

IFI Bulletin

June 2018 [www.incentivefederation.org](http://www.incentivefederation.org)

**Supreme Court Rules on Out-of-State Collection of Use and Sales Taxes**

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| **Who are the Incentive Federation’s members? e**The Incentive Federation is the only organization whose membership and leadership includes all the industry’s national trade associations, as well as individual industry companies. It is under The Incentive Federation umbrella that the collective interests of the Incentive Marketing Association (IMA), the Promotional Products Association International (PPAI), The Incentive Research Foundation (IRF), the Recognition Professionals International (RPI) and Society for Incentive Travel Excellence (SITE) are discussed, nurtured and advanced. |
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| **IFI Mission Statement****The Incentive Federation is dedicated to promote, protect and research the incentive field, including corporate gifts, rewards, recognition, promotional products and related**  **promotions.** |

promotions.

The U.S. Supreme Court has ruled in a 5-4 decision that states have authority to collect sales tax on goods and services delivered from remote sellers that don't have a physical presence in their states.

In overturning previous and long-standing Court decisions requiring the physical presence of a seller in the state where goods are delivered, the Court determined that physical presence is no longer required before a state can require an out-of-state seller to collect its sales or use tax. George Delta, IFI’s general counsel, stated, “For what it may be worth, even the four dissenters agreed that the two earlier cases were wrongly decided.  Their preferred solution would have been to let Congress fix the problem.”

Delta went on to say, “In the absence of Quill and Bellas Hess, (the two case decisions overturned), the first prong of the Complete Auto test, 430 U. S., at 279, which had defined Supreme Court precedent on nexus for tax purposes, simply asks whether the tax applies to an activity with a substantial nexus with the taxing state.  The court held that the nexus is clearly sufficient in the current case involving remote sellers in the *South Dakota vs. Wayfair* case. The S.D. Act applies only to sellers who engage in a significant quantity of business in the state, and respondents are large, national companies that maintain an extensive virtual presence.  The court asked the S.D. Supreme Court to address any remaining claims regarding the Commerce Clause’s application in the absence of Quill and National Bellas Hess.”

“Now, the ball is back in Congress' court to see if it can come up with comprehensive legislation to implement sales/use tax collection.  Congress still retains the right to enact such legislation under its broad power to regulate interstate commerce.”

Important questions remain about the impact of this decision on the incentive and overall marketplace. Remote sellers will find themselves treated similarly as brick and mortar retailers when it comes to collecting sales and use taxes. The effects of such a ruling on various remote sellers and the implications for incentive industry companies are not clear.

Will companies that drop ship merchandise to end users on behalf of an incentive house be responsible for reporting and collecting taxes? What if the merchandise is shipped to award recipients in several different states, each with different sales or use tax laws? Will a performance improvement company or their clients be held liable since the clients are eventually paying for the merchandise? Will promotional products distributors, suppliers, end buyers or end users have to collect and remit sales and use tax to the states, and if so, which states?

Delta will issue an update on the topic as soon as he has more thoroughly analyzed the decision, so stay tuned for a Bulletin Update soon.

**The Incentive Research Foundation Studies End Users’ Views of Non-Cash Rewards and Recognition**

The IRF’s most recent Signature Study – Voice of the Market, Part 1: The Use of Non-Cash Rewards and Recognition provided end users the chance to discuss various topics of interest – what they’re doing, why, how they’re measuring the results, use of vendors, and resources for expertise. Simultaneously, researchers evaluated the natural language, emphasis, emotion, interest level, and topical sophistication of the end-user.

From the smallest, newest programs to multi-million-dollar programs that have run for years, investments in non-cash rewards are seen as complementary to any cash-based rewards, and often serve a completely different purpose for the organization. Cash is very firmly viewed as compensation, the baseline component of an ongoing business arrangement between the firm and the employee. As the foundation of the employment agreement, cash is a table stake and is the epitome of a business transaction. Conversely, non-cash rewards are viewed as vehicles of celebration – these rewards are fun, memorable, and more easily discussed socially than cash. They generate an enthusiasm cash can’t deliver – among employees, executives, and depending on the reward, the employees’ families.

One surprising discovery from this research is the degree to which spend is distributed and decentralized, in companies of all sizes. It seems the rule rather than the exception that companies have distinct ‘pockets’ of spend at a local, business unit, or location level.

For a complete summary of the research study please click [here.](http://theirf.org/research/irf-signature-study---voice-of-the-market-part-1-the-use-of-non-cash-rewards-recognition/2492/)

**Remembering Francis Ford, Jr.**

 On May 21, 2018 our industry and many of us who were and still are engaged in it lost a good friend. Francis “Fran” Ford, Jr. passed away after a courageous nine-year battle with cancer. More than 200 of his industry friends and family members celebrated Fran’s life with services on May 30 at the aptly named Saint Theresa’s Parish in Phoenix, Arizona.

I am one of those friends and I am very glad I was there to help celebrate Fran’s life which was a full and robust one. Following services at the church we all joined together at the Arizona Country Club to view pictures, tell Fran stories, laugh and remember a man who was larger than life in many ways. He was the oldest of nine children and gifted in many ways, not the least of which was his salesmanship, his generosity, his willingness to help others and his sheer enjoyment of life.

I told some friends that day that I think anyone of us would be very pleased if we had just 10 percent of the friends that Fran had who wanted to be present for his final celebration. I believe that easily several hundred more of his friends and colleagues wished they could have been in Phoenix on May 30 but could not because of any number of conflicts that prevented them being there.

Very appropriately PPAI passed out lapel buttons that said, “Hey Buddy,” Fran’s favorite and most used greeting to everyone in the industry. I can still hear that greeting that always came with a big smile and firm handshake or a hug. I told some folks that for a couple of years after I met Fran I was beginning to feel a little offended after hearing “Hey Buddy” every time I saw him at an industry event. I thought he just didn’t care to remember my name, but I soon realized that everyone was greeted with “Hey Buddy,” and it was a term of genuine affection from this gregarious and caring man.

One of Fran’s sisters, Leslie Hackett, a poet in her own right, wrote an ode to her brother which was printed in the services program that we all received. I think it captures many of the sentiments of how we all feel about Fran and gives us a chance to chuckle a bit as we recall his humor and wit. I asked for Leslie’s permission to share it with others who could not be in Phoenix last month, and she graciously agreed. [*An Ode in Remembrance of Francis Jr*](http://www.incentivefederation.org/wp-content/uploads/2018/06/An-Ode-in-Remembrance-of-Francis-Jr.pdf)*.* was written only days after’s Fran’s passing and Leslie told me it reflects how many of his family wished for Fran to be remembered. I told Leslie she did a superb job and I hope you take a moment to click on the title to see for yourself.

Castelli, USA, a division of Magnet LLC, of which Fran was president, is an Incentive Federation member, due to Fran’s belief that the Federation is critical for the support it provides the industry.

We’ll all miss “Hey Buddy” or “Hey Honey” in the coming weeks, months and years. He was a special guy.

Anyone wishing to remember and honor Fran’s legacy may do so by making a contribution to the Fran Ford Scholarship, established in 2017 with the Promotional Products Education Foundation to honor his commitment to the industry, by clicking [here](https://app.etapestry.com/onlineforms/PPEF/FranFord.html).

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If you have questions, advice for the Board, or want to raise issues for the Board to think about, please contact Steve Slagle at steves3309@gmail.com or 864-710-6739.