

October 29, 2013



**TO: Joint Sales Tax Study Commission #4**  
**FROM: Mike Stenhouse, CEO**  
**SUBJECT: Testimony re. House Bill 5365**

Thank you again Mr. Chairman and Commission members.

Our think-tank, the RI Center for Freedom & Prosperity, has held dozens of discussions with small business owners in our state about the sales tax; the burdens it places on their business, and the benefits they would realize with its repeal.

While we all tend to focus on the numbers – the job and revenue projections and the budget – may I again stress that it's important to keep in mind that the lives and careers of real people – like the business owners we have spoken with from those from whom you have heard from today – suffer real consequences as a result of poor public policy.

All of them looked to realize the great American dream of starting or running their own business; to work hard, to risk their own capital and human resources, to have the freedom to operate their business largely as they see fit, and to realize whatever gains they have duly earned.

However, when their own government has instituted so many public policy roadblocks and barriers via taxes, fees, un-funded mandates, and other regulations ... to the point where it becomes too risky or burdensome to build a successful enterprise, then we, as public officials and as public opinion leaders, should take pause and reconsider what we are doing.

**The state sales tax is one such barrier and one such unfunded mandate.** And is one of the reasons why Rhode Island ranks so poorly in so many business friendly indexes.

Allow me to provide you with an analogy that, I think, is especially appropriate for this week. Imagine Big Papi, David Ortiz, of the Red Sox. We all know how historically fantastic he has been during this post season and this World Series. I'm asking you to think of the 7% sales tax as a 7 ounce weight - that tomorrow night the State of Rhode Island will be mandating that Big Papi put on his bat ... when he faces the Cardinals in Game 6. Will his production go down? Probably yes.

This, in essence, is how we're burdening small businesses in Rhode Island. Not only does the sales tax impose a 7% weight on the cost of purchasing many goods for consumers (reducing product demand), but it also imposes a 7% weight on the cost of purchasing many business products (increasing cost of doing business), and finally it creates a competitive disadvantage with the Internet and neighboring states that impose either no weight, or less weight, on their bats (pushing some RI shoppers into other states).

It certainly would not be good for Big Papi's career to be forced to bear that 7 ounce weight, and it certainly is not good for the careers of entrepreneurs and small business owners – or the potential employees they could hire - who are forced by RI law to bear a 7% sales tax.

One fact from our Zero.Zero Report: did you know that businesses pay close to 50% of the \$900 or so million the state collects from the sales tax? A 0.0% sales tax would mean more savings for every BUSINESS in the state in job-killing B2B sales taxes ... imagine instead, the lower product prices across the board, and higher profits subject to other taxes, that can be realized.

And this added cost of doing business does not just affect small businesses. Large companies, looking to start or relocate here do consider the sales tax as part of their calculation of the cost of doing business. In fact, Facebook's technology chief stated that the state sales tax was a major factor in considering where to locate

their vast server farms, especially considering the frequency and cost of replacing high-priced servers. How many other technology businesses, medical businesses, or others with high equipment costs might see Rhode Island as a more friendly place to locate a business if we eliminated our sales tax?

Yet another cost to business was brought to our attention just yesterday by Joe Viele (whose testimony I believe you have) having to do with credit card payments ... where the sales tax is charged to the card and the 3% or so processing fee applies to the sales tax ... a fee businesses must absorb that directly affects its bottom line. 8.25% for restaurants.

Also, in our last meeting we projected the tremendous increase in shopping from repeal of this tax; from increased demand due to lower purchase costs; to more Rhode Islanders staying in-state to shop; to luring consumers from Rhode Island's wealthy and dense border populations; and by attracting shoppers from drive-thru traffic to and from Boston, the Cape, and points north ....and CT, NY and points south.

Finally, and perhaps even most destructive for some, is the FREE service that we force businesses to supply to the state when it comes to identifying, collecting, reporting, and submitting sales taxes to the Division of Taxation.

In the Big Papi analogy, we didn't even mention one of the largest burdens that the sales tax places on business ... the cost of compliance. As a former small business owner myself with a sales tax permit, I can tell you about the absolute fear myself and others feel every time we submit our monthly taxes or hear from the Division of Taxation about a potential dispute. The effort to resolve disputes - including our valuable time, 3<sup>rd</sup> party legal or accounting fees, and the punitive fines imposed by the state - is nothing any small business owner wants to even contemplate, never mind actually go through.

Fortunately for me, this never became an insurmountable hurdle for my business. But unfortunately for others, this is not the case. A little later on, you will hear testimony from real business owners telling you about real issues they have had to deal with in this regard.

But for now, I'd like to show you a video of Don Russell, a former pet shop owner, who got in a financial bind, tried to honestly resolve the situation, but instead claims he was treated like a common criminal and forced to shut down.

May I present to the video story of a man whose emotional testimony at the House Finance Committee hearing this past spring touched the hearts of all of us, Mr. Don Russell.

(video clip)

So what are the other takeaways from Don's story?

First, just by imposing the sales tax, the mandate to accurately report and remit the funds, it allows the very human conflict to exist that forces a business person to sometimes have to decide, when business gets tight, which bills to pay and which not: whether to pay rent, the utilities, employees, or the sales tax. Our state is asking for trouble, and far too often, we get it.

Second, repeal of the sales tax, with no compliance mandates, encourages entrepreneurial start-ups - with more people feeling more free to decide to risk and invest their time and money into a good idea they may have ... isn't this the American way? Isn't this what can help turn our state's economy around?

Thirds, I'd like to take you through the actual documents from Don Russell's case with the state.

As you can from the handouts ... in addition to the back-sales-taxes that Don owed, he was assessed an additional \$10,000 or so in penalties and interest. As much as he tried to pay back what he owed the state, the added burden of these fines made it impossible for Don to ever recover financially and be allowed reopen his

store. And then restricting his ability to drive a car so that he can earn a living to maybe pay back those fees ... seriously?

Fourth, and finally, to summarize Don's story ... here is a citizen, trying to make a better future for himself, taking a risk, creating 8-10 jobs for Rhode Islanders, who invested hundreds of thousands of dollars – his entire retirement savings – into this business - his business - only to be shut down and deprived by our state of the only opportunity he had to try to earn back what he owed, to earn back investment of his life savings, and to continue his life's dream. In the end, he lost everything! Do we just sit on our hands and allow this to continue to happen to good people like Don?

And there are larger questions: Do we want businesses open, flourishing, and paying sales and income taxes; or do we want them closed, facing insurmountable hurdles, and paying fines? What is a better path for our state? For our economy? For business owners? For the employees Don had to lay-off?

Did you know that, by statute, interest charges must not be at rate less than 18% on taxes owed?

With these questions in mind, our Center is recommending, that in addition to considering repeal of the sales tax, that this commission also address the issue of the excessive fines and other punitive actions we are currently are imposing on the business sector.

The Rhode Island Center for Freedom and Prosperity today encourages this Commission and the RI General Assembly to revisit the laws governing penalties and interest assessed on outstanding sales tax balances, per the following statutes:

- \* 44-19-11: Deficiency determinations --- Interest
- \* 44-19-12: Pecuniary penalties for deficiencies
- \* 44-19-14: Determination without return --- Interest and penalties
- \* 44-1-7: Interest on delinquent payments

Let me state clearly, that in no way are we suggesting that businesses should not remit to the state, the taxes they legally collect on behalf of the state, nor be allowed to remain open if they do not.

However, taken together these statutes further impose a 10% penalty for delinquent taxes (or up to 50%, if the state determines an "intent to evade"), followed by compounding interest on the balance of prime plus 2%, totaling at least 18% interest per year, but no more than 21%. This punitive interest rate imposes a burden on struggling Rhode Island businesses that has proven to be insurmountable in many cases.

The state should, instead, shift the balance of its laws to have the goal of helping small business owners to remain open and to thrive ... rather than to keep them closed.

In my first testimony to this commission I spoke of how public policy in Rhode Island is tearing families apart, compelling family members to leave our state. As I have just proffered, and as I think you'll hear from other witnesses today, public policy and the sales tax is also tearing small businesses apart.

**The sales tax, indeed, is a tax on business!**

In conclusion, the sales tax is not just a consumer issue when it comes to where and how often they shop and spend their money. Its impact on the business sector can be enormous. Because of the pyramiding effect, where B2B taxes increase the cost of goods sold, only to be taxed again, its repeal can also be one of the most business-friendly stimulus our state can consider.

I thank you again for your time and consideration of this potential game-changing public policy reform.

Re. Don Russell, Dr. Doolittle's Pets, Taxes Owed

From: RI Center for Freedom & Prosperity

SALES TAX ACCOUNTS RECEIVABLE TRANSACTIONS										PAGE 1
050494317	SEQNO 00	NAME DR DOOLITTL	BILLNO 2009002	BILL CS INT Y PN1 Y	LAST UPDATE 2013106					
ORIGINAL BILL DATE 08 13 2009	WRITE-OFF DATE									
TRAN	DATE	BAT	DOC	TAX	INTEREST	PENALTY				
ORIGINAL	20090807	8151	02	23,341.42	1,497.01	2,334.15				
CURRENT	20090807	8151	02	13,381.45	6,445.32	2,334.15				
LAST BILL				20,112.65	575.10	2,334.15				
DET	20090807	8151	02	23,341.42	1,497.01	2,334.15				
ASSESS	20091009	9999	99		287.68					
ASSESS	20091120	9999	99		483.31					
PMT	20091208	3524	17		512.07					
ASSESS	20100115	9999	99		644.41					
PMT	20100128	4605	17		1,500.00					
PMT	20100210	4958	17	599.66	900.34					
ASSESS	20100226	9999	99		470.89					
PMT	20100305	2604	17	1,129.11	470.89					
PMT	P 20100419	3673	72	1,500.00						
ASSESS	20100425	9999	99		575.10					
PMT	P 20100518	8400	03	195.90	575.10					
PMT	P 20100519	4457	31	1,500.00						
ASSESS	20100604	9999	99		363.18					
PMT	P 20100618	2115	41	1,136.82	363.18					

MESSAGE:

02/12/10

Original balance \$ 27,172.58  
Current balance \$ 22,160.92

Total Payments. \$ 14,883.07

Please call me if you have questions.

Thank you

Miriam Wyson

SALES TAX ACCOUNTS RECEIVABLE TRANSACTIONS										PAGE 2
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LAST BILL				20,112.65	575.10	2,334.15				
ASSESS	20100710	9999	99		306.68					
PMT	P 20100719	1012	37	1,193.32	306.68					
PMT	P 20100806	1009	73	1,500.00						
ASSESS	20100820	9999	99		294.84					
PMT	P 20100927	1010	23	1,205.16	294.84					
ASSESS	20101119	9999	99		600.33					
ASSESS	20110114	9999	99		369.44					
ASSESS	20110311	9999	99		369.44					
ASSESS	20110826	9999	99		1,108.31					
ASSESS	20111007	9999	99		277.08					
ASSESS	20111209	9999	99		415.61					
ASSESS	20120113	9999	99		237.49					
ASSESS	20120526	9999	99		890.60					
ASSESS	20120707	9999	99		283.67					
ASSESS	20120818	9999	99		283.67					

MESSAGE:

02/12/10

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ASSESS	20100820	9999	99		294.84		
PMT	P 20100927	1010	23	1,205.16	294.84		
ASSESS	20101119	9999	99		600.33		
ASSESS	20110114	9999	99		369.44		
ASSESS	20110311	9999	99		369.44		
ASSESS	20110826	9999	99		1,108.31		
ASSESS	20111007	9999	99		277.08		
ASSESS	20111209	9999	99		415.61		
ASSESS	20120113	9999	99		237.49		
ASSESS	20120526	9999	99		890.60		
ASSESS	20120707	9999	99		283.67		
ASSESS	20120818	9999	99		283.67		
MESSAGE:							
02/12/10							

SALES TAX ACCOUNTS RECEIVABLE TRANSACTIONS										PAGE 3
050494317	SEQNO 00	NAME DR	DOOLITTL	BILLNO 2009002	BILL CS INT Y PN1 Y	LAST UPDATE 2013106				
ORIGINAL BILL DATE 08 13 2009	WRITE-OFF DATE									
TRAN	DATE	BAT	DOC	TAX	INTEREST	PENALTY				
ORIGINAL	20090807	8151	02	23,341.42	1,497.01	2,334.15				
CURRENT	20090807	8151	02	13,381.45	6,445.32	2,334.15				
LAST BILL				20,112.65	575.10	2,334.15				
ASSESS	20121026	9999	99		461.79					
ASSESS	20121207	9999	99		283.67					
ASSESS	20130126	9999	99		323.26					
ASSESS	20130308	9999	99		270.48					
ASSESS	20130418	9999	99							