 2013 could be used to prevent future tax
5 increases and to provide tax relief to all Pennsylvanians; and

6 WHEREAS, A 2013 study by economists Arthur B. Laffer and
7 Donna Arduin projects that over the next ten years the enactment
8 of the Marketplace Fairness Act of 2013 could empower states to
9 implement pro-growth tax policies that would result in a
10 nationwide increase in gross domestic product (GDP) of \$563.2
11 billion and add over 1.5 million new jobs, with \$15.1 billion in
12 GDP growth and 43,000 new jobs in Pennsylvania; therefore be it

13 RESOLVED, That the House of Representatives memorialize the
14 Congress of the United States to pass and the President of the
15 United States to sign the Marketplace Fairness Act of 2013, or a
16 similar act, to provide uniform measures for the collection of
17 states' sales and use taxes; and be it further

18 RESOLVED, That copies of this resolution be transmitted to
19 the President of the United States, to the presiding officers of
20 each house of Congress and to each member of Congress from
21 Pennsylvania.