

HB 1310

Mr. Chairman and members of the Finance and Taxation Committee, my name is Rep. Ben Koppelman of District 16, and I thank you for the opportunity to introduce this bill in front of your committee.

HB 1310 is a bill that would take the burden of sales and use tax off of the backs of most consumers, and leave the responsibility to collect and remit sales and use tax solely with the **Retailer/ Seller**. Only on large purchases would the consumer be responsible to remit use tax if sales tax was not collected by the Retailer.

After the South Dakota v. Wayfair decision came down from the U.S. Supreme Court essentially reversing most of the restrictions of the previous precedent of Quill Corp. v. North Dakota, North Dakota started to collect sales tax from out of state retailers due to trigger legislation passed during the 2017 legislative session. That bill included a threshold to when out of state retailers needed to get a ND sales tax permit and start remitting sales tax on purchases that came to rest in the state. Starting this last fall, the state started seeing an increase in revenue due to compliance with the 2017 law, and as a result, I believe that it is the time to remove the burden from the consumer.

Retailers are the best suited to collect and remit the tax, since they have sales tax permits that require reporting and remittance on a regular basis already in other states and now ND as well. In addition, nearly all retailers that would meet the threshold of our law, own or lease software and hardware that do all of the calculating for them. This is a far cry from the time and ability the average citizen of our state or the average small business with only one or two employees working in the office has to comply with the current law.

Although I am told that individual taxpayer use tax audits are not typically conducted by the Tax Department, the law technically requires all individuals to "audit" all receipts for all purchases to ensure that not only sales tax was charged, but that it was charged at the proper rate base on where it was purchased or delivered. If it was not charged, then individual must remit a use tax payment of the same amount as what the sales tax should have been. This is unfair and definitely impractical to expect this of our citizens, especially since they don't possess the software that retailers do to keep track of and calculate such tax.

Businesses, both large and small alike, that are not retailers or sales tax permit holders do get routinely audited for sales and use tax. Just like individuals, they too are expected to "audit" each receipt to see if the proper tax was paid, and if not remit that amount to the state. This can be thousands of receipts for some companies that may only have a couple of employees, and like individuals, they don't possess the technology to track tax due and jurisdiction for all of these purchases other than manual inspection and recording. This is why we have a threshold in the bill of \$50,000. Non-retail businesses can more easily track large purchases manually since there is likely much fewer of them. This threshold also ensures that for large purchases, there is not an incentive created for business owners to travel out of state to purchase these items and avoid our sales tax all together.

I believe this reform is long overdue, and in the aftermath of the South Dakota v. Wayfair decision, it comes at a much smaller cost. It is time that we reduce the burden on our citizens and small businesses by creating police that would focus the efforts of the Tax Department on out of state retailer compliance rather than consumer/ small business use tax submission.

Thank you for your time and I request a Do-Pass recommendation on this bill.