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116TH CONGRESS
1ST SESSION

H. R. 1933

To prohibit States from retroactively imposing a sales tax collection duty on a remote seller, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 27, 2019

Mr. SENSENBRENNER (for himself, Ms. ESHOO, Mr. DUNCAN, Ms. LOFGREN, and Ms. KUSTER of New Hampshire) introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To prohibit States from retroactively imposing a sales tax collection duty on a remote seller, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘Online Sales Simplicity and Small Business Relief Act of 2019’’.

SEC. 2. RETROACTIVITY BAN AND ORDERLY PHASE-IN OF COMPLIANCE OBLIGATIONS.

A State may impose a sales tax collection duty on a remote seller only for a sale that occurs after January 1, 2019.

SEC. 3. SMALL BUSINESS REMOTE SELLER EXEMPTION.

In the case of a sale made by a small business remote seller, no State may impose a sales tax collection duty on any person other than the purchaser if the sale is made on or after June 21, 2018, and before the date that is 30 days after the date on which the States develop and Congress approves an interstate compact, applicable to the State and sale, governing the imposition of tax collection duties on remote sellers.

SEC. 4. SENSE OF CONGRESS.

It is the sense of Congress that the States should develop an interstate compact for the collection of sales tax by remote sellers that identifies a clearly defined minimum substantial nexus between the remote seller and the taxing State, that simplifies registration, collection, remittance, auditing, and other compliance processes to the greatest extent possible in order to avoid undue burdens on interstate commerce, and that, due to such simplification, eliminates the need for the continuation of the small business remote seller exemption under section 4.

SEC. 5. DEFINITIONS.

In this Act:

(1) REMOTE SELLER.—The term ''remote seller'' means a person without a physical presence in the State who makes a sale in the State.

(2) PHYSICAL PRESENCE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''physical presence'' means, with respect to a person, that a person's business activities in the State include any of the following during such person's taxable year:

(i) Being an individual physically in the State, or assigning one or more employees to be in the State.

(ii) Using the services of an agent (excluding an employee) to establish or maintain a market in the State, if such agent does not perform business services in the State for any other person during such taxable year.

(iii) The leasing or owning of tangible personal property (other than digital or alphanumeric data) or of real property in the State.

(B) EXCEPTION.—A person does not have physical presence in a State if the person's physical presence in the State under subparagraph (A) was for less than 15 days in a taxable year (or a greater number of days if provided by State law), or if the person's physical presence in the State was solely for the purpose of conducting limited or transient business activity.

(3) SALES TAX COLLECTION DUTY.—The term "sales tax collection duty" means—

(A) an obligation imposed on a person, including a person other than the actual seller, to—

(i) pay or collect a sales, use, or similar tax upon the sale of a good or service; or

(ii) report any information with respect to such sale of a good or service; or

(B) the assessment of a sales, use or similar tax on a person.

(4) SMALL BUSINESS REMOTE SELLER.—The term "small business remote seller" means a remote seller with gross annual receipts in the United States during the preceding calendar year in an amount that is not more than $10,000,000.

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