The so-called “Marketplace Fairness Act,” a bill to impose onerous tax collection requirements on remote retailers, is back again for another bite at taxpayers' wallets. We've alerted you to this threat time and time again, and now proponents and their big-money backers are trying to sneak it through once more. Introduced as an amendment to S. 2237 (a small business tax bill) by Senators Mike Enzi (R-WY), Dick Durbin (D-IL), and Lamar Alexander (R-TN), the measure would add to the burden governments heap upon items purchased online while undermining vital taxpayer safeguards. The Marketplace Fairness Act would...

- **Dismantle Key Taxpayer Protection** - Currently, online and remote retailers cannot be required to remit a state’s sales tax unless they have a physical presence there. This amendment would dismantle that taxpayer protection by allowing states to force tax collection dictates on businesses regardless of their location. Dissolving the physical nexus standard for collecting sales taxes could encourage overzealous state tax administrators and lawmakers to reach far across their borders in order to fill their coffers.

- **Impose Enormous Compliance Burdens** - The Marketplace Fairness Act could force online businesses to comply with the rates, rules, and definitions of every last one of the country’s 9,600 (and growing) sales tax jurisdictions. Meanwhile, traditional brick-and-mortar retailers generally must contend with the sales tax in a single jurisdiction: the one in which their business is physically located. This would be a distinctly “unlevel” playing field that imposes much more onerous administrative obligations for businesses that dare to operate online. Such obligations won’t be made magically care-free by tax software packages, any more than the billions in payroll income tax compliance costs for businesses have somehow disappeared with the advent of computers.

- **Drain More Dollars from Taxpayers with No Reform in Sight** - Piling complex tax rules on the backs of remote retailers could lead to millions (or billions) of dollars in additional tax money for state governments at the expense of online shoppers. But nothing in the proposal ensures that those new costs aren’t just added on top of the many others borne by taxpayers struggling in
today’s economy. The amendment doesn’t include any language to require or even encourage states to reform their sales taxes so that net burdens on taxpayers don’t rise.

It is particularly odious and contradictory to attempt hanging this proposal on a bill purporting to assist small businesses. S. 2237 is problematic for taxpayers in its own right, but is made all the worse with an Amendment that fails on so many counts. As a practical matter, the paltry “small seller exemption” contained in the language means that numerous firms will become ensnared in a web of higher tax-compliance overhead costs. Businesses that could be contributing to a more robust economic recovery will instead squander resources extricating themselves from this trap, or worse, resign themselves to oblivion.

As a philosophical matter, the amendment treats the Internet and e-commerce as a sinister, alien force for small business, when the opposite is true. Where would brick-and-mortar retailers be, for example, without the convenience of online inventory control, or other “B2B” transactions that make management so much more efficient today? What losses would retailers suffer without the new markets for goods and services for which the Internet has provided the portal? How many millions of everyday citizens, who have created thriving online “mom and pop” proprietorships, would be denied the opportunities to provide for their families? To be clear: No Senator who claims to support taxpayers and small businesses should vote for this amendment. There are fairer, less burdensome ways to address any real “level playing field” issues in this area of commerce.

It’s unclear as of now how the Senate will proceed on this amendment or the underlying small business tax bill, but rest assured that we’ll be hammering away to make sure that well-financed lobbyists don’t fleece taxpayers and businesses with this awful bill.