

## **Testimony of Scott Peterson before the U.S. Senate Committee on Commerce, Science, and Transportation on August 1, 2012:**

Thank you Chairman Rockefeller, Ranking Member Senator Hutchison and Members of the Commerce Committee for the invitation to talk to you today.

### **Introduction:**

I am the Executive Director of the Streamlined Sales Tax Governing Board. I want to talk with you today about three things: 1) sales tax simplification done by the 24 Streamline states, 2) the impact of unpaid sales and use taxes, and 3) the need for Congress to act authorizing willing states to require out-of-state vendors to collect sales and use taxes.

### **Background:**

Streamline was created in response to years of court battles ending in the 1992 Quill decision. The National Governor's Association and the National Conference of State Legislatures decided it was time to sit down with business to identify and solve the sales tax administration issues business said made sales tax compliance complicated.

### **Streamline's Efforts:**

The three goals of Streamline are to: (1) make uniform those things that cannot be made simple, (2) balance the interest of state sovereignty with uniformity and simplicity, and (3) help the private sector make the best possible sales tax software and services available to retailers. We strive to eliminate the administrative differences between states while maintaining a state's sovereign authority to choose what and what not to tax.

The 24 Streamline states created and implemented uniform definitions for many commonly taxed and exempted products and services, such as groceries, candy, durable medical equipment, and digital goods. Streamline states created and implemented uniform procedures for electronic sales tax returns and payments and a single, central registration system retailers can use to register to do business across the country.

For a long time retailers have worked to automate every aspect of their business, including their sales tax obligations. Sales tax automation can be as simple as knowing what is the sales tax rate at any location or as complicated as knowing that a state has a 48 hour sales tax holiday on back-to-school supplies. The Streamline states enhanced the ability of retailers to automate sales tax collection by adopting uniform sales tax rules, such as defining what products are included in a back-to-school sales tax holiday, by evaluating and then certifying the accuracy of the tax answers provided by software companies, and by paying those companies to provide accurate answers and to file the tax returns and pay the tax. The Streamline certified software companies allow a retailer to automate and outsource their sales tax work. In addition each Streamline state pays the certified software companies to provide that service to retailers who do not have a physical presence in their state.

### **The impact of unpaid sales and use taxes:**

The impact of unpaid sales and use taxes isn't just a matter of some state not collecting what its tax law says should be collected. The sales tax is too often the price difference that turns local

retailers into display cases for consumers who come in and try out the product and then go home and buy on-line. According to the Department of Commerce, e-commerce sales doubled from 2005 to 2011 and e-commerce sales in the first quarter of 2012 increased 15% more than the same quarter in 2011. E-commerce sales are increasing at a rate greater than total sales and the difference are sales that would have otherwise gone to a local retailer.

**Should Congress authorize willing states to require out-of-state vendors to collect sales and use taxes:**

The 24 Streamline states believe Congress should exercise its authority over interstate commerce and authorize states to collect their sales tax. Opponents say the sales tax is too complex, that it will harm small business, that it is a tax increase, and that the states have not done enough.

**Collecting is too complex:**

Every retailer today looks to automate everything that can be automated. Sales tax collection software exists, it works, and it is affordable. Internet shopping carts may be the perfect technological environment in which to collect sales taxes because the customer can't make a purchase without providing all the data necessary to determine what sales tax to collect. Technology exists today to easily collect sales tax.

**It will hurt small business:**

Small main street businesses believe they are the small business that is being harmed as they try to compete against someone who isn't collecting the tax. Many of them believe they are at the mercy of a 6-10% government mandated price disadvantage. The Marketplace Fairness Act protects truly small businesses by exempting them from state authority. In addition, the Marketplace Fairness Act requires states to simplify their laws and processes, and requires them to provide software and services.

**Collecting a tax that is already due is a NOT a tax increase:**

If the retailer doesn't collect the sales tax the consumer owes the use tax. Having the retailer collect the sales tax is the only efficient method. Collecting the use tax from consumers would require an army of auditors.

**States have not simplified enough:**

One of the goals of Streamline is to balance state sovereignty with simplification. It would be easy to create a simple sales tax if we were starting over and if every retailer sold only one product and sold that product in only one way. Unfortunately, that isn't our reality. We have taken the knowledge of 70 years of sales tax collection and applied it to the millions of products being sold by millions of retailers and tried to achieve something that meets today's need

**Conclusion:**

In conclusion, we believe that between the great advances in technology and the simplifications found in the Marketplace Fairness Act it is time for Congress to act. Many today believe the government is picking winners and losers in the retail community. It is time to treat all retail businesses the same. Congress has the ability to balance simplification with state sovereignty and equity. We encourage you to make that decision and act now.