

March 10, 2014

The Honorable Robert W. Goodlatte, Chairman
Committee on Judiciary
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Chairman:

Last fall you released seven “basic principles pertaining to the issue of Internet sales tax ... to guide discussion on this issue and spark creative solutions.” We write to applaud your leadership in providing “a starting point for discussion in the House of Representatives.” We urge you to now move this discussion along with the development and advancement in the Judiciary Committee of legislation based on your basic principles, to enable the House to act and the Congress to complete action on this important issue. We further request that this letter be included in the record of the Judiciary Committee’s March 12, 2014 hearing on this issue.

As you know, it has been more than two decades since the United States Supreme Court’s ruling in *Quill v. North Dakota* effectively exempted remote sellers from the sales tax collection obligation states impose on their local brick and mortar competitors. The Court’s opinion did acknowledge Congress’ authority in this matter: “(T)he underlying issue is not only one that Congress may be better qualified to resolve, but also one that Congress has the ultimate power to resolve ... Accordingly, Congress is now free to decide whether, when, and to what extent the States may burden interstate mail order concerns with a duty to collect use taxes.”

Nearly 22 years later, the dynamics of the marketplace have substantially changed with the advent of the internet and growth of e-commerce. And these dynamics, which initially manifested themselves in the retail sector, have more recently arrived on the scene in the B2B space in which wholesaler-distributors “live”. According to the 2013 study of trends in wholesale distribution conducted by the National Association of Wholesaler-Distributors Institute for Distribution Excellence (“NAW Institute”) and IBM titled *Facing the Forces of Change: Reimagining Distribution in a Connected World®*, in the same way that the shift toward e-commerce is “rapidly transforming the retail landscape ... e-commerce will now continue to transform wholesale distribution ... by 2017, a full 92% of distributors surveyed will offer e-commerce ... On average, online orders make up 9% of distributor revenues today, but that proportion is expected to surge to 21% by 2017, an increase of 130%.” Fourth quarter 2013 survey data reported in *Modern Distribution Management (MDM)* earlier this year reveals that 21% of respondents see on-line only players as a larger competitive threat than their “traditional” competitors. Our expectation that e-commerce will continue to grow in the B2B space is reflected in MDM’s survey finding that 70% of their survey’s distributor respondents will invest in e-commerce this year, and is further underscored by the NAW Institute/IBM study finding reported in *Facing the Forces®* that 78% of distributors plan to invest in this area through 2017. Consequently, our wholesaler-distributor memberships are increasingly concerned about the clear advantage enjoyed by on-line remote sellers at the competitive expense of local brick and mortar sellers and convinced of the need for Federal legislation to address this inequity.

Last Spring, the Senate passed the *Marketplace Fairness Act* with our support. This legislation empowers the states to fully enforce their sales and use tax laws by requiring remote sellers to collect and remit sales and use taxes that are already owed by purchasers, just as local brick and mortar businesses must do. We urge the judiciary Committee, under your leadership, to quickly develop internet sales tax legislation based on your basic principles to empower the states to treat all sellers equally as to their obligation to collect and remit state sales and use taxes. We look forward to working with you as the legislative process unfolds on this important matter.

Sincerely,

American Supply Association
Automotive Aftermarket Industry Association
Education Market Association
Heating, Air-conditioning & Refrigeration Distributors International
National Association of Electrical Distributors
National Association of Wholesaler-Distributors

cc: Members of the Committee on Judiciary, U.S. House of Representatives