Appeal for Fair and Equal Taxation of Electronic Commerce

We the undersigned academic specialists in tax policy, having no direct interest in the outcome of the deliberations of the Advisory Commission on Electronic Commerce, are concerned that the Commission may make recommendations for the tax treatment of electronic commerce that are contrary to the public interest.[1] We therefore respectfully suggest that any recommendations the Commission makes regarding the sales and use tax should satisfy all four of the following general principles, which are consistent with a variety of specific proposals:

1. Electronic commerce should not permanently be treated differently from other commerce. There is no principled reason for a permanent exemption for electronic commerce. Electronic commerce should be taxed neither more nor less heavily than other commerce.

2. Remote sales, including electronic commerce, should, to the extent possible, be taxed by the state of destination of sales, regardless of whether the vendor has a physical presence in the state. In limited cases, where it is impossible to determine the destination of sales of digital content to households, it may be necessary to substitute a surrogate system. In no case should taxation of remote commerce or electronic commerce be limited to origin-based taxation, which would induce a "race to the bottom" and, in effect, no taxation at all.

3. There must be enough simplification of sales and use taxes to make destination-based taxation of sales feasible. Such simplification might include, for example, unification of the tax bases across states, unification of tax rates within states, and/or sourcing of sales only to the state level, as well as simplification of administrative procedures.

4. A means must be found to eliminate burdens of compliance on sellers making only small amounts of sales in a state. These might include software-based systems made available at state expense, more realistic vendor discounts, and/or de minimis rules.

5. Revenue neutral.

[This statement does not represent the position of the institutions with which the signatories are associated.]

Name	Affiliation
Henry Aaron	Brookings Institution; Assistant Secretary for Planning and Evaluation, Department of Health, Education and Welfare, 1977-78
James Alm	Georgia State University
Rosanne Altshuler	Rutgers University
John E. Anderson	University of Nebraska

[1] The tax specialists listed had indicated support of this Appeal through January22, 2000. More names will be added as other tax specialists indicate support.

Korbitz, Adam

From: Ourada, Thomas D
Sent: Monday, June 05, 2000 12:11 PM
To: Korbitz, Adam
Subject: RE: hearing notice

Adam, several professors at the UW have signed on to a formal statement presented to the Advisory Commission on Electronic Commerce. Over 100 academic tax specialists from around the country signed the "Appeal for Fair and Equal Taxation of Electronic Commerce" which urged the ACEC not to propose a permanent exemption for electronic commerce and advocated for destination-based taxes of sales, simplification and elimination of burdens placed on retailors who make small amounts of sales in a state. The individuals from Wis are: Martin David
Robert Haveman
Arik Levinson
Andrew Reschovsky
John Karl Scholz
John Witte

These folks are all at the University of Wis.-Madison. In addition, the Dept. of Revenue has been working with Prof. Peter Frischmann of the UW Business School on the e-commerce issue. I don't have phone numbers on the list above, but Peter Frischmann's number is 262-1413. I mentioned an article I saw in the Business Journal from a proponent of exempting Internet sales from the sales tax. His name is Gary Edgar, and he is the president of Heartland Software Development, Inc. in Wauwatosa. Let me know if you would like me to fax over the commentary he wrote. If you were looking for other voices who want to exempt e-commerce, I'm sure Joan Hansen at the WMC would have some contacts she could recommend. Thanks. Send me you fax number if you want any documents sent over.

-----Original Message-----
From: Korbitz, Adam
Sent: Monday, June 05, 2000 11:44 AM
To: Ourada, Thomas D
Subject: hearing notice

<< File: JCIP 6-14-00.doc >>

Courtier, merchants

Principles for Governments' Roles

Steve Malpezzi

June 6, 2000

How can we decide what level of government should provide a service?

- Once we've decided we need a service, what level of government (state, county, municipal, special district) should provide it?
- Consider:
  - Diversity in demand/local control
  - Economies of scale/costs
  - Spillovers/externalities
  - Integration of related services

Diversity in demand/local control

- For some goods, different communities have different demands, or otherwise place a very high value on local decisions and control.
- Examples:
  - Schools
  - Land use regulation
- Diversity in demand/local control $\Rightarrow$ shifting responsibility to a lower level.

Economies of scale/costs

- For some goods, costs fall as we increase the scale of the activity.
- Examples:
  - Roads, transportation networks
- Economies of scale $\Rightarrow$ shifting responsibility to a higher level (state or regional entity).

Spillovers/externalities

- Some activities impose costs, or confer benefits, on neighbors.
- Examples:
  - Land use
  - Education
- Spillovers $\Rightarrow$ shifting responsibility to a higher level.

Integration of related services

- Many activities combine several individual services/activities; each may have their own "optimal level."
- Examples:
  – Criminal justice (local police, county jails, state prisons).
- Existence of such integrated activities ⇒ we must solve a coordination problem.

Providing services versus financing services

- In principle, who makes the decisions about the level of public services, and their composition, can be separated from who finances them.
- Examples:
  - Education has significant local control but significant state finance.
  - Mandates are unpopular with LGs because they work in the other direction.
- Is such separation a "good thing" or a "bad thing?"

Arguments ***for*** separating service provision from finance

- Suppose schools are better run with local control and "ownership," but tax bases/ability to pay varies tremendously by location.

Arguments ***against*** separating service provision from finance

- When money is manna from heaven, we may spend it less carefully than if we earned it?

Intel Chief Splits From Peers on Taxes, Privacy

WSJ Wed. June 7, 2000

By Ted Bridis
Staff Reporter of The Wall Street Journal

WASHINGTON—Breaking with most of the technology industry, **Intel Corp.**'s chairman told a congressional committee that Internet sales don't deserve exemptions from taxes, and he expressed support for new federal Internet-privacy laws.

Andrew Grove, at 63 years old, is considered an elder statesman in an industry flush with start-ups run by young executives. His remarks were so extraordinary they overshadowed the testimony moments later by Bill Gates, **Microsoft** Corp.'s chairman, who also appeared before the Joint Economic Committee.

Mr. Grove is acutely aware that his support for new privacy legislation and for new authority to collect sales tax on Internet purchases puts him at odds with most of his colleagues on two of the biggest issues facing the industry. While he included those positions in a written statement for the committee, he didn't elaborate on them until he was asked to by Republican Sen. Ted Stevens, of Alaska.

Mr. Grove said he was reluctant to speak about the issues because he "didn't want to be hit" by colleagues when they testified following him.

But under questioning he maintained that a failure to achieve "tax neutrality" between offline purchases and Internet sales will contribute to national economic disparities. He also said that the technical difficulties of collecting taxes across different jurisdictions are "not insurmountable."

At a round-table discussion later with The Wall Street Journal, Mr. Grove and chief executives from other technology companies waged a remarkably spirited debate over taxes and privacy. Jay Walker, **Priceline.com** founder, said it already collects taxes on airline tickets, cars and some grocery items that its customers can buy on the Web. "It's not like we live in a tax-free zone," Mr. Walker said.

"Jay, that's not true," Mr. Grove responded, saying that people who buy books online generally don't pay the same taxes as those who buy from bookstores.

John Warnock, head of **Adobe Systems** Inc., noted that traditional retailers use roads and resources of the tax jurisdiction where they are located. "The Internet company uses none of that, except for the transportation of the product to the customer," he said.

Mr. Grove said during his congressional testimony and again afterward that he believes federal Internet-privacy laws are "inevitable" and preferable to a patchwork of privacy laws in 50 different states. But he also described his thoughts as "in a very quixotic early stage."

Nevertheless, Mr. Grove offered a way of framing the debate, arguing that consumers' data should be recognized as their private property, the protection of which could not be guaranteed by industry self-regulation. "History shows that property rights have not been left to voluntary treatment," he said.

Mr. Gates's visit to Capitol Hill comes the same week that a U.S. judge here is expected to order the breakup of Microsoft for violating antitrust laws. The congressional panel pointedly didn't ask Mr. Gates about the pending judgment, and he didn't volunteer any comments about it.

The Road Ahead

The Supreme Court could rule quickly on a Microsoft breakup. But for investors, the conduct restrictions may be more troubling. Pages A28 and C1.

Microsoft Files Last-Ditch Statement Against Breakup

By a Wall Street Journal *Staff Reporter*

WASHINGTON—**Microsoft Corp.** called the government's breakup plan extreme and charged that the proposal would regulate the design of operating-system software.

Taking its last shot before a final judgment in the landmark antitrust case, Microsoft urged U.S. District Court Judge Thomas Penfield Jackson to go beyond the few changes to the proposal accepted Monday by the Justice Department and 17 states.

"Instead of agreeing to correct the many defects in the proposed final judgement, the government has agreed to only a few cosmetic changes," Microsoft's filing said.

The Justice Department had no immediate comment on Microsoft's brief, which was filed a day before it was due.

Bob - FYI

June 7, 2000

Mr. Graham Williams
National Conference of State Legislatures
444 N. Capitol Street NW, Suite 515
Washington, D.C. 20001

Dear Mr. Williams,

Thank you for taking time to write to contact me regarding H.R. 3709, the Internet Nondiscrimination Act. I read with interest and amusement your characterization of votes to block repeal of Internet access taxes as "pro-state." I fail to see how a vote for higher taxes is a "pro-state" vote.

A majority of the Wisconsin Legislature disagrees with you. We have passed legislation to repeal Wisconsin's Internet access tax only to have the provision vetoed. This spring, Governor Thompson announced he now supports such a repeal and will sign one into law as soon as it reaches his desk.

Quit wasting our money lobbying for higher taxes. If such ridiculous behavior continues, the Wisconsin Assembly may reconsider the wisdom of continuing to be a dues-paying member of the National Conference of State Legislatures.

Again, thank you for your letter.

Sincerely yours,

Scott R. Jensen
Assembly Speaker

Jahr, Dave

From: Scott Mackey [Scott.Mackey@NCSL.org]
Sent: Thursday, June 08, 2000 4:56 PM
To: SEN.JAUCH@LEGIS.STATE.WI.US
Subject: E-Commerce Attahcments

State Action Chart 432000.xls

Internet tax with SSTP 52000.p...

Attached is an excel file showing the status of state participation.

Also, I'm enclosing a powerpoint presentation that I've done in several states. It might give you some ideas on questions to ask Diane Hardt about the Streamlined Sales Tax project.

I look forward to talking to you further tomorrow.

Scott Mackey
Chief Economist, NCSL
(303)894-3137
Fax: (303)863-8003
scott.mackey@ncsl.org

Status of State Legislation to Enable Multistate Sales Tax Simplification Discussions
06/09/2000

State	House Action	Senate Action	Administrative/Executive
Alabama	H815 passed 4/25/00	H815 died	
Alaska	No Sales Tax		
Arizona			
Arkansas	No 2000 Session		
California	S 1949	S 1949 passed 26-10 5/31/00	
Colorado			
Connecticut			
Delaware	No Sales Tax		
D.C.			
Florida	H 2433 passed 105-0 5/2/00	H 2433 passed 39-0 5/5/00	Sent to Gov. 6/7/00
Georgia			
Hawaii			
Idaho	HB 728 died		
Illinois	S-1682 passed 80-33 3/30/00	S-1682 passed 59-0 2/24/00	Sent to Gov. 5/11/00
Indiana			
Iowa	HF 2562 passed 58-38 4/12/00	HF 2562 passed 44-0 4/24/00	HF 2562 Signed 5/16/00
Kansas	S. 59 passed 98-26 4/28/00	S. 59 passed 38-2 4/28/00	S. 59 Signed 5/15/00
Kentucky	H502 passed 85-13 3/15/00	H502 passed 20-17 3/24/00	H502 Signed 4/26/00
Louisiana			X
Maine			
Maryland	H 1421 passed 129-10 3/26/00	H 1421 passed 46-0 4/6/00	H 1421 Signed 5/18/00
Massachusetts			
Michigan			X
Minnesota	HF4127 passed 85-47 3/27/00	HF 4127 passed 64-1 5/9/00	HF 4127 Signed 5/15/00
Mississippi		S-2767 died	
Missouri	SCR 29 passed 144-11 5/8/00	SCR 29 passed 30-1 4/18/00	X
Montana	No Sales Tax		
Nebraska			X
Nevada	No 2000 Session		
New Hampshire	No Sales Tax		
New Jersey			
New Mexico	H-282 passed 67-0 2/11/00	H-282 passed 18-9 2/15/00	H 282 Vetoed 3/7/00
New York			
North Carolina			X
North Dakota	No 2000 Session		
Ohio	HB 483 passed 3/22/00	HB 483 passed 5/17/00	Cleared Leg. / Pending
Oklahoma	S 1040 passed 85-13 5/25/00	S 1040 passed 27-17 5/25/00	S 1040 Signed 6/5/00
Oregon	No Sales Tax		
Pennsylvania	HB 2331		
Puerto Rico			
Rhode Island	S. 2919	S. 2919 passed 44-0 5/16/00	
South Carolina			X
South Dakota	S-45 passed 65-1 2/14/00	S-45 passed 33-2 1/21/00	S-45 Signed 3/6/00
Tennessee	H 2316 passed 97-0 2/23/00	H 2316 passed 31-1 3/27/00	H 2316 Signed 4/5/00

Texas	No 2000 Session		
Utah			X
Vermont			
Virginia			
Washington			
West Virginia		SCR 30 died	
Wisconsin			X
Wyoming	**S 62 passed 60-0 3/9/00**	**S 62 passed 30-0 3/1/00**	**S 62 Signed 3/13/00**

(X) -- Administrative / Executive indicates where Governor or other executive authority has provided a letter or executive order indicating a commitment to participate in multistate discussions.

Shading dentoes executive or legislative action.

Summary of state actions:

Final Passage / Law:	IA, KS, KY, MD, MN, MO, OK, SD, TN, WY
Passed, vetoed by Governor:	NM
Final passage both houses, pending:	FL, IL, OH
Passed both houses, pending concurrence:	
Passed one house:	CA, RI
Introduced, pending:	PA
Died:	AL, ID, MS, WV
Participating by executive authority:	LA, MI, NE, NC, SC, UT, WI

National Conference of State Legislatures

Internet Taxation and State Sales Tax Simplification

Scott Mackey

Chief Economist

National Conference of State Legislatures

June 2, 2000

Overview of Presentation

- **Old problem / new urgency**
- **What is Congress doing?**
- **What are the states doing?**

Legal summary

- **Henneford -- 1937**
  - **Use tax is constitutional**
- **Bellas Hess -- 1967**
  - **Collection is undue burden on remote seller**
- **Quill -- 1992**
  - **Congress may legislate a solution**

Why the New State Urgency?

- **Threat to state revenue**
  - **Electronic commerce projections**
  - **Dot.com subsidiaries**
- **Federal preemption**

E-Commerce Projections

- **Business to consumer**
  - **1997 -- $3 billion**
  - **1998 -- $8 billion**
  - **1999 -- $18 billion**
  - **2003 -- $140 billion**
- **Business to business**
  - **2003 -- $1.3 trillion**

Sales Tax Revenue Implications

- **Professor Fox (Tennessee) -- Feb. 2000**
  - **$10.8 billion by FY2003 (E-Commerce only)**
  - **$20 billion by FY2003 (All remote sales)**

- **Moody's Investor Service -- April 2000**
  - **$10 billion by FY2003**
  - **"Severe long-term effect on sales tax dependent states"**

State Sales Taxes

- One-third of state revenue
- Over half of revenue in 6 states
- Only major US consumption tax
  - Unlike OECD, no federal tax

State Revenue Implications

- Pressure on income & property taxes
- Sales taxes "least unpopular"
- Growing source of urban "amenity" financing

Impact on "Main Street"

- **Competitive disadvantage**
- **Real estate values / property taxes**
- **Impact magnified in certain sectors**
  - **Books, music, consumer electronics**
  - **Pressure to exempt vulnerable items**

Major Proposals in Congress

- **Extend moratorium on access taxes**
- **Nexus "carve outs"**
- **Full ACEC proposals**
  - **Digital goods & "equivalent" preemption**
  - **Nexus carve outs**
  - **Permanent moratorium**

What is Congress Doing?

- **US House**
  - **Voted on May 9 to extend moratorium**
  - **Hearings on sales tax & nexus carve outs**
- **US Senate action uncertain**
  - **Sen. McCain markup on moratorium postponed**

What are States Doing?

- **Opposing federal preemption**
- **Multistate discussions on sales tax simplification**

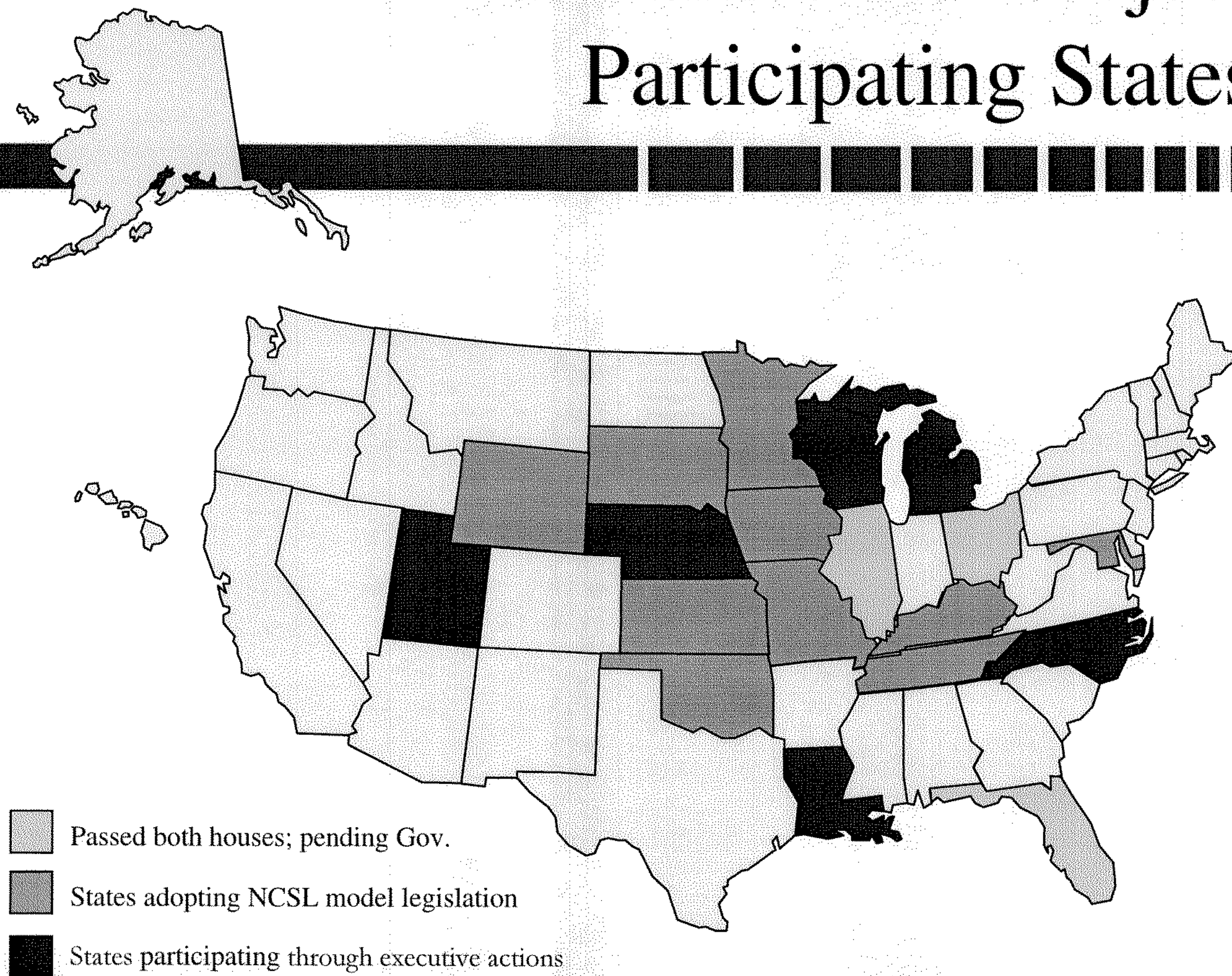
Streamlined Sales Tax System

- **Proposed in December**
- **Outgrowth of National Tax Association project**

Overview of Streamlined System

- Major state simplification
- Use of technology to minimize or remove burden of collection on sellers
- Voluntary for sellers and states

Streamlined Sales Tax Project Participating States



Timetable for Multistate Effort

- **Draft legislation -- September**
- **Review / comment / revision -- Oct./Nov.**
- **Final proposal -- end of December**
- **Legislative action -- 2001 session**

Major Simplification Issues

- **Rate issues**
  - **Local rate simplification**
  - **Frequency of changes**
- **Sourcing rules**
- **Privacy protection for buyers**

Simplification Issues (continued)

- **Role of "tax calculation service"**
- **Software certification**
- **Uniform definitions**
  - **of products**
  - **other terms -- "sale for resale", etc.**

Policy Issues (continued)

- **Paying for the system**
- **Audit relief**
- **Exemption processing / administration**

State Actions Necessary

- **Authorize multi-state discussions**
- **Adopt simplification model statute**
- **Provide database**
  - **Rates**
  - **Exemptions**

Why is This Issue an NCSL Priority?

- **States controlling our own destiny**
- **Fairness for local businesses**
- **Long term: Preventing tax shifts to unpopular sources**

THE WALL STREET JOURNAL INTERACTIVE EDITION

PAST EDITIONS

June 7, 2000

Intel Chairman Says He Favors Sales Tax on Internet Purchases

By TED BRIDIS
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON -- Breaking with most of the technology industry, Intel Corp.'s chairman told a congressional committee that Internet sales don't deserve exemptions from taxes, and he expressed support for new federal Internet-privacy laws.

Andrew Grove, at 63 years old, is considered an elder statesman in an industry flush with start-ups run by young executives. His remarks were so extraordinary they overshadowed the testimony moments later by Bill Gates, Microsoft Corp.'s chairman, who also appeared before the Joint Economic Committee.

Financial-Services Trade Groups Adopt Consumer Privacy Guidelines

Company profile: Intel

Mr. Grove is acutely aware that his support for new privacy legislation and for new authority to collect sales tax on Internet purchases puts him at odds with most of his colleagues on two of the biggest issues facing the industry. While he included those positions in a written statement for the committee, he didn't elaborate on them until he was asked to by Republican Sen. Ted Stevens, of Alaska.

Mr. Grove said he was reluctant to speak about the issues because he "didn't want to be hit" by colleagues when they testified following him. But under questioning he maintained that a failure to achieve "tax neutrality" between offline purchases and Internet sales will contribute to national economic disparities. He also said that the technical difficulties of collecting taxes across different jurisdictions are "not insurmountable."

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Write to Ted Bridis at ted.bridis@wsj.com

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Wisconsin Department of Revenue
Division of Research and Analysis
June 12, 2000

ELECTRONIC COMMERCE AND THE WISCONSIN SALES & USE TAX

A. INTRODUCTION

Electronic commerce (e-commerce) is changing the way companies do business. It will also change the way state and local governments administer their taxes, and will likely affect the level of their tax collections. Thus, it is imperative that policy makers thoroughly understand e-commerce and its potential impact so they can respond, legislatively and administratively, to the opportunities and challenges arising from this emerging form of commerce.

This paper focuses on e-commerce's impact on the sales and use tax in Wisconsin. A brief overview of current sales tax law in Wisconsin as it relates to e-commerce is followed with a discussion of some of the complications posed or exacerbated by the expansion of e-commerce. Finally, a summary of future state efforts with regard to simplifying the sales tax is offered.

B. DEFINITION OF E-COMMERCE AND CURRENT SALES TAX TREATMENT

1. Definition of E-Commerce

The U.S. Department of Commerce has defined e-commerce as any transaction completed over a computer-mediated network that involves the transfer of ownership of, or rights to use, goods and services. E-commerce generally includes: online catalogs and product sales; computer software; photographs and art-copy; information content providers; legal, travel, and other online personal services; business services and advertising; telecommunications and real-time Internet video conferencing; securities trading; and banking. However, given the dynamic nature of the Internet, the types of transactions conducted electronically will undoubtedly evolve over time.

2. Current Sales and Use Tax Treatment

Economic activities related to electronic commerce and the Internet are subject to Wisconsin state and local taxes in the same manner as other economic activities; the state imposes no special taxes on Internet activities. Electronic commerce and related activities can be divided into five major sub-categories:

- *Sales of Tangible Personal Property.* Sales of tangible personal property by retailers located in Wisconsin to persons in the state are generally subject to the state sales and use tax. This rule also applies to Internet transactions–the sale of an item over the Internet to a Wisconsin resident is generally taxable. If the seller is a Wisconsin company, or has nexus with Wisconsin (that is, has a physical presence in the state or has an agent conducting business in the state), the seller must pay the tax. If the seller has no nexus and does not voluntarily collect Wisconsin sales tax from the purchaser, then the purchaser legally owes a use tax (the tax imposed on the use, consumption or storage of property or services purchased out-of-state).

- *Sales of Services*: Wisconsin sales tax also applies to a selected list of services. The tax treatment for taxable services is similar to those for tangible personal property. For example, a transaction that involves repair of canned software over the Internet would be subject to tax.

- *Internet Access*: Wisconsin imposes its sales tax on the sale of telecommunications services originating in and charged to a service address in the state. Under Wisconsin law, Internet access services are subject to the sales tax as a telecommunications service, even if the service provider is located out-of-state.

- *Commercial Online Services*: Commercial online services, such as America Online and Prodigy, provide both Internet access and information content. The former is taxable but the latter is not. If a flat fee is charged for both access and information, the provider is required to determine the portion of the fee that is related to access and collect the Wisconsin sales tax on that portion.

- *Activities Related to Web Sites*: The sales tax also applies to Web page set-up and design if the purchaser takes possession of the finished interface and design before it is stored at a Web site. However, if the Web pages and associated design are stored on a Web site server, the transaction is considered a service and is not subject to the sales tax. Web site advertising and listing space are treated like other forms of advertising and are not taxed. Also, charges and fees for Internet database storage services are not subject to the sales tax.

In 1998, Congress passed the Internet Tax Freedom Act. The Act imposed a three-year moratorium on state taxation of charges for Internet access. The Act has been commonly misinterpreted to mean a prohibition on taxing items purchased over the Internet rather than the prohibition on taxes for access. States that were imposing a tax on charges for Internet access (including Wisconsin) were exempted from the moratorium, i.e., they were grandfathered. The moratorium is scheduled to expire in October of 2001 and debate is underway in Congress about extending the moratorium and perhaps eliminating the grandfather provisions.

C. SALES TAXATION OF ELECTRONIC COMMERCE: COMPLICATIONS

The rapid evolution of electronic commerce and the Internet over the past few years has created thorny tax policy problems for Wisconsin and other states. This section identifies some of the specific challenges that have arisen with regard to the state's sales and use tax code as it is currently written and interpreted.

- *Nexus*: Selling through e-commerce, like catalogue and mail order retailing, does not require a physical presence within the state (nexus). Without nexus, the state has no authority to require electronic commerce firms to collect sales tax for sales to state residents and businesses. While most purchasers owe a use tax, voluntary compliance is low. The false tax-free perception of electronic commerce gives it a competitive advantage over traditional retail and service outlets.

- *Situs*: States typically tax services that are performed at an identifiable physical location, such as the rental of a hotel room. However, the place in which an electronic commerce transaction takes place, or situs of the transaction, may be difficult to determine. For example, states that tax sales of electronic information services are grappling with the situs of those transactions when the provider is located in one state and the purchaser, e.g., a business, has locations in several states and makes use of the electronically accessed information in several other states. Efforts to define situs by using billing or service addresses may encourage firms to locate those addresses in jurisdictions that do not impose a sales tax.

- *Technological Convergence*: Convergence and competition among different media are expected to result in telephone and cable television offering their customers local and long-distance telephone service, entertainment, paging, messaging, and access to the Internet and other electronic information bundled in a single one-price package. As a result, companies whose services have traditionally been subject to tax may find that their sales continue to be taxable, while the sales of bundled services by a competitor may escape taxation if bundled with a nontaxable service. Convergence may cause sales tax revenue to decline and raise equity issues among companies whose services remain taxable.

- *Sales of Information in Digitized Form*: Under current Wisconsin law, digitizing certain types of products and selling them through electronic transmission is not subject to the sales and use tax. The sales tax base could suffer serious erosion if a wide variety of items, formerly delivered in tangible form, are transferred electronically. Games, music, movies, books, educational and training materials, and legal, medical, and other databases are examples of information traditionally sold in tangible form that can be transmitted electronically.

- *Ease of Compliance*: Both Internet and other remote sellers have argued that collecting and remitting the sales tax for state and local governments would impose an oppressive burden on them given the vast array of different rates and exemptions in these tax systems. Indeed, the current system of state and local sales and use tax administration is complex and burdensome. Differences in tax laws among the states, coupled with the extensive use of sales tax by local governments, impose a significant compliance burden on remote sellers.

D. IMPLICATIONS OF AN EXPANDED E-COMMERCE

1. Introduction

This section examines the fiscal and equity issues related to an expansion of Internet commerce among both consumers and businesses.

The Wisconsin Department of Revenue has developed current estimates of the impact of electronic commerce on the state's sales tax, based on total U.S. e-commerce. These estimates suggest that e-commerce reduced state sales tax revenues by between $9 and $14 million in 1999. Mail order and other remote sales add to this an estimated $95 million in 1999. The growth in e-commerce and the effects of convergence and other technological change will significantly increase this impact in the next several years.

The sales tax structure has not evolved with the economy; the growth of the Internet exacerbates the shortcomings of a sales tax system designed for traditional face-to-face trade in tangible goods. The Internet creates sales tax inequities that negatively affect lower-income households and small-to medium-sized, local business establishments the most. Those making purchases through more traditional means of commerce continue to pay sales taxes, while others with access to the Internet are avoiding the tax. Main Street retailers are required to collect sales tax, while an Internet-based competitor may not face the same mandate.

2. Fiscal Implications of Electronic and Other Remote Commerce

   a. Sales to Wisconsin Consumers: E-commerce sales to Wisconsin consumers represent the largest potential loss of sales and use tax revenues associated with the growth of the Internet. Assuming Wisconsin's share of total U.S. consumer e-commerce is equal to its share of U.S. population, sales to Wisconsin residents are estimated to be between $290 million and $386 million in 1999. Some, but not all the property and services sold over the Internet are taxable–books, computers and telecommunications are; travel and financial services are not. Further, some e-commerce sales to Wisconsin residents are made by sellers with a presence in the state who collect the state sales tax. After adjustments and the application of Wisconsin's 5% state sales tax rate, the potential revenue loss for 1999 consumer e-commerce sales was estimated to be between $5.3 million and $7.0 million.

*

local revenue

6.2%- local [illegible]

62

   b. Sales to Wisconsin Business: E-commerce sales to Wisconsin business entities, based on Forrester Research's 1999 forecast and the state's share of the total U.S. population, are currently estimated at $2.1 billion in 1999. Several adjustments were made to these numbers to arrive at estimates of the size of the tax base potentially foregone because of the growth of e-commerce. The potential revenue loss for business to business e-commerce sales is estimated to be between $3.4 million and $6.8 million in 1999.

   c. Other Forms of Remote Sales: In addition, Wisconsin will continue to lose sales tax revenues from other forms of remote commerce–most notably, from sales by mail-order retailers without nexus in the state. The Department of Revenue estimates that this revenue loss was an estimated $95 million in 1999.

3. Technological Change

The sales tax base is threatened with further erosion when technological convergence and other technological changes combine with an outdated tax code that was written for a different economic era. The most notable area of concern is the substitution of electronically transmitted data for information and products that were formerly sold in tangible form. The following products and services have been identified as areas of potential revenue loss.

- *Canned Software*: The Internet makes it easy for users to purchase and download programs directly from the manufacturer. While currently taxable, collecting the sales tax electronic transactions remains difficult.

- *Music, Movie Rentals, and Video Games*: As with canned software, the Internet may provide an outlet for direct downloads of music, movies, video games and other forms of entertainment that can be transmitted digitally.

- *Information Databases*: Information previously transferred in a tangible, taxable form is increasingly available electronically, and thus not taxable. Legal reference services are a primary example of information previously transferred in a book, CD or other tangible form, but now available online.

- *Long-distance Telephone Service*: Increased Internet bandwidth has enabled voice communications over the Internet. Technological changes could render the standard telephone service and related statutory codes obsolete over the next decade. Such a change would jeopardize a significant portion of the sales tax revenue that is currently generated from long-distance telephone service in Wisconsin.

4. Tax Policy Implications

(Unfair)
shift tax burden

Studies indicate that the "digital divide"–the low rate of computer use and ownership by lower-income households–remains quite high. While growing among lower- and middle-income households, computer ownership and Internet use are still the domain of wealthier households. Most essential consumer goods are not typically purchased over the Internet; therefore, non-essential consumer goods, when purchased over the Internet, are escaping taxation to the benefit of the wealthiest households. If trends continue, lower- and middle-income households may bear the burden of lower sales tax collection through higher income or property taxes, or face cutbacks in essential public services such as education.

loss of business
fairness

In addition, the growth of e-commerce comes at the expense of local businesses. Brick-and-mortar and traditional catalog merchants are losing their wealthiest customers to e-commerce. Local merchants, middlemen, and wholesalers are required to collect and remit sales taxes while their out-of-state counterparts can avoid doing so, creating a competitive disadvantage. Through the Internet, large multi-state corporations have the ability to manipulate their organizational structure, creating brick-and-click subsidiaries that avoid collecting sales taxes on their dot.com sales.

E. FUTURE ACTIONS

Economic changes continue to impact the efficiency and fairness of the sales tax. States are proposing to streamline the administration of the sales tax and simplify the burden for all retailers regardless of the mode of commerce. Thirty states including Wisconsin have joined the Streamlined Sales Tax Project to develop a package of simplifications that can be presented to state legislatures in 2001 and to attempt several pilots using technology to address the complexities of the current system. The stakes are high. With a rapidly changing economy and the advance of technology, questions of tax fairness and tax administration need to be fully debated by state policy makers. The Wisconsin sales tax comprises nearly one-third of state tax revenues and, since Wisconsin returns more than 60% of state general fund taxes to local governments, these revenues are used primarily for education, police and fire protection, and similar basic services. E-commerce presents a challenge to the ability of Wisconsin and its local governments to continue providing these services. The Streamlined Sales Tax Project presents states with the opportunity to deal with the issue in a manner that is fair and equitable for all taxpayers and all forms of commerce.

Status of State Legislation to Enable Multistate Sales Tax Simplification Discussions
06/13/2000

State	House Action	Senate Action	Administrative/Executive
Alabama	H815 passed 4/25/00	H815 died	
Alaska	No Sales Tax		
Arizona			
Arkansas	No 2000 Session		
California	S 1949	S 1949 passed 26-10 5/31/00	
Colorado			
Connecticut			
Delaware	No Sales Tax		
D.C.			
Florida	H 2433 passed 105-0 5/2/00	H 2433 passed 39-0 5/5/00	Sent to Gov. 6/7/00
Georgia			
Hawaii			
Idaho	HB 728 died		
Illinois	S-1682 passed 80-33 3/30/00	S-1682 passed 59-0 2/24/00	Sent to Gov. 5/11/00
Indiana			
Iowa	HF 2562 passed 58-38 4/12/00	HF 2562 passed 44-0 4/24/00	HF 2562 Signed 5/16/00
Kansas	S. 59 passed 98-26 4/28/00	S. 59 passed 38-2 4/28/00	S. 59 Signed 5/15/00
Kentucky	H502 passed 85-13 3/15/00	H502 passed 20-17 3/24/00	H502 Signed 4/26/00
Louisiana			X
Maine			
Maryland	H 1421 passed 129-10 3/26/00	H 1421 passed 46-0 4/6/00	H 1421 Signed 5/18/00
Massachusetts			
Michigan			X
Minnesota	HF4127 passed 85-47 3/27/00	HF 4127 passed 64-1 5/9/00	HF 4127 Signed 5/15/00
Mississippi		S-2767 died	
Missouri	SCR 29 passed 144-11 5/8/00	SCR 29 passed 30-1 4/18/00	X
Montana	No Sales Tax		
Nebraska			X
Nevada	No 2000 Session		
New Hampshire	No Sales Tax		
New Jersey			
New Mexico	H-282 passed 67-0 2/11/00	H-282 passed 18-9 2/15/00	H 282 Vetoed 3/7/00
New York			
North Carolina			X
North Dakota	No 2000 Session		
Ohio	HB 483 passed 3/22/00	HB 483 passed 5/17/00	Cleared Leg. / Pending
Oklahoma	S 1040 passed 85-13 5/25/00	S 1040 passed 27-17 5/25/00	S 1040 Signed 6/5/00
Oregon	No Sales Tax		
Pennsylvania	HB 2331		
Puerto Rico			
Rhode Island	S. 2919	S. 2919 passed 44-0 5/16/00	
South Carolina			X
South Dakota	S-45 passed 65-1 2/14/00	S-45 passed 33-2 1/21/00	S-45 Signed 3/6/00
Tennessee	H 2316 passed 97-0 2/23/00	H 2316 passed 31-1 3/27/00	H 2316 Signed 4/5/00

Texas	No 2000 Session		
Utah			X
Vermont			
Virginia			
Washington			
West Virginia		SCR 30 died	
Wisconsin			X
Wyoming	**S 62 passed 60-0 3/9/00**	**S 62 passed 30-0 3/1/00**	**S 62 Signed 3/13/00**

(X) -- Administrative / Executive indicates where Governor or other executive authority has provided a letter or executive order indicating a commitment to participate in multistate discussions.

Shading dentoes executive or legislative action.

Summary of state actions:	
Final Passage / Law:	IA, KS, KY, MD, MN, MO, OK, SD, TN, WY
Passed, vetoed by Governor:	NM
Final passage both houses, pending:	FL, IL, OH
Passed both houses, pending concurrence:	
Passed one house:	CA, RI
Introduced, pending:	PA
Died:	AL, ID, MS, WV
Participating by executive authority:	LA, MI, NE, NC, SC, UT, WI

National Conference of State Legislatures

21 Amount from line 20 21

22 Alternative minimum tax. Attach Schedule MT 22

23 Add lines 21 and 22 23

24 Married couple credit. Attach Schedule 2 on page 3 24

25 Manufacturer's sales tax credit. Attach Schedule MS . . . 25

26 Add lines 24 and 25 26

27 Subtract line 26 from line 23. If line 26 is larger than line 23, fill in -0-. This is your net tax 27

28 Sales and use tax due on out-of-state purchases (see page 17) 28

29 Endangered resources donation (decreases refund or increases amount owed) 29

30 Penalties on IRAs, other retirement plans, MSAs, etc. (see page 18) . . . x .33 = ... 30

31 Add lines 27 through 30 31

32 Wisconsin tax withheld. Attach withholding statements 32

33 1999 estimated tax payments and amount applied from 1998 return 33

34 Earned income credit. Qualifying children . . .
Federal credit .00 x ______% = . . . 34

35 Farmland preservation credit. Attach Schedule FC 35

36 Net income tax paid to another state (see page 19) 36

37 Homestead credit. Attach Schedule H 37

38 Farmland tax relief credit.
Property taxes on farmland . . x .13 = . . . 38

39 Add lines 32 through 38 39

40 If line 39 is larger than line 31, subtract line 31 from line 39. This is the amount **OVERPAID** . . 40

41 Amount of line 40 you want **REFUNDED TO YOU** 41

42 Amount of line 40 you want **APPLIED TO YOUR 2000 ESTIMATED TAX** 42

43 If line 39 is smaller than line 31, subtract line 39 from line 31. This is the **AMOUNT YOU OWE.** Paper clip payment to front of return 43

Attach copies of your withholding statements and your federal income tax return and schedules to this return in the order listed on page 21.

Sign here

Under penalties of law, I declare that this return and all attachments are true, correct, and complete to the best of my knowledge and belief.

Your signature	Spouse's signature (if filing jointly, BOTH must sign)	Date	Daytime phone
			( )

Mail your return to: Wisconsin Department of Revenue

If tax due . . . . P.O. Box 268, Madison, WI 53790-0001
If refund or no tax due . . . . P.O. Box 59, Madison, WI 53785-0001
If quick refund claimed . . . . P.O. Box 38, Madison, WI 53787-0001
If homestead credit claimed . . . . P.O. Box 34, Madison, WI 53786-0001

For Department Use Only

R M Y T MAN D A P C

■ Line 24 Married Couple Credit

You can claim the married couple credit if:

- You are married filing a joint return, and
- Both you and your spouse have qualified earned income, and
- You do not file federal Form 2555 or Form 2555EZ to claim an exclusion of foreign earned income or Form 4563 to claim an exclusion of income from sources in U.S. possessions.

To compute the credit, fill in Schedule 2 on page 3 of Form 1. Figure earned income separately for yourself and your spouse on lines 1 through 3 in Columns (A) and (B) of Schedule 2.

"Earned income" includes taxable wages, salaries, tips, scholarships or fellowships (only amounts reported on a W-2), other employe compensation, disability income treated as wages, and net earnings from self-employment.

"Earned income" does not include other income such as interest, dividends, IRA distributions, deferred compensation, unemployment compensation, rental income, social security, pensions, annuities, or nontaxable income. Do not consider marital property law, marital property agreements, or unilateral statements in figuring each spouse's earned income.

The credit is based on qualified earned income. You must figure qualified earned income separately for yourself and your spouse. Figure it on lines 4 and 5 of Schedule 2 by subtracting the total of certain adjustments from earned income. These adjustments (and the related lines on federal Form 1040) are:

- IRA deduction (line 23),
- Keogh and self-employed SEP and SIMPLE plans (line 29),
- Repayment of supplemental unemployment benefits (included in the total on line 32),
- Employe expenses of qualified performing artists and of fee-basis state or local government officials, and contributions to Section 501(c)(18) pension plans (included in the total on line 32), and
- Disability income exclusion (from line 11 of Wisconsin Form 1).

■ Line 25 Manufacturer's Sales Tax Credit

The manufacturer's sales tax credit is available for the amount of sales and use tax paid on fuel and electricity consumed in manufacturing in Wisconsin. If you qualify for this credit, attach a completed Schedule MS to your Form 1. Fill in on line 25 of Form 1 the amount from line 19 of Schedule MS.

■ Line 28 Sales and Use Tax Due on Out-of-State Purchases

If, during 1999, you made any taxable purchases from out-of-state firms on which sales and use tax was not charged, you must report Wisconsin sales and use tax on these purchases on line 28. Taxable purchases include furniture, carpet, clothing, computers, books, CDs, cassettes, video tapes, jewelry, coins purchased for more than face value, etc. For example, if you purchased $300 of clothing through a catalog from an out-of-state company, no sales and use tax was charged, and you reside in a county with a 5% tax rate, you are liable for $15 Wisconsin tax ($300 x 5% = $15) on this purchase. Complete the worksheet on this page to determine whether you are liable for Wisconsin sales and use tax.

Line 28 instructions – continued

Worksheet for Computing Wisconsin Sales and Use Tax

1. Total purchases subject to Wisconsin sales and use tax (i.e., purchases on which no sales and use tax was charged by the seller)	$
2. Sales and use tax rate (see rate chart below)	x %
3. Amount of sales and use tax due for 1999 (line 1 multiplied by tax rate on line 2). Fill in this amount on line 28 of Form 1 if $1 or more. If less than $1, fill in -0-.	$

Sales and Use Tax Rate Chart

In all Wisconsin counties except those shown in a, b, c, and d below, the tax rate was 5.5% for all of 1999.

a. If you resided in 1999 in one of the following counties, the tax rate was 5.6%:

Milwaukee   Ozaukee   Washington

b. If you resided in 1999 in one of the following counties, the tax rate was 5.1%:

Racine   Waukesha

c. If you resided in 1999 in one of the following counties, the tax rate was 5% before July 1, 1999, and 5½% on and after July 1, 1999:

Green Lake   Taylor

d. If you resided in 1999 in one of the following counties, the tax rate was 5%:

Brown	Green	Outagamie
Calumet	Kewaunee	Rock
Clark	La Fayette	Sheboygan
Florence	Manitowoc	Winnebago
Fond du Lac	Marinette	Wood
Grant	Menominee	

■ Line 29 Endangered Resources Donation

Your donation supports the preservation and management of more than 200 endangered and threatened Wisconsin plants and animals. It helps ensure a future for trumpeter swans, timber wolves, calypso orchids, and Karner blue butterflies, to name a few. It also helps protect Wisconsin's finest remaining examples of prairies, forests, and wetlands. All gifts (up to a total of $500,000) will be matched by general purpose revenue, which makes your gift twice as important to endangered resources.

Consider a gift of $15, $25, $50, or $75, or choose your own amount, and support endangered resources in Wisconsin. Fill in line 29 with the amount you wish to donate. Your gift will either reduce your refund or be added to tax due. Or, send a check directly to: Endangered Resources Fund, Department of Natural Resources, P.O. Box 7921, Madison, WI 53707.

■ **Line 30 Penalties on IRAs, Other Retirement Plans, MSAs, Etc.**

The Wisconsin penalty on retirement plans and medical savings accounts (MSAs) is equal to 33% of the following federal taxes:

- Tax on qualified retirement plans, including IRAs (line 53 of federal Form 1040).
- Total tax due from lines 4, 8, 17, 25, 33, 41, and 45 of federal Form 5329 (include only if the tax due on this form was paid separately and is not included on line 53 of your federal Form 1040).
- Tax on excess contributions (line 2 of federal Form 5330).
- Tax on distributions from an MSA not used for qualified medical expenses.
- Tax on prohibited transactions (line 6 of federal Form 5330).
- Section 72(m)(5) excess benefits tax (included in the total on line 56 of federal Form 1040).

If you were subject to any of the above federal taxes for 1999, fill in the total of such taxes in the space provided on line 30. Multiply the amount filled in by .33 (33%) and fill in the result on line 30.

Note You are not subject to the penalty on payments from certain retirement plans if the payments are exempt from Wisconsin tax. See the instructions for line 11, part (d), for information on retirement payments which are exempt from Wisconsin tax.

If you were required to file federal Form 5329 or 5330, attach a copy of your Form 5329 and/or 5330 to your Form 1.

Penalty for selling business assets (or assets used in farming) purchased from a related person within 24 months Capital gain on the sale or disposition of business assets or on assets used in farming may be excluded from Wisconsin taxation if the assets were held more than one year and the assets are disposed of to certain related persons. The related person who purchases or otherwise receives the assets on which the gain is excluded is subject to a penalty if he/she sells or otherwise disposes of the assets within two years. The penalty does not apply in the case of an involuntary conversion (for example, assets are destroyed by fire or livestock dies).

If you are subject to this penalty, contact any department office for information on how to compute the penalty. Include the amount of the penalty on line 30 of Form 1. Write "RP" to the right of line 30.

■ **Line 32 Wisconsin Tax Withheld**

Add the **Wisconsin** income tax withheld shown on your withholding statements (Forms W-2, W-2G, 1099-G, 1099-R, and 1099-MISC). Fill in the total on line 32. Attach readable copies of your withholding statements to Form 1. (See Attachments on page 21 for where to attach.)

Note Wisconsin tax withheld is shown in Box 18 of Form W-2 or Box 10 of Form 1099-R, but only if Wisconsin is the state identified in Box 16 of Form W-2 or Box 11 of Form 1099-R.

DO NOT claim credit for tax withheld for other states. DO NOT claim amounts marked social security or Medicare tax withheld. DO NOT claim credit for federal tax withheld. DO NOT include with-

Line 32 instructions – continued

holding statements from other tax years. DO NOT write on or change or attempt to correct the amounts on your withholding statements.

It is your responsibility to ensure that your employer or other payer has provided withholding statements that:

1. Are clear and easy to read.
2. Show withholding was paid to Wisconsin.

If you do not have a withholding statement or need a corrected withholding statement, contact your employer or other payer.

■ **Line 33 1999 Wisconsin Estimated Tax Payments and Amount Applied From 1998 Return**

Fill in the total of (1) any overpayment of 1998 income tax you were allowed as a credit on your 1999 Wisconsin estimated tax plus (2) any Wisconsin estimated tax payments you made for 1999. If you are married and file a joint return, add together (1) the total of both spouses' separate estimated tax payments, (2) any joint estimated tax payments you made, and (3) the total overpayments of 1998 income tax you and your spouse were allowed as credit to your 1999 estimated tax account(s).

If you are filing a separate tax return, you may not claim any part of your spouse's separate estimated tax payments or credits. However, you and your spouse may split your joint estimated tax payments and credits between you as you choose on your separate returns. If you cannot agree on how joint amounts are to be split between you, the department will split them between you according to your respective income tax liabilities.

Follow the above instructions even if your spouse died during 1999.

Name Change If you changed your name because of marriage, divorce, etc., and you made estimated tax payments using your former name, attach a statement to the front of Form 1 explaining all the payments you and your spouse made for 1999 and the name(s) and social security number(s) under which you made the payments.

■ **Line 34 Earned Income Credit**

If you qualify for the federal earned income credit and you have at least one qualifying child, you also qualify for the Wisconsin earned income credit.

To claim the Wisconsin earned income credit, complete the following steps and fill in the required information in the spaces provided on line 34.

Step 1 Fill in the number of children who meet the requirements of a "qualifying child" for purposes of the federal earned income credit (see the instructions for earned income credit in your federal return for definition of a "qualifying child").

CAUTION For federal purposes only your first two qualifying children are counted. For Wisconsin purposes all of your qualifying children are counted.

Note If your qualifying child is not claimed as a dependent on your return, write the child's name(s) to the right of line 34.

Step 2 Fill in the earned income credit from line 37a of federal Form 1040A or line 59a of Form 1040. (**Exception** If you were required to reduce your federal earned income credit because you

The popularity of e-commerce

It's arriving to the Northland faster than you think

Imagine, if you will, going to your computer, logging into the internet and going shopping at your local Mall. You begin by going to a Mall website that serves their stores, select your first store from the menu, and look at the "Sale" items. You find an item that will go with that new outfit and click on the "Buy It" icon, effectively putting the item into your "shopping cart".

After finding a few more items, you go to the electronic "checkout" and purchase your items. Since you are not done shopping, you don't elect to select the delivery option yet. Instead you proceed back through the Mall menu to shop other stores.

When you decide that your charge card has had enough exercise, you go to the delivery option icon and select a local delivery service, which picks up and for a small fee, delivers the parcels to your home!

If this sounds a little far-fetched, think again. This is E-Commerce, more specifically Business To Consumer (B2C), and it is happening all around the country. We are not there yet in Douglas County, Wis., but the potential is.

Dick Rohde
Manager of Continuing Education
WITC-Superior

To see some of the typical "Mall" anchors click on any of these sites: www.sears.com; www.walgreens.com; www.radioshack.com

www. saksincorporated. com (Younkers); or for a real treat, checkout the Lands End website (www.landsend.com) to see how easy the shopping can be. You could also get your groceries on-line. Check out www.groceriestoyou.com. au/ to see how they do this in Australia, or www.grocerygateway.com to see how its done in Canada!

According to Forester Research, B2C is expected to grow 1300% from \$7.8 Billion (1998) to \$108 Billion over five years by 2003! Now you know why the Tech stocks are flying high in the market place.

A few weeks ago I was faced with the decision on whether to fix or replace our kitchen stove. It was an older Sears product that had given us good service. Since I had a good idea what the problem was, I chose to go to www.sears.com and check out the parts department myself. I found the parts and their respective costs readily.

The internet is growing Business To Business (B2B) at an even greater pace than B2C. Forester Research predicts a 3000% increase in B2B, from \$43.1 Billion (1998) to \$1.3 Trillion in 2003! Business to Business is the wholesale world of businesses selling to each other. A stellar example of a local website that combines both B2C and B2B is the Amsoil site. Check them out at www. amsoil.com . Many other local companies are getting their sites up and running.

WITC is working on grants and curriculum to assist in the development of web-based commerce by local companies. The plan is at the beginning stages of developing partnerships and holding listening sessions to determine the needs of local business and the available resources and infrastructure for building our E-Community.

WITC has been working with Charles Glazman at the Superior Business Center, Ken Stubbe at The Development Association, Geof Wendorf at UW- Extension, and have entered into discussions with Mayor Ciccone and the City of Superior. It is our belief that the E-Community in Northwestern Wisconsin will develop most effectively if partnerships are built and common goals established.

The local economy can compete globally with this technology if we embrace it and move in this direction.

There is danger in playing ostrich by sticking our heads in the sand though.

With the growth in the B2C and B2B areas, we need to be players.

This will take training, technicians, knowledgeable management, good service providers, and an infrastructure that supports high speed internet service to the rest of the world by all of our residents and business.

Look for more E-Commerce developments from WITC and our partners in the near future...we are on the move! ◆