



## INTERNET TAX CONFORMITY AND FAIRNESS

### BACKGROUND

Counties have long sought to update New York State's sales tax laws in recognition of the changing retail marketplace and to improve the enforcement of existing laws so "Main Street" retailers in our communities are treated fairly. Counties support the Governor's efforts to streamline sales tax laws and improve tax conformity and fairness for all retailers, regardless of their mode of sale (i.e., in person or over the internet). These proposals do not create a new tax. They ensure conformity in the application of the state's sales tax laws, while easing burdens on small internet-based retailers.

Last summer's U.S. Supreme Court decision overturned the *Quill* precedent in *South Dakota v. Wayfair* in support of our position. The Court decision allows states to require remote sellers to collect and remit sales taxes due in states that impose such taxes. Further, the Decision provides a roadmap for states to implement an internet sales tax system that will "...prevent discrimination against or undue burdens upon interstate commerce."

The Supreme Court decision affirms that it is a state's sovereign power and "lawful prerogatives" to enforce their sales tax collection laws for internet and catalogue mail order-based purchases within their borders. Based on the Supreme Court decision, 36 states and the District of Columbia have enacted laws and regulations that require remote sellers to collect sales tax on internet transactions coming into their respective states. Every one of these states used the basic blueprint laid out in the Supreme Court decision to not force an undue burden on small retailers. These "safe harbor" provisions exempt retailers from collecting such taxes if they have fewer than 200 transactions into a state or have less than \$100,000 in annual sales in the state.

### COUNTY RECOMMENDATIONS

Counties outside of New York City support updating New York's State tax laws to promote fairness and a level playing field for retailers in conformance with the parameters laid out in the U.S. Supreme Court Decision in *South Dakota v Wayfair*.

The Governor's 2019-20 budget proposal is consistent with NYSAC's position.

*For more information on the county position regarding this issue, visit [www.nysac.org](http://www.nysac.org) or call 518-465-1473 to speak to Dave Lucas, Director of Finance and Intergovernmental Affairs.*