



1050 17<sup>th</sup> Street, N.W.  
Suite 1150  
Washington, DC 20036  
202.525.5717

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June 14, 2017

**Gov. Paul LePage**  
**Office of the Governor**  
**#1 State House Station**  
**Augusta, ME 04333-0001**

**Re: Maine L.D. 1405 - Tax (internet taxation/streamlined sales tax)**

Dear Gov. LePage,

On behalf of the R Street Institute, I write in strong opposition to L.D. 1405, regarding sales-tax collection from remote sellers and online marketplaces. This legislation is both unconstitutional and unwise, and we urge that you veto it.

By empowering Maine to reach beyond its borders to tax businesses with no physical presence, this bill runs directly counter to Supreme Court precedent limiting a state's tax authority to businesses with physical representation in that state. This bill would immediately draw your state into a potentially expensive and bitter cycle of litigation that is unlikely to yield a positive outcome. Simply changing the underlying language to make the marketplace provider responsible for collecting and remitting the taxes does nothing to change this legal risk.

Setting aside the bill's obvious unconstitutionality, it is decidedly unwise for Maine. L.D. 1405 sets a dangerous precedent that, if followed by other states, would open Maine businesses up to the taxing authorities of heavy-handed states like California or Illinois. Your own constituents could be subject to audit and enforcement actions in states all across the country in which they have no physical presence.

Furthermore, a system of sales tax enforcement unbounded by any tangible connection, like a physical presence, would impose significant compliance costs on web-enabled businesses. These businesses would be forced to keep track of all 10,000 taxing jurisdictions across the country, each with its own rates, rules and regulations, while sales in similar brick-and-mortar businesses only require collection of tax for the single jurisdiction in which they're located.

The U.S. Constitution was written to replace the Articles of Confederation in no small part due to the latter's failure to prevent a spiraling interior "war" of states who could assert tax and regulatory

authority outside their borders. While the Constitution's Commerce Clause and subsequent jurisprudence make clear that taxing power must be limited by state borders, L.D.1405 seeks to wipe those limits away. That would be dangerous and we urge that you act to stop it.

Sincerely,

Ian Adams  
Senior Fellow  
R Street Institute  
916.761.5269  
[iadams@rstreet.org](mailto:iadams@rstreet.org)