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## Leveling the Playing Field: A Business Perspective on Taxing E-Commerce

*Val John Christensen\**

### I. INTRODUCTION

This Symposium reminds me of a comical baseball story. You may not believe this is true, but it really happened about ten years ago. It involved a rookie umpire in his first professional baseball game. It was in the minor leagues, I think Double A, and he was assigned as the second base umpire. In either the second or third inning with a man on second and one out, the batter hit a towering fly ball down the third base line. The runner assumed it was over the fence, going to hit the wall, or, at least, land in fair territory deep in the corner of left field and took off to score. He was almost to third base going full speed when the left fielder made an incredible circus catch at the wall right on the foul line.

The runner turned on a dime and headed back to second base to avoid a double play. The left fielder fired a perfect strike, and the runner and the ball arrived at second base at exactly the same time in a big cloud of dust. The umpire stood silently and made no gesture. Finally, the runner looked up at him with his hand still on the base and said, "Well, what is it?" The umpire said, "I don't know, I can't tell." The second baseman demanded, "What are you going to do?" By now the home plate umpire, who was really in charge, appeared on the scene and said, "Yeah, what are you going to do?" The rookie umpire responded sheepishly, "Well, I guess we're going to do it over."

The second base umpire took the base runner back to third base, looked for his footprints, and had him stand right where he had been when the catch was made. He took the left fielder back to the wall, gave him the ball, and put him in exactly the spot where he made the catch. He then went back and took his position behind second base and yelled, "Now, when I say go, you throw the ball, and you start running." He gave a hand signal and a loud "Go!" The base runner

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took off, and the throw was made. There was another cloud of dust, another flurry of activity, and the umpire screamed as loud as he could, "You're out!" an inning-ending double play.

Why does this Symposium remind me of that story? Because, as a company, we hate tax law "do-overs." We like uniformity, freedom from ambiguity, and certainty. Too frequently, governing authorities decide that they did not quite get things right and that it is time to do it over, try it again, make a new call. I believe one of the reasons Congress created the Advisory Commission on Electronic Commerce was to avoid a disruptive "do-over" situation, hopefully giving clear signals to companies and taxpayers involved in Internet commerce.

## II. INTERNET COMMERCE VIEWPOINTS

### *A. Background*

#### *1. Franklin Covey*

Before discussing the various viewpoints relating to e-commerce taxation, it would be helpful to understand the business background that shapes my own view. Electronic commerce is a substantial part of the future of our company. We currently operate a hundred and thirty retail stores in almost all of the states. We have a healthy catalog mail order business, and we send out about ten million catalogs to our user database each year. We have a seminar training division. We conduct public and corporate seminars in all fifty states and twenty additional countries. We have headquarters in many of the countries in which we operate. We have licensees throughout the world. We train about forty thousand people per month in our public seminars in all of the major U.S. cities. We deliver fifteen million Franklin planners to students in school districts all over the United States and Canada. As we speak, we have developers working to prepare our training curricula to be delivered over the Internet as real time interactive training opportunities.

As tax experts, you can draw two conclusions from all of these facts. First, the Internet is important to us, with e-commerce taxation becoming more important to us every day. Second, with our broad, national sales efforts, the states take the position that we have nexus everywhere.

## 2. Coalitions

You have probably observed, as you have followed the debates, that web businesses have some very curious alignments on the issue of e-commerce taxation. Wal-Mart, for example, has been the nemesis of small, main street businesses; it is the company that moves to the edge of town and threatens the main street shops with extinction. Yet, with respect to Internet taxation, Wal-Mart aligns itself with the small shops, the main street businesses. This “brick-and-mortar coalition” argues sales taxes are not that difficult to collect; they are not the monster that some people think they are; and all Internet businesses should be taxed equally. This coalition is called the e-fairness coalition (nowadays, all you have to do is put “e-” in front of something to give it instant credibility).

Similarly, all Franklin Covey wants is fairness. We want a level playing field, and we expect remote sellers to collect their fair share of taxes.

### *B. Three Perspectives*

It seems that every business has the privilege of trying to reconcile conflicts between three parties, all with different perspectives: businesses, states and local governments, and customers.

#### *1. The business perspective*

Businesses sell products at prices that hopefully generate profit margins. We want our customers to experience minimal transaction costs; we want repeat business; we want customer loyalty; we want the least amount of government intrusion; we simply want to minimize the cost of doing business.

*a. The cost of collection.* Collecting sales taxes is extremely expensive. Our accounting department determined that in 1999 Franklin Covey collected and remitted \$17,452,000 in state sales taxes. We filed returns in every state that has a sales tax and a use tax. These collection activities cost Franklin Covey over \$500,000, which includes the costs of accounting and payroll staff; information services support, including software and hardware support; and systems costs. To put this in perspective, Franklin Covey had to generate over three-and-a-half million dollars in sales revenue in 1999 just to finance the cost of its sales tax compliance activities. This cost figure is net of any sales tax discounts allowed for our collection activities.

*b. Exemption certificate programs.* In addition to collecting sales taxes, businesses are generally required to police states' sales tax exemption certificate programs. Here is a typical example of Franklin Covey's policing efforts: Like many other states, Ohio has adopted a purchase card program in order to lower its purchasing costs. A regular VISA credit card is issued to state employees, enabling them to make state-related purchases. Purchasing cards can work one of two ways. Either the employee has the burden to pay the credit card charges and then get reimbursement from the state, or the employee makes the purchases and the state has the obligation to make the direct payments.

Under Ohio sales tax law, if the state makes the payment, the transaction is sales tax exempt. However, if the employee makes the credit card payments, and then seeks reimbursement from the state, the transaction is subject to sales tax. Franklin Covey has to determine which scenario is applicable.

A customer walked into our Ohio store a few months ago and made a selection. She went to the checkout stand, presented a VISA card that said "State of Ohio" on it, and declared, "This is a tax-exempt purchase." The clerk asked the customer if she had any proof that this was truly a tax-exempt sale. The customer replied, "Look at the card, it says 'State of Ohio' on it, doesn't it?"

During a lengthy exchange, several other customers stood waiting in line. The sales clerk asked the manager, "What am I supposed to do? You've told us that we've got to be absolutely compliant with the sales tax laws." "You've done the right thing," responded the manager, "I'll make a call."

The store manager then called our tax manager in Salt Lake City. The tax manager said, "What you need to do is find out if this is an employee-pay or a state-pay card." "Well, how do I find that out?" the store manager asked. The tax manager replied, "Call the state auditor, he should know."

The store manager called the state. The state auditor didn't even know they had a purchase card program, so he referred the manager elsewhere. A half-hour and several calls later, the manager could still come up with no answer. In the meantime, the clerk, who just wanted to get this resolved, said, "Alright, I give, you get tax-exempt status on this transaction, take your stuff and go."

We were concerned about our liability to the state of Ohio if we guessed wrong, so the tax manager in Salt Lake City followed up.

He made some calls to the state of Ohio and posed the same questions over and over to a number of people and could never get an answer. We still do not know the answer. The accounting department calculated the total hours that were spent on this issue and the total cost of this exercise—an exercise repeated monthly in 130 stores around the country. Four-and-a-half hours were spent by our tax department and employees at the store trying to track down the answer and conducting our own research when we failed to get the answer from the state. Calls were placed to the credit card issuer and to every other conceivable source of information to no avail. The cost of this futile effort, including the long distance calls, came to about \$180. This may not seem like much, but the transaction was only for seventy-five dollars worth of merchandise—we lost a comparatively large amount in that transaction. With numerous incidents similar to this, it is easy to understand why our sales tax collection costs are so astronomical.

You might say that it was unreasonable for us to go to these extremes to solve this problem. However, you have to understand that when we face an audit (it's not if, but when) from the state of Ohio, they will conduct a random sampling of transactions. If the auditors pull up this transaction, we will be at a loss to explain why we granted tax-exempt status. The burden is on us to explain why we handled it the way we did. If Ohio is not satisfied with our explanation, it will establish a ratio of noncompliant transactions based on the sampling of all tax-exempt transactions. We will then be exposed to penalties and interest on the uncollected sales taxes based on that ratio, which would result from a charge of noncompliance in this one transaction. So it probably would have been worth the \$175 had we come up with an answer. But we are still in an indefensible position.

## *2. The customer*

The consumer, whether a business or an individual, wants the broadest selection of goods and services possible and access to the most information available to make buying decisions. The customer wants to buy products and services at the lowest possible price and with the lowest transaction cost. The consumer typically sees the charging of sales taxes or use taxes as an avoidable, irksome part of the transaction. Consumers do not generally understand that they have an obligation to pay use taxes. They see sales taxes as a legitimately avoidable part of the purchase price. So what do they do?

They look for every means to try to avoid sales taxes; they buy things over the web or out of catalogs from businesses that do not have nexus in their states so they can avoid sales tax collection. They do not understand that retail businesses are doing them a big favor by collecting the tax on their behalf, holding the moneys, filling out the tax returns, and remitting everything to the state.<sup>1</sup> They don't see us as the states' agent or as their agent in this whole process. They simply see a sales tax as an avoidable burden. The bottom line is that consumers factor sales and use taxes, if they even understand use taxes, into the purchase price as a burdensome increase that they have a legitimate right to avoid.

Now I will be so bold as to suggest this: if I were to administer a truth serum to everyone attending this Symposium, I would wager that everyone would admit to having purchased something over the web or through a mail order transaction and boasting to a friend that you got a heck of a deal and did not have to pay sales tax. We reason, "I could buy this locally for a certain price, on the web I can get it for a lower price. But then I have to factor in shipping and handling; that brings the prices closer together. But then when I deduct the sales taxes I don't have to pay, it's a better deal on the web."

### *3. The state*

State and local taxing authorities simply want revenue. Consequently, innovative philosophical and political justifications have been made for creating as many types of taxes as the imagination can conceive and private enterprise will tolerate. There are taxes on the ownership of property, the transfer of property, the receipt of income, the right to be a corporation, the acquisition of or merger with other businesses, and (coming to the heart of our Symposium) the right to purchase and use goods. In the final instance, it is the retailer that has the obligation to collect sales taxes and remit them to the taxing authorities.

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1. I incorporated Franklin Covey back in 1983, three years after I graduated from law school, when it was operated in the basement of one of the founders. In my long history with Franklin Covey, I have never once received a thank you card from a customer expressing appreciation for handling his sales and use tax obligations. I have also never received from the state of Utah, or any other taxing authority, any expression of thanks for our services on their behalf in collecting taxes we do not owe from a person who does owe taxes and is doing everything possible to avoid paying them.

*a. The effect on business.* As a company, we have learned to live with franchise taxes, property taxes, income taxes, and other taxes that directly apply to us as a business deriving the benefits of the services provided by the taxing jurisdiction. On the other hand, we chafe a little bit when we are required to serve, without compensation or reimbursement of expenses, as a sales and use tax collection agent of the state and local governments. We render a service that is not only extremely expensive, but it is also taxing on our human resources and on our client relationships. It requires us to act both as a policeman and an educator of the public, which does not understand sales and use taxes.

*b. State support.* The states don't really give us much support. They don't provide us with information packages, and they do very little to educate consumers about their obligation to pay use and sales taxes. If you visit the website for the state of Utah, you will find a category called "use taxes." If you click on that category, it will take you to a form explaining that taxpayers have an obligation to pay use taxes, and it briefly explains how to fill out the use tax return. That's it.

*c. The cost of business enforcement of state and local tax schemes.* Speaking only as a business, we would really prefer that states and local governments, if they desire to tax consumers' sales, would do their own work in collecting sales and use taxes and leave us out of it. If you look at the stock market, you understand what "pennies per share" means. Our five hundred thousand dollar sales tax collection cost, which comes right off the bottom line, represents one or two pennies per share. All you have to do is apply a company's current multiple to see how sales tax collection costs affect the stock price of a business.

Can you imagine a world in which the state would have a booth at the entrance of every mall, at the exit of every parking lot in a shopping center, at the exit of every grocery store, and at the door of every stand-alone business through which purchasers would have to pass and would have to declare their transactions and pay their sales or use taxes? Imagine the state staffing needed to operate thousands of collection points. Imagine dealing with thousands of transactions; beleaguered, ornery customers; and tedious tax arguments. Add this to the cost of policing state tax exemption certification usage.

I really enjoyed the previous speaker, who talked about dealing with tax exemption and how exemption schemes, policies, and prac-



tices are all over the map. We get no direction; we simply have to take the customer's word as fact or get behind it and figure it out. The trouble is that we do so at our peril. We simply have no choice but to administer state and local government programs that tax the sale of the purchase and use of retail products, carrying the burden of collecting the tax from the obligated taxpayer.

As I mentioned, we also have to educate taxpayers; we have to deal with their complaints, and we have to administer the states' tax exemption certificate programs. In my view, these problems compound exponentially with sales on the Internet. It is one thing to have to deal with transactions in a retail store. In that situation, business headquarters can become familiar with all of the tax laws in the states where the company has nexus. However, it is an entirely different matter, as was alluded to by a previous speaker, to have to figure out the tax laws when you cannot identify the location of the e-commerce purchaser.

### III. THE SPECTRUM OF TAXING POSITIONS

#### *A. Taxation Arguments*

Franklin Covey is trying to understand the broad spectrum of ideas surrounding sales tax collection on Internet sales. It is interesting to hear some of the proposals that have been made and to informally tally the projected votes of the members of the commission on this issue. Basically, I see two primary ends of the spectrum. Those who say that the Internet should be free from taxation, that there should be no imposition of sales tax whatsoever on remote sales, fall at one end of the spectrum, and they are pretty aggressive with this argument. At the other end, there are those who say, "Forget nexus, every transaction on the Internet should be taxed." Somewhere in the middle, we have the fairness arguments from those simply seeking a level playing field. What we have done, as a business, is catalog the arguments and determine which of them we could live with.

#### *1. The "out-of-state retailer" no-tax argument*

The first argument, at one end of the spectrum, goes something like this: There should be no taxation whatsoever on remote sales, because unlike brick and mortar businesses that state and local gov-

ernments so often argue are being discriminated against, the out-of-state retailer is asked to do that which they are unable to do but the in-state retailer is able to do, and that is to identify the location and the exact individual who is making the purchase. In the digital world, where both the consummation of the agreement and the exchange of the product or service occurs online, location is not only irrelevant, it is impossible to determine in most cases. So those who propose no sales tax on remote sales argue that the sales tax is an unfair, unwarranted device conceived to protect in-state merchants.

### *2. The "fairness" pro-tax argument*

Ted Waitt, the chairman and CEO of Gateway, who is a proponent of the pro-tax position, the so-called fairness position, reported that his company recently stopped collecting sales taxes in states where they arguably have no nexus, and it resulted in heavily increased phone and sales orders. There is something to the argument that taxation inhibits sales revenue. Most people buying over the web factor in two additional price components, sales taxes (which are avoidable) and shipping and handling charges (which are understandable and acceptable). One component is avoided, and one is tolerated as consumers balance the effect of these two costs.

With all of the competition to grab as much territory as possible, in the months prior to Christmas we saw web retailers waive shipping and handling charges. Some argued that customers will get so used to this concession that it will be dangerous for web retailers to reinstate shipping and handling charges in the future. I believe, however, that consumers generally accept the proposition that they have to pay shipping and handling charges, a component of the purchase price they avoid if they buy from a brick and mortar retailer. However, they do not plan on paying any sales taxes if they purchase over the Internet, and, when they balance the two factors, especially in purchasing high-priced items, they are usually better off avoiding the sales tax and picking up shipping and handling charges.

### *3. The "national asset" no-tax argument*

An argument is also advanced that the Internet is a major national asset, that it is somehow privileged, that it has to be preserved, and that it must be off limits to state and local taxing authorities. Greg Wynn, who is the chairman of Value America, a web-based re-

tailer, identified the first law of taxation: "If you want more of something, tax it less, if you want less of something, tax it more." The commission chairman, James Gilmore, who opposes remote tax collection obligations, suggested that we should not assume that everything in America should be taxed. He argues that the Internet is giving small businesses unprecedented opportunities—for the first time small businesses, who have traditionally been squeezed out by the likes of Wal-Mart, have a chance to increase market share with low entrance costs. Chairman Gilmore also contends that government is simply incapable of taxing digitally delivered goods and services.

#### *4. The "e-freedom" no-tax argument*

An interesting position is advanced by the e-freedom coalition, which also opposes taxes on Internet sales. This coalition argues that electronic commerce is threatened by the impulses of elected officials to regulate and tax it. They observe that every aspect of electronic commerce is in flux and any effort to assert political control is an assault on this important emerging medium. The coalition fears that any tax scheme on remote sales will inevitably entail vast and invasive monitoring and pose severe threats to evolving privacy protections on the Internet, such as encryption and anonymous digital money.

In addition to concerns about invasiveness, the coalition and others argue that allowing states and local governments to tax outside their borders is fundamentally unjust and unconstitutional. They push the nexus argument aside and say that the Internet is a whole new animal; it would be an unprecedented violation of the rights and principles that citizens enjoy in their sovereign states if local taxing authorities can stake claims on economic activity that is unrelated to the benefits they provide.

#### *5. The "discriminatory" no-tax argument*

An argument is advanced against taxing electronic commerce on the grounds that multiple, overlapping, and discriminatory sales taxes on the Internet will be impossible to avoid and, therefore, should not be attempted. There are over thirty thousand different state and local taxing jurisdictions. As a company, we file approximately three hundred sales tax returns per month. The argument is made that imposing a heavy-duty tax regime on Internet commerce will threaten

the Internet sector just as it is beginning to grow and expand and that it will seriously impair entrepreneurship and impose burdensome obligations that will retard innovation, hurt jobs, and curtail economic growth in general.

*6. The “constitutional” no-tax argument*

Another interesting argument against collecting sales taxes on Internet sales is the constitutional argument advanced primarily by advocates of fairness. The argument asserts that attempts by states and local governments to tax and regulate out-of-state activity or remote commerce are unconstitutional because a state may only tax those parties that have nexus or substantial physical presence in the state.

You can observe a wide range of nexus theories in the various states. I am sure that you are familiar with attribution nexus—one of the most assailable arguments. The argument reasons that if you have any connection with the state through a local independent contractor or any other affiliate who has something to do with the state and represents you or has something to do with your business, then you have nexus. This constitutional argument would reverse two centuries worth of well-reasoned Supreme Court case law and create a disturbing precedent for the taxation of other forms of interstate commerce by allowing remote sales to be taxed under a broadened, unconstitutional notion of nexus.

*B. The Case for Fairness*

Our company finds greater alignment with the more moderate approach, the fairness argument. Obviously, we would like to get out of the obligation to collect sales tax altogether, but, realizing that that is not likely to happen, we have tried to adopt a position that is definable and plausible. If we could count on uniformity across the United States, our sales tax collection would probably be one-tenth the job it is now.

*1. Uniformity*

I brought a document that should be at least entertaining to you. It gives you a glimpse of what we deal with. As you listen, imagine how exponentially more difficult this situation would be if this were handled over the web. I brought with me a notification

from the New York State Department of Taxation and Finance, Taxpayer's Services Division (we get notifications such as this often and from all states), which requires us to administer a temporary sales and use tax exemption on clothing and footwear for a period of one week in the state of New York, from January 15 to January 21, 2000. We have several stores there, and we sell some items that are covered by this notification, so we have a team of people who receive these documents, reprogram our computers, and send out information to the local stores, so they can handle these issues, and all for one week's worth of business.

I will read a little bit of this to give you a flavor of what we deal with.

The exemption will apply to the state's 4 percent sales and use taxes and the 1/4 percent rate of taxes imposed in the Metropolitan Commuter Transportation District. The exemption will also apply to all locally imposed sales and use taxes except for those localities listed below, where clothing and footwear will remain subject to local tax at the rate indicated. Participating localities are listed in the next page.

The next page then contains about sixty listings of different tax rates that we have to apply on an exemption basis in multiple counties for this one-week period, ranging from 4 to 1 3/4 percent.

Then as you read the body of the text it gets to be more fun.

While the exemption will apply to items of clothing and footwear worn on the body, not all items worn on the body are clothing and footwear. Jewelry, watches, and so forth remain taxable. Equipment items, such as tool belts, hard hats, and sport, bicycle, and motorcycle helmets, though worn on the body, will not be exempt from tax. Protective goggles and safety glasses (unless prescription) for sport or occupational use; protective sport or occupational masks or pads; hockey and baseball fielder's gloves or mitts; ice skates and roller skates; fireplace mittens; and similar pieces of equipment (sporting or otherwise) also remain subject to tax. Antique clothing and footwear will be exempt provided the clothing and footwear are purchased for human wear and not as collector items.<sup>2</sup>

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2. New York State Dep't of Taxation and Finance, Taxpayer Servs. Div., Technical Servs. Bureau, *Temporary Sales and Use Tax Exemptions on Clothing and Footwear*, at 1 (Aug. 6, 1999) (on file with author) (Memorandum to businesses rearding temporary New York

We have to take this seriously, so we go through our merchandise and determine how to comply. Note this language:

If exempt clothing and/or footwear are sold with other taxable merchandise, as a single unit, the full price will be subject to sales tax, unless the price of the clothing and/or footwear is separately stated on the bill . . . . For example, a store has a boxed gift set for sale [containing] a French-cuff dress shirt, cufflinks [sic] and a tie tack. The gift set is sold for a single price of \$50. Although the shirt sold by itself would be exempt during the temporary exemption periods, the full price of the boxed gift set would be taxable because the cufflinks and tie tack are taxable<sup>3</sup> and the selling price of the shirt is not separately stated.

It would be one thing if such notices came once a year and we had to deal with them only during the first couple of weeks in January, but they come every month from many states, and no state gives us much more guidance than we received in the example above. If we deal with these notices erroneously and get audited, we do so at our peril.

## *2. Multistate tax service*

Some people have advanced the notion of a multistate tax service that would derive its power from, but not be part of, the federal government. What a comforting thought! The multistate tax service would be charged with the obligation to collect and administer the tax. Under the plan, this collection agency would act as a single agency, a central clearing house, and vendors would be relieved of a substantial part of the obligation to collect taxes. It is difficult to know whether this really makes sense for our business. To be honest, it makes us a bit nervous. We fear the growth of a central federal government with a voracious “tax and spend” mindset. On the other hand, we would like to see uniformity. What will bring about uniformity among the states? Is there a power, other than the federal government, that will require states to adopt a uniform, single rate taxing approach? We are not aware of any.

Congress appears ready and willing to eradicate the current lack of uniformity and impose greater simplicity and fairness among local

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State sales tax exemption).

3. *Id.*

taxing jurisdictions. Although we would welcome uniformity, we get a little nervous because we have observed, through experience, that every tax simplification act ultimately results in higher rates. It seems that when taxing authorities simplify tax laws, they gain greater ability to simply raise rates.

### 3. *Private solutions*

Private sector participants are understandably looking to seize the opportunity to unravel this problem for profit. The Sales Tax Clearinghouse (STC), for example, is an existing private business that is offering to act as the agent for web retailers in calculating, filing, and remitting sales taxes. The STC views the e-commerce model essentially the same as a point-of-sale transaction. The only difference is that they are dealing with a multiplicity of taxing authorities rather than just the few that may govern a single location at the point of sale. The STC assures us that this is a simple computational extension that should not require companies to redefine how they do business in any of the states.

Under this proposal, the web merchant computes sales taxes and passes the combined price and sales tax amount on the credit charging information to the credit card charging service. The credit card company gets the same information. Sales taxes would appear as an additional line item on the customer's order. The STC would then perform every function relating to filing and remitting the sales taxes. The merchant could elect, however, to opt out and fulfill its own tax obligations. Arguably, with the STC's service, smaller businesses would be able to conduct interstate sales on the web using their credit card charging facilities while avoiding the burdensome costs of paying remote sales taxes. All filings would come from a single source, with the merchant, the STC, and the credit card entities linked in a smooth, seamless transaction.

## IV. CONCLUSION

I just have a few final observations concerning all of this. Franklin Covey would really like to see uniformity and simplicity in sales tax collection schemes. However, we do not see how this can be accomplished without interfering with state sovereignty. Speaking with our tax manager yesterday, I was told that if there were one tax rate per state, we could reduce each state tax return to three lines, which

would would cut administrative costs instantly by two-thirds.

As a business, we would also like to see states pay more attention to their spending and taxing policies. When businesses are forced to act as tax collection agents, without pay, they have little tolerance for waste.

Finally, we acknowledge that no system of sales tax collection will entirely remove the burden of tax collection from us, because we are probably the only ones in possession of enough transactional information to collect the tax. Compliance is made unjustifiably unfair, however, because we constantly face the threat of an audit with ensuing fines and interest if we fail to understand and enforce a state's complex taxing scheme. Any merchant that fails to collect appropriate sales taxes for any reason becomes a target for an audit. A single audit tends to proliferate audits across the country. States share information. Any business found in violation of its tax obligations, regardless of good faith effort, pays additional fines and interest as well as legal costs. The cost, risk, and exposure of acting as a remote state's unpaid sales tax collection agent, whether or not there is nexus, is multiplied tremendously when these sales occur through electronic communications and the specific location of the customer and the corresponding local tax laws are not readily discernable.

We would love to see simplification. We would love to see one rate per state. We would love to see greater nexus clarification. We would like to see in this whole process the balance of sovereignty of states and the push for a uniform simplified taxing mechanism. We would also love to be reimbursed for the expenses we incur in administering the tax collection policies of the states.

In closing, I remind you of the first law of taxation, proffered by the chairman of Value America: "If you want more of something, tax it less, if you want less of something, tax it more."



