Statement for the Record of the American Federation of State, County and Municipal Employees (AFSCME)

For the Hearing on Tax Reform: What It Means for State and Local Tax and Fiscal Policy

Before the Committee on Finance
U.S. Senate
April 25, 2012
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This statement for the record of the hearing “Tax Reform: What It Means for State and Local Tax and Fiscal Policy” is submitted on behalf of the 1.6 million members of the American Federation of State, County and Municipal Employees (AFSCME). AFSCME members work for all levels and all types of government, including states, cities, counties, school districts, and other jurisdictions. We advocate for excellence in public services, fairness in the workplace, and prosperity and opportunity for all working families. AFSCME members are a diverse group of people sharing a common commitment to public service, and a fundamental part of our mission is to advocate for the vital public services and infrastructure that keep our families safe and strengthen our communities.

How federal tax reform is structured will have a significant impact on state and local governments which are a vital part of our federal system. AFSCME supports progressive federal tax policies that help ensure state and local governments can invest adequately in public education, health care, job creation, infrastructure, and the social safety net. We oppose regressive tax policies and those that undermine state and local government’s ability to meet the needs of their residents.

In summary, AFSCME supports the bipartisan Enzi-Durbin-Alexander “Marketplace Fairness Act,” S. 1832. As a general rule, AFSCME opposes preempting state government and local government tax authority. We also support the existing federal personal income tax deductions for state and local government taxes, the existing federal tax exclusion for interest income from state and local government public purpose bonds, and reinstating Build America Bonds with helpful changes. Further, AFSCME recommends considering alternatives, including tax credits, to certain business deductions, where they currently result in reduced state tax revenues.

I. State and Local Government Taxing Authority

Marketplace Fairness Act

AFSCME strongly supports the bipartisan “Marketplace Fairness Act” (S. 1832), introduced by Senators Enzi (R-WY), Durbin (D-IL) and Alexander (R-TN). This bill is needed because it empowers state and local governments to collect sales or “use” tax already owed by buyers on their remote purchases of goods and services via the internet, phone and mail. It would close an unfair loophole that allows e-tailers and other remote sellers to avoid collecting sales taxes, thereby unfairly disadvantaging brick and mortar businesses. S. 1832 would help enable these Main Street brick and mortar retailers to compete fairly on a level field against out-of-state
e-retailers. It is important to close this loophole because it influences consumer behavior and purchases, and it diverts sizable revenues from states and localities.

In 2012, experts estimate the cumulative nationwide total of uncollected state and local government use taxes is $23 billion. While revenues of this magnitude are always important, given the recent and ongoing struggles of America’s economy and the resulting state and local government budget shortfalls, these jurisdictions need these revenues to adequately invest in job creation, infrastructure, health care, public education, and other vital public services. S. 1832 would simultaneously reduce pressure on states and localities to increase taxes and/or reduce services; and eliminate the unfair advantage of internet-based businesses over bricks and mortar stores.

It is important to highlight that S. 1832 would not enact any new taxes. S. 1832 merely authorizes states and localities to require sellers to collect already authorized but currently uncollected taxes. The 45 states (and the District of Columbia) currently imposing a sales tax, also impose a parallel use tax, which requires that buyers who do not pay sale taxes on their remote purchases do pay an equivalent use tax on these purchases. We also note S. 1832 has no cost to the federal government. It is not an unfunded mandate.

A broad and ideologically diverse coalition supports S. 1832. AFSCME joins in support of S. 1832 with other labor unions representing the public sector; state and local government interest groups; and hundreds of various businesses, including small mom and pop shops, large corporations, and trade associations representing diverse interests. For example, a joint labor union sign-on letter in support of the "Marketplace Fairness Act" (S. 1832) is attached at the end of this testimony. Moreover, S. 1832 has strong bipartisan Senate support urging enactment.

State or Local Government Tax Authority Preemption

AFSCME strongly opposes restricting or preempting state government or local government tax authority. Proposed policies in support of this objective would establish harmful, inappropriate, and costly precedents of federal preemption over state and local fiscal decisions. Congress should not prevent a state or local government from deciding its own needed combination of taxes, fees or revenues. Currently, each state and locality decides its own tax base, rates and revenue goals. For example, each jurisdiction has the autonomy to decide its own unique combination of taxable goods and services, set its own varied tax rates, address the needs of its local economy and meet its revenue needs. We believe this should remain an inherent function of state and local governments.

During the current and prior congressional sessions, many special interest preemption bills were introduced and debated targeting various specific products, industries and taxes. However, they all share one major theme in common. Under the pretense of “tax simplification” or “tax fairness,” these preemption proposals are designed to reduce taxes, mostly on businesses that are otherwise due to states and localities, and thereby reduce the revenues needed to adequately invest in public education, health care, job creation, infrastructure and the social safety net. For these reasons, AFSCME is opposed to proposals which restrict or preempt state or local government tax authority, including:
• The Digital Goods and Services Tax Fairness Act (S. 971 & H.R. 1860);
• The Wireless Tax Fairness Act (S. 543 & H.R. 1002);
• S. 1934, which contains a permanent moratorium on internet access taxes and discriminatory taxes on electronic commerce, and prohibits state taxation of certain travel services;
• The End Discriminatory State Taxes for Automobile Renters Act (H.R. 2469);
• The Mobile Workforce State Income Tax Simplification Act (H.R. 1864); and
• The Business Activity Tax Simplification Act from previous Congresses.

II. Federal Income Tax Deductions and Exclusions

Federal Personal Income Tax Deductions

AFSCME strongly supports retaining the existing federal personal income tax deduction for state and local government income tax and property tax. AFSCME also supports the federal deduction for state and local government retail sales taxes, which expired Dec. 31, 2011. The deduction for state and local taxes has been a vital part of the federal income tax system since it began. It was one of only two deductions specifically provided for in the Income Tax Act of 1861. These vital deductions recognize the principles of federalism, avoid double taxation, and ease state and local government financing for needed public services and infrastructure. Moreover, they are essential to maintaining and enhancing the progressivity and adequacy of state and local tax systems.

Federal Tax Exclusions for Interest Income and Build America Bonds

AFSCME strongly supports the existing federal tax exclusions for interest income from state and local government public purpose bonds. This exclusion helps state and local governments reduce their financing costs for modernizing infrastructure, including America’s public schools, mass transit and transportation network, and systems for delivering safe drinking water, electricity and other daily necessities.

We also have been a strong supporter of Build America Bonds. Given its recent expiration, AFSCME supports a permanent program for Build America Bonds. This could include proposals for a 28% federal subsidy level, which is intended to be revenue neutral compared to estimated future federal tax expenditures for tax-exempt bonds, and/or enhancing eligible uses to include short-term government working capital financings of governmental operating expenses.

Tax Credits for Certain Business Deductions

Almost every state links its tax code to the federal internal revenue code for both personal income tax and corporate income tax purposes. Thus, some federal tax provisions, notably domestic production deduction and bonus depreciation, result in significantly reduced state tax revenues. To the extent these provisions remain in the code, it would be useful to consider other options for implementing these provisions, to which states are not linked, such as tax credits.
III. Conclusion

Federal tax policy has a direct and significant impact on state and local government finances. It is therefore important that careful consideration be given to the consequences, intended or not, of changes in federal law which affect the ability of states, cities, counties and other jurisdictions to provide vital public services for the common good. In considering various tax reform proposals, careful consideration should be given to preserving state and local tax authority and fostering an environment of fairness, growth and stability.
April 24, 2012

Unions strongly support bipartisan “Marketplace Fairness Act” (S. 1832), which empowers state and local governments to collect sales and use tax from remote sellers

Dear Senator:

Our undersigned labor unions strongly support the bipartisan Enzi-Durbin-Alexander “Marketplace Fairness Act” (S. 1832). It grants states, which streamline their tax systems to facilitate certain business transactions, the authority needed to collect the sales and use taxes they are owed. We urge you to support S. 1832 and vote for it when the opportunity arises.

Our unions have long supported constructive Congressional proposals that enable state and local governments to collect sales and use tax from remote and online sellers of goods and services. We advocate for closing tax loopholes that allow sellers to avoid collecting sales tax on hundreds of millions of remote purchases made via internet, telephone, and mail. While the loopholes always cause problems, they are very troubling now because states and localities suffer from years of broadly reduced revenues. In addition, out of state and online sales are skyrocketing along with uncollected sales and use taxes. Also, these loopholes inflict increasingly unfair competitive disadvantages on Main Street and mom-and-pop retailers. According to University of Tennessee economics professor Dr. William Fox, uncollected use tax from all remote sales in 2012 will cost state and local governments a cumulative $23 billion.

Now is the time to enact S. 1832. First, Congress has clear constitutional authority to act to regulate interstate commerce of online and remote sales and S. 1832 has bipartisan support. Second, state and local governments are urging Congress to act and strongly support S. 1832. Their ongoing participation in developing the Streamlined Sales and Use Tax Agreement demonstrates effective and efficient solutions exist. Third, both large and small businesses support S. 1832 because it levels the playing field for businesses and streamlines sales tax systems. Fourth, the claim that it is too burdensome to require small business remote sellers to collect sales and use tax is no longer convincing. Most experts now agree that accurate and affordable sales tax collection software exists and enables relatively effortless collection of sales taxes. S. 1832 also protects sellers with a hold harmless for calculating and collecting sales taxes with data and certified technology provided by participating states.

“Marketplace Fairness Act” would not enact new taxes. The affected taxes already exist under current law in all 45 states (and the District of Columbia), which impose a sales and use tax. Unfortunately, millions of U.S. consumers either unknowingly or purposely do not pay existing use taxes on their remote and online purchases. S. 1832 merely provides states the authority and ability to collect these existing uncollected taxes. We also note that S. 1832 has no cost to the federal government.

Given America’s ongoing economic challenges, we think Congress should grant state and local governments the legal authority to collect taxes already owed on remote and online sales, which would simultaneously ensure businesses face a level playing field competing for consumers.

We urge you to support and vote for the “Marketplace Fairness Act” (S. 1832).

Sincerely,

American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)
American Federation of State, County and Municipal Employees (AFSCME)
American Federation of Teachers (AFT)
Department for Professional Employees, AFL-CIO
International Association of Fire Fighters (IAFF)
International Federation of Professional and Technical Engineers (IFPTE)
National Education Association (NEA)
Service Employees International Union (SEIU)
The International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW)