



July 24, 2018

Chairman Goodlatte, Ranking Member Nadler, and Members of the House Judiciary Committee:

On behalf of more than 3.2 million Americans for Prosperity activists across all 50 states, I thank you for holding this important hearing today to examine the impact of the recent Supreme Court decision in *South Dakota v. Wayfair*. At AFP, we believe that the issue of states' power to tax and regulate should be guided by long-standing, strong constitutional restraints on extraterritorial action that protect the liberty of citizens in other states.

The decision in *Wayfair* overturned precedent from the case of *Quill v. North Dakota*, which determined that states could not constitutionally collect sales tax from remote retailers unless those retailers had a physical presence (i.e. a warehouse or storefront) in that state. The reversal of this precedent has sent states into a flurry to figure out ways to collect taxes from out of state retailers that do business with buyers in their state but lack a physical presence—primarily online retailers. As states rush to figure out ways to reach these remote retailers to bring in even more tax revenue, Congress has an important opportunity to act.

Since our country's founding, Americans have proudly espoused the idea that there should be no taxation without representation. States are now actively seeking ways to impose and collect taxes from people and businesses that have no representation, voice, or recourse in that state. They cannot take to the ballot box to oppose high taxes, and they cannot relocate to a friendlier tax environment when states can reach them anywhere. This is a slippery slope and sales taxes would only be the beginning—states are already looking for ways to extend this power to corporate and individual income taxes.

As the Supreme Court stated in both the *Wayfair* and *Quill* cases, Congress has the power to address the issue of online sales tax through the Commerce Clause; it is now crucial to exercise that power. We urge members of Congress to act swiftly to implement a moratorium that prohibits states from imposing taxes on out of state retailers in the wake of *Wayfair*. This moratorium would give Congress the time it needs to craft and pass legislation that will codify the physical presence standard and stop states from taxing and regulating people and businesses outside their borders.

We stand ready to work with any and all lawmakers who will make this a priority. We thank you for holding this important hearing today, and we look forward to working with this committee to implement solutions that will preserve the liberty of Americans across the country and protect them from a vast expansion of state power to tax and regulate beyond their borders.

Sincerely,

Brent Gardner
Chief Government Affairs Officer
Americans for Prosperity