



AMERICANS for TAX REFORM

June 26, 2009

Dear Members of the North Carolina General Assembly,

I write today in strong opposition to the myriad of tax increases included in both the House and Senate budget proposals. It is never a good time to raise taxes. However, one of the rare things that economists of all political stripes agree upon is that the worst thing lawmakers can do during a recession is raise taxes.

All of the tax hike proposals that have been floated are ill-advised. However, I would like to call special attention to what is perhaps the most troubling of them all; the provision that would require out-of-state retailers to collect and remit the state's sales tax on products purchased online by North Carolinians. This measure, commonly referred to as the "Amazon Tax," not only attempts to circumvent federal interstate commerce law; it would also put North Carolina at a competitive disadvantage and – worst of all – raise taxes on North Carolinians at a time when they can least afford it.

Current jurisprudence, under the Supreme Court's ruling in *Quill v. North Dakota*, requires that a business have a physical presence or "nexus" in a state in order for the state to compel that business to collect and remit sales taxes. However, the Amazon Tax provision found in the Senate's budget plan attempts to circumvent this federal law by presuming that an out of state company has a physical nexus if business is solicited through a third-party advertiser in the state, such as North Carolina entrepreneurs and businesses that generate revenue with click-through advertisements on their websites – thereby requiring the out of state retailer to collect North Carolina sales tax. Not only does this legislation fly in the face of the Supreme Court's ruling, it will bring an unnecessary lawsuit to North Carolina at a time when the affiliate nexus tax is already undergoing significant legal challenge in New York.

Furthermore, his tax will not yield the revenue that proponents hope to generate. In fact, when Rhode Island recently passed a similar law, the House Finance Committee there, recognizing the likely unconstitutional nature of this proposal, determined that it would be unenforceable and thus would provide no increase in revenue for state government. The only thing that passage of the same law in North Carolina would do is put a law inviting costly legal challenge on the books.

North Carolina faces a substantial deficit. In such an environment, it would be foolish to pass legislation that would inevitably require the state to expend taxpayer funds to not only defend the case, but also pay the plaintiffs attorneys' fees if the law is struck down.

Additionally, this effort puts North Carolina at a competitive disadvantage by inadvertently punishing in-state advertisers and other businesses. This tax expands the definition of doing business to include a retailer that, while based out of state, advertises on a North Carolina-based website using a banner ad or other link. If advertising with North Carolina-based websites were to create a nexus for out-of-state retailers, these retailers will simply choose to terminate advertising agreements with North Carolina based websites. Such retailers have already stated that they would terminate contracts with North Carolina-based websites, as they did when New York passed a similar law.

While the Amazon tax presents the greatest number of pitfalls, all of the taxes that have been put on the table – whether it be on electricity, sales, income, or distilled spirits – will only serve to further depress the North Carolina economy.

North Carolina's unemployment rate recently reached an all time high of 11%. According to the Bureau of Labor Statistics, employment in North Carolina fell from 4.1 million to 3.9 million from May 2008 to May 2009 (a loss of more than 212,000 jobs). Meanwhile, government employment in North Carolina grew from 703,900 to 716,000 during the same period. So, as

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North Carolina families were losing 212,000 jobs, bureaucrats in North Carolina added more than 12,000 to their ranks. This is indicative of a government operating out of sync with economic realities. Clearly there is much fat to be cut from the state budget.

The Federal Reserve Bank of San Francisco recently published an article summarizing research on economic multipliers. It turns out that a dollar of government spending results in 70 cents of job-creating activity after two years. A dollar in tax cuts results in \$1.30 to \$3 of job-creating activity after two years. Put another way, a \$1 cut in spending reduces job-creating activity by 70 cents. A \$1 increase in taxes cuts job-creating activity by as much as \$3. Tax increases at this time will only exacerbate the hemorrhaging of jobs and will, in fact, prolong the current downturn.

North Carolinians already work 191 days out of the year just to pay for the cost of their government. For this and the other aforementioned reasons, I urge you to oppose all tax hikes this session. As you continue to weigh options to rectify the state's overspending problem, I urge you to keep in mind the heavy burden already borne by North Carolina taxpayers. If you have any questions, please contact Patrick Gleason, North Carolina state affairs manager, at pgleason@atr.org or (202) 785-0266.

Onward,

A handwritten signature in blue ink, appearing to read 'Grover G. Norquist', with a stylized flourish at the end.

Grover G. Norquist

CC: Governor Beverly Perdue