

1 **JOINT RESOLUTION URGING PASSAGE OF THE MARKET**
2 **EQUITY ACT OF 2011 AND THE MARKETPLACE**
3 **FAIRNESS ACT**

4 2012 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Steve Eliason**

7 Senate Sponsor: _____

8
9 **LONG TITLE**

10 **General Description:**

11 This joint resolution of the Legislature urges the United States House of
12 Representatives to pass H.R. 3179, the Marketplace Equity Act of 2011, and urges the
13 United States Senate to pass S. 1832, the Marketplace Fairness Act.

14 **Highlighted Provisions:**

15 This resolution:

- 16 ▶ urges the United States House of Representatives to pass H.R. 3179, the
17 Marketplace Equity Act of 2011, and urges the United States Senate to pass S.
18 1832, the Marketplace Fairness Act, without delay; and
19 ▶ declares that, through passage of these pieces of legislation, the United States
20 Congress will help level the playing field between traditional brick and mortar
21 retailers and Internet-based retailers.

22 **Special Clauses:**

23 None

24
25 *Be it resolved by the Legislature of the state of Utah:*

26 WHEREAS, the Supreme Court of the United States established in its 1992, Quill v.
27 North Dakota decision that states cannot, of their own accord, require out-of-state retailers to



28 collect sales taxes;

29 WHEREAS, the United States Supreme Court also declared in the same ruling that
30 Congress could exercise its authority under the Commerce Clause of the United States
31 Constitution to decide "whether, when, and to what extent" the states may require sales tax
32 collection on remote sales;

33 WHEREAS, Utah municipalities receive a majority of operating revenue from sales
34 taxes collected by brick and mortar businesses, online vendors with a nexus in the state, and
35 use taxes collected by the Utah State Tax Commission on purchases made online through
36 vendors without a brick and mortar location in the state;

37 WHEREAS, remittance of use taxes not collected by the vendor from online purchases
38 puts an undue burden and widely unknown obligation on consumers;

39 WHEREAS, the state of Utah has taken all necessary steps to prepare for collecting
40 online sales taxes by making remittance of sales taxes as simple as possible for online vendors;

41 WHEREAS, the traditional legal measures of a physical presence or a nexus create an
42 unlevel playing field between Internet-based retailers and Utah-based retailers, who are rooted
43 and invested in the community;

44 WHEREAS, the unlevel playing field and tax collection loophole given to online-only
45 retailers starves local economies of precious resources for providing services such as schools,
46 public safety, and infrastructure; and

47 WHEREAS, local brick and mortar retailers serve as a foundation of our economy and
48 are permanent, engaged members of the community who employ our citizens, support
49 neighborhood charities and organizations, and contribute to cities:

50 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah
51 urges the United States House of Representatives to pass H.R. 3179, the Marketplace Equity
52 Act of 2011, and urges the United States Senate to pass S. 1832, the Marketplace Fairness Act,
53 without delay.

54 BE IT FURTHER RESOLVED that the Legislature of the state of Utah declares that,
55 through passage of these pieces of legislation, the United States Congress will help level the
56 playing field between traditional brick and mortar retailers and Internet-based retailers.

57 BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Speaker of
58 the United States House of Representatives, the Majority Leader of the United States Senate,

59 the Utah State Tax Commission, the Utah Department of Commerce, and to the members of
60 Utah's congressional delegation.

Legislative Review Note
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Office of Legislative Research and General Counsel