

# Digital Goods and Services Tax Fairness Act of 2013

*Sponsored by Senators Ron Wyden and John Thune*

## Summary

Since digital goods and services can be downloaded in a mobile environment, there is a significant question as to which jurisdiction has the authority to tax such purchases. In fact, there is substantial risk that, without a national framework, multiple states and localities will claim they have authority to tax the same digital transaction.

For example, if a consumer is on vacation in another state and downloads a song, the state the consumer is visiting, the state that houses the server providing the song, and the consumer's home state could, under the right circumstances, *all* claim the authority to tax the purchase. This is not only an unfair tax burden on the consumer, but also for the seller that is responsible for identifying the jurisdiction on whose behalf it should be collecting taxes. Left unchecked, these multiple taxes could stifle digital commerce and crush a growing industry that is creating the good jobs that the nation needs.

What is needed is a uniform solution that will modernize our state and local tax system to appropriately address the inherent complexities that digital commerce presents.

The Digital Goods and Services Tax Fairness Act is the solution. The proposal would establish a national framework for when and how local governments can tax digital goods and services in a manner consistent with current law, which includes the Internet Tax Freedom Act and the Supreme Court's *Quill* decision. The framework put forward in the legislation respects states' authority to tax these products while also fostering innovation and growth in this segment of global commerce.

In most cases, this legislation will use the address of the consumer to determine which jurisdiction has the authority to tax a digital purchase. Similar to taxes applied to mobile phone services, digital purchases would be taxed by the state the consumer resides – not the state that they may have been traveling through while they downloaded the digital product.

This legislation would also preclude discriminatory taxes from being imposed on digital goods and services solely because they are transmitted over communication networks. Additionally, this legislation would ensure that if states tax digital goods and services, they should only be taxed at the same rate imposed upon other tangible goods taxed under the general sales tax.

The Digital Goods and Services Tax Fairness Act of 2013 is structured to provide discipline, but also certainty to states and local governments that wish to tax digital commerce and to the businesses and consumers that are engaged in this marketplace.