



February 27, 2017

**An Open Letter to the Utah Legislature:
Reject S.B. 110's Unconstitutional Tax Grab**

Dear Utah Legislator,

On behalf of the millions of members of the undersigned organizations, including thousands of Utah residents and taxpayers, we write in strong opposition to S.B. 110, a bill that, if approved, would lead to disastrous results for Utah. This legislation is both unconstitutional and foolhardy, and you would be wise to reject it.

This bill and similar approaches to interstate sales taxes hold an ignominious distinction: they are the only such efforts in recent memory *intentionally* drafted so as to be unconstitutional and draw a lawsuit. By empowering Utah to collect taxes from businesses with no physical presence within your borders, the rule immediately draws Utah into a potentially expensive and contentious cycle of litigation one witnesses in other states. This is a cycle unlikely to yield positive results, since decades-old Supreme Court precedent makes clear that state tax powers end at the border's edge.

Setting aside the bill's obvious unconstitutionality, it unnecessarily jeopardizes Utah's fiscal health. By contributing to the erosion of borders as effective limits on state tax power, it will encourage poorly-governed, tax-heavy states like California, New York and Illinois to unleash predatory tax collectors on Utah businesses. Your constituents will now face audit and enforcement actions in states across the country in which they have no physical presence.

Furthermore, a system of sales tax enforcement unbounded by tangible connections—like a physical presence—imposes significant compliance costs on web-enabled businesses. This burden falls particularly hard on specialty businesses and small sellers dependent on the internet to reach customers. These “mom and pop” stores will 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.

Our 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 brought about by conflicting tax and regulatory assertions outside their borders. While the Constitution's Commerce Clause and subsequent jurisprudence make clear that taxing power must be limited by state borders, S.B. 110 seeks to efface these limits. You are embarking on a dangerous, preventable course of action. Now is the time for you and your fellow legislators act to stop it.

Sincerely,

Andrew Moylan, R Street Institute
Norm Singleton, Campaign for Liberty
Jeffrey L. Mazzella, Center for Individual Freedom
Jessica Melugin, Competitive Enterprise Institute
Wayne T. Brough, FreedomWorks
Pete Sepp, National Taxpayers Union
David Williams, Taxpayers Protection Alliance
Judson Phillips, Tea Party Nation

