Toi Hutchinson
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General Counsel
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September 18, 2018

The Honorable Mitch McConnell
Majority Leader
U.S Senate
Washington, D.C.

The Honorable Chuck Schumer
Minority Leader
U.S. Senate
Washington, D.C.

The Honorable Paul D. Ryan
Speaker
U.S. House of Representatives
Washington, D.C.

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
Washington, D.C.

Dear Majority Leader McConnell, Minority Leader Schumer, Speaker Ryan and Minority Leader Pelosi,

On behalf of the National Conference of State Legislatures, we write to voice our strong opposition to federal legislation that seeks to limit and delay state implementation of the recent U.S. Supreme Court decision in *South Dakota v. Wayfair,* which allows for collection of sales taxes by remote sellers.

In 1992 the U.S. Supreme Court (SCOTUS) determined in the *Quill Corp. v. North Dakota* decision that states could not require the collection of sales tax by remote sellers unless the seller had a physical presence in the state. Thereafter, states and retailers worked to simplify and streamline the collection of sales and use taxes that would level the playing field between the thriving e-commerce businesses and traditional brick and mortar business. For the last two decades states had been seeking enactment of congressional legislation that would overturn the *Quill* decision, unfortunately Congress failed to act.

On June 21, 2018 SCOTUS brought clarity to an issue that has been plaguing businesses and states for more than 20 years by ruling in favor of the states in *South Dakota v. Wayfair*. The Court found that the physical presence rule of *Quill* was "unsound and incorrect" and that it "has limited States' ability to seek long-term prosperity and has prevented market participants from competing on an even playing field." SCOTUS provided guidelines for states in implementing responsible remote sales tax collection that prevents discrimination against or undue burdens upon interstate commerce. Subsequently, governors, legislators, tax officials and retailers have been working to ensure that states follow the Court's guidelines to establish a fair and simplified system that minimizes compliance burdens while providing a level playing field for all sellers.

Now, less than three months after the ruling, proposals have emerged in Congress that would hinder state implementation efforts, preempt state authority, and create more problems than solutions. A false narrative is being painted by opponents of the *Wayfair* ruling who have used fear mongering tactics to circulate

rumors of chaos and uncertainty at the state level. This narrative could not be further from the truth. The states have heeded SCOTUS' guidance and have ensured that their newfound authority is implemented correctly and fairly.

Some members of Congress who stalled action on this issue in the past, are now hastily pushing legislation that would limit or pre-empt state authority to collect remote sales taxes, thereby forestalling states efforts to use the revenues to reduce other states taxes or to reinvest in crucial state services like education or infrastructure. States have proven that they are working diligently and thoughtfully to create a fair and simplified collection system that will minimize compliance burdens and create sales tax parity for all sellers.

As the states continue to ensure that remote sales tax implementation is done properly, we strongly urge you to respect these states' efforts and not let legislation advance that would seek to hinder or halt implementation of the *Wayfair* decision by imposing federal requirements on remote sales tax collection.

Sincerely,

Senator Toi Hutchinson
Illinois Senate
President
National Conference of State Legislatures

Speaker Robin Vos
Wisconsin Assembly
President-elect
National Conference of State Legislatures

cc. Members of Congress