



Orange County Taxpayers Association

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To: The Honorable Lois Wolk, Chair, Senate Committee on Government and Finance

From: Reed Royalty, President, Orange County Taxpayers Association (OCTax)

Date: June 17, 2011

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## AB 153 (Skinner): Out-of-State Sales Tax (“Use Tax”)

### OCTax Position: SUPPORT

AB 153 would close a loophole that allows out-of-state retailers to ship merchandise directly to California customers, avoiding the sales tax that California retailers must collect. The bill would expand the definition of “California retailer” to include an “affiliate” who refers potential buyers to an out-of-state retailer (e.g., Amazon.com). The out-of-state retailer would ship the untaxed goods directly to the California customer. AB 153 would require the affiliate to collect California sales tax on such sales that cumulate to more than \$50,000 in the previous 12 months.

#### OCTax analysis

There’s plenty to dislike in AB 153. It’s a cash grab by legislators to help balance the state budget, and probably to forestall cutbacks in lavish public employee pensions and other benefits. It may not be effective in either role: according to columnist John Seiler, a study suggests that the sales tax generated by AB 153 would be offset to some degree by a loss of income taxes because out-of-state retailers would lay off their California affiliates. AB 153 may even violate the U.S. Constitution, which gives Congress sole power to regulate interstate commerce.

OCTax dislikes AB 153, but we dislike unfair taxes even more. AB 153 would close the loophole that unfairly enables out-of-state retailers to sell merchandise tax-free in California, to the competitive disadvantage of California retailers, large and small. That loophole encourages retailers to leave California, taking jobs, infrastructure and tax receipts with them. OCTax likes retail stores that are physically present, hire workers, display goods and pay taxes in California.

OCTax doesn’t support AB 153 because we want the state to have more money (we want the state to learn to live within its means). We support AB 153 because it makes taxes fairer.

cc: The Honorable Nancy Skinner  
Orange County Legislative Delegation