

# **The Main Street Fairness Act Senator Durbin**

## **Section-by-Section**

### **Section 1. Title**

The act may be cited as the "Main Street Fairness Act."

### **Section 2. Consent of Congress**

Congress consents to the Streamlined Sales and Use Tax Agreement (SSUTA).

### **Section 3. Findings**

Congress finds that states should simplify their state tax systems, that similar sales should be taxed in the same way regardless of medium, Congress may facilitate such equal taxation consistent with *Quill Corp. v. North Dakota*, states that simplify sales taxes should require all sellers to collect such taxes, states should lead the effort to design sales tax collection systems, and online consumer privacy must be protected.

### **Section 4. Authorization to Require Collection of Sales and Use Taxes**

Once ten States (comprising at least twenty percent of the total population of all states imposing a sales tax) have become Member States, then the states that implement the SSUTA are authorized to require remote sellers (larger than the small seller exception) to collect and remit sales and use taxes. A state's authorization will terminate if the state falls out of compliance with the Agreement, or the Agreement as amended no longer meets the minimum simplification requirements outlined in Section 6.

### **Section 5. Determination by Governing Board and Judicial Review of that Determination**

Any person who may be affected by the Agreement may petition the Governing Board for a determination on any issue relating to the implementation of the Agreement.

Any person who has submitted a petition may bring an action against the Governing Board in the United States Court of Federal Claims (which shall have exclusive jurisdiction) for judicial review if the petition was denied by the Governing Board, or the Governing Board failed to act on the petition within six months, and the petition relates to one of four enumerated issues.

### **Section 6. Minimum Simplification Requirements**

The SSUTA must meet the following minimum simplification requirements: (1) centralized, one-stop, multistate registration for sellers; (2) uniform definitions of products and product based exemptions for states to choose from and which must then be consistent throughout all local jurisdictions within that state; (3) uniform rules for sourcing and attributing transactions to jurisdictions; (4) uniform procedures for certification of tax service providers and software upon which sellers may rely; (5) uniform rules for bad debts; (6) uniform requirements for tax returns and remittances; (7) consistent electronic filing and remittance methods; (8) single, State-level administration of sales taxes; (9) the elimination of state caps and thresholds on rates subject to enumerated exceptions; (10) a statewide taxability matrix for each member state; (11) liability relief for sellers who rely on state-provided information; (12) uniform audit procedures, including an option for a seller to request a single audit from all member states; (13) reasonable seller compensation for the administration, collection, and remittance of taxes; (14) protections for consumer privacy; (15) governance procedures to ensure uniform implementation and adherence to the Agreement; (16) a uniform rule to establish a small seller exception; (17)

uniform rules for sales tax holidays; and (18) uniform rules and procedures to address refunds and credits.

**Section 7. Limitation**

Nothing in this Act shall be construed as subjecting sellers to franchise taxes, income taxes, or licensing requirements of a State or locality.

This Act shall not be relevant in determining whether a seller has a nexus with any State for any other tax purpose.

**Section 8. Expedited Judicial Review**

Any civil action challenging the Act's constitutionality shall be heard by a district court of three judges, and the judgment of the District court shall be reviewable by the Supreme Court.

**Section 9. Definitions**

The following terms are defined: Governing Board, Member State, Nondiscretionary Duty of the Governing Board, Person, Remote Sale, Remote Seller, State, and SSUTA.

**Section 10. Severability**

If any part of the Act is held to be unconstitutional, the remainder of the Act shall not be affected.

**Section 11. Sense of Congress on Digital Goods and Services**

It is the Sense of the Congress that each Member state that is a party to the SSUTA should work with other SSUTA Member states to prevent double taxation in situations where a foreign country has imposed a transaction tax on a digital good or service.