September 25, 2024

The Honorable Chuck Schumer
Leader
U.S. Senate
Washington, D.C. 20510

The Honorable Mike Johnson
Speaker
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Mitch McConnell
Republican Leader
U.S. Senate
Washington, D.C. 20510

The Honorable Hakeem Jeffries
Minority Leader
U.S. House of Representatives
Washington, D.C. 20515

Dear Leader Schumer, Leader McConnell, Speaker Johnson, and Leader Jeffries:

We write to you today as small business owners from every corner of the United States. As you debate and craft bipartisan remote seller sales tax legislation, we ask that you apply the principles of the Pike Balancing Test while addressing the very important issue of state and local sales tax compliance for our companies and thousands of other small businesses like ours throughout the country.

> *Where the statute regulates evenhandedly to effectuate a legitimate local public interest, and its effects on interstate commerce are only incidental, it will be upheld unless the burden imposed on such commerce is clearly excessive in relation to the putative local benefits. If a legitimate local purpose is found, then the question becomes one of degree. And the extent of the burden that will be tolerated will, of course, depend on the nature of the local interest involved, and on whether it could be promoted as well with a lesser impact on interstate activities.*
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> Pike v. Bruce Church, Inc., 397 U.S.137 (1970); Source Cornell Law School, Artl.S8.C3.7.8 Facially Neutral Laws and Dormant Commerce Clause

As you know, prior to the June 2018 Supreme Court decision in *South Dakota vs. Wayfair*, small businesses answered only to those governments and government agencies in jurisdictions in which they had a physical presence. Our businesses were able to petition and partner with their elected officials in a timely manner. Due to the *Wayfair* decision, businesses now must navigate an ever-expanding degree of nexus-based governance, managing the wildly different sales tax rates, rules, and regulations of thousands of different taxing jurisdictions.

Initially, the call was for an increase in internet retail sales tax collections, but since the *Wayfair* decision, our businesses have seen an increase in efforts to assess direct taxes as well as apply additional regulatory control by state governments to which we have no recourse or ability to petition. In some cases, these new demands fly in direct opposition to federal law.

In a post-*Wayfair* tax world, small businesses like ours lack the certainty and standardizations to operate effectively. The burdens in both time and money are enormous. Day-to-day operations suffer as we attempt to comply with the unique, inconsistent, and constantly changing sales tax

requirements in almost every state and local taxing jurisdiction throughout the country. Some of our small business compatriots have given up entirely and have either closed or sold their business due to *Wayfair*. Many states operate like rogue agents in their hunt for revenue, often resulting in harassment and confusion. The challenges small businesses like ours face are vast, but some of the main examples of this complexity are as follows:

- There are an estimated 12,000 taxing jurisdictions throughout the United States with which we must attempt to stay up to date on the constantly changing rules, regulations, rates, holidays, etc.
- The default status of all transactions is retail, necessitating an exemption certificate for each non-taxable transaction. Exemption certificate requirements vary by state.
- Businesses are exposed to potential audits in every taxing jurisdiction.
- The complexity requires specialized software that is expensive to implement and prone to errors:
    - Reporting, filing, and remittance errors.
    - Special complexities and inconsistencies in dealing with refunds, returns and bad debts.
    - Periods when the software is down and unusable.
    - Slow delivery of important tax filing information to us, the customer.

Small businesses like ours divert valuable financial and labor resources away from our customers' needs in an effort to fulfill the arbitrary and constantly changing compliance demands placed on us by thousands of taxing jurisdictions. In many cases, the costs outweigh the remittances. This makes no common sense and hinders our ability to hire, grow, and impact our local communities.

If there is to be any change in the scope of federal protection, it is for Congress, not state governments and their agencies, to legislate. Congress must act in the interest of small businesses and their employees to set some semblance of uniformity around these issues. We, the undersigned small businesses from throughout the country, implore you to provide relief through simplification and uniformity as you debate and draft a broad-based tax package in 2025. By reducing the dizzying array of compliance burdens through simplification and uniformity, you protect your constituent small businesses. Further, a simplified compliance structure may drive higher state tax revenues as more businesses and consumers are able to willfully comply.

Sincerely,

Brad Scott, Director of Finance, Halstead Bead, Inc., Prescott, AZ
Linda Lester, Vice President, K-Log, Inc., Zion, IL
John Hennessey, President & CEO, Littleton Coin Company, Inc. Littleton, NH
Niles Kinerk, Owner, Gardens Alive!, Inc., Greendale, IN
Brandon Jacklin, Vice President of Postal Affairs and Logistics, Nahan, Saint Cloud, MN
Timothy Schipper, Owner, Colorblends, Bridgeport, CT
Jeff Koeze, President, Koeze Company, Grand Rapids, MI
Donna Belardi, Chairman & CEO, Belardi Wong, Princeton, NJ
Hamilton Davison, CEO, ChemArt Co., Lincoln, RI
John Zimmerman, President, Sporty's, Batavia, OH

Rick Kropski, SVP – Supply Chain & Logistics, Arandell, Menomonee Falls, WI
Jim Fogarty, CEO, FullBeauty Brands, Inc., New York, NY; Indianapolis, IN; El Paso, TX
Barbara de la Riva, President, Great American Business Products, Houston , TX
Jonathan Fleischmann, Chairman, Potpourri Group, Inc., N. Billerica, MA
James Healy, Principal, Healy List Marketing, Danvers, MA
Kebra & Andrew Krol, owners, Krol Data Management, LLC, Vienna, VA
Brian Rainey, co-founder & CEO, Path2Response, Broomfield, CO
William N. Boonstra, President, Bluestone Perennials, Madison, OH
Sandy Haynes, CMO, Healthy Directions, Bethesda, MD
Kathleen M. Stivaletti, VP Customer Acquisition, Response Solutions, Fort Myers, FL
David Kravetz, Co-owner, Fairytale Brownies, Inc., Phoenix, AZ
Casey Hendrick, COO, United Direct Solutions, Louisville, KY
Cal Haugland, officer, Recreation Supply Co., Inc., Bismarck, ND
David Murray, CEO, Spectrum Data, Inc., Oregon, IL
Pat Henderson, Executive Director Public & Regulatory Affairs, Quad, Sussex, WI
Richard Blazejewski, Owner, Mail Room Service Center Inc., Saginaw, MI
Mike Amburgey, President, Adaptive Health | Healthy Directions, Charlotte, NC
James R. Alexander, President & Founder, Alexander & Company, LLC, Portland, ME
Jim Carini, BD Director, Lindenmeyr Central, Purchase, NY
Allan Shiffrin, Owner, B. Joy Brands LLC, Chicago, IL
Nate Burns, President, Print Reach Software, Jacksonville Beach, FL
Thomas McCaully, CEO, Grayhair Software, LLC, Stuart, FL 34994
William T. Geddes, Owner & Martin E. Getz, CEO, Raymond Geddes Co., Inc., Baltimore, MD
Susan Ross, Chief Marketing Officer, Barco Products, Batavia, IL
Susan Landay, President, Office Images, Inc., dba Trainers Warehouse, Natick, MA
Nadia Trowbridge, CFO, HCC Marketing, Inc., dba Holt's Cigar Co. Inc., Philadelphia, PA
Matt Jensen, Senior Account Manager, Midland, Aliso Viejo, CA
Kay L. Weit, Mailing/Shipping Manager, ITP of USA, Elizabethtown, PA
Joni Ryan, Owner, Drunk Fairy Polish, Claremont, NH
Christine Page, Vice President, Epsilon (offices in Broomfield, CO; Atlanta, GA; Boston & Wakefield, MA; Chicago, IL; Cincinnati, OH; Irving, TX; Franklin, TN; Southfield, MI; Irvine, CA & New York NY)
Michael Stopka, President/Owner, Design Toscano, Inc., Wood Dale, IL
Joe Hartmann, Account Executive, ALG Worldwide, Romeoville, IL
Dana Goldstein, Chief Operating Officer, Country Casual Teak, Gaithersburg, MD
Drew Hendrix, President, Red River Paper, Inc., Dallas TX
Jamie Freeman, Vice President, TC Delivers, Orlando, FL
Richard River, Owner/Operator, Las Vegas Presort LLC, Las Vegas NV
Mike Bogad, Vice President Business Development, Digitized Software,
R.B Goergen, Chairman & CEO, Silver Star Brands, Oshkosh, WI
Quentin Krengel, Chairman of the Board, Krengel Technology, Hutchinson, MN
Jeff McKenzie, CEO, Digitalized Software, Cape Coral, FL
Deven Chudasama, Sr. Operations Manager, Inland Presort & Mailing Services, Redlands, CA
Thomas James Biddle, Owner, Soul Ceramics LLC, Marco Island, FL
Andrew St.Hilaire, President & Owner, WonderPlay, Inc. Bremerton, WA
Jeremy Roberts, President, Carpe Per Diem, Inc., New York, NY

Pat Haggerty, Owner, Right Channel Radios, Bozeman, MT
Rex Bledsoe, CEO, Aqua Design, Nampa, ID
Sean Tadjeran, CEO, AlgaeBarn, LLC, Commerce City, CO
Mark Paigen, President, TreadLabs, Woburn, MA
Cathryn Lavery, We Spearhead, LLC, Austin, TX
Jim Hall, President & CEO, Vermont Country Store, Manchester, VT
Meredith Erin, CEO, Ex-Boyfriend, LLC, Santa Fe Springs, CA
Shlomo Zaga, President & Cofounder, ZGi Brands, Brooklyn, NY
Greg Lovensheimer, President, Millcraft; other locations in Columbus, Independence, Cincinnati,& Toledo, Dayton, Cincinnati, & Akron, Ohio; Detroit, Southfield , Ann Arbor, Lansing, & Sterling Heights, MI, Indianapolis, IN; Fort Wayne, OM; Louisville, KY Nashville,& Springfield, Il
Tyler Tabman, CEO, Poachable Slime LLC, Austin, TX & Akron, OH
David Blake, Owner, Spirit Pieces, Austin, TX
Karin Jeske, Owner/Designer, Tesselle, Riverside, CA
Snehal Patel, Founder & CEO, Simpler Hair Color, Plano and Frisco, TX
Bill Fletcher, President, The Right Lists, Ltd., Rockville, MD