

Responses to Questions from Representative Melvin Watt on the Marketplace Equity Act of 2011

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1. If services exist or are developed that sufficiently simplify the tax collections process for vendors, is or will a small business exemption be necessary?

Technology AND state sales tax simplification is necessary to make the process easy enough to obviate the need for a small business exemption. Look-up software is crucial, but so is addressing (1) a general determination by many jurisdictions to duplicate reporting, collecting, and auditing functions; (2) poor guidance on line-drawing between taxable and non-taxable items in advisory rulings; (3) states that permit jurisdictions to define their own tax base independently of the states; (4) far too many overlapping sales tax jurisdictions, which actually grow in number each year; and (5) states' eagerness to grant exclusions, exemptions, and preferential rates to special interests. The entire system is ad hoc and the costs are imposed entirely on retailers that collect the tax. Awesome software solves none of those problems and is even limited in its ability to navigate those problems.

2. Proponents of H.R. 3179 argue that a \$1 million small business exemption threshold would exclude more than 90 percent of online retailers thus denying States much of the uncollected sales and use tax revenue that the bill is designed to help them secure. Opponents of H.R. 3179 advocate for a small business exemption threshold (\$10-\$15 million) because they argue that a lower threshold would cripple small businesses and, because the top 10 percent of online retailers are responsible for the majority of uncollected sales and use tax revenue, a higher threshold would still capture the majority of uncollected sales and use tax revenue that the bill is designed to help States secure. What is the appropriate small business exemption threshold? Why?

A large threshold would collect most of the uncollected revenue while concentrating compliance costs on large firms, at least if the current state of the industry remains mostly unchanged. A small threshold wouldn't raise much more money but would increase compliance costs.

That said, rather than figuring out how many firms we should subject to an unnecessarily complicated and economically wasteful enterprise, my position is that a better avenue would be to require simplification of sales tax systems as a condition of states gaining the power to collect from out-of-state vendors. If we can do that, the waste of time and resources that goes into all that nonsense can be redirected into more productive avenues, without reducing the revenue that states and localities get. As the SSTP experience shows, only Congress will be able to get that set as a standard, either by enacting simplification requirements or credibly threatening to enact simplification requirements.