SUPPORT THE MARKETPLACE AND INTERNET TAX FAIRNESS ACT (S. 2609)

ACTION NEEDED: Contact your House and Senate members and urge them to support the Marketplace and Internet Tax Fairness Act (S.2609), which would allow counties to enforce their existing sales tax laws on remote sales and provide a temporary extension of the Internet Tax Freedom Act.

BACKGROUND: The Marketplace and Internet Tax Fairness Act (MITFA) (S. 2609) would combine the Marketplace Fairness Act (S. 743), which passed the Senate last year with strong bipartisan support, with a ten-year extension of the Internet Tax Freedom Act (ITFA), which is scheduled to expire on December 11.

With this combination, S. 2609 has two components important to counties. First, it includes the Marketplace Fairness Act (MFA), a longstanding priority for NACo that enables state and local governments to enforce existing sales and use tax laws on remote or online sales. This essentially requires out-of-state merchants to collect the same taxes that merchants on Main Street currently collect. Second, S. 2609 provides a temporary extension of the ITFA, which prohibits counties from collecting a tax on Internet access. While a 10-year extension is not the ideal scenario for counties, it is preferable to the House-passed bill (H.R. 3086) that seeks to permanently extend the prohibition. Additionally, S. 2609 preserves the status of grandfathered states created in the original ITFA, i.e. states that were collecting Internet access taxes when the law was first enacted (grandfathered states are: HI, NM, ND, OH, SD, TX, WI, NH, WA, TN).

The issue of taxing remote sales has compounded in recent years due to the extraordinary development of the Internet's use as a retail marketplace, resulting in billions of dollars lost by state and local governments in uncollected sales taxes and Main Street businesses finding themselves at a significant competitive disadvantage to various online retailers. Further, over the next several years, most telecommunications and cable services will transition to broadband. As a result, the scope of the services that the current Internet access tax moratorium immunizes from state and local taxation will rapidly expand. The temporary extension provided for in S. 2609 would allow time to understand and more meaningfully assess what the transition from telecommunications and cable to broadband means for state and local governments, consumers, and other industries.

The Senate hopes to take up MITFA during the lame duck session after Congress returns from the General Election. There is currently no House companion bill, but since both chambers must pass legislation to prevent the Internet Tax Freedom Act from expiring, the House may be compelled to take up and consider MITFA.

KEY ISSUES:

- **Enacting the Marketplace Fairness Act does not create a new tax.** It simply allows state and local governments to enforce existing sales and use tax laws.
- **The bill would enable states and local governments to collect an estimated $23 billion owed in sales taxes each year** that could be dedicated to providing important public services such as infrastructure, education, health and public safety.
- **Enacting the Marketplace Fairness Act would level the playing field for Main Street businesses.** These businesses are at an estimated five to ten percent competitive disadvantage to remote sellers because of their inability to collect existing sales taxes. Main Street businesses contribute to local economies and are active participants in local communities.

- **The technology to help businesses track varying tax rates and collect from customers already exists, reducing the concern that once existed for business.** The software that keeps track of tax rates is no more complicated than calculating real-time shipping, a feature that already exists on most retail websites.

- **The Internet of 2014 does not need the same level of protection that the Internet of 1998 required.** The original intent of ITFA was to encourage the development of the Internet, since the technology was fairly new. Now that the Internet is weaved into countless aspects of daily life, this justification is no longer applicable.

- **Counties would prefer to temporarily extend ITFA, including extending the status of grandfathered states, rather than to permanently extend the moratorium on taxing Internet access.** The ten-year extension would preserve ITFA's longstanding grandfather clause that protects an estimated $500 million in annual revenues in seven states, and recognizes that the Internet access tax moratorium should not be made permanent in the midst of enormous technological change, particularly when telecommunications and cable services are rapidly transitioning to broadband services subject to the ITFA.

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