
HOUSE CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF TAXATION TO TAKE PROMPT AND
DECISIVE ACTION ADDRESSING E-FAIRNESS.

1 WHEREAS, the Commerce Clause (Article I, Section 8) of the
2 United States Constitution as currently interpreted by the
3 Supreme Court of the United States, prohibits states from
4 imposing sales or use tax collection obligations on out-of-state
5 businesses unless the business has a substantial nexus with the
6 taxing state, which in turn gives online-only retailers an
7 unfair advantage over their competitors with a physical presence
8 within the taxing state; and
9

10 WHEREAS, on November 14, 2014, the National Conference of
11 State Legislatures (NCSL) stated that it advocates for passage
12 of legislation to correct this advantage, also known as "e-
13 fairness legislation," because it levels the playing field for
14 local businesses, which provide key employment and tax revenues
15 that fund vital governmental services. As sales taxes account
16 for over a third of revenues for most states, including over
17 half of tax collections for six states, the inability to collect
18 taxes that are legally owed constrains states' options to reform
19 their tax code elsewhere. This includes lowering tax rates or
20 requiring states to raise certain tax rates to fund necessary
21 government services; and
22

23 WHEREAS, the NCSL estimates that states lost an estimated
24 \$23.3 billion in 2012 from being prohibited from collecting
25 sales tax from online and catalog purchases. The NCSL further
26 estimates that Hawaii lost in excess of \$122.5 million in that
27 one year for this reason, which revenue could help fund disaster
28 relief, eradication of mosquito-borne diseases, essential
29 improvements to K-12 education, and other much-needed programs;
30 and



H.C.R. NO. 176

1 WHEREAS, the Legislature and the Department of Taxation
 2 have made various efforts over the years to address the issue of
 3 e-fairness; and

4
 5 WHEREAS, on or about February 29, 2016, the NCSL released
 6 model legislative language for expanding sales and use tax
 7 collection requirements through state lawmaking, which, in
 8 addition to suggesting possible legislative action, also
 9 suggests that the Department of Taxation may have power to
 10 address the issue administratively; now, therefore,

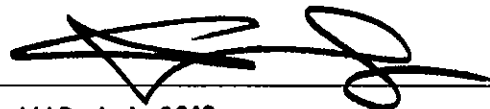
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 12 BE IT RESOLVED by the House of Representatives of the
 13 Twenty-eighth Legislature of the State of Hawaii, Regular
 14 Session of 2016, the Senate concurring, that the Department of
 15 Taxation is urged to take prompt and decisive action to address
 16 e-fairness; and

17
 18 BE IT FURTHER RESOLVED that the Department of Taxation is
 19 requested to submit a report of its efforts, findings, and
 20 recommendations, including proposed legislation, if any, to the
 21 Legislature no later than twenty days prior to the convening of
 22 the Regular Session of 2017; and

23
 24 BE IT FURTHER RESOLVED that certified copies of this
 25 Concurrent Resolution be transmitted to the Governor and the
 26 Director of Taxation.

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 28
 29

OFFERED BY:



MAR 11 2016

