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be willing to address a sales tax loophole that is costing states billions in revenue.

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[From the Avalara blog.](#)

The introduction in Congress of the Marketplace Fairness Act of 2017 and the Remote Transactions Parity Act of 2017 suggests that federal lawmakers may finally be willing to address a sales tax loophole that is costing states billions in revenue. But as past years have shown, the journey from introduction to enactment is long and fraught with obstacles. Will the 115th Congress succeed where past legislatures have failed? Or will 2017 be a repeat of 2015 and 2013, when momentum for a federal solution to the remote sales tax issue fizzled and the bills were shelved?

Marketplace Fairness Act of 2017

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states the option to make sure the marketplace — online or in stores — is fair.

Allowing states to tax remote sales would not create a new tax: Consumers are supposed to remit use tax to the state if sales tax wasn't collected at checkout. However, individual use tax compliance is low in all states and enforcing it is difficult and expensive. Sen. Alexander explains, "The Marketplace Fairness Act is about ... two words: states' rights — and no state should have to play 'Mother, may I?' with the federal government when deciding whether to collect, or not collect, a state tax that is already owed."

Remote Transactions Parity Act of 2017

The Remote Transactions Parity Act of 2017 (RTPA), [introduced by a bipartisan coalition in the House](#), also makes no changes to the [2015 version](#). Bill sponsor Rep. John Conyers, Jr (MI) says there's a need to address the negative impact untaxed internet sales have on state and local tax revenue: "Each year, more Americans use the internet to purchase goods and services. While this development has been a boon for certain industries, state and local governments have been increasingly deprived of critical revenue as a result of lost consumer taxes. Less tax revenues mean that state and local governments have fewer resources for services like education, law enforcement, and social services."

Utah Rep. Jason Chaffetz, who led the RTPA effort in 2015, said, "Our outdated tax system is urgently in need of modernization. The playing field must be leveled between online retailers and brick and mortar stores in order to enable all sectors of the retail economy to thrive."

Side-by-side comparison: MFA and RTPA

Both 2017 versions of MFA and the RTPA would require states to simplify sales and use tax administration to facilitate compliance for out-of-state sellers. Both give

states a choice between two simplification options: joining the Streamlined Sales

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RTPA does not provide a permanent small seller exception, but it does prohibit states from auditing sellers with annual gross receipts of less than \$5 million. It also eases into sales tax collections: only remote sellers with gross receipts of at least \$10 million would have to collect in the first year; those with \$5 million in the second year; and those with \$1 million in the third year. All remote sellers who utilize an electronic marketplace to make sales to the public would be required to collect from the fourth year on.

Both MFA 2017 and RTPA 2017 would require states to pay the cost of certified service providers for businesses that want to automate sales and use tax compliance.

Support and opposition

The measures have been [praised by numerous state and local government agencies](#), including the National Governor's Association and the National Conference of State Legislatures. They applauded the introduction of the bills in a joint statement, saying, "We are pleased to see an appetite on Capitol Hill to address this crucial issue."

However, there has always been opposition on Capitol Hill to allowing states to tax businesses located outside of their borders. Past attempts by federal legislators to grant states the authority to tax remote sales have met with roadblocks. Back in 2013, Virginia Rep. Bob Goodlatte, Chairman of the House Judiciary Committee, refused to advance MFA 2013 out of committee and into the full House for a vote. Instead, he ultimately circulated drafts of his own solution to the remote sales tax problem: the [Online Sales Simplification Act](#) (OSSA), shared in 2015 and again in 2016. OSSA allows for the taxation of some remote sales but is substantially different from the other two bills.

In addition, a measure that directly opposes MFA and RTPA was introduced last summer. The [No Regulation Without Representation Act of 2016](#) seeks to codify the

physical presence requirement held up in *Quill Corp v. North Dakota*, the seminal

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vice President of U.S. Tax Policy and Government Relations at Avalara, admits it's hard to know where this legislation stands: "I would normally say that neither [MFA nor RTPA] has more of a chance this year than last year, but this isn't a normal year because of federal tax reform and attempts to balance the federal budget. If federal tax reform does anything more than simply adjust the rates, it will definitely impact state tax collections. Remote collection authority may be something states get in exchange for reduced federal payments."

Click on the following links for additional information about the [Marketplace Fairness Act of 2017](#) and the [Remote Transactions Parity Act of 2017](#).

How will the Marketplace Fairness Act affect my business?

Remote sellers that don't currently have to collect tax in all states would likely be required to collect in more states should MFA 2017 or RTPA 2017 become law.

Tax automation can't predict the future, but it can simplify sales and use tax compliance and help prepare businesses for any eventuality. [Learn more](#).

Gail is a sales tax expert with a penchant for digging through the depths of DOR sites and discovering and reporting rate changes across the country.

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