

MINNESOTA • REVENUE

SALES AND USE TAX Resolution to Congress

April 2, 2012

	Yes	No
DOR Administrative Costs/Savings		X

Department of Revenue
Analysis of H.F. 2899 (Davids) / S.F. 2538 (Ortman)

EXPLANATION OF THE BILL

Since 1988 Minnesota law has required a retailer not maintaining a place of business in this state to collect and remit sales tax if specified conditions are met. The requirement applies to a retailer that engages in advertising in the state by such means as catalogs, advertising fliers, newspaper ads, billboards, television or radio ads, or other solicitation by telephone, computer, cable, or other communication system if the retailer makes from outside this state to customers in this state 100 or more retail sales annually or makes ten or more retail sales annually totaling over \$100,000.

Two U.S. Supreme Court decisions have blocked Minnesota and other states from enforcing collection of the sales tax by out-of-state retailers. In the 1992 case of *Quill Corp. v. North Dakota*, the Court found that only Congress had the authority to enact laws requiring out-of-state businesses without a physical presence in a state to collect and remit the state's sales or use taxes. To that end, in 2001 Minnesota was one of the first states to enter the national Streamlined Sales and Use Tax Project, an effort to develop uniform state sales and use tax definitions which would make it easier for out-of-state businesses to comply with a state's sales tax law.

To date, Congress has not acted on this issue although several bills have been introduced.

This bill provides for a resolution by the Minnesota Legislature to the United States Congress to pass the legislation necessary to give states the power to enforce collection of existing taxes and to pass one of the two federal bills on this subject now under consideration.

Source: Minnesota Department of Revenue
Tax Research Division
http://www.taxes.state.mn.us/taxes/legal_policy

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