



September 2, 2014

The Honorable Debbie Stabenow
United States Senate
133 Hart Senate Office Building
Washington, DC 20510

Dear Senator Stabenow:

I am writing to urge you to actively support the bipartisan Marketplace and Internet Tax Fairness Act (MITFA, S. 2609) when it is brought to the Senate floor soon. The legislation will stop states from losing upwards of \$20 billion in annual revenues and end the competitive advantage Internet merchants have over Main Street businesses in Michigan and across the country that must collect sales taxes. These revenues are needed by states to fund education, health care, public safety and other critical services. As explained below, we believe the policies in this proposal must travel together and urge you to oppose any separate long-term or permanent extension of the Internet tax moratorium.

As you know, MITFA combines a ten-year extension of the Internet Tax Freedom Act's (ITFA) moratorium on state and local taxation of Internet access service with the Marketplace Fairness Act (MFA). It is the combination of a temporary extension of the Internet access tax moratorium with the Marketplace Fairness Act that makes this legislation so valuable. Approval of the MFA would empower Michigan and the 44 other states with sales taxes to require all large Internet and catalog merchants to collect and remit sales taxes when they make sales to these states' residents.

According to the independent Center on Budget and Policy Priorities (CBPP), seven states are receiving almost \$500 million annually in vitally needed sales tax revenue because ITFA grandfathered their taxation of Internet access service. CBPP also points out that the grandfather provision also protects from legal challenge many other state and local taxes imposed on Internet access providers that other businesses also pay, such as sales taxes on the supplies they buy. For both of these reasons, we urge you to oppose any bill or amendment to this new bipartisan legislation that would eliminate or limit ITFA's grandfather clause. Studies by the Government Accountability Office and the University of Tennessee failed to find any statistically or economically significant negative impacts of grandfathered taxes on Internet access adoption or the build-out of Internet infrastructure in grandfathered states.

Limiting the extension of the ITFA moratorium to ten years is also very important. We believe strongly that all states should have the authority to decide for themselves and their localities whether to tax Internet access service in a non-discriminatory manner. When Congress adopted the Internet

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moratorium, the Internet was new and Congress didn't want to undermine the growth of Internet access. Now that the vast majority of American families have access to the Internet at home, this protection is no longer warranted. Congress wisely decided to make the moratorium a temporary one—and it should remain so. *Keeping ITFA from being made permanent is vitally important to Michigan even though it does not tax Internet access.* This is because ITFA also includes a vaguely worded prohibition on discriminatory taxation of all Internet commerce. This has not proven to be problematic in the context of a temporary ITFA, but we believe it could be very damaging were ITFA to be made permanent. We believe a permanent prohibition on discriminatory taxes would open the floodgates to aggressive litigation against a wide variety of state and local taxes using this provision. We urge you to oppose any amendment to the bipartisan MITFA bill that would make ITFA permanent.

Unfortunately, the House passed a permanent ITFA moratorium and, for the first time, dropped the grandfather clause.

Most importantly, the bipartisan MITFA bill would enable Michigan to “level the playing field” with out-of-state Internet retailers and bring in substantial new revenues. According to the best estimates available, from a University of Tennessee study, uncollected (but legally due) tax on Internet sales cost Michigan and its local governments \$142 million in lost revenue in 2012. Approval of the MFA (as incorporated in MITFA) would ensure Michigan's receipt of the vast majority of that revenue and additional amounts associated with untaxed catalog, TV shopping, and other types of remote sales. We appreciated your support of the MFA when it came to a vote last year.

Given the intransigence in the House with respect to any serious consideration of the MFA, we believe that tying the MFA and ITFA together (with the grandfather clause) is our only realistic strategy for getting the MFA enacted in the foreseeable future. It is also the right policy: if Congress is going to continue to deprive states and localities of an estimated \$6.5 billion in revenue (according to CBPP) by prohibiting non-discriminatory sales taxation of Internet access service, then we believe Congress has an obligation to offset the revenue loss by approving the MFA. We urge you, as a strong MFA supporter, to support MITFA and oppose any bill or amendment that does not maintain that connection.

We look forward to working with you on this vital legislation as it moves forward in the coming months. Please have your staff contact me if we can be of assistance.

Warm regards,



Gilda Z. Jacobs
President & CEO