

## Main Street Fairness Act

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NAREIT supports the enactment of federal legislation to allow states that streamline their sales tax systems to treat all retail sales equally by collecting existing sales and use taxes for sales at physical locations and remote sales. This legislation would impose no new taxes on Internet sales while providing funds to reduce unprecedented budget shortfalls during the worst economic conditions seen in generations at minimal or no cost to the federal government.

### Current Law – Quill Decision

In 1992, the U.S. Supreme Court ruled in the *Quill* decision that the assortment of complicated and diverse state and local sales tax rules was a burden on retailers engaged in interstate commerce. Therefore, the Court ruled that remote sellers, *e.g.*, Internet and catalog retailers, could not be required to collect sales taxes unless they had a physical presence, such as a store or warehouse, in the purchaser's state.

The *Quill* decision has resulted in a situation where Internet and catalog retailers without physical stores do not collect sales taxes that are owed to state and local governments, while brick and mortar retailers are required to collect sales taxes on all sales. This situation is not only unfair to traditional retailers, but is costing the financially strapped states and localities billions of dollars in lost revenues. In the *Quill* decision, the Supreme Court advised that allowing states to require collection is an issue that, "Congress may be better qualified to resolve and one that it has the ultimate power to resolve."

### Streamlined Sales and Use Taxes

The Streamlined Sales and Use Tax Agreement (SSUTA), which was approved in November 2002 by 34 states and the District of Columbia, responds to the Supreme Court's concerns by outlining a uniform system to administer and collect sales taxes. The business community worked very closely with the states to develop the comprehensive system to simplify and streamline the states' sales tax rules. The SSUTA dramatically simplifies the nation's sales tax laws, reduces red tape on America's businesses and facilitates equitable sales tax collection for all retailers.

To date, 23 states have enacted legislation to change their sales tax laws and implement the terms of the SSUTA. At least 10 more state legislatures are likely to consider such legislation in the coming year. However, without Congressional action, states may not be able to require out-of-state vendors to collect existing sales or use taxes under the *Quill* decision. During the last Congress, NAREIT supported the "Sales Tax Fairness and Simplification Act," H.R. 3396, introduced by Representative Delahunt (D-MA), and co-sponsored by Representatives LaHood (R-IL) and Bachus (R-AL), and S. 34, introduced by Senator Enzi (R-WY). This legislation would have provided Congressional consent to the SSUTA and would have authorized those conforming states the authority to require retailers – other than "small businesses" – to collect sales tax on remote sales – and receive compensation for doing so.

NAREIT is hopeful that similar legislation entitled the "Main Street Fairness Act," or MSFA, will be introduced in the 111<sup>th</sup> Congress. Enactment of the MSFA would provide a level playing field for brick and mortar and remote retailers and would assist states in collecting existing taxes during this time of state and federal budget crises.

### Main Street Fairness Act

NAREIT joins the National Conference of State Legislatures, the National Governors Association, the National Retail Federation, the International Council of Shopping Centers and a host of other organizations that form the Main Street Fairness Coalition in supporting passage of the MSFA. The Coalition urges Members of Congress to co-sponsor this legislation when it is introduced in the 111<sup>th</sup> Congress so that, at minimal or no cost to the federal government, states and localities can collect existing taxes to defray their rising costs for protecting the homeland, furthering local education and otherwise carrying out essential government activities, particularly during the current economic crisis.

