

May 15, 2018

The Honorable Doug Ducey
Governor of Arizona
State Capitol West Wing
1700 W. Washington, 9th Fl.
Phoenix, AZ 85007

Re: SB 1091 - Relating to tax payments

Dear Governor Ducey:

I write on behalf of the American Financial Services Association (“AFSA”)¹ to express our concerns with SB 1091 and urge you to veto the bill, which would allow the Department of Revenue to develop and adopt a payment system to enable the real-time remittance and collection of tax at the point of sale. The real-time collection of tax at the point of sale would be costly to implement—with costs both upfront and hidden—and would provide no real benefit for the state to justify the exposure to these significant costs.

For Arizona to implement a real-time tax system at the point of sale, the state would need to engage in a wholesale overhaul of retail technology and software, imposing a huge cost and compliance burden on payment processors, payment networks, financial institutions, and merchants of all sizes, in order to cover the millions of consumer credit or debit card payments or electronic funds transfers. The associated costs and compliance burden are due, in part, to the significant technological challenges necessary to alter the way processors, card networks, and banks currently share data. Payment systems are optimized to transmit thousands of transactions per second, with the goal of rapidly, efficiently and securely approving and settling each card transaction. These systems are not designed to differentiate between the distinct payment elements of a transaction, such as the cost of goods and the tax levied on it. Layering on a tax collection component into the payment process by diverting a portion of the transaction directly to the state would undermine the efficient and secure settlement process and create vulnerabilities in the entire payments ecosystem.

In addition to the significant technology constraints, a real-time tax collection system fails to account for the complications associated with returned merchandise. The National Retail Federation estimates that eight percent of all purchases are returned, with drastically higher return rates depending on the industry (e.g. clothing merchandise).² In the case of merchandise

¹ Founded in 1916, the American Financial Services Association (AFSA), based in Washington, D.C., is the primary trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including direct and indirect vehicle financing, traditional installment loans, mortgages, payment cards, and retail sales finance. AFSA members do not provide payday or vehicle title loans.

² National Retail Federation, *Consumer Returns in the Retail Industry 2015*, at https://nrf.com/sites/default/files/Images/Media%20Center/NRF%20Retail%20Return%20Fraud%20Final_0.pdf (December 2015).

returns, a real-time tax collection system would require merchants to refund and return to the consumer funds that have previously been remitted and transmitted directly to the government. In order to properly refund consumers, the payment system must either immediately transfer funds directly from the government to the merchant in real-time, or the burden for the refund would fall on the merchant. Without such a means for returning money back to merchants, a real-time tax collection system would cause particular hardship for smaller businesses.

The National Conference of State Legislatures (NCSL) previously examined real-time tax collection and concluded “real-time sales tax process is not a solution.” We urge you to consider the reasons above and come to the same conclusion as NCSL, that real-time tax collection is not a solution for Arizona. Thank you in advance for your consideration of our comments. If you have any questions or would like to discuss this further, please do not hesitate to contact me at 202-469-3181 or mkownacki@afsamail.org.

Sincerely,

A handwritten signature in blue ink that reads "Matthew Kownacki". The signature is written in a cursive style with a small flourish at the end.

Matthew Kownacki
Manager, State Research and Policy
American Financial Services Association
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